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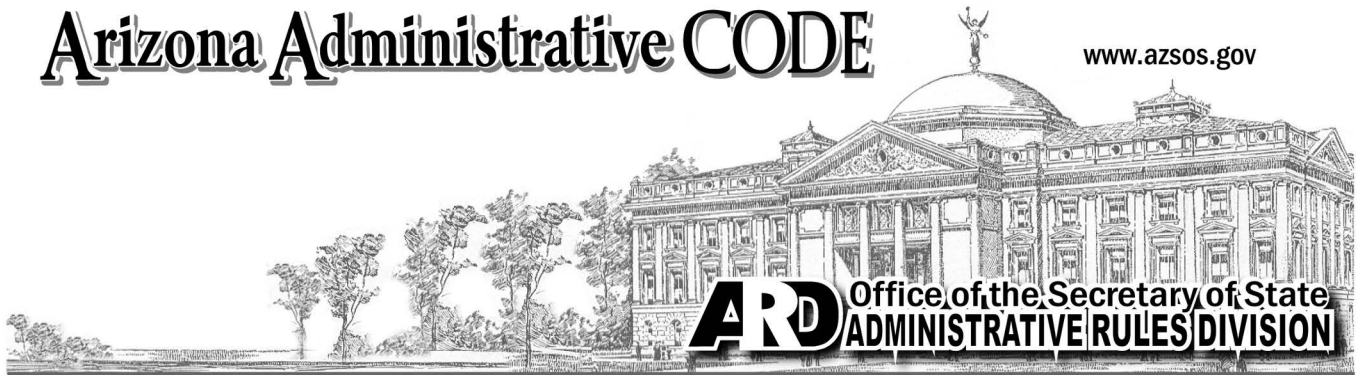
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Supp. 24-3

TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION - STATE PERSONNEL SYSTEM

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
July 1, 2024 through September 30, 2024

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The release of this Chapter in Supp. 24-3 replaces Supp. 17-3, 1-36 pages.

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 Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

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

THE ADMINISTRATIVE CODE

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

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

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

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

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

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

RULE HISTORY

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

AUTHENTICATION OF PDF CODE CHAPTERS

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

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

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

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

EXEMPTIONS FROM THE APA

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

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

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

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

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

PERSONAL USE/COMMERCIAL USE

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

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Administrative Rules Division

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TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION - STATE PERSONNEL SYSTEM

A.R.S. §§ 41-703(3), 41-743(B)(3) and 41-771

Supp. 24-3

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

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

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

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

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

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CHAPTER 5. DEPARTMENT OF ADMINISTRATION - STATE PERSONNEL SYSTEM

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TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION - STATE PERSONNEL SYSTEM

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

ARTICLE 1. REPEALED**R2-5-101. Repealed****Historical Note**

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

R2-5-102. Repealed**Historical Note**

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

R2-5-103. Repealed**Historical Note**

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

R2-5-104. Repealed**Historical Note**

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

R2-5-105. Repealed**Historical Note**

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

ARTICLE 2. REPEALED**R2-5-201. Repealed****Historical Note**

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

R2-5-202. Repealed**Historical Note**

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

R2-5-203. Repealed**Historical Note**

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

R2-5-204. Repealed**Historical Note**

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

R2-5-205. Repealed**Historical Note**

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

R2-5-206. Repealed**Historical Note**

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

R2-5-207. Repealed**Historical Note**

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

R2-5-208. Repealed**Historical Note**

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TITLE 2. ADMINISTRATION

CHAPTER 5. DEPARTMENT OF ADMINISTRATION - STATE PERSONNEL SYSTEM

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

R2-5-209. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6).
Repealed effective August 2, 1989 (Supp. 89-3).

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

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

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

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

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

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

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

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

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

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

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

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

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

Adopted effective December 31, 1986 (Supp. 86-6).
Amended effective August 2, 1989 (Supp. 89-3).
Amended effective September 15, 1994 (Supp. 94-3).
Amended effective March 4, 1997 (Supp. 97-1).
Amended effective August 5, 1997 (Supp. 97-3).
Amended by final rulemaking at 7 A.A.R. 2724, effective June 6, 2001 (Supp. 01-2). Amended by final rulemaking

at 16 A.A.R. 1129, effective August 7, 2010 (Supp. 10-2).
Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

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

Adopted effective December 31, 1986 (Supp. 86-6).
Amended by final rulemaking at 5 A.A.R. 4417, effective November 2, 1999 (Supp. 99-4). Amended by final rulemaking at 7 A.A.R. 2724, effective June 6, 2001 (Supp. 01-2). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

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

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

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

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

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

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

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

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

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

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

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

Adopted effective December 31, 1986 (Supp. 86-6).
Amended as an emergency effective August 19, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-3). Emergency expired. Amended effective

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September 12, 1989 (Supp. 89-3). Amended effective September 14, 1990 (Supp. 90-3). Amended effective August 5, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final rulemaking at 9 A.A.R. 2082, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 13 A.A.R. 1635, effective June 30, 2007 (Supp. 07-2). Amended by final rulemaking at 14 A.A.R. 4309, effective November 4, 2008 (Supp. 08-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-404. Repealed**Historical Note**

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

R2-5-405. Repealed**Historical Note**

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

R2-5-406. Repealed**Historical Note**

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

R2-5-407. Repealed**Historical Note**

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

R2-5-408. Repealed**Historical Note**

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

R2-5-409. Repealed**Historical Note**

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

R2-5-410. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective August 2, 1989 (Supp. 89-3). Amended effective April 20, 1995 (Supp. 95-2).

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

R2-5-411. Repealed**Historical Note**

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

R2-5-412. Repealed**Historical Note**

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

R2-5-413. Repealed**Historical Note**

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

R2-5-414. Repealed**Historical Note**

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

R2-5-415. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective August 2, 1989 (Supp. 89-3). Former Section R2-5-415 renumbered to R2-5-416; new Section R2-5-415 renumbered from R2-5-414 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3,

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2000 (Supp. 00-4). Section repealed; new Section R2-5-415 renumbered from R2-5-423 and amended by final rulemaking at 15 A.A.R. 207, effective March 7, 2009 (Supp. 09-1). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

R2-5-416. Repealed**Historical Note**

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective August 2, 1989 (Supp. 89-3). Former Section R2-5-416 renumbered to R2-5-417; new Section R2-5-416 renumbered from R2-5-415 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final rulemaking at 11 A.A.R. 4357, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1420, effective May 31, 2008 (Supp. 08-2). Section repealed by final rulemaking at 15 A.A.R. 207, effective March 7, 2009 (Supp. 09-1).

R2-5-417. Repealed**Historical Note**

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

R2-5-418. Repealed**Historical Note**

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

R2-5-419. Repealed**Historical Note**

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

R2-5-420. Repealed**Historical Note**

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

R2-5-421. Repealed**Historical Note**

Adopted effective February 28, 1991 (Supp. 91-1). Former Section R2-5-421 renumbered to R2-5-423; new Section R2-5-421 renumbered from R2-5-419 and amended by final rulemaking at 6 A.A.R. 4093, effective October 3, 2000 (Supp. 00-4). Amended by final rulemaking at 14 A.A.R. 1420, effective May 31, 2008 (Supp. 08-2). Section repealed by final rulemaking at 15 A.A.R. 207, effective March 7, 2009 (Supp. 09-1).

R2-5-422. Repealed**Historical Note**

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

R2-5-423. Renumbered**Historical Note**

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

ARTICLE 5. REPEALED**R2-5-501. Repealed****Historical Note**

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

R2-5-502. Repealed**Historical Note**

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

R2-5-503. Repealed**Historical Note**

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

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

ARTICLE 6. REPEALED**R2-5-601. Repealed****Historical Note**

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

R2-5-602. Repealed**Historical Note**

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

R2-5-603. Repealed**Historical Note**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Editor's Note: Article 9 contained rules which were repealed and adopted under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1997, Ch. 288, § 10. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the Department was not required to hold public hearings on these rules. Temporary rules repealed and adopted under these Sections are repealed from and after June 30, 1999 (Supp. 98-2). Temporary rules repealed and adopted pursuant to Laws 1997, Ch. 288, § 10 were repealed from and after June 30, 1999 and the rule in effect before the adoption of the temporary rules became effective again upon the repeal of the temporary rules (Supp. 99-3).

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

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

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

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

Adopted effective December 31, 1986 (Supp. 86-6). Section R2-5-902 temporarily repealed; new Section temporarily adopted effective April 23, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1997, Ch. 288, § 10. Rules adopted under this temporary Section are repealed effective June 30, 1999 (Supp. 98-2). Section repealed from and after June 30, 1999, pursuant to Laws 1997, Ch. 288, § 10; the rule in effect before the adoption of the temporary rules

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became effective again upon the repeal of the temporary rules (Supp. 99-3). Section repealed by final rulemaking at 5 A.A.R. 4529, effective November 2, 1999; new Section adopted by final rulemaking at 6 A.A.R. 20, effective

December 7, 1999 (Supp. 99-4). Amended by final rulemaking at 13 A.A.R. 958, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 16 A.A.R. 2379, effective January 15, 2011 (Supp. 10-4). Section repealed by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4).

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

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

Editor's Note: The following Section was temporarily adopted under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1997, Ch. 288, § 10. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the Department was not required to hold public hearings on these rules. Temporary rules adopted are repealed effective June 30, 1999 (Supp. 98-2). Section repealed from and after June 30, 1999, pursuant to Laws 1997, Ch. 288, § 10 (Supp. 99-3). New Section R2-5-904 adopted by final rulemaking (99-4). Section repealed by final rulemaking (Supp. 10-4).

R2-5-904. Repealed**Historical Note**

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

SUBCHAPTER A. COVERED AND UNCOVERED EMPLOYEES**ARTICLE 1. GENERAL****R2-5A-101. Definitions**

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

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

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

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

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

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

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

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

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

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

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

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

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

"Child" means a natural child, adopted child, foster child, or stepchild.

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

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

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

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

"Covered employee" means an employee who:

- (a) Before September 29, 2012, is in the state service, is not uncovered pursuant to section 41-742, subsection A, and has remained in covered status without a break in service since that date.
- (b) Before September 29, 2012, is in the state service, is employed as a Correctional Officer I, Correctional Officer II, Correctional Officer III or Community Corrections Officer and has remained in covered status without a break in service since that date.
- (c) Before September 29, 2012, is in the state service, is a full authority peace officer as certified by the Arizona Peace Officer Standards and Training Board and has remained in that status without a break in service since that date.

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- (d) *On or after September 29, 2012, is a Correctional Officer I, Correctional Officer II, Correctional Officer III or Community Corrections Officer and is appointed to a position in the covered service, but does not include a position in any other class in the correctional officer class series or the community correctional officer class series or in any other correctional class series.*
- (e) *On or after September 29, 2012, is a full authority peace officer as certified by the Arizona Peace Officer Standards and Training Board and is appointed to a position that requires such a certification in the covered service.* A.R.S. § 41-741(5)

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

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

“Days” means calendar days, unless otherwise stated.

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

“Department” means the Arizona Department of Administration.

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

“Disabled veteran” means, for the purposes of R2-5A-302, pertaining to preferences, an honorably separated veteran who served on active duty in the armed forces of the United States at any time and who has a service-connected disability.

“Disciplinary action” means a letter of reprimand, suspension, involuntary demotion, or dismissal.

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

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

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

“FLSA” means the federal Fair Labor Standards Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Protected category” means race, color, national origin, religion, age, disability, genetic information, sex (including sexual orientation and gender identity), pregnancy, military or veteran status, or any other status protected by federal law, state law, or regulation.

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

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

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

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

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

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

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

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

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

- (a) Approve sick or annual leave.
- (b) Recommend hiring, discipline or dismissal.
- (c) Assign or schedule daily work.
- (d) Complete a performance evaluation. A.R.S. § 41-741(18)

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

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

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

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

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

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

R2-5A-102. General Provisions

- A. Authority of Director.**
 - 1. The Director may approve, modify or deny a request, plan or proposal submitted by a state agency for review or when the Director’s approval is required by rule.
 - 2. The Director may audit an agency’s personnel policies and procedures at any time. If the Director determines that the agency’s policies or procedures are inconsistent with these rules or are inconsistent with the procedures or guidelines issued by the Director, the Director may direct the agency head to modify them to achieve consistency or to discontinue them.
- B. Delegation of authority.**
 - 1. The Director may, in writing, delegate authority to an agency head as consistent with legal requirements.
 - 2. The Director may review or audit delegated authority to determine compliance with laws, rules, and policies.
 - 3. Unless otherwise stated by law, or in these rules, an agency head may delegate authority granted to the agency head in these rules.
- C. Availability of funds.** The granting of any compensation under these rules is contingent upon the availability of funds, as determined by an agency head and the Director.
- D. Service of notice.** If a notice or document is to be given to a person or agency, the notice or document may be served per-

sonally or mailed to the last known residence or current business address of the person or agency. Unless otherwise provided by law or these rules, service is complete upon personal delivery or mailing.

- E. Employee handbook.** The Director may publish an employee handbook outlining pertinent rules and regulations and make the handbook available to all employees. If published, the employee handbook shall serve as the official handbook for all employees in the State Personnel System. An agency head may supplement the employee handbook with agency specific policies and directives.
- F. Employment contracts.** Unless otherwise provided by law, an appointing authority shall not execute an employment contract with any state employee.
- G. Correction of errors.** Only the Director, or designee, has authority to determine whether a manifest error exists and to correct the manifest error.

Historical Note

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

R2-5A-103. Applicability

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

Historical Note

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

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

- A. General.** Agencies shall comply with all federal and state anti-discrimination laws. Agencies shall not unlawfully discriminate against any individual with regard to the terms and conditions of employment, including hiring, pay, leave, insurance benefits, retention, and rehiring. The information provided in this rule is intended to serve as a summary of agencies’ and employees’ obligations with regard to compliance with applicable federal and state laws, rules and regulations. Nothing in these rules shall be construed as providing rights in excess of, or in addition to those authorized under federal laws and Arizona Revised Statutes.
- B. Equal Employment Opportunity.** Each agency shall provide equal employment opportunity for all individuals regardless of race, color, national origin, religion, age, disability, genetic information, sex (including sexual orientation and gender identity), pregnancy, military or veteran status, or any other status protected by federal law, state law, or regulation. It is the

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policy of this state that all individuals are treated in a fair and non-discriminatory manner throughout the application and employment process.

- C. **Harassment Prohibited.** Harassment of a sexual nature or harassment based on any protected category is prohibited. An agency shall prohibit the unlawful harassment of any employee in the course of the employee's work by supervisors, coworkers, or third parties, such as vendors or customers. Any employee who engages in unlawful harassment may be subject to disciplinary action, up to and including termination of employment.
- D. **Protection from Retaliation.** The state prohibits retaliation against anyone for raising a concern about, assisting in an investigation of, or filing a complaint concerning unlawful discrimination or unlawful harassment.
- E. **Complaints.**
 1. An applicant for state employment who has a complaint alleging discrimination or harassment may file a complaint under the procedures in R2-5A-308.
 2. It is every employee's responsibility to promptly bring any allegation of discrimination, harassment or retaliation to the attention of the employing agency. Such complaints shall be filed under the procedures established under Article 9.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

R2-5A-105. Records

- A. **Definitions.** For the purposes of this Section, "record" generally refers to a paper document; however, a document may be maintained electronically.
- B. **Application Materials.**
 1. An agency head shall maintain and keep confidential all resumés, applications, tests, test results, records, correspondence, and other documents used to seek state employment. The agency head shall not release any materials that the agency head determines would compromise the application process for future applicants and shall restrict the review of the applicant's application materials to:
 - a. The applicant,
 - b. An individual who has written authorization from the applicant,
 - c. State officials in the normal line of duty, or,
 - d. Officials acting in response to court orders or subpoenas.
 2. The Director, or designee, shall ensure that when a person makes a public records request under A.R.S. Title 39, Chapter 1, Article 2 for applicant information:
 - a. Information shall only be provided if the position under recruitment is a high-level position and the public has a legitimate interest in the names of persons being seriously considered for the position, as determined by the Director; and
 - b. Only the names and resumés of the final candidates for the position as determined by the Director shall be released.
- C. **Official Personnel File.**
 1. An employee's official personnel file is the official record and documentation of the employee's employment.

2. An agency head shall, for each agency employee, maintain an official personnel file that contains:
 - a. A copy of the job application for the employee's current position;
 - b. A copy of all performance appraisals completed as required by Article 7;
 - c. Personnel action forms that authorize changes in employment status, position, classification, pay, or leave status;
 - d. Letters of commendation as established by agency policy; and
 - e. Correspondence consisting of:
 - i. Disciplinary actions;
 - ii. Acknowledgments of receipt of disciplinary actions; and
 - iii. Employee objections or responses to correspondence described in subsection (C)(2)(e)(i) that are not filed as complaints under Article 9 or grievances under Subchapter B, Article 4, if the objection or response is received within 30 calendar days of the date of the disciplinary action.
 3. For the purpose of this subsection, an official is an individual who provides identification verifying that the individual is exercising powers and duties on behalf of the chief administrative head of a public body. An agency head shall limit access to an employee's official personnel file to:
 - a. The employee;
 - b. The employee's attorney or an individual who has written authorization from the employee to review the personnel file;
 - c. Agency personnel designated by the agency head as having a need for the information;
 - d. A Department official in the normal line of duty;
 - e. An official acting in response to a court order or subpoena;
 - f. An official of an agency to which the employee has applied; and
 - g. An official of an agency of the federal government, state government, or political subdivision, if the agency head of the employing agency deems access to the file to be appropriate.
 4. When an employee moves from one state agency to another, the gaining agency shall request that the losing agency forward the employee's official personnel file to the gaining agency. The losing agency shall forward the file within 20 business days of the receipt of the request.
 5. When a former employee returns to state employment within five years of the former employee's separation to an agency other than the agency in which the employee was last employed, the gaining agency shall request that the last agency forward the employee's official personnel file. The last agency shall forward the file within 20 business days of the receipt of the request.
- D. **Disclosure of information.**
 1. **Definitions.** For the purposes of this subsection:
 - a. "Records that are reasonably necessary or appropriate to maintain an accurate knowledge of the employee's disciplinary actions" includes disciplinary actions, an official notice of charges of misconduct as applicable to covered employees, the final disciplinary letter, and any responses related to

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complaints, grievances or appeals upholding, amending, or overturning the discipline.

- b. "Employee responses" means any written documents, submitted and signed by the employee, either:

- i. In response to an official notice of charges of misconduct;
- ii. As a formal complaint filed under the provisions of Article 9 or a formal grievance under Subchapter B, Article 4, pertaining to a specific disciplinary action; or
- iii. As an objection to a specific disciplinary action and contained in the employee's official personnel file under subsection (C)(2)(e)(iii).

2. Personnel records are confidential and an agency head shall ensure that except as provided in subsection (C)(3), only the following information about a current or former employee is provided to any person making a public records request under A.R.S. Title 39, Chapter 1, Article 2.

- a. Name of employee;
- b. Date of employment;
- c. Current and previous class titles and dates of appointment to the class;
- d. Current and previous agencies to which the employee has been assigned and the location of the main office for each agency;
- e. Current and previous salaries and dates of each change;
- f. Name of employee's current or last known supervisor; and
- g. Records that are reasonably necessary or appropriate to maintain an accurate knowledge of the employee's disciplinary actions, including the employee responses to all disciplinary actions, unless providing this information is contrary to law.

- E. Insurance and medical records. An agency head:

1. May maintain group insurance enrollment forms in an employee's official personnel file for an employee hired prior to September 29, 2012.
2. Shall maintain in a separate file that is not part of the employee's official personnel file:
 - a. Medical records, and
 - b. Group insurance enrollment forms for an employee hired on or after September 29, 2012.

- F. Employment eligibility records. An agency head shall retain I-9 forms and other documents required by law to prove employment eligibility in a separate file that is not part of the employee's official personnel file.

- G. Employee access to files. An employee has the right to review only the employee's official personnel file.

- H. Recordkeeping Requirements. An agency head shall ensure that agency recruitment and employee records are maintained in accordance with the General Records Retention Schedule for Human Resources/Personnel Records published by and on file with the Secretary of State, Arizona State Library, Archives and Public Records.

Historical Note

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

final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

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

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

Historical Note

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

R2-5A-202. Change in Classification

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

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Historical Note

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

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

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

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

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

Historical Note

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

R2-5A-302. Recruitment**A. Job posting.**

1. Unless exempted by A.R.S. Title 41, Chapter 4, Article 4, an appointing authority shall post an open position to the state's centralized job board. This includes recruitments open to only employees currently employed by the agency, to state employees currently employed in any state agency, or the general public. An agency head may authorize an exception to the job posting requirement for a position in an individual case. Any exceptions shall be documented by the agency head and subject to audit by the Director.
2. In addition to posting to the state's centralized job board, an appointing authority may post an open position in a publication or to a commercial job posting board or both, in compliance with applicable procurement rules.

B. Application form.

1. A candidate for a position shall complete the standardized application form developed by the Director.
2. In addition to the standardized application form, an agency head may develop supplemental application procedures and forms specific to the agency or to a certain class or classes within the agency.

C. Preferences.

1. The state will provide preference to qualified veterans and disabled veterans seeking employment with the state.
2. For positions in the covered service, preference points authorized by A.R.S. § 38-492 shall be added to an applicant's grade on any assessment or evaluation that results in a numeric grade after the final grade is determined, if a passing grade is earned without the addition of preference points. Preference points shall not be applied to promotional examinations. If an evaluation does not result in a numeric grade, preference shall be given by granting applicable preference codes to qualified applicants.

Historical Note

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

R2-5A-303. Reference and Background Checks

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

Historical Note

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

R2-5A-304. Qualifications of Selected Candidate

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

Historical Note

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

R2-5A-305. Employment of Relatives

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

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

R2-5A-306. Hiring Requirements

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

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Historical Note

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

R2-5A-307. Appointment

- A.** General. Except as provided in A.R.S. Title 41, Chapter 4, Articles 4 and 5, all appointments shall be at will uncovered. An agency head may appoint a current state employee who accepts a change in assignment or an external candidate in accordance with these rules and the procedures established by the Director.
- B.** Types of Appointment.
1. A regular appointment may be:
 - a. Full-time employment;
 - b. Part-time employment;
 - c. Subject to funding availability, such as federal or grant funding; or
 - d. To a trainee position.
 2. A temporary appointment may be made for a recurring period of time up to a maximum of 1500 hours in any one position per agency each calendar year. A temporary appointment employee may work full time for a portion of the year, intermittently, on a seasonal basis, or on an as needed basis. An employee in a pool classification is considered a temporary appointment.
 3. An agency head may place an employee on special assignment within the agency. A special assignment may be made non-competitively and for up to 6 months with the concurrence of the agency head of the employing agency and the Director. A special assignment shall not exceed 6 months unless extended by the Director. An agency head shall not make successive special assignments of the same person to the same class.

Historical Note

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

R2-5A-308. Applicant Complaint

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

Historical Note

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

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

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

Historical Note

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

R2-5A-402. Salary Administration

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

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salary as that paid prior to the promotion, plus the percentage or dollar amount of increase of an intervening general salary adjustment for which the employee was eligible.

J. Job reallocation.

1. The base salary of an employee in a position that is reallocated to a class in a higher pay range may receive a salary increase in accordance with the procedures and guidelines published by the Director. If increasing the base salary of an employee would result in a salary level that is less than the minimum or greater than the maximum salary of the pay range, the employee's salary shall be the minimum or the maximum salary of the pay range, respectively.
2. The base salary of an employee in a position that is reallocated to a class with the same or lower pay range shall remain the same provided that the employee's salary is within the pay range of the position. If the employee's salary is less than the minimum of the salary range or greater than the maximum salary of the new pay range, the employee's salary shall be the minimum salary or the maximum salary of the new pay range, respectively.

K. Job regrade.

1. The base salary of an employee in a class that is reassigned to a higher grade shall be adjusted by the amount determined by the Director. If adjusting the base salary of an employee would result in a salary level that is less than the minimum or greater than the maximum salary of the pay range, the employee's salary shall be the minimum or the maximum salary of the pay range, respectively.
2. The base salary of an employee in a class that is reassigned to a lower grade shall remain the same provided that the employee's salary is at or above the minimum salary of the new pay range of the class, and may be greater than the maximum salary of the pay range. If the employee's salary is greater than the maximum, the employee is not eligible for an increase to base pay until the employee's salary is less than the maximum salary of the new pay range.

L. Merit increases.

1. The Director shall establish guidelines for merit increases to base pay.
2. Merit increases shall be available:
 - a. To uncovered employees.
 - b. To covered employees only if such increases are legislatively appropriated.
3. Subject to the guidelines established by the Director:
 - a. Merit increases may be implemented at the discretion of the agency head.
 - b. Merit increases are subject to the availability of funding and must be within an agency's appropriation unless otherwise legislatively appropriated.

M. Legislatively-appropriated salary adjustments. Subject to legislative appropriation, the Director shall determine employee eligibility and criteria for salary adjustments.**Historical Note**

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by exempt rulemaking at 19 A.A.R. 717 effective April 13, 2013 (Supp. 13-1). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

R2-5A-403. Supplemental Pay

- A. General.** Supplemental pay is in addition to an employee's base pay. The salary of an employee may exceed the maximum salary of the pay range for the employee's class if the excess amount is due to the receipt of supplemental pay.
- B. Shift differential.** The Director may authorize a shift differential to be paid to an employee on other than a day shift. The Director shall establish a competitive shift differential rate periodically based on an annual survey of the market place. Employees in the same class in the same agency who work on the same shift shall receive the same shift differential pay.
- C. Special assignment.** An employee on a special assignment shall remain in the employee's current position with no change to base salary. If the classification to which the employee is on a special assignment is a higher grade, the employee shall be provided a conditional pay supplement in an amount that, when added to the employee's base salary, would be within the range of the higher classification. If the classification to which the employee is on a special assignment is the same or a lower grade, the employee shall not be eligible for a conditional pay supplement while on special assignment. Any conditional pay supplement received by the employee for the special assignment shall be discontinued at the conclusion of the special assignment.
- D. Conditional pay supplements.** The Director may establish conditional pay supplements. A conditional pay supplement provides additional compensation to an eligible employee and shall be discontinued when the qualifying conditions no longer apply. An employee may be awarded multiple conditional pay supplements. A conditional pay supplement does not:
 1. Change base salary;
 2. Provide a basis for the computation of a salary increase; or
 3. Provide a basis for the computation of pay upon an employee's promotion, demotion or transfer.
- E. Variable pay.**
 1. The Director may establish variable pay strategies determined to be the prevailing practices in the market and in the best interest of the state.
 2. If the Director establishes variable pay strategies, the Director shall establish guidelines for the administration of variable pay.
 3. Variable pay shall be available only to uncovered employees, except for employees in covered positions classified as Correctional Officers I, II, or III, or Community Corrections Officers, or covered positions that require full authority peace officer certification, as specified in the guidelines established by the Director.
 4. Subject to the guidelines established by the Director:
 - a. Variable pay strategies may be implemented at the discretion of the agency head.
 - b. Variable pay strategies are subject to the availability of funding and must be within an agency's appropriation unless otherwise legislatively appropriated.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

R2-5A-404. Overtime

- A. Approval of overtime work.** An agency head may require that an employee work overtime and:
 1. Shall approve in advance all work in excess of 40 hours per workweek or in excess of a work period as defined by

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the Fair Labor Standards Act (FLSA). FLSA Regulations 29 CFR 553 and 778 (July 2012), are incorporated by this reference and on file with the Department and available from the U.S. Government Printing Office, 732 North Capitol Street N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments; and

2. May assign an employee who volunteers for overtime before mandatory overtime is required.
- B. Exemptions.** The Director shall determine exemptions from minimum wage and maximum hour requirements in accordance with the Fair Labor Standards Act, 29 U.S.C. 213, January 2004, incorporated by this reference and on file with the Department and available from the U.S. Government Printing Office, 732 North Capitol Street N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments.
- C. Non-exempt employees.**
 1. An agency shall compensate an employee in a non-exempt position who works in excess of 40 hours per workweek or in excess of a work period as defined by the FLSA by either:
 - a. Additional pay at the rate of 1 1/2 times the employee's regular rate for each excess hour worked, or
 - b. Compensatory leave at the rate of 1 1/2 hours for each excess hour worked.
 2. An employee shall select either overtime pay or compensatory leave for overtime compensation. If the employee selects both overtime pay and compensatory leave, the agency head shall determine which applies. If an employee's compensatory leave balance reaches the maximum allowed in subsection (E), the agency head shall compensate the employee by overtime pay.
- D. Exempt employees.**
 1. Unless otherwise provided by statute or as specified in subsection (D)(2), an employee who is in a position that is exempt from the FLSA is excluded from receiving either overtime pay or compensatory leave.
 2. An employee who is in a position that is exempt from the FLSA who works in excess of 40 hours per workweek or in excess of an established work period shall receive for each hour of overtime worked, either one hour of additional pay or earn one hour of compensatory leave, at the option of the agency head, if the employee is either:
 - a. Engaged in law enforcement activities;
 - b. Engaged in firefighting activities; or
 - c. A full authority peace officer as certified by the Arizona Peace Officer Standards and Training Board, is in a position that requires such certification, and is in the covered service.
 3. An exempt employee may earn compensatory leave as provided by subsection (D)(2) until the employee's compensatory leave balance reaches the maximum allowed in subsection (E). When the maximum balance is reached, an agency head shall compensate the employee by overtime pay for excess hours worked.
 4. For the purposes of this subsection, "engaged in law enforcement activities" has the same meaning as defined in A.R.S. Title 23, Chapter 2, Article 9.
- E. Maximum accumulation.** The maximum number of hours of accumulated compensatory leave is:
 1. 480 hours for an employee who works in a public safety activity or an emergency response activity, or

2. 240 hours for an employee who works in any other activity.

Historical Note

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

R2-5A-405. Education Assistance

- A. General.** A state agency may assist an employee in the pursuit of educational goals by providing tuition reimbursement and student loan repayment assistance.
- B. Tuition reimbursement.** Prior to granting tuition reimbursement, an agency shall establish a policy which shall include the following conditions:
 1. The educational program will provide a benefit to the state.
 2. The employee shall successfully complete the required course work or the educational requirements of the program in order to receive reimbursement.
 3. Education assistance may not exceed \$5,250 per employee in any one calendar year unless approved in advance by the Director.
 4. An employee who receives education assistance may be required to return all or a portion of the amount received if the employee does not remain employed with the agency for a defined period of time, as specified in the agency's policy.
- C. Student loan repayment assistance.** An agency that provides tuition reimbursement may also provide student loan assistance to an eligible employee in the repayment of student loans obtained by the employee and used for the actual costs paid for educational expenses and living expenses that occurred during the employee's undergraduate, graduate or professional education if the education is required or a selective preference for the employee's current position. Before granting student loan repayment assistance, an agency head shall develop a written policy that provides for equal consideration of all employees similarly situated. The policy will describe the need being addressed, and the benefit expected to be gained. The agency head shall submit the proposed policy and any subsequent changes to the Director for approval, and include at a minimum:
 1. Eligibility requirements;
 2. Request and approval procedures;
 3. Documentation required to support the request for repayment assistance;
 4. The monthly limit on student loan repayment assistance and a specified lifetime cap;
 5. A requirement that the employee receiving student loan repayment assistance must provide to the agency monthly proof of payment of the monthly repayment amount for each active student loan approved for assistance;
 6. Information regarding how an employee's leave of absence or separation affects student loan repayment assistance.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

R2-5A-406. Reimbursement for Relocation

An agency head may reimburse reasonable relocation expenses to a current employee for a management initiated geographical transfer

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of more than 50 miles from the employee's current work site in accordance with the procedures established by the Director.

Historical Note

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

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

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

Historical Note

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

R2-5A-502. Hours and Location of Work

- A.** State work week. The state work week is the period of seven consecutive days starting Saturday at 12:00 a.m. and ending Friday at 11:59 p.m. An agency head may apply to the Director for an exception from the work week period for all or part of an agency workforce. The Director may grant an exception from the work week period to promote efficiency in the State Personnel System.
- B.** Hours of work.

1. An agency head shall determine the hours of employment in the work week for each agency employee.
 - a. An agency head may provide for breaks during the work period consistent with carrying out the duties of the agency.
 - b. An agency head may require an employee to work overtime.
 2. An agency head may offer a flexible 40-hour work week option to an employee if the agency head determines the agency's services can be maintained.
 3. An agency head may establish a standard of attendance.
- C.** Location of work. Every employee shall have a designated work location in the State of Arizona.
1. An agency head shall determine the work location for each agency employee.
 2. An agency head may allow an employee to work from an alternate location, subject to the employee's position requirements, the business needs of the agency, and in accordance with the procedures established by the Director. An employee who is authorized to work from an alternate location may be required to report to the employee's designated State of Arizona work location when directed.
 3. The employee's designated State of Arizona work location shall be the geographic location of the position for the purposes of R2-5A-C601, pertaining to furlough, and R2-5B-602, pertaining to reduction in force.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

R2-5A-503. Outside Employment

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

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engaged in outside employment, including consultant relationships, shall inform the supervisor of the nature of the employment and corresponding work hours. An employee shall also disclose actual or potential conflicts of interest related to outside employment activities as soon as the employee becomes aware of the conflict. The determination as to whether a conflict or potential conflict exists shall be made by the agency head.

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

Historical Note

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

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

- A. General. State agencies shall prohibit the manufacture, distribution, dispensation, possession or use of alcohol, illegal drugs, unauthorized drugs, inhalants, or other unauthorized controlled substances during an employee's working hours or while on state premises or worksites, including state vehicles and property leased to the state. A state employee shall not be impaired by alcohol or drugs while on duty.
- B. Written policy. Each agency head shall adopt a written policy to address testing or retesting for the presence of alcohol or drugs of its employees and if applicable, prospective employees. The policy shall include all of the requirements listed in A.R.S. § 23-493.04. The agency head will submit its proposed alcohol and drug-free workplace policy and any subsequent changes to the Director for approval.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

ARTICLE 6. LEAVE**PART A. GENERAL****R2-5A-A601. Leave Administration**

- A. Leave plans. The Director shall adopt leave plans. Agency heads are responsible for administering leave for agency employees in accordance with the leave plans in this Article.

- B. Eligibility for leave. All state employees, except temporary employees, are eligible for any type of leave with pay from the date of appointment. Temporary employees are eligible only for holidays subject to the provisions of R2-5A-B601, administrative leave, civic duty leave for the purpose of voting, living donor leave and military leave.
- C. Amount of leave. Leave amounts are based on full-time employment and shall be pro-rated for part-time employees, even if not specified in an individual rule.
- D. Family and Medical Leave Act (FMLA) leave. FMLA Regulations, 29 CFR 825.100 through 29 CFR 825.800 (July 2012), are incorporated by this reference and on file with the Department and available from the U.S. Government Printing Office, 732 N. Capitol Street N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments. An employee who meets FMLA eligibility requirements and uses leave for any of the situations covered by the FMLA shall be subject to the following:
 - 1. Counting FMLA leave. Periods of paid leave and periods of leave without pay shall count towards the employee's available FMLA leave.
 - 2. Use of accrued paid leave. An employee shall use available paid leave for all or part of the employee's FMLA leave under the conditions in:
 - a. R2-5A-D602 for an employee on industrial leave,
 - b. R2-5A-D601 for an employee on FMLA leave for any other reason.
- E. Insurance benefits continuation. An employee remains eligible for continued participation in the employee insurance plans while on leave pursuant to this Article.
- F. Requests for leave. Except in an emergency, an employee shall obtain approval in advance and in writing before taking any leave.

Historical Note

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

PART B. PAID LEAVE**R2-5A-B601. Holidays**

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

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holiday pay at the next lower rate. An employee who works less than 1/4 time is not entitled to holiday pay.

2. Temporary employees shall receive holiday pay provided they are in pay status the day before and the day after the holiday.

C. Employees not scheduled to work. An employee, excluding part-time and temporary employees, who is not scheduled to work on a day on which one of the holidays listed in subsection (A) above is observed shall receive holiday compensation for the number of hours normally worked per day, not to exceed eight, provided the employee is not on leave without pay on the employee's work days immediately preceding or following the day on which the holiday is observed.

D. Employees required to work. An employee who is required to work on a day on which a holiday listed in subsection (A) is observed shall receive:

1. Both holiday compensation and one hour of pay at the employee's current salary rate for each hour worked if the employee is in a position that is either:
 - a. FLSA non-exempt; or
 - b. Exempt from the FLSA, but meets the conditions in R2-5A-404(D)(2).
2. No additional compensation if the employee is in a position that is exempt from the FLSA and is employed in any other capacity.

E. Holiday compensation.

1. Except as modified by subsection (E)(2), an employee who is eligible for holiday compensation pursuant to subsection (C) or (D) shall receive for each hour of holiday compensation authorized, at the option of the agency head, either:
 - a. One hour of additional pay at the current salary rate; or
 - b. One hour of annual leave; or
 - c. One hour time off with pay on an alternate work day specified by the agency head after the holiday and during the pay period in which the holiday is observed, or the succeeding pay period.
2. Temporary employees do not accrue annual leave and shall receive either additional pay or time off as in subsection (E)(1)(c) above.
3. An employee may not receive more than eight hours of holiday compensation for any holiday.

Historical Note

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

R2-5A-B602. Annual Leave

A. Definitions. For the purposes of this Section:

1. "Annual leave" means a period of approved absence with pay that is not chargeable to another category of leave.
2. "Hire date" means the employee's first day of work upon hire or, if the employee has a break in service, rehire.

B. Accrual.

1. All employees, except temporary and part-time employees shall accrue annual leave as follows:
 - a. Covered employees shall accrue annual leave in accordance with the following schedule:

Credited Service	Hours Bi-weekly
Fewer than 3 years	3.70
3 years but fewer than 7 years	4.62

7 years but fewer than 15 years	5.54
15 years or more	6.47

- b. Except as provided in subsection (B)(1)(c), uncovered employees shall accrue leave based on the following schedule:

Credited Service	Hours Bi-weekly
Fewer than 3 years	4.00
3 years but fewer than 9 years	5.54
9 years or more	6.47

- c. An uncovered employee shall accrue annual leave at the rate of 6.47 hours bi-weekly if:

- i. The employee's hire date is prior to September 29, 2012, the employee has remained employed without a break in service since that date, and the employee either was uncovered prior to September 29, 2012 or became uncovered in accordance with A.R.S. Title 41, Chapter 4, Article 4; or
- ii. The employee is in a position listed in A.R.S. § 41-742(F).

2. Temporary employees shall not accrue annual leave.

3. Part-time employees who:

- a. Work 1/4 time, 1/2 time, or 3/4 time shall accrue a proportional amount of annual leave;
- b. Work a percentage of full-time other than 1/4 time, 1/2 time, or 3/4 time shall accrue annual leave at the next lower rate;
- c. Work less than 1/4 time shall not accrue annual leave.

4. Except as provided by R2-5A-D602 for an employee on industrial leave, an eligible employee accrues annual leave each bi-weekly pay period if the employee is in pay status for at least one-half of the employee's scheduled work hours in that pay period.

5. An annual leave accrual is credited on the last day of the bi-weekly pay period in which the accrual is earned and is available for use on the first day of the following pay period.

- a. Annual leave accrued during the last pay period that begins in a calendar year is not subject to forfeiture under subsection (D).
- b. An employee who is separating from state employment is compensated in accordance with subsection (I) for annual leave accrued through the employee's last date of employment.

6. The effective date for change in the accrual rate is the first day of the pay period immediately following the attainment of the required credited service.

C. Credited service.

1. Credited service shall be calculated from the first day of the first complete pay period worked.
2. Credited service shall include:
 - a. A period of service as an employee of a state budget unit before a break in service of less than two years;
 - b. A period of leave without pay of 240 hours or less;
 - c. Family and Medical Leave Act (FMLA) leave;
 - d. Military leave taken under A.R.S. §§ 26-168, 26-171, or 38-610; and

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- e. Active military service of an employee who is restored to state employment under A.R.S. § 38-298.
- D. Accumulation.**
- Except as provided in subsections (D)(2) and (3), an employee shall forfeit annual leave in excess of the accumulation limit as of the last day of the last pay period that begins in a calendar year. The accumulation limit is:
 - 240 hours for a covered employee.
 - 320 hours for an uncovered employee.
 - An agency head may request an exception to the accumulation limit contained in subsection (D)(1) for an employee in an individual case.
 - An agency head seeking an exception shall submit a written request to the Director that contains a plan to use the excess hours during the following calendar year, pay the employee for the excess hours, or a combination of both.
 - The Director may approve, modify, or deny the request.
 - Annual leave earned for working on a day on which a state holiday is observed is not included in the accumulation limit specified in subsection (D)(1) and shall not be forfeited.
- E. Use of annual leave.**
- An employee may take annual leave at any time approved by the agency head.
 - An agency head shall not advance annual leave to an employee.
- F. Donation of annual leave.**
- Definitions. For the purposes of this subsection:
 - "Immediate family" means the recipient employee's parent, spouse, or child, whether natural, adopted, foster, or step.* A.R.S. § 41-748(B)(1)
 - "Family" means spouse, natural child, adopted child, foster child, stepchild, natural parent, step-parent, adoptive parent, grandparent, grandchild, brother, sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, or niece.* A.R.S. § 41-748(B)(2)
 - "Disability that is caused by pregnancy or childbirth" means, as certified by a licensed health care practitioner:*
 - An employee is unable to work due to the employee's pregnancy, childbirth, or medical care associated with the pregnancy or childbirth; or
 - A member of the employee's immediate family requires assistance to perform regular daily activities due to the immediate family member's pregnancy, childbirth, or medical care associated with the pregnancy or childbirth.
 - "Extended" means a period of at least three consecutive weeks.*
 - "Seriously incapacitating" means a licensed health care practitioner certifies that an illness, injury, or disability that is caused by pregnancy or childbirth:*
 - Involves in-patient care, or
 - Involves continuing treatment.
 - Eligibility to receive donation of annual leave. An employee who has exhausted all available leave balances is eligible to receive donations of annual leave if, as certified by a licensed health care practitioner:
 - The employee is unable to work due to:
 - A seriously incapacitating and extended illness or injury, or
 - A seriously incapacitating and extended disability that is caused by pregnancy or childbirth, or
 - The employee needs to care for a member of the employee's immediate family who has:
 - A seriously incapacitating and extended illness or injury, or
 - A seriously incapacitating and extended disability that is caused by pregnancy or childbirth.
 - Eligibility to donate annual leave. An employee may donate annual leave to another employee who has exhausted all available leave balances if:
 - The recipient employee is employed in the same state agency as the donating employee, or
 - The recipient employee is a family member of the donating employee and employed in another state agency.
 - Exhaustion of available leave. Before using donated annual leave, a recipient employee:
 - Who has a qualifying illness, injury, or disability caused by pregnancy or childbirth shall exhaust all available sick leave, compensatory leave, annual leave earned for working on a day on which a state holiday is observed and accrued annual leave; or
 - Whose immediate family member has a qualifying illness, injury, or disability caused by pregnancy or childbirth shall exhaust sick leave granted in accordance with R2-5A-B603(A)(4), if available, and all available compensatory leave, annual leave earned for working on a day on which a state holiday is observed and accrued annual leave.
 - Calculation of hours donated. An agency head shall adjust the number of hours of annual leave donated in proportion to the hourly rate of pay of the donating employee and the recipient employee. To calculate the number of hours of donated annual leave:
 - Multiply the actual number of hours donated by the donating employee's hourly rate of pay, and
 - Divide the result by the recipient employee's hourly rate of pay.
 - Maximum duration. A recipient employee is limited to using donated annual leave to allow the employee to be absent from work for a maximum of six consecutive months, or if the leave is intermittent, 1040 hours (the employee's available leave plus leave donated to the employee) for each qualifying occurrence. If the recipient employee has a seriously incapacitating and extended illness or injury, or a seriously incapacitating and extended disability that is caused by pregnancy or childbirth and the employee applies for Long-term Disability (LTD) by the end of the fifth month of the employee's leave, the recipient employee may continue to use donated annual leave for up to 60 additional days or until LTD benefit payments begin, whichever is sooner.
 - Unused donated leave. If the recipient employee separates from state employment, recovers before using all donated leave, attains the maximum donation of annual leave as permitted under subsection (F)(6), or the need for the donated annual leave is otherwise abated, the agency head shall return unused donated leave to employees who donated leave on a pro-rata basis.

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

1. An agency head may pay an employee at any time at the employee's current rate of pay for all or any portion of the employee's annual leave that was earned as the result of working on a day on which a state holiday is observed.
2. An agency head may approve pay to a non-separating employee for all or any portion of the employee's accumulated and unused annual leave at the employee's current rate of pay subject to the following:
 - a. Agency procedures. Before paying an employee under this subsection, an agency head shall develop written standards and procedures that provide for equal consideration of all employees similarly situated. The agency head shall submit proposed standards and procedures and any subsequent changes to the Director for approval. The agency's procedures shall include at minimum:
 - i. Request and approval procedures;
 - ii. Documentation required to support the request for payment;
 - iii. Any limitations, as applicable, including, but not limited to: the maximum number of times an employee may receive payment under this subsection; the maximum number of hours an employee may be paid per occurrence; the minimum number of hours of annual leave an employee must have used in the previous 12 months; and the minimum balance an employee is required to maintain after payout, if any.
 - b. Restrictions. The agency head shall obtain the employee's concurrence if the payment would reduce the employee's annual leave balance to fewer than:
 - i. 240 hours for a covered employee;
 - ii. 320 hours for an uncovered employee.

H. Movement.

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

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

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

R2-5A-B603. Sick Leave

- A. Definition.** "Sick leave" is any approved period of paid absence granted an employee due to:
 1. Illness or injury that renders the employee unable to perform the duties of the employee's position.
 2. Disability of the employee that is caused by pregnancy, childbirth, miscarriage, or abortion.
 3. Examination or treatment of the employee by a licensed health care practitioner.
 4. Illness, injury, disability caused by pregnancy or childbirth, or examination or treatment by a licensed health care practitioner of an employee's spouse, dependent child, or parent. Sick leave granted for this purpose shall be charged to the employee's sick leave account and shall not exceed 40 hours per calendar year. For the purposes of this Section:
 - a. The term "dependent child" means a natural child, an adopted child, a foster child, or a stepchild, more than one-half of whose support is received from the employee.
 - b. The term "parent" means a birth parent, adoptive parent, stepparent, foster parent, grandparent, parent-in-law, or an individual who stood "in loco parentis."
 5. Attendance at court-related proceedings by the employee under A.R.S. § 8-420 or A.R.S. § 13-4439.
- B. Accrual.**
 1. All state employees, except temporary and part-time employees, shall accrue sick leave at the rate of 3.70 hours bi-weekly.
 2. Temporary employees shall not accrue sick leave.
 3. Part-time employees who:
 - a. Work 1/4 time, 1/2 time, or 3/4 time shall accrue a proportional amount of sick leave;
 - b. Work a percentage of full-time other than 1/4 time, 1/2 time, or 3/4 time will accrue sick leave at the next lower rate;
 - c. Work less than 1/4 time shall not accrue sick leave.
 4. Except as provided by R2-5A-D602 for an employee on industrial leave, an eligible employee accrues sick leave each bi-weekly pay period if the employee has been in a pay status for at least one-half of the employee's scheduled work hours in that pay period or month.
 5. A sick leave accrual is credited on the last day of the bi-weekly pay period or month in which the accrual is earned and is available for use on the first day of the following pay period or month. An employee who is separating from state employment accrues leave through the employee's last date of employment for the purpose of determining the employee's accumulated sick leave at the time of the employee's separation pursuant to subsection (F).
- C. Accumulation.** Sick leave accumulates without limit.
- D. Use of sick leave.**
 1. Sick leave may be taken when approved by the agency head.
 2. The agency head may require submission of evidence substantiating the need for sick leave. If the agency head determines the evidence is inadequate, the absence shall

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be charged to another category of leave or considered absence without leave.

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

E. Movement to another state agency. An employee who moves to another state agency shall transfer all accumulated and unused sick leave to the employee's sick leave account in the new state agency.

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

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

R2-5A-B604. Administrative Leave

- A. General. An agency head may authorize an employee to be absent with pay on administrative leave during a state of emergency declared by the Governor or:
 1. In other emergency situations such as extreme weather conditions, fire, flood, or malfunction of publicly-owned or controlled machinery or equipment.
 2. To relieve an employee of duties temporarily during the investigation of alleged wrongdoing by the employee or during a disciplinary or dismissal process, subject to the requirements outlined in subsections (B) and (C).
- B. Reporting administrative leave. If an employee's administrative leave totals 80 consecutive hours, the agency head shall submit a report to the Director and for each week thereafter, until the employee's administrative leave is terminated. The report shall include:
 1. The name of the agency,
 2. The employee identification number (EIN) of the employee,
 3. The name of the employee,
 4. The employment status of the employee,
 5. The date the employee was placed on administrative leave,
 6. The number of hours the employee has been on administrative leave as of the date of the report, and
 7. A brief description as to why the employee is on administrative leave.

C. Approval of Director. If an employee's administrative leave is anticipated to exceed 240 consecutive working hours, the agency head shall obtain the approval of the Director.

1. An agency head requesting approval to continue an employee's administrative leave for more than 240 working hours shall submit a request to the Director for approval at least five business days before the employee's administrative leave will total 240 working hours. If circumstances beyond the agency's control do not permit at least five business days' notice, the agency head shall submit the request as soon as the agency head is aware of the necessity for the request. The request shall include all of the information listed in subsection (B), the reason the administrative leave will extend beyond 240 working hours and the anticipated date the administrative leave will be terminated.
2. The Director shall review the request and approve, modify or deny the request within three business days of receipt.

Historical Note

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

R2-5A-B605. Bereavement Leave

- A. General. An employee may be absent with pay due to the death or funeral of a spouse, natural child, adopted child, foster child, stepchild, natural parent, stepparent, adoptive parent, an individual who stood "in loco parentis," grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, mother-in-law, father-in-law, son-in-law, or daughter-in-law.
- B. Amount of bereavement leave.
 1. A full-time employee may be absent with pay for up to 24 regularly scheduled work hours. An agency head may extend the bereavement leave for up to 16 additional work hours if the employee travels out-of-state for the funeral.
 2. A part-time employee who works 1/4 time, 1/2 time, or 3/4 time may be absent with pay for a proportional amount of bereavement leave. A part-time employee who works a percentage of full-time other than 1/4 time, 1/2 time, or 3/4 time may be absent with pay at the next lower rate. An employee who works less than 1/4 time is not entitled to bereavement leave.

Historical Note

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

R2-5A-B606. Civic Duty Leave

- A. General. Upon substantiated application, an employee shall receive absence with pay as civic duty leave while serving as a juror, complying with a subpoena, voting, serving as a voting location worker, or serving as a member of a governmental board, commission, or similarly constituted governmental body, subject to the conditions set forth in this Section and the limitations in R2-5A-A601(B).
- B. Use of civic duty leave. Except for voting pursuant to A.R.S. § 16-401 (primary elections) or A.R.S. § 16-402 (general elections), an employee granted civic duty leave shall report for duty with the employing agency whenever the employee's presence is not required for the civic duty, unless:
 1. The distance to the work location would preclude timely reporting for the civic duty, or

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2. The employee cannot return to work at least one hour before the end of the work shift.
- C. Appearance as a witness. An employee who is subpoenaed as a witness by any court or administrative, executive, or judicial body in this state may be absent with pay unless the testimony or evidence to be given relates to the employee's commercial, business, or personal matters.
- D. Jury and witness fees. Employees who are granted civic duty leave when called for jury duty or subpoenaed as a witness shall remit any fees to the employing agency, except for mileage allowance.
- E. Membership on a public service body. An employee serving as a member of a governmental board, commission, or similarly constituted governmental body may be absent with pay while performing official duties with the body.
- F. Serving as a voting location worker. Subject to the guidelines established by the Director and following written approval from the employee's supervisor, an employee may be absent with pay during a statewide election in this State for the purpose of serving at a voting location and completing the required associated training. An employee who is granted civic duty leave for serving as a voting location worker shall remit to the employing agency any fees paid by the county administering the election for work performed while the employee is on civic duty leave.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

R2-5A-B607. Compensatory Leave

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

rate of pay immediately before the employee's change in status or position.

- E. Separation. An agency head shall pay an employee who separates from state employment for all unused compensatory leave at a rate of compensation not less than the higher of:
 1. The average regular rate received by such employee during the last three years of the employee's employment, or
 2. The final regular rate received by such employee.

Historical Note

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

R2-5A-B608. Educational Leave

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

Historical Note

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

R2-5A-B609. Living Donor Leave

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

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

Historical Note

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

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

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

Historical Note

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

R2-5A-B611. Meritorious Service Leave

- A. The Director shall establish guidelines for meritorious service leave.
- B. Except for employees in covered positions classified as Correctional Officers I, II, or III, Community Corrections Offi-

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cers, or positions that require full authority peace officer certification, meritorious service leave is only available to uncovered employees.

- C. The guidelines established by the Director shall include at a minimum:
1. The maximum number of hours of meritorious service leave that may be awarded to an employee per calendar year;
 2. The maximum percentage of agency employees eligible for meritorious service leave;
 3. A requirement that an employee shall use meritorious service leave within 12 months of receipt of the leave;
 4. A requirement that if the employee does not use the meritorious service leave within 12 months of receipt, that the leave is forfeited; and
 5. A statement that unused meritorious service leave is forfeited upon separation from state employment.
- D. Subject to the guidelines established by the Director, a meritorious service leave program may be implemented at the discretion of the agency head.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

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

- A. Definition. A furlough is the involuntary placement of an employee on leave of absence without pay for budgetary reasons.
- B. Types of furloughs. A furlough may be authorized by legislative action. In addition, the Director may approve:
1. A reduction of funding furlough that allows an agency head to place employees on furlough for any combination of consecutive or non-consecutive days. There is no maximum number of days an employee may be placed on furlough, but consecutive furlough days shall not exceed five consecutive days or more than one-half the employee's regularly scheduled hours in a pay period, whichever is less; and
 2. A suspension of funding furlough that allows an agency head to place employees on furlough indefinitely until funding is restored.
- C. General.
1. The total number of days an employee is placed on furlough may vary based on the amount of the reduction or length of suspension of funding.
 2. A furlough day equals eight hours for full-time employees and is pro-rated for part-time employees. Furlough hours for part-time employees are calculated by multiplying the number of hours the employee is scheduled to work in a week by 0.2. If the calculation results in a fraction, the furlough hours shall be rounded to the nearest whole hour, as follows:
 - a. 0.5 or above is rounded up, and
 - b. Less than 0.5 is rounded down.
 3. A furlough is unpaid.
 4. Unless a work emergency occurs under subsection (D)(5)(d), while on furlough, an employee shall not conduct state work or volunteer to conduct state work, either with or without compensation.
 5. Paid leave shall not be substituted for furlough days.
6. All state employees within the scope of the furlough shall be subject to the furlough in the same manner. Exceptions may be granted when an agency head determines certain employees within the scope of the furlough have unique knowledge or skills or are considered mission critical and need to be excluded from the furlough.
7. Unless the employee is in a physician or attorney position, an employee who is in a position that has been determined to be exempt from the provisions of the Fair Labor Standards Act (FLSA) will lose the exemption for any work week in which the employee is furloughed for less than the full work week.
8. A furlough shall not adversely affect an employee's service anniversary date or create a break in service.
9. Upon conclusion of the furlough period, an agency head shall return an employee to the employee's status and position held prior to the furlough, unless a personnel action taken in accordance with State Personnel System rules authorizes a change to the employee's record.
10. An employee's failure or inability to return to work upon conclusion of the furlough period may, in accordance with applicable State Personnel System rules:
- a. Result in the employee being placed on leave,
 - b. Be considered a resignation,
 - c. Result in separation without prejudice, or
 - d. Be cause for dismissal of a covered employee.
- D. Reduction of funding furlough.
1. An agency head shall submit to the Director a furlough plan for approval if the agency head determines a furlough is necessary due to a reduction of funding. An agency head is not required to implement or exhaust other cost-savings measures prior to initiating a furlough plan.
 2. The agency head shall submit the furlough plan for approval at least 30 business days prior to the proposed implementation date of the furlough. If circumstances beyond the agency head's control do not permit at least 30 business days' notice, the agency head shall submit the furlough plan as soon as the agency head is aware of the necessity for the furlough and provide a written explanation of why the 30 business day requirement was not met.
 3. An agency head shall include all of the following in the furlough plan:
 - a. The proposed scope of the furlough plan, which shall be either agency-wide or limited to:
 - i. Agency operations in one or more geographic areas,
 - ii. One or more organizational units of the agency,
 - iii. One or more funding sources,
 - iv. One or more job classes,
 - v. One or more class series, or
 - vi. Any combination of the above.
 - b. If the furlough will not be conducted on an agency-wide basis, each affected:
 - i. Geographic location,
 - ii. Organizational unit,
 - iii. Funding source,
 - iv. Job class, and
 - v. Class series.
 - c. For each affected geographical location, organizational unit, funding source, job class, and class series specified in the furlough plan, the total number of employees scheduled for furlough;

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- d. If requesting any exceptions within the scope of the furlough under subsection (C)(6), the total number of employees within the scope of the furlough, the number of employees for whom an exception is requested, and the reason for the request;
 - e. The number of days and date ranges for the furlough;
 - f. The anticipated cost savings due to the furlough;
 - g. The agency's procedures for scheduling furloughs; and
 - h. The procedures for notifying employees of the furlough.
4. The Director shall review and provide written notification of approval, modification, or denial of an agency's furlough plan within 20 business days of receipt.
 5. Upon approval of the Director to conduct a reduction of funding furlough, an agency head:
 - a. May place an employee on furlough for any combination of consecutive or non-consecutive days, subject to the limits in subsection (B)(1);
 - b. Shall determine the scheduling of furloughs that provide for the continuation of any agency operations required by law;
 - c. May cancel or rescind any approved paid or unpaid leave in progress or scheduled for an employee who is designated for furlough and shall notify the affected employee in writing of the cancellation of the approved leave for the duration of the furlough. If the previously approved leave was scheduled to extend beyond the furlough, the employee may return to paid leave status, if available, following the furlough period. If the agency head cancels an employee's paid leave and:
 - i. The employee is on leave pursuant to the provisions of the federal Family and Medical Leave Act (FMLA) during a scheduled furlough day, the furlough day shall not count against the employee's FMLA entitlement and the employee's leave balance shall not be charged for the furlough day; or
 - ii. The employee is on military leave during a scheduled furlough day, the furlough day shall not count against the employee's military leave and the employee's leave balance shall not be charged for the furlough day; and
 - d. Shall prohibit an employee from working during the period of the furlough, unless a work emergency arises. In the event of a work emergency, an agency head may revoke the furlough for an employee in an individual case. An employee whose furlough is revoked due to an emergency shall be paid for time required to work and shall be required to take the furlough on another day, unless otherwise exempted.
- E. Suspension of funding furlough - agency head request.**
1. An agency head shall submit to the Director for approval a furlough plan if the agency head determines a furlough is required due to a suspension of funding to pay employees.
 2. The agency head shall submit the furlough plan for approval at least 15 business days prior to the proposed implementation date of the furlough. If circumstances beyond the agency head's control do not permit at least 15 business days' notice, the agency head shall submit the furlough plan as soon as the agency head is aware of the necessity for the furlough and provide a written explanation of why the 15 business day requirement was not met.
3. An agency head shall include all of the following in the furlough plan:
 - a. The proposed scope of the furlough plan, which shall be either agency-wide or limited to:
 - i. Agency operations in one or more geographic areas,
 - ii. One or more organizational units of the agency,
 - iii. One or more funding sources,
 - iv. One or more job classes,
 - v. One or more class series, or
 - vi. Any combination of the above.
 - b. If the furlough will not be conducted on an agency-wide basis, each affected:
 - i. Geographic location,
 - ii. Organizational unit,
 - iii. Funding source,
 - iv. Job class, and
 - v. Class series.
 - c. For each affected geographical location, organizational unit, funding source, job class, and class series specified in the furlough plan, the total number of employees scheduled for furlough;
 - d. If requesting any exceptions within the scope of the furlough under subsection (C)(6), the total number of employees within the scope of the furlough, the number of employees for whom an exception is requested, and the reason for the request;
 - e. The procedures for notifying employees of the furlough; and
 - f. The procedures for notifying employees of restoration of funding and when to return to work.
 4. The Director shall review and provide written notification of approval, modification, or denial of an agency's furlough plan within 10 business days of receipt.
 5. Upon approval of the Director to conduct a suspension of funding furlough, an agency head:
 - a. Shall freeze all personnel actions except for those actions that would accomplish, or assist in accomplishing the purpose of the furlough;
 - b. May place employees on furlough indefinitely until the reason for the furlough is abated;
 - c. Shall notify affected employees of the furlough and that while on furlough, an employee:
 - i. Shall not report to work or work from any location until notified to return to work; and
 - ii. Will not receive pay for any unused and forfeited annual leave, should the employee resign or be terminated, until funding is restored;
 - d. May cancel or rescind any approved paid or unpaid leave in progress or scheduled for an employee who is designated for furlough and shall notify the affected employee in writing of the cancellation of the approved leave for the duration of the furlough. If the previously approved leave was scheduled to extend beyond the furlough, the employee may return to paid leave status, if available, following the furlough period; and
 - e. Shall notify employees upon restoration of funding and when to return to work.
- F. Suspension of funding furlough - failure to pass state budget.** If the state fails to pass a budget and funds are not appropriated

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for the following fiscal year, the Director may authorize an agency head to implement a suspension of funding furlough. Upon such notification by the Director, an agency head:

1. Shall freeze all personnel actions except for those actions that would accomplish, or assist in accomplishing the purpose of the furlough;
2. Unless an exception has been authorized as provided in subsection (F)(4), shall place all employees on furlough indefinitely until the reason for the furlough is abated;
3. Shall require all employees to be subject to the furlough in the same manner;
4. May establish exceptions when only a portion of the employees in a particular class are necessary to perform mission critical services;
5. Shall notify affected employees of the furlough and that while on furlough, an employee:
 - a. Shall not report to work or work from any location until notified to return to work; and
 - b. Will not receive pay for any unused and unforfeited annual leave, should the employee resign or be terminated, until funding is restored;
6. Shall cancel or rescind any approved paid or unpaid leave in progress or scheduled for an employee who is designated for furlough and shall notify the affected employee in writing of the cancellation of the approved leave for the duration of the furlough. If the previously approved leave was scheduled to extend beyond the furlough, the employee may return to paid leave status, if available, following the furlough period; and
7. Shall notify employees upon restoration of funding and when to return to work.

G. Employee request for review.

1. An employee may submit a request for review of the employee's placement on furlough. The employee shall make the request for review in writing to the agency head no later than three business days after the employee's receipt of a furlough notice. The employee shall limit the request for review to the determination resulting in the employee's furlough and include a proposed resolution.
2. The agency head shall provide a written response to the employee with a final decision within:
 - a. Five business days after receipt of the request if a reduction of funding furlough, or
 - b. Fifteen business days after the employee returns to work if a suspension of funding furlough.
3. A request for review shall not delay implementation of the furlough.

Historical Note

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

R2-5A-C602. Leave Without Pay

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

less shall return to the same position occupied at the start of the leave without pay.

2. Except as provided in subsection (C)(4), an employee who returns to work after a period of leave without pay in excess of 80 consecutive hours may return to a position in the class held at the start of the leave without pay, if a position is available and funded, and if the leave without pay is terminated in one of the following ways:
 - a. Expiration of its term and the employee's return to work;
 - b. Rescission of the leave without pay by the agency head before its scheduled expiration due to an unforeseen need that results in an insufficient number of employees available to provide service and for which:
 - i. The agency head provides written notice of the rescission to the employee's last known address at least 15 days before the date the employee is directed to return to work; or
 - ii. If circumstances beyond the agency's control do not permit at least a 15-day notice, the agency head provides notice as soon as possible after becoming aware of the need for the employee to return to work; or
 - c. Curtailment of the leave without pay before its scheduled expiration date upon request of the employee and with approval of the agency head.
3. An agency head may consider the failure or inability of an employee to return to work on the first work day after an approved leave without pay as a resignation.
4. An employee returning to work from leave without pay granted:
 - a. For industrial illness or injury for up to six months shall return to the position occupied at the start of the leave without pay. If this position or a position in the same class is not available and funded, the agency head shall conduct a layoff or, if the employee is covered, a reduction in force in accordance with Subchapter B.
 - b. As military leave is subject to the provisions of the USERRA regulations incorporated by reference in R2-5A-D603.
 - c. As FMLA leave is subject to the provisions of the FMLA regulations incorporated by reference in R2-5A-D601.
- D. Insurance benefits continuation.** An employee who is on leave without pay may continue to participate in the employee insurance plans as follows:
 1. Health benefit plan participation.
 - a. An employee who is on FMLA leave is eligible to continue to participate in the health benefit plan for the duration of the FMLA leave by paying the employee premium/contribution. An agency head may recover the state's portion of premium/contributions paid to maintain health coverage for an employee if the employee fails to return from FMLA leave under certain circumstances, in accordance with FMLA regulations incorporated by reference in R2-5A-D601.
 - b. An employee who is on leave without pay for a health-related reason that is not an industrial illness or injury and who either does not meet FMLA eligibility requirements or has exhausted FMLA leave and remains absent from work may continue to par-

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ticipate in the health benefit plan by paying both the state and employee premium/contribution. Authority to continue participation in the health benefit plan shall terminate on the earliest of:

- i. Receipt of long-term disability benefits for which there is eligibility to continue health benefit plan participation under a state-sponsored retirement plan,
 - ii. A determination of eligibility for Medicare coverage, or
 - iii. 30 months after the incapacity began.
- c. An employee who is on leave without pay for reasons other than those outlined in subsection (D)(1)(a), (b), or R2-5A-D602 pertaining to industrial leave, may continue to participate in the health benefit plan for a maximum of six months by paying both the state and employee premiums/contributions.
2. Life insurance plan participation.
 - a. An employee who is on FMLA leave continues to participate in the Basic Life and Accidental Death and Dismemberment Insurance Plan and may continue to participate in the supplemental life and dependent life insurance coverage by paying the full premium/contribution.
 - b. An employee who is on leave without pay for a health-related reason that is not an industrial illness or injury and who either does not meet FMLA eligibility requirements or has exhausted FMLA leave and remains absent from work may continue to participate in the basic life insurance plan by paying the state premium/contribution. An employee who elects to continue to participate in the basic plan may also continue any supplemental or dependent life coverage that is in force at the beginning of the leave without pay by continuing to pay the premium/contribution. Authority to continue in the life insurance plan shall terminate in accordance with the time limits specified in subsection (D)(1)(b).
 - c. An employee who is on leave without pay for reasons other than those outlined in subsection (D)(1)(a), (b), or R2-5A-D602 pertaining to industrial leave, may continue to participate in the basic life insurance plan by paying the state premium/contribution. An employee who elects to continue to participate in the basic plan may also continue any supplemental or dependent life coverage that is in force at the beginning of the leave without pay by continuing to pay the premium/contribution. Authority to continue in the life insurance plan shall be available for a maximum of six months.
 3. Termination of insurance. The insurance coverage of an individual on leave without pay who fails to pay insurance premiums/contributions when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium/contribution paid.

Historical Note

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

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

- A. General. All state agencies are responsible for complying with the federal Family and Medical Leave Act (FMLA) of 1993

and all applicable revisions. FMLA Regulations, 29 CFR 825.100 through 29 CFR 825.800 (July 2012), are incorporated by this reference and on file with the Department and available from the U.S. Government Printing Office, 732 North Capitol Street N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments. Any interference with, restraint of, or denial of an employee's rights provided by the FMLA is strictly prohibited.

B. Eligible employee.

1. An eligible employee for the purposes of the FMLA is an employee who:
 - a. Is an employee of the state of Arizona;
 - b. Has been employed by the state of Arizona for at least 12 months; and
 - c. Worked for at least 1,250 hours of service during the 12 months immediately preceding commencement of the leave.

2. An agency head shall not extend FMLA benefits to an ineligible employee.

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

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

D. Amount of FMLA leave.

1. An employee who takes FMLA leave for any of the situations described in subsections (C)(1), (2), (3) or (4) may take a maximum of 12 workweeks of leave during any rolling 12-month period, measured backward from the first day of each approved period of FMLA leave.
2. An employee who takes FMLA leave for the situation described in subsection (C)(5) may take up to 26 workweeks of leave in a single 12-month period.
3. During a 12-month period, an eligible employee is able to take no more than 12 workweeks of FMLA leave for any of the situations described in subsections (C)(1), (2), (3) or (4) and a combined total of 26 workweeks of FMLA leave if the leave includes the situation described in subsection (C)(5).

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

1. Sick leave or, as applicable, family sick leave subject to the provisions of R2-5A-B603.

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2. Compensatory leave subject to the provisions of R2-5A-B607.
 3. Annual leave subject to the provisions of R2-5A-B602.
 4. Leave without pay subject to the provisions of R2-5A-C602.
- G.** Insurance benefits continuation. An employee who is using leave with pay remains eligible for continued participation in the employee insurance plans and the employee's share of premiums/contributions is paid through payroll deduction. An employee who is on leave without pay while on FMLA leave may continue to participate in the employee insurance plans as follows:
1. Health benefit plan participation. An employee is eligible to continue to participate in the health benefit plan for the duration of the FMLA leave by paying the employee premium/contribution. An agency head may recover the state's portion of premium/contributions paid to maintain health coverage for an employee if the employee fails to return from FMLA leave under certain circumstances, in accordance with FMLA regulations incorporated by reference in subsection (A).
 2. Life insurance plan participation. An employee continues to participate in the Basic Life and Accidental Death and Dismemberment Insurance Plan and may continue to participate in the supplemental life and dependent life insurance coverage by paying the full premium/contribution.
 3. Termination of insurance. The insurance coverage of an employee on leave without pay who fails to pay insurance premiums/contributions when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium/contribution paid.
- H.** Return from FMLA leave. An agency head shall restore an employee returning from FMLA leave to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. The provisions of the FMLA, not the provisions of R2-5A-C602(C), shall govern return to work from leave without pay granted to complete an FMLA-qualified leave.
- I.** Employee responsibilities. An employee is required to adhere to the employing agency's call-in procedures, give the agency 30 days' notice in the event of a foreseeable leave, provide requested documentation, and periodic updates of the employee's status and intent to return to work as requested by the agency.
- J.** Agency rights. Nothing in the FMLA or this Section should be construed as limiting an agency's right to manage, discipline or terminate an employee, including an employee's failure to comply with the agency's request for appropriate documentation to substantiate the employee's need for the leave. However, an employee's use of FMLA leave cannot be considered as a negative factor in any employment decision.
- K.** Conflict. If there is a conflict between the provisions of these rules and the FMLA, the provisions of the FMLA govern.
- Historical Note**
- Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).
- R2-5A-D602. Industrial Leave**
- A.** Use of leave.
1. An agency head shall place an employee who sustains a job-related illness or injury that is compensable under the Workers' Compensation Law, A.R.S. Title 23, Chapter 6 on sick leave.
 2. If an employee who is on leave under the Worker's Compensation laws meets Family and Medical Leave Act (FMLA) eligibility requirements and the leave qualifies for FMLA leave, an agency head shall count it as FMLA leave. An agency head shall apply industrial leave and FMLA concurrently.
 3. An employee shall use leave in an amount necessary to receive total payments (leave payments plus Workers' Compensation payments) that do not exceed the gross salary of the employee.
 4. If an employee exhausts all sick leave, compensatory leave and annual leave, an agency head shall place the employee on leave without pay.
- B.** Payments. If an employee receives a retroactive Workers' Compensation payment for any period of industrial illness or injury for which leave payments were received, the employee shall reimburse the agency for Workers' Compensation payments that exceed 100% of the employee's gross salary before the illness or injury, and the agency head shall restore the equivalent value of leave to the employee's appropriate leave account.
- C.** Light duty. If an employee has a job-related illness or injury that impairs performance on the former job, the agency head shall make every effort to place the employee in a suitable position within the agency, including a light duty assignment.
- D.** Restriction. An agency head shall not grant sick leave or leave without pay to an employee who fails to accept compensation available under the industrial injury and disease provisions of A.R.S. §§ 23-901 to 23-1091.
- E.** Insurance benefits continuation. An employee who is using leave with pay in accordance with subsection (A) remains eligible for continued participation in the employee insurance plans and the employee's share of premiums/contributions is paid through payroll deduction. An employee who is on leave without pay due to an industrial illness or injury may continue to participate in the employee insurance plans as follows:
1. Health benefit plan participation.
 - a. An employee may continue to participate in the health benefit plan for a maximum of six months from the date of illness or injury by paying the employee premium/contribution.
 - b. At the end of the six-month period, an employee who remains on leave without pay due to industrial illness or injury may continue to participate in the health benefit plan by paying both the state and employee premiums/contributions, until the employee returns to work or is determined to be eligible for Medicare coverage or Long-term Disability, whichever occurs first.
 2. Life insurance plan participation. An employee who is on leave without pay continues to participate in the basic life and accidental death and dismemberment insurance plan without cost for six months after the month in which the illness or injury occurs. During this six-month period, the employee may continue supplemental life and dependent life coverages that were in effect at the start of the leave by paying the applicable premium/contribution.
 3. Termination of insurance. The insurance coverage of an employee on leave without pay who fails to pay insurance premiums/contributions when due shall terminate at 11:59 p.m. on the last day of the period covered by the last premium/contribution paid.

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- F. Accrual of leave. An employee shall continue to receive full leave accrual as long as the employee uses two or more hours of paid leave each day.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

R2-5A-D603. Military Leave

An employee who requests absence with pay on military leave under A.R.S. §§ 26-168, 26-171, or 38-610 shall submit a copy of the orders for duty with the request for military leave. An employee who has not received the orders for duty prior to the start of the military leave shall submit a copy of the orders within five workdays of receipt. An employee may be absent with pay for military purposes for up to three times the average of regularly scheduled work hours in a weekly work period each year and up to six times the average of regularly scheduled work hours in a weekly work period in any two consecutive federal fiscal years. All state agencies are responsible for complying with the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994 and all applicable revisions. USERRA Regulations, 20 CFR 1002.1 through 20 CFR 1002.314 (April 2012), are incorporated by this reference and on file with the Department and available from the U.S. Government Printing Office, 732 North Capitol Street N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

R2-5A-D604. Victim Leave

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

Historical Note

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

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

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

2. As determined by the agency head, to evaluate the job performance of each subordinate uncovered employee in a position listed in A.R.S. § 41-742(F).

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

R2-5A-702. Performance Management Process

- A. Performance plan. For the purposes of this subsection, "performance plan" means a communication by an employee's supervisor that outlines what is expected of the employee and how the employee's performance will be measured. Subject to review by agency management, a supervisor:
1. Shall communicate performance expectations with each employee within 30 days of becoming the employee's supervisor.
 2. May modify a performance plan at any time during a performance period.
 3. Shall modify a performance plan when significant responsibilities or expectations are added to or removed from a position.
 4. Shall notify the affected employee of any modifications made to a performance plan under subsection (A)(2) or (3).
- B. Performance evaluation requirements.
1. Informal evaluation. A supervisor shall:
 - a. Monitor and evaluate an employee's performance throughout the rating period,
 - b. Provide feedback to the employee on a regular basis, and
 - c. Attempt to correct inadequate performance where possible and appropriate.
 2. Formal evaluation. A supervisor shall:
 - a. Formally evaluate, document and rate the performance of each employee at least annually.
 - b. Submit the evaluation to agency management for review prior to the evaluation being administered to the employee.
 3. Covered probationary employees. Prior to granting a covered probationary employee permanent status, a supervisor shall evaluate a probationary employee at least once prior to the end of the employee's probationary period.
- C. Responsibilities.
1. An employee shall comply with the performance plan established by the supervisor.
 2. A supervisor shall comply with performance evaluation requirements.
 3. An agency head shall ensure that all performance evaluations are completed as required by this Section.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

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

- A. Authority. An agency head has the primary authority and responsibility for managing the conduct of all employees within an agency. A covered employee may be disciplined only for cause. An agency head shall discipline a covered employee in accordance with this Article and the rules in Sub-

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chapter B of this Chapter. An uncovered employee serves at the pleasure of the appointing authority and may be dismissed at will. Except for an employee who is in a position listed in A.R.S. § 41-742(F), any action that involves a suspension greater than 80 working hours, an involuntary demotion, or a dismissal requires review by the Director prior to the agency head administering such action.

B. Level of discipline.

1. If an agency head deems it necessary to discipline an employee, the agency head may determine the level of discipline to be imposed, up to and including dismissal, subject to review by the Director, if applicable.
2. In determining the level of discipline to be imposed, the agency head may consider the following factors:
 - a. Consistent application of rules and standards,
 - i. Unless otherwise prescribed by statute, the agency head need only consider those cases decided under the administration of the current agency head. Decisions in cases prior to the administration of the current agency head are not binding upon the current agency head and are not relevant in determining consistent application of rules and standards.
 - ii. In determining consistent application of rules and standards, the disciplinary actions imposed by one agency may not be binding upon any other agency and may not be used for comparison purposes in hearings wherein the consistent application of rules and standards is at issue.
 - b. Prior knowledge of rules and standards,
 - c. The severity of the infraction,
 - d. The repeated nature of violations,
 - e. Prior corrective or disciplinary actions,
 - f. Previous oral discussions,
 - g. The employee's past work record,
 - h. The effect on agency operations,
 - i. The potential of the violations for causing damage to persons or property.

C. Limitations.

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

D. Review by Director.

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

Historical Note

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

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

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

Historical Note

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

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

- A. A covered employee who is issued a disciplinary action may have grievance or appeal rights, as applicable.
- B. An uncovered employee does not have grievance rights or the right of appeal to the State Personnel Board or the Law Enforcement Merit System Council.
- C. A covered employee who files a complaint on a disciplinary action alleging discrimination or harassment is precluded from also filing a grievance through the agency's grievance procedure on the same disciplinary action that is the subject of the employee's complaint.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

ARTICLE 9. COMPLAINTS**R2-5A-901. Complaint System**

- A. General. Each agency head shall:
 1. Adopt a procedure to address employee complaints concerning discrimination or harassment in compliance with this rule.
 2. Designate an employee of the agency to serve as the agency's complaint coordinator, who shall be responsible for receiving complaints, determining applicability under the complaint system, investigating or assigning the complaint to the appropriate individual within the agency for review or investigation, and tracking the processing of complaints.
- B. Matters subject to the complaint system. The adopted complaint procedure shall require the complainant to file the complaint with the agency complaint coordinator within 180 days of the action giving rise to the complaint and to clearly outline the allegations to be addressed, including whether the basis of the complaint is based on:
 1. Unlawful discrimination based on race, color, religion, sex (including pregnancy), age, national origin, genetic information or on the basis of a disability.
 2. Allegation of sexual harassment or other form of harassment.
 3. Retaliation for filing a complaint.

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4. Retaliation or intimidation for exercising any right under state or federal law.
- C. Preparation. A complainant shall not be allowed the use of state time or state property to prepare a complaint, prepare for a meeting with agency management or to meet with a representative. Subject to supervisory approval, a complainant may request available compensatory or annual leave for this purpose.
- D. Multiple complaints. Multiple complaints by an employee may be consolidated into a single complaint. Separate complaints filed by two or more employees regarding the same issue or issues may be consolidated into a group complaint. Employees having a common complaint may submit one group complaint, identifying one complainant as the selected spokesperson for the group. Employees who choose to file a group complaint are prohibited from filing separate complaints on the same issue.
- E. Amendments. Once a complaint is submitted to the agency complaint coordinator, it may not be amended. If additional documentation is submitted by the complainant after the initiation of the complaint, the reviewing or investigating official may remand the complaint to the complainant for reconsideration and resubmission.
- F. Approval. Each agency will submit its proposed complaint procedure and any subsequent changes to the Director for approval.

Historical Note

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

R2-5A-902. Complaint Procedures

- A. Content. Each agency complaint procedure shall include as a minimum that:
 1. The agency head be notified of all verbal or written complaints of discrimination or harassment reported by an employee immediately upon receipt of a complaint.
 2. Employees who are told or otherwise become aware that discrimination or harassment is occurring must immediately report the allegation or complaint to the agency's complaint coordinator.
 3. The complaint include all facts and circumstances involved in the alleged violation, including:
 - a. Description of the incident(s),
 - b. Name(s) of individual(s) involved,
 - c. Name(s) of witness(es),
 - d. The date(s) the discrimination or harassment occurred (if known),
 - e. Resolution sought,
 - f. Federal or state law alleged to have been violated.
 4. The agency complaint coordinator shall acknowledge receipt of the complaint in writing to the complainant not later than five business days after receipt of the written complaint.
 5. The agency complaint coordinator shall initiate an investigation into the alleged complaint or assign the complaint to the appropriate individual within the agency for review or investigation within 10 business days and the review or investigation shall be completed within 60 business days of receipt of the written complaint. If extenuating circumstances exist, an extension shall be requested through the agency complaint coordinator.
 6. Barring resolution of the complaint by agreement of the parties, the agency complaint coordinator shall forward a written recommendation to the agency head, or designee,

within 10 business days of completion of the review or investigation.

7. The agency head, or designee, shall review the findings and recommendations and issue a decision in writing to the complainant.
8. A statement advising that retaliation against an employee for filing a complaint in good faith will not be tolerated or permitted.
9. A statement specifying that a grievance filed by a covered employee under R2-5B-403 that includes an allegation of discrimination or harassment shall be reviewed or investigated under the provisions of this Article, and not the grievance system.
- B. Review by Director.
 1. An employee, other than a Department of Administration employee, who is not satisfied with the agency head's response to a complaint alleging discrimination or harassment, may elevate the complaint to the Director within five business days after the receipt of the agency head's response. The Director will furnish a copy of the final decision to the agency head and the complainant within 20 business days following receipt of the complaint by the Director. The 20 business days may be extended by the Director with the concurrence of the complainant. The decision of the Director is the final step in the complaint procedure.
 2. A complainant who is a Department of Administration employee and who is not satisfied with the Director's decision on a complaint alleging discrimination or harassment may resubmit the complaint to the Director within five business days after receipt of the Director's decision. The Director will appoint an individual who is not an employee of the Department of Administration and who serves in a position that is assigned to manage an agency's employee relations or investigations work unit to investigate the resubmitted complaint. The investigator shall conduct an investigation and furnish a copy of the findings and final decision to the Director and the complainant within 20 business days following receipt of the complaint by the investigator. The 20 business days may be extended by the investigator with the concurrence of the complainant. The decision of the investigator is the final step in the complaint procedure.
 3. The response will refer the employee to the appropriate entity if the employee is dissatisfied with the final step of the complaint procedure.

Historical Note

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

ARTICLE 10. SEPARATIONS**R2-5A-1001. Voluntary Separation**

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

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Historical Note

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

R2-5A-1002. Involuntary Separation

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

Historical Note

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

SUBCHAPTER B. COVERED EMPLOYEES**ARTICLE 1. GENERAL****R2-5B-101. Definitions**

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

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

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

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

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

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

Historical Note

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

R2-5B-102. Applicability

- A.** The rules in this Subchapter are applicable to covered positions, applicants for covered positions and covered employees in the State Personnel System.
- B.** Covered service is limited to the following:
1. An employee who was in the state service as either a probationary or permanent status employee, was not required

to become at will uncovered in accordance with A.R.S. Title 41, Chapter 4, Article 4, and who does not:

- a. Voluntarily elect to become uncovered at will.
 - b. Voluntarily accept a change in assignment to a position in the uncovered service.
 - c. Have a break in service.
- 2.** A newly hired employee who is appointed or a current uncovered employee who voluntarily accepts a change in assignment to:
- a. A position in the Arizona Department of Corrections that is classified as a Correctional Officer I, Correctional Officer II, Correctional Officer III, or a Community Corrections Officer; or
 - b. A position in any state agency that requires certification as a full authority peace officer by the Arizona Peace Officer Standards and Training Board, provided the position is not in the uncovered service.

Historical Note

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

ARTICLE 2. EMPLOYMENT STATUS**R2-5B-201. Applicability**

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

Historical Note

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

R2-5B-202. Original Probation

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

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- D.** Change in position. An original probation employee who is selected for another position in the covered service shall serve an original probation period in the new position.

Historical Note

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

R2-5B-203. Promotional Probation

- A.** General. A permanent-status employee who is promoted to a position in the covered service shall serve a promotional probation period of six months.
- B.** Extension of probation.
1. An agency head may extend an employee's promotional probation up to six additional months for employment-related reasons.
 2. The probationary period shall be extended for any period for which a probationary employee is on leave without pay for more than 80 consecutive working hours. If promotional probation is extended for this reason, the employee's probation may exceed one year.
- C.** Completion of promotional probation.
1. In accordance with the rules in Subchapter 5A, Article 7, a supervisor shall evaluate a promotional probationary employee and submit a report to the agency head before expiration of the employee's probationary period. If the agency head takes no action to extend the probationary period, to revert or separate the employee, or offer the employee another position, the agency head shall grant permanent status to the employee upon completion of the probationary period.
 2. If an employee fails to complete a promotional probation successfully the agency head may revert the employee in the current employing agency to:
 - a. A vacant position in the class in which the employee held permanent status immediately before promotion, or
 - b. A similar position in another class at the same grade as the class that the employee holds permanent status if the employee possesses the qualifications for that position.
- D.** Discipline. Neither subsection (C)(2)(a) nor (b) shall preclude the imposition of disciplinary action.
- E.** Failure to complete promotional probation. An employee who is reverted shall not have the right to appeal.

Historical Note

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

R2-5B-204. Permanent Status

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

Historical Note

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

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

- A.** Voluntary election. A covered employee may voluntarily elect to become an at will uncovered employee without a change in assignment. Such an election is subject to the approval of the head of the employing agency and the Director. If approved, the effective date of the employee's change to uncovered service shall be the first day of the pay period immediately following the Director's approval.

- B.** Change in assignment. Except for a special assignment, a covered employee who voluntarily accepts a change in assignment to a position that is not in the covered service, regardless of whether the voluntary change in assignment is a promotion, demotion, or lateral transfer, is an at will uncovered employee. The effective date of the employee's change to uncovered service shall be the same as the effective date of the change in assignment. A special assignment is not a change in assignment.
- C.** Return to state employment. A covered employee who has a break in service and returns to employment in an agency in the State Personnel System in any capacity shall be an at will uncovered employee, unless the appointment is to a position in the covered service.

Historical Note

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

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

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

Historical Note

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

R2-5B-302. Reprimand

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

Historical Note

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

R2-5B-303. Suspension

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

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Historical Note

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

R2-5B-304. Involuntary Demotion

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

Historical Note

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

R2-5B-305. Dismissal

- A. Relief from duty. Nothing in this rule shall preclude the agency head from immediately placing an employee on administrative leave pending implementation of procedures under this Section, but no pay shall be withheld for such period.
- B. Dismissal during original probation. An employee on original probation may be dismissed without a stated reason and without the right of appeal.
- C. Pre-dismissal procedures. Before an employee with permanent status can be dismissed, the agency head shall submit the proposed action to the Director for review as prescribed in R2-5A-802, give the employee written notice of the charges, a summary of the agency head's basis for the charges, and an opportunity for the employee to present a written response. The employee's response shall be made not later than three business days after the employee receives notice of the charges, unless extended in writing by the agency head.
- D. Dismissal procedures. The agency head may dismiss an employee with permanent status only for cause but not before attempting to serve the employee personally or by registered or certified mail, return receipt requested (addressee only), with written notice of the specific reasons for dismissal in sufficient detail to inform the employee of the facts, with a copy to the Director. The agency head shall include a statement of the employee's right to appeal.
- E. Effective date of dismissal. The dismissal action is not effective until one of the following occurs:
 - 1. The employee signs for receipt of the dismissal letter personally served or served by mail;
 - 2. Three business days have passed since the letter was mailed to the employee; or
 - 3. An attempt is made to personally serve the dismissal letter, but the employee refuses to sign for the letter. Such attempt to personally serve the letter shall be witnessed.

Historical Note

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

ARTICLE 4. GRIEVANCES**R2-5B-401. Applicability**

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

Historical Note

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

R2-5B-402. Grievance System

- A. General. Each agency that has one or more covered employees shall:
 - 1. Adopt a grievance procedure which will afford each covered employee a systematic means of resolving an employee's disagreement with the receipt of a disciplinary action that is either:
 - a. A written reprimand, or
 - b. A suspension of:
 - i. 40 working hours or less if the employee is a full authority peace officer, or
 - ii. 80 working hours or less if the employee is a covered employee in any other capacity.
 - 2. Designate an employee of the agency to serve as the agency's grievance coordinator, who shall be responsible for receiving grievances, determining applicability under the grievance system, forwarding the grievance to the appropriate individual within the agency for review or investigation, and tracking the processing of grievances.
- B. Non-applicable matters. The adopted grievance procedure shall not apply to any matter for which another method of review is provided, including but not limited to:
 - 1. Retirement, Life Insurance, or Health Insurance;
 - 2. Any classification action;
 - 3. Any recruitment, selection, or appointment;
 - 4. Any compensation action;
 - 5. A disciplinary action that is either:
 - a. A suspension of:
 - i. More than 40 working hours if the employee is a full authority peace officer, or
 - ii. More than 80 working hours if the employee is a covered employee in any other capacity,
 - b. A demotion, or
 - c. A dismissal.
 - 6. A complaint alleging discrimination or harassment; or
 - 7. Any reduction in force action.
- C. Restrictions. An employee may not submit a grievance challenging the following management rights:
 - 1. An agency head's right to direct agency employees.
 - 2. An agency head's right to hire, promote, transfer, assign, and retain employees.
 - 3. An agency head's right to maintain efficiency of government operations and to determine the methods, means, and personnel by which these operations are to be conducted.
- D. Preparation. A grievant shall not be allowed the use of state time or state property to prepare a grievance, prepare for a meeting with agency management or to meet with a representative. Subject to supervisory approval, a grievant may request available compensatory or annual leave for this purpose.
- E. Steps. An agency's grievance procedure shall have two steps for review.

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1. As determined by the agency head, the first step in the grievance procedure shall be:
 - a. The employee's second line supervisor,
 - b. The assistant director or equivalent, or
 - c. Any level of management between (a) and (b).
2. The final step in the grievance procedure shall be the agency head, or designee.
3. An agency head may choose to incorporate an additional step in the agency grievance procedure after the first step review.

- F.** Amendments. Once a grievance is submitted to the first step, it may not be amended. If additional documentation is submitted by the grievant after the initiation of the grievance, the reviewing official may remand the grievance to the appropriate previous level for reconsideration.
- G.** Approval. Each agency head will submit the agency's proposed grievance procedure and any subsequent changes to the Director for approval.

Historical Note

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

R2-5B-403. Grievance Procedures

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

1. An initial statement that any complaint alleging unlawful discrimination or unlawful harassment will be reviewed or investigated according to the provisions of the separate complaint process outlined in Subchapter A, Article 9, and not the grievance system.
2. A requirement that the grievant have an oral discussion with the individual designated as the first step in the agency's grievance procedure in an attempt to resolve the employee's disagreement with the disciplinary action, prior to initiating the written grievance procedure.
3. A requirement that the employee file the grievance in writing with the agency grievance coordinator, within 10 business days after the occurrence of the action being grieved. The date of occurrence of a:
 - a. Reprimand is the date the reprimand was issued to the employee.
 - b. Suspension is the first day of suspension.
4. A requirement that the grievance contain a complete statement of all the facts and circumstances involved and the specific redress sought.
5. A provision that the grievant may select a representative at any step in the procedure after the oral discussion with the immediate supervisor.
6. A requirement that another state employee who serves as the representative of a grievant must receive approval for annual or compensatory leave to represent the grievant.
7. A requirement that the grievant must have a minimum of five business days after receipt of a response to forward the grievance at any step, must sign the grievance at each step, and must state the reasons why the response at the previous step was unsatisfactory.
8. A requirement that the agency head will respond to the grievant not later than 30 business days after receipt of the grievance at the first step. Within the 30 business day period, the time for any step may be extended by the agency head with the concurrence of the grievant.
9. A statement that the decision of the agency head is the final step in the grievance process.

Historical Note

Section made by exempt rulemaking at 18 A.A.R. 2782, effective September 29, 2012 (Supp. 12-4). Amended by final rulemaking at 30 A.A.R. 2765 (September 6, 2024) effective October 12, 2024 (Supp. 24-3).

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

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

Historical Note

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

R2-5B-502. General

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

Historical Note

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

R2-5B-503. Full Authority Peace Officers

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

Historical Note

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

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

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

Historical Note

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

R2-5B-602. Reduction in Force Procedures

- A.** General.
1. An agency head shall submit to the Director a proposal to conduct a reduction in force if required for one or more of the following reasons:
 - a. Lack of funds or work,
 - b. Abolition of one or more covered positions,
 - c. Material change in job duties or agency organization, or
 - d. Introduction of a cost reduction initiative.
 2. An agency head shall submit the proposal for a reduction in force at least 30 business days before the proposed effective date of the reduction in force. If circumstances beyond the agency's control do not permit at least 30 business days' notice, the agency head shall submit the

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proposal as soon as the agency head is aware of the necessity for a reduction in force.

3. An agency head shall include all of the following in the proposal for a reduction in force:
 - a. The reason for the reduction in force;
 - b. The proposed scope of the reduction in force, which shall be limited to either:
 - i. The agency,
 - ii. An organizational unit of the agency, or
 - iii. Agency operations within a geographic area,
 - c. Each specific covered position proposed for elimination and an organization chart identifying each position, and
 - d. The proposed effective date of the reduction in force.
4. An agency head shall submit a proposal that is consistent with A.R.S. § 41-772 and this Section.
5. An agency head shall not approve a personnel action that would have an effect on the reduction in force after the agency head has submitted a proposal for a reduction in force.
6. An agency head shall not re-establish a position that was abolished as a result of a reduction in force for two years if the position was filled when the reduction in force occurred, unless the position was abolished due to fiscal constraints, legislative action, or court order.

B. Administration of reduction in force. The Director shall review and approve, modify or deny a reduction in force within 20 business days of receipt. Upon approval of the Director to conduct a reduction in force:

1. An agency head shall separate a covered employee who is not a permanent status employee in the class affected by the reduction in force in the following order before any reduction in force action is taken that affects a permanent status employee, provided the separation of the non-permanent status employee will accomplish, or assist in accomplishing, the purpose of the reduction in force:
 - a. Temporary employee,
 - b. Original probationary employee, and
 - c. Limited appointment employee.
2. An agency head shall use retention points to identify a permanent status employee within a class series affected by a reduction in force for retention in the employee's current position, transfer, reduction, or separation based on the employee's relative standing on the retention point list.
3. An agency head shall base retention points upon performance calculated in accordance with the instructions in subsections (C) and (D).
4. An employee on promotional probation or special assignment shall compete for retention in the employee's permanent status class.
5. An employee in an underfill position shall compete for retention in the employee's permanent status class.
6. A permanent part-time employee shall compete for retention against another permanent part-time employee in the same class.

C. Calculation of retention points. An agency head shall compute the average score of a maximum of the three most recent performance evaluations in the 24 months concluded before the date of proposal for a reduction in force. An employee's average score shall be the employee's retention points. If an employee has not had a performance evaluation in the past 24 months, the employee shall receive 2.0 retention points.

D. Resolution of ties. An agency head shall break any tie in total retention points in the following manner and order:

1. The employee with the highest most recent performance evaluation shall be given preference.
2. If a tie continues to exist, the agency head shall break the tie by lot.

E. Offer of position.

1. An agency head shall provide written notice at least five business days in advance to each employee identified for transfer, reduction, or separation. If circumstances beyond the agency's control do not permit at least five business days' notice, the agency head shall provide notice as soon as the agency head is aware of the necessity to transfer, reduce, or separate the employee.
2. The notice shall include:
 - a. The reason for and effective date of the action;
 - b. A job offer, if any, including the salary, location of the position, and supervisor's name;
 - c. The availability of reduction in force procedures and records for review, with references to relevant statutes and rules; and
 - d. The employee's right to request a review of the determination as provided in R2-5B-603.
3. An agency head shall offer a position to an employee identified for transfer, reduction, or separation with the highest number of points on the retention point list in descending order as follows:
 - a. If a vacant covered position exists and an employee possesses the required qualifications for the position, an agency head shall make the single best offer, in terms of pay range, within the agency of:
 - i. A regular position at the same or lower pay range in the same class series as the employee's present permanent status position;
 - ii. A regular position at the same or lower pay range in any class series in which the employee has held permanent status during the past five years; or
 - iii. If both positions described in subsections (E)(3)(a)(i) and (ii) are available, the position described in subsection (E)(3)(a)(i).
 - b. If the offer under subsection (E)(3)(a) is a position at a lower pay range, the agency head shall provide the employee the option of accepting a vacant covered:
 - i. Funded, regular position at the employee's present pay range in a class series in which the employee has never held permanent status for which the employee is qualified; or
 - ii. Temporary or part-time position at the employee's present pay range for which the employee is qualified.
4. An employee shall possess the qualifications required when the position was last filled, unless the Director grants an exception.
5. Any job offer shall contain a time period of not less than three business days in which the employee may accept the offer. Failure of an employee to reply in writing within the stated time period, or failure to accept the job offer, shall constitute a resignation. An employee may accept a job offer and retain the right to request a review of the determination.
6. If no position exists, the agency head may separate the employee.

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Historical Note

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

R2-5B-603. Employee Request for Review

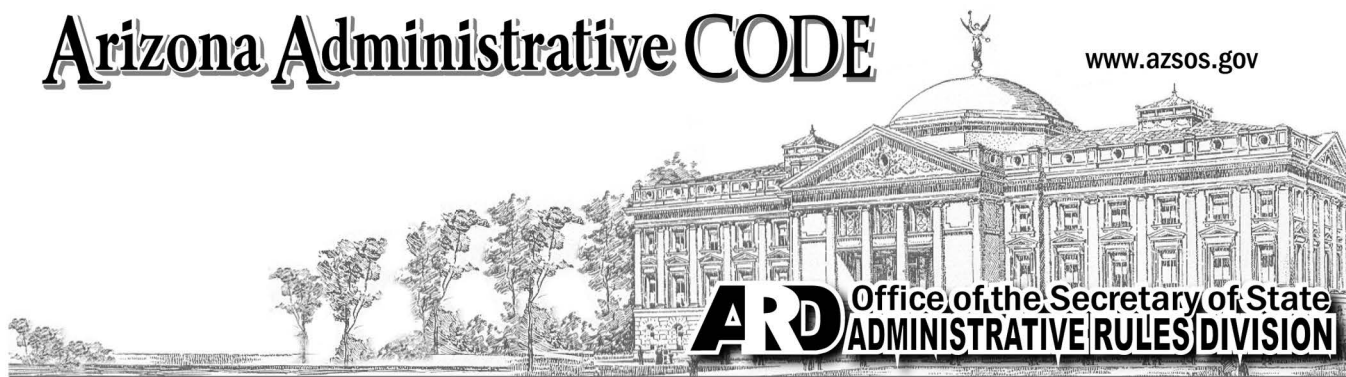
- A.** An employee may request a review of the following determinations made during a reduction in force:
1. Calculation of the employee's retention points,
 2. A job offer resulting in the employee's transfer or reduction, and
 3. Notification of the employee's separation.
- B.** Within three business days of receipt of a determination notice, unless a longer period is authorized by an agency head,

an employee may submit a written request to the agency head for a review of the determination. The request for review shall be based upon an error, contain specific information concerning the error involved, and include a proposed resolution of the problem.

- C.** The agency head shall review the request and respond to the employee within five business days after receipt of the request.
- D.** An agency head may postpone any portion of a reduction in force until completion of an employee request for review.

Historical Note

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



ARD Office of the Secretary of State
ADMINISTRATIVE RULES DIVISION

3 A.A.C. 2

Supp. 24-3

TITLE 3. AGRICULTURE

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The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
July 1, 2024 through September 30, 2024

[R3-2-801.](#) [Definitions 29](#)

Questions about these rules? Contact:

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The release of this Chapter in Supp. 24-3 replaces Supp. 24-1, 1-58 pages.

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

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

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

THE ADMINISTRATIVE CODE

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

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

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

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

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

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

RULE HISTORY

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

AUTHENTICATION OF PDF CODE CHAPTERS

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

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

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

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

EXEMPTIONS FROM THE APA

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

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

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

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

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

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

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Administrative Rules Division

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TITLE 3. AGRICULTURE

CHAPTER 2. DEPARTMENT OF AGRICULTURE - ANIMAL SERVICES DIVISION

Authorizing statute: A.R.S. § 3-107(A)(1)

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Article 11, consisting of Sections R3-2-1101 through R3-2-1109, expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3).

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ARTICLE 1. GENERAL PROVISIONS

R3-2-101. Definitions

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

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

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

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

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

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

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

“Designated feedlot” means a feedlot containing a confined drylot area under state quarantine that is approved and authorized by the State Veterinarian; contains a restricted feeding pen; and is maintained for finish feeding of cattle or bison that do not meet the brucellosis or tuberculosis import test requirements.

“Entry permit number” or “Import permit number” means a serialized number issued by the State Veterinarian’s Office that conforms to the requirements of this chapter and allows the regulated movement of certain animals into Arizona.

“Equine Infectious Anemia” or “EIA” means an infectious, noncontagious, and potentially fatal viral disease of members of equine caused by a RNA virus classified in the Lentivirus genus, family Retroviridae.

“Official Identification” as defined in 9 CFR 71.19 (b) as revised on January 1, 2018 for swine; 9 CFR 79.2 (a)(2) as revised on January 1, 2018 for sheep and goats; and 9 CFR 86.4 as revised on January 1, 2018 for cattle.

“Poultry” means any bird except psittacine, whether live or dead, including but not limited to chickens, turkeys, ducks, geese, guineas, ratites, squabs, and any exotic birds not regulated as restricted wildlife by the Arizona Game and Fish Department. The definition “poultry” also includes hatching eggs, which are fertilized eggs produced by breeding poultry.

“Psittacine” means a bird belonging to the family Psittacidae, which includes macaws, parakeets, and parrots.

“USDA” means the United States Department of Agriculture.

“VS” means the Veterinary Services branch of APHIS.

Historical Note

Reserved Section R3-2-101 renumbered from R3-9-101 (Supp. 91-4). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-101 recodified to R3-2-1101 (Supp. 97-1). New Section adopted effective May 7, 1997 (Supp. 97-2). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-102. Licensing Time-frames

- A. Overall time-frame. The Department shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of the complete application. The overall time-frame is the total of the number of calendar days provided for the administrative completeness review and the substantive review.
- B. Administrative completeness review.
 1. The administrative completeness review time-frame established in Table 1 begins on the date the Department receives the application. The Department shall notify the applicant in writing within the administrative completeness review time-frame whether the application or request is incomplete. The notice shall specify what information is missing. If the Department does not provide notice to the applicant within the administrative completeness review time-frame, the Department considers the application complete.
 2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the date the Department sends the notice of missing information to the applicant until the date the Department receives the information.
 3. If the applicant fails to submit the missing information before the expiration of the completion request period, the Department shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may obtain a license by submitting a new application.
- C. Substantive review. The substantive review time-frame established in Table 1 shall begin after the application is administratively complete.
 1. If the Department makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date of the Department request until the information is received by the Department. If the applicant fails to provide the information identified in the written request within the additional information period, the Department shall deny the license.
 2. The Department shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant’s right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

Historical Note

Reserved Section R3-2-102 renumbered from R3-9-102 (Supp. 91-4). New Section adopted effective September

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11, 1996 (Supp. 96-3). Section R3-2-102 recodified to R3-2-1102 (Supp. 97-1). New Section R3-2-102 adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-103. Recodified

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). R3-2-103 renumbered from Section R3-9-103 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-103 recodified to R3-2-1103 (Supp. 97-1).

R3-2-104. Recodified

Historical Note

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-104 recodified to R3-2-1104 (Supp. 97-1).

R3-2-105. Recodified

Historical Note

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-105 recodified to R3-2-1105 (Supp. 97-1).

R3-2-106. Recodified

Historical Note

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-106 recodified to R3-2-1106 (Supp. 97-1).

R3-2-107. Recodified

Historical Note

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-107 recodified to R3-2-1107 (Supp. 97-1).

R3-2-108. Recodified

Historical Note

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-108 recodified to R3-2-1108 (Supp. 97-1).

R3-2-109. Recodified

Historical Note

Adopted effective September 11, 1996 (Supp. 96-3). Section R3-2-109 recodified to R3-2-1109 (Supp. 97-1).

Table 1. Time-frames (Calendar Days)

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
MEAT AND POULTRY INSPECTION						
License to Slaughter	A.R.S. §§ 3-2002 & 3-2003 R3-2-208	14	14	30	14	44
Transfer of license without fee	A.R.S. § 3-2009	14	14	30	5	44
State Meat Inspection Service	A.R.S. § 3-2047	14	14	30	14	44
Sale or Exchange of Meat or Poultry	A.R.S. § 3-2081 R3-2-208	14	14	30	14	44
Rendering Facility Certification	A.R.S. § 3-2081	14	14	30	14	44
Transfer of License	A.R.S. § 3-2086	14	14	30	5	44
Official Slaughter Meat Licenses	A.R.S. § 3-2122 R3-2-208	14	14	30	14	44
FEEDING OF ANIMALS						
Feed Lot License	A.R.S. § 3-1452	14	14	60	14	74
Permit to Feed Garbage to Swine	A.R.S. § 3-2664	14	14	60	14	74
DAIRY PRODUCTS AND CONTROL						
Milk Distributing Plant New Renewal	A.R.S. § 3-607	14 14	14 14	14 14	14 14	28 28
Milk Processing Plant New Renewal Plant Licensing New Renewal	A.R.S. § 3-607 A.R.S. § 3-665	14 14 14 14	14 14 14 14	14 14 14 14	14 14 14 14	28 28 28 28
Request to market a product as a milk product	A.R.S. § 601.01	14	14	14	14	28
Tester License	A.R.S. § 3-619	7	7	7	7	14
Trade Product Label	A.R.S. § 3-667	14	14	30	30	44

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License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
LIVESTOCK INSPECTION						
Equine Trader Permit	A.R.S. § 3-1348	7	7	7	7	14
Ownership and Hauling Certificate for Equines	A.R.S. §§ 3-1344 & 3-1345	14	14	14	14	28
EGG PRODUCTS AND CONTROL						
Annual Licensing	A.R.S. § 3-714	10	10	10	10	20
AQUACULTURE						
Aquaculture Facility	A.R.S. § 3-2907	14	14	30	14	44
Fee Fishing Facility	R3-2-1004					
Processor	R3-2-1005	14	14	30	14	44
Transporter	R3-2-1006	14	14	30	14	44
	R3-2-1007	14	14	30	14	44
Special Licenses	A.R.S. § 3-2908	14	14	30	14	44

Historical Note

Adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 8 A.A.R. 3625, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

ARTICLE 2. MEAT AND POULTRY INSPECTION**R3-2-201. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-101 and 3-2001 and 9 CFR 301.2 and 9 CFR 381.1, which are incorporated by reference in R3-2-202, the following terms apply to this Article:

1. "Animal" means any steer, heifer, calf, cow, bull, sheep, goat, swine, horse, ass, mule, burro, ratite, or poultry.
2. "Dead animal" means an animal that died other than by slaughter in a place where inspection is performed by the Department or by the United States Department of Agriculture.
3. "Inedible meat" means:
 - a. Meat or meat food product from an animal that died by slaughter or was processed in an inspected slaughterhouse, but which an inspector did not pass as fit for human consumption; or
 - b. Meat condemned by a federal or state inspector.
4. "Rendering" means the conversion of packinghouse waste or dead animal carcasses and parts into industrial fat, oil, or other product unfit for human consumption.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 4, 1987 (Supp. 87-2). Amended subsection (A) effective February 28, 1989 (Supp. 89-1). Section R3-2-201 renumbered from Section R3-9-201 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 10 A.A.R. 2661, effective August 7, 2004 (Supp. 04-2).

R3-2-202. Meat and Poultry Inspection; Slaughtering Standards

All meat and poultry inspection, slaughtering, production, processing, labeling, storing, handling, transportation and sanitation procedures shall be conducted as prescribed in 9 CFR Chapter III, revised January 1, 2016, as amended by 80 FR 75590-01 (December 2, 2015), except sections 302.2, 307.5, 307.6, 312, 322, 327, 329.7, 329.9, 331, 335, 351, 352, 354, 355, 381.38, 381.39, 381.96 through 381.112, 381.195 through 381.209, 381.218 through

381.225, 390, 391, 392, 590 and 592. This material is incorporated by reference and does not include any later amendments or editions. A copy of the incorporated material is available from the Department and may also be viewed online at www.gpo.gov/fdsys.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 4, 1987 (Supp. 87-2). Amended subsection (A) effective February 28, 1989 (Supp. 89-1). Section R3-2-202 renumbered from Section R3-9-202 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Amended effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 465, effective January 5, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 3625, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 10 A.A.R. 1971, effective May 4, 2004 (Supp. 04-2). Amended by emergency rulemaking at 15 A.A.R. 1890, effective October 21, 2009 for 180 days (Supp. 09-4). Emergency expired; Section amended by final rulemaking at 16 A.A.R. 351, effective April 3, 2010 (Supp. 10-1). Amended by emergency rulemaking at 19 A.A.R. 150, effective January 9, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 1789, effective July 9, 2013 (Supp. 13-3). Amended by final rulemaking at 22 A.A.R. 2167, effective October 2, 2016 (Supp. 16-3).

R3-2-203. Licenses; Registration; Records

- A. Any person operating a business in any of the following categories shall obtain the appropriate license from the Department.
1. Types of slaughter licenses.
 - a. Official slaughter – the slaughtering of animals in a slaughterhouse for sale for human consumption.
 - b. Exempt slaughter.
 - i. Exempt non-mobile slaughter – the slaughtering or dressing of an animal in a stationary building for human consumption, that is not sold or offered for sale.
 - ii. Exempt mobile slaughter – the slaughtering or dressing of an animal for human consumption

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by using a mobile structure on the property of the animal's owner, that is not sold or offered for sale.

2. Types of meat licenses.

- a. Broker – any person, firm or corporation engaged in buying or selling carcasses, parts of carcasses, meat or poultry food products, or by-products from state or federally inspected establishments. A broker negotiates purchases or sales of these products other than for the broker's own account, as an employee of another person, and is paid a commission.
- b. Exempt – any person, firm, or corporation engaged in processing meat or poultry products without meat inspection, for an individual owner of meat that is not for sale.
- c. Distributor – any person, firm, or corporation engaged in receiving carcasses, parts of carcasses, meat or poultry food products, or by-products from state or federally inspected establishments and storing or distributing these products to commercial outlets, processors, or individuals. A distributor does not process any of these products.
- d. Jobber – any person, firm, or corporation with an established place of business that buys meat or poultry food products and offers the products for sale to someone other than the end-use consumer.
- e. Pet food manufacturer – any person, firm, or corporation engaged in manufacturing animal food from meat or poultry unfit for human consumption.
- f. Processor – any person, firm, or corporation that changes meat or poultry food products by cutting, mixing, blending, canning, curing or otherwise preparing meat or meat food products wholesale for human consumption.
- g. Renderer – any person, firm, or corporation that renders and tallows and any person, firm, or corporation engaged commercially in the hide, hair, or pelt removal, cutting up, or rendering of animals.

B. Applications for a license or registration pursuant to A.R.S. § 3-2081(A), shall be made on forms provided by the Department and shall contain the following:

1. The name of the applicant and the applicant's partners, officers or directors of the business, if any;
2. The business name, mailing address, telephone number, and Social Security number of the applicant;
3. The exact location of the business, if different from subsection (B)(2).

C. All persons licensed or registered under this Section, and all other persons described in A.R.S. § 3-2081, shall maintain the records required under A.R.S. § 3-2081 for a minimum of one year. In addition, all registered dead animal haulers, licensed rendering and tallow plants, and pet food manufacturing plants shall prepare and submit the reports required under A.R.S. § 3-2695 and shall include copies of those reports as part of records maintained under this Section and A.R.S. § 3-2081.

D. During fiscal year 2024, the fee to obtain or renew a license to slaughter is:

1. Not to exceed 45 head of cattle, and not to exceed 55 head of sheep, goats or swine in one calendar year: \$250.
2. For more than 45 and not to exceed 150 head of cattle and more than 45 and not to exceed 160 head of sheep, goats or swine in one calendar year: \$300.
3. For more than 150 head of cattle and more than 160 head of sheep, goats or swine in any one calendar year: \$450.

E. During fiscal year 2024, the fee to obtain or renew a meat license is:

1. For a broker, \$450.
2. For exempt processing, \$300.
3. For a distributor, \$500 for a large distributor (more than \$100,000 in sales per calendar year) and \$150 for a small distributor (not to exceed \$100,000 in sales per calendar year).
4. For a jobber, \$450.
5. For a pet food manufacturer, \$300.
6. For a processor, \$300.
7. For meat storage, \$450.
8. For transportation, \$300.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-208 renumbered from Section R3-9-208 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Former Section R3-2-203 renumbered to R3-2-208; new Section R3-2-203 renumbered from Section R3-2-208 and amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2). Amended by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3). Amended by final exempt rulemaking at 26 A.A.R. 1471, effective August 25, 2020 (Supp. 20-3). Amended by final exempt rulemaking at 27 A.A.R. 1264, effective September 29, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 2017 (August 12, 2022), effective September 24, 2022 (Supp. 22-3). Amended by exempt rulemaking at 29 A.A.R. 3483 (November 3, 2023), effective October 30, 2023 (Supp. 23-4).

R3-2-204. Official Slaughter Establishment

In addition to the requirements in A.R.S. § 3-2051, the following shall be provided when slaughtering cattle, calves, sheep, and hogs:

1. Cattle.
 - a. A metal knocking box or concrete box with metal door to confine the animals prior to stunning;
 - b. A separately drained, dry landing area at least five feet wide in front of the knocking box;
 - c. A curbed-in bleeding area at least eight feet wide and seven feet long, located so that blood will not splash upon stunned animals lying in the dry landing area or upon carcasses being skinned on the siding bed. Curbing shall be at least six inches high and six inches wide;
 - d. A separately drained area at least five feet from the curbed-in bleeding area to the siding bed;
 - e. A distance of at least 14 feet from the vertical of the dropoff to the vertical of the hoist where carcasses

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- are eviscerated. For multiple-bed plants, this distance shall be increased to 16 feet;
- f. A distance of at least 14 feet between the vertical of the hoist where carcasses are eviscerated and the header rail leading to the cooler. This distance may be shortened when a single rail hang-off is used;
 - g. A distance of at least three feet from the header rail to the adjacent wall;
 - h. A bleeding rail with its top at least 16 feet above the floor or a traveling hoist on an I-beam which will provide an equivalent distance of the carcass from the floor;
 - i. Floor space for a head-flushing cabinet and head inspection rack with removable hooks;
 - j. When hides are dropped to a room below, a hide chute near the point where hides are removed from the carcasses. The chute shall have a vented hood with a self-closing, push-in door. The vent shall be approximately 10 inches in diameter and extend to a point above the roof. Additional chutes, which meet the requirements of this subsection, for inedible and condemned materials shall be provided separate from the hide chutes;
 - k. A two-level viscera inspection truck for evisceration, except when a moving top viscera inspection table is used;
 - l. An area for washing and shrouding carcasses which shall be curbed and sloped to a separate drain or have a slope of approximately 1/2 inch to the foot leading to a separate drain;
 - m. Dressing rails and cooler rails at least 11 feet in height.
2. Calves and sheep.
 - a. A bleeding rail with its top approximately 11 feet from the floor. The floor of the bleeding area shall be curbed and separately drained;
 - b. Dressing and cooler rails of such height as to provide a clearance of at least eight inches from the carcasses to the floor. Calves which are of such size that there is not a clearance of at least eight inches above the floor, or whose viscera cannot be transferred manually and unaided to the inspection stand, shall be skinned and eviscerated as cattle;
 - c. Facilities for washing hides of calves before any incision is made (except the sticking wound) when carcasses are dressed hide on. The heads of calves and veal slaughtered by the Kosher method shall be skinned prior to the washing of the carcasses;
 - d. Facilities for flushing, washing, and inspecting calf heads, including head-flushing cabinet and head inspection rack with removal calf loops;
 - e. Facilities for the inspection of the viscera. A hopped metal stand shall be provided which accommodates two removal inspection pans. One inspection pan is for the thoracic viscera; the other is for the abdominal viscera. The pans shall have perforated bottoms and handles or hand holes for removal. A sterilizing receptacle shall be provided for sterilization of contaminated pans;
 - f. Facilities for washing sheep carcasses after removal of the pelt. Calves and sheep shall be washed again after they have been eviscerated.
 3. Hogs.
 - a. Facilities for bleeding hogs in a hanging position, over a separately drained, curbed-in bleeding area;
 - b. A scalding vat and gambreling table, including the platforms, of metal construction;
 - c. A shaving rail to assure that carcasses are cleaned;
 - d. A hopped metal stand for the inspection of viscera. A sterilizing receptacle shall be provided at a convenient location for the sterilization of contaminated pans;
 - e. Dressing and cooler rails at least nine feet high or of such height as to provide a clearance of at least eight inches between the lowest point of the carcass, or head if left attached, and the floor.
 4. Coolers. A chill cooler and separate holding coolers may be provided or both may be combined in one room. The chill cooler shall have floors of concrete sloped to a drain. The walls shall be smooth, light colored, impervious, and the room shall be sealed. The other coolers shall have floors of concrete; the walls shall be smooth, free of cracks, light colored, impervious, and the room shall be sealed. The door between the slaughtering department and the chill cooler shall be clad with rust-resistant metal. Rails shall be spaced at least two feet from walls, columns, refrigerating equipment, or other fixed equipment to prevent contact with the carcasses. Header rails shall be three feet from the walls. When overhead refrigerating facilities are provided, insulated drip pans must be installed beneath them and the pans connected to the drainage system. If wall coils are installed, a drip gutter of impervious material and connected with the drainage system shall be installed beneath the coils. When edible offal is chilled or stored in a cooler other than a separate offal cooler, that area shall be separately drained.
 5. Other edible products departments.
 - a. Floors, walls, and ceilings in the various edible products departments of the plant shall be constructed of material that can be readily kept clean. Wooden structures and equipment shall be kept at a minimum. Floors requiring drainage shall be constructed of dense concrete or floor brick laid on a concrete base. The interior walls and, where practical, ceiling surfaces shall be smooth and flat. Walls shall be constructed of glazed tile, smooth cement plaster, or other USDA-approved impervious material. Walls shall be free of cracks and crevices, and, where brick or tile is used, the mortar joints shall be flush with the surface of the walls. Walls shall be light colored.
 - b. The floors of the plant shall be well-drained; a slope of not less than 1/4 inch to the foot to drainage inlets is required. The floors shall be smooth, impervious, and in good repair; they shall be free from cracks and depressions which could hold floor liquids. Wooden floors are not permitted. Junctions of floors and walls shall be coved.
 - c. Walls, ceilings, beams, and hangers shall be cleaned. Rails may be oiled instead of painted. Rust and scale shall be removed from hangers and meat trolleys. Smooth Portland cement plaster walls shall not be painted.
 6. Hide room. The floor of the hide room, if provided, shall be of concrete and drained. Walls shall be smooth and impervious to at least the highest point of the hide pile. The hide room shall not connect with the slaughtering

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- department except for one opening which shall be equipped with a tight-fitting, self-closing door. The hide room shall not connect with any other room in which edible products are stored, processed, or handled.
7. Disposal of blood. When blood is not permitted to drain into the sewage system, it may be collected in a metal tank and removed from the premises or blown to the blood drier in a manner that will not mask odors or create a harborage for pests.
 8. Other inedible products departments.
 - a. An inedible products department, completely separate and apart from edible products departments, shall be provided. Walls shall be of smooth, finished, Portland cement plaster, glazed tile, or other USDA-approved material impervious to moisture. Floors shall be constructed of dense concrete or floor tile, sloped to drain. Hot and cold water connections shall be provided. With the exception of one opening to the slaughtering department, there shall be no openings between an inedible products department and an edible products department. This one opening shall be approximately five feet in width to allow the free passage of materials and shall be equipped with a close-fitting, self-closing door of solid construction. This door shall be kept closed at all times, except when in actual use, to prevent the entrance of undesirable odors to the slaughtering department. The area at the loading dock shall be paved, drained, and of sufficient size to accommodate the largest truck used. If inedible offal is stored in an edible offal room, the room is classed as an inedible products department. Paunches may be opened in the slaughtering department only when a hydraulic mechanically operated paunch lift table is provided and used for this purpose. Otherwise, the paunches shall be opened in the inedible offal rooms.
 - b. Requests for permission for rendering of shop scraps and outside dead animals shall be made to the inspector who shall grant or deny the request pursuant to Article 2.
 9. Pens.
 - a. Holding pens shall be surfaced with an impervious material, sloped to drains. A curb shall be installed around the outside of the pens to prevent the wash from escaping. Water under pressure shall be available for washing out the pens. Feeding pens shall be at least 300 feet from the plant and shall not be located in front of the plant.
 - b. Holding and shackling pens shall be located outside of, or separated from, the slaughtering department.
 10. Drainage
 - a. Floors which require flushing during operations shall have sloped floor drains to carry off the floor drainage. Each floor drain shall be equipped with a deep-seal trap; the drainage lines shall be vented to the outside in accordance with local plumbing codes. In no case shall a drain line be less than four inches in diameter.
 - b. Sewage may be disposed of into a municipal sewer system, if permitted by local ordinance, or it may be disposed of into a stream or other similar body of water, provided that:
 - i. This method is acceptable to local health authorities having jurisdiction over sewage disposal, and
 - ii. The flow of the stream or other body of water is sufficient to carry the sewage away from the plant at all seasons of the year. When cesspools are used, they shall be of sufficient size to receive the sewage from the plant at all times; they shall be so constructed that they do not create a nuisance by breeding flies or other insects.
 - c. Grease recovery basins shall not mask odors or create a harborage for pests.
 11. Equipment and utensils.
 - a. Equipment shall be constructed of metal and shall be so constructed that it can be easily cleaned. Cutting boards may be of hard wood or synthetic material, but equipment, such as the framework of boning or cutting tables, scalding vats, offal racks and trees, product storage racks, and product trucks shall be of metal construction. Rusty or worn-out equipment shall be replaced.
 - b. All equipment shall be thoroughly cleaned following each day's operations. The use of a clear, colorless, odorless, tasteless, edible mineral oil may be used on metal equipment, such as choppers, grinders, mixers, tables, meat trucks, offal racks, hooks, and trolleys. Scale shall not be permitted to accumulate on metal equipment.
 - c. Sterilizing receptacles equipped with drains to permit draining and cleaning shall be placed at convenient locations in the slaughtering department for the cleaning and sterilization of contaminated tools and equipment. Water wasting from equipment shall not flow across the floor.
 - d. Shovels used for transferring ice or other edible materials from one container to another shall not touch the floor.
 12. Ventilation and lighting. Natural ventilation may be supplemented by artificial means and shall be sufficient to assure the absence of dust, masking odors, or steam vapors. Points where inspection is conducted may require special lighting. The glass area shall be at least 1/4 of the floor area in all nonrefrigerated work rooms. To assure adequate lighting at all times and at all places, natural lighting must be supplemented by well-distributed artificial lighting.
 13. Water supply, wash basins, sterilizing facilities.
 - a. Hot and cold running water, under pressure, shall be available at all parts of the establishment and in conformity with the requirements of the Arizona Department of Health Services. The hot water used for sterilizing equipment, floors, and walls that may be contaminated by the dressing procedure or handling of diseased carcasses, viscera, and other animal parts, shall be at least 180° F. A thermometer shall be installed to verify the temperature of the water at the point of use. A cleanup hose shall be available for use.
 - b. Foot-pedal operated wash basins shall be placed in or near dressing rooms. These wash basins shall be equipped with running hot and cold water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The

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drainage outlet shall lead directly into the sewage lines. Soap and towels, and a receptacle for dirty paper towels or other trash, shall be convenient to the wash basin.

- c. One or more wash basins shall be located in the slaughtering department, and one or more in the sausage manufacturing room and at any other place in the establishment essential to ensure cleanliness of all persons handling products. The wash basins shall be equipped with hot and cold running water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The water delivery shall be foot-pedal operated, and the drainage outlet shall lead directly into the sewage lines. Soap and disposable towels shall be convenient to the wash basins.
 - d. Water for sterilizing purposes shall be maintained at a temperature of at least 180° F. One or more sterilizing receptacles of rust-resisting, impervious material shall be placed at convenient locations in the slaughtering department for the sterilization of all implements that have been contaminated or used on a diseased carcass or part of a diseased carcass. The sterilizer shall be equipped with a cold water and steam line, or other means to maintain water at a temperature of at least 180° F during slaughtering operations. The sterilizer shall contain a drain so that water may be completely drained out for daily cleaning. Boilers and water heaters shall not be located in the slaughtering department or in any edible products department. To prevent possible back siphonage, vacuum breakers shall be provided on all steam and water lines when open ends are submerged or connected to equipment.
14. Protection against flies, rodents, or other vermin.
- a. Plants must be kept free of flies, rats, mice, roaches, and other pests or vermin. The plant shall be constructed to prevent entrance of rodents to the premises and to eliminate their breeding places from the surrounding areas and in the establishment. Construction of the plant shall be such as to eliminate roach and other insect harbors. Windows, doors, and other openings to the plant shall be provided with insect screens, or other measures to prevent entrance of flies or other insects. The screens shall be kept in good repair. Sprays containing residual-acting chemicals shall not be used in edible products departments.
 - b. Animal-handling facilities such as stock pens and runways shall be cleaned as often as necessary and the manure or other waste materials removed shall not be permitted to accumulate at or near the plant.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-204 renumbered from Section R3-9-204 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2).

R3-2-205. Expired**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-205 renumbered from Section R3-9-205 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Sec-

tion expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

R3-2-206. Purchase, Sale, Collection, Transportation, Disposition, and Use of Meat or Meat Food Products; Dead Animals; Animal Bone, Animal Fat, Animal Offal

- A. A person shall not buy, sell, offer for sale, store, transport, receive, or collect any meat or meat food product except as provided in this subsection.
 - 1. Any of the following meat or meat food products may be bought, sold, or offered for sale as animal food and may be stored, transported, received, or collected anywhere within the state:
 - a. Any meat or meat food product that is processed in an animal food manufacturing plant licensed by the Department;
 - b. Any meat or meat food product that comes from an animal that died by slaughter or is approved or passed for animal food by either state or federal meat inspectors;
 - c. Any meat or meat food product that is thoroughly cooked at a minimum temperature of 180° F for 30 minutes and is certified by a state or a federal meat inspector having jurisdiction at the place of processing.
 - 2. A carcass with the hide, hair, or pelt still on the carcass may be bought, sold, offered for sale, collected and transported to or received by the following only:
 - a. A rendering or tallow plant;
 - b. A state or county diagnostic laboratory, a veterinarian's clinic, or crematory;
 - c. An animal food manufacturing plant;
 - d. A landfill regulated by the Arizona Department of Environmental Quality;
 - e. An out-of-state landfill regulated by that state's landfill regulatory authority; or
 - f. A landfill located on a Native American reservation that is regulated by equivalent standards to those prescribed by the Arizona Department of Environmental Quality.
 - 3. Any meat or meat food product described in subsection (A)(1) or a carcass with the hide, hair, or pelt still on the carcass from an official state or federal slaughter establishment shall be denatured with a denaturant that will not leave a toxic residue and is removable when steam-distilled at atmospheric pressure.
 - 4. Any meat or meat food product that has been condemned by state or federal meat inspectors shall be treated as provided in 9 CFR 314.3, which has been incorporated by reference in R3-2-202, and may be disposed of as provided in that rule or may be collected and transported to or received by a rendering or tallow plant or a state or county diagnostic laboratory or crematory.
- B. A person engaged commercially in the collection or transportation of dead animal carcasses or inedible meat shall register with the Department as a dead animal hauler as prescribed in R3-2-203(B) and shall maintain and keep all records for the time required by R3-2-203(C).
- C. A vehicle or other means of conveyance used to transport a dead animal carcass or inedible meat shall be:
 - 1. Leak-proof,
 - 2. Constructed of impervious materials that permit thorough cleaning and sanitizing,
 - 3. Equipped to control insects and odors and prevent the spread of disease, and

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4. Comply with the Department of Environmental Quality vehicle requirements prescribed in R18-13-310(A) and (B).
- D. Except as provided in subsection (E), a dead animal carcass may be rendered or made into animal food only at a licensed rendering or animal food manufacturing plant as prescribed in A.R.S. § 3-2088 and this Article.
- E. Dead animals diagnosed with anthrax or an animal disease foreign to the United States shall be handled as directed by the State Veterinarian.
- F. Discarded animal bone, animal fat, and animal offal generated by a wholesale food manufacturer shall be transported to and received by only a:
 1. Licensed rendering plant, or
 2. Landfill, as prescribed in subsections (A)(2)(d), (A)(2)(e), and (A)(2)(f).

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-206 renumbered from Section R3-9-206 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Citation in subsection (B) corrected to R3-2-203(C) from R3-2-208(C) under R1-1-109(C) (Supp. 01-2). Amended by final rulemaking at 8 A.A.R. 3015, effective July 10, 2002 (Supp. 02-3).

R3-2-207. Meat from Dead Animals Processed and Decharacterized for Use as Animal Food

- A. The following are minimum requirements for animal food manufacturing plants:
 1. Hot and cold water shall be provided with facilities for its distribution in the plant which shall conform with the minimum requirements of the state Department of Health Services. The hot water shall be at least 180° F and shall be used for the cleaning of equipment, floors, and walls.
 2. There shall be a drainage and plumbing system and a sewage disposal system that will not serve as a breeding place for flies, constitute a hazard, or endanger public health. Both systems shall meet the minimum requirements of the state Department of Health Services.
 3. The floors, walls, ceilings, partitions, posts, doors, and other parts of all structures shall be of materials, construction, and finish that are capable of being thoroughly cleaned. The floors shall be tile, cement or other material impervious to water and shall have sufficient drainage to preclude stagnant accumulations of moisture.
 4. All outside windows and doors shall be screened.
 5. All rooms shall have natural or artificial lighting and well-distributed ventilation sufficient to prevent uncontrolled mold growth and filth or bacteria that may endanger health.
 6. The plant shall be kept free from flies, rats, mice, and other vermin. Dogs and cats shall be excluded from the plants.
 7. Tables, benches, and other equipment shall be provided so that processing can be performed free from filth or bacteria that may endanger health.
 8. Each plant shall provide toilets, wash basins, towels, hot and cold running water, and soap for the employees with separate facilities when both sexes are employed. Toilets and wash basins shall be kept free from filth or bacteria that may endanger health. The rooms in which the toilet facilities are located shall be ventilated and shall be separated from the rooms in which the animal food is manufactured.

9. Coolers shall be maintained below 40° F. Freezers shall be maintained below 10° F.
- B. Decharacterizing or denaturant agents: The following USDA-approved denaturant agents may be used: Charcoal (finely powdered) with a minimum 1 lb. per 100 lbs. meat, F-D & C Blue 1, F-D & C Blue 2, F-D & C Green 3, or liquid charcoal.
 1. In addition to the application of the denaturing agents listed, meat or meat products shall be identified with the following information:
 - a. The kind of animal,
 - b. The following phrases:
 - i. For pet food only from dead animals,
 - ii. Denatured with _____,
 - c. The correct statement of net weight, and
 - d. The name and address of processor or manufacturer.
 2. Before the denaturing agents are applied to pieces more than four inches in diameter, the pieces shall be freely slashed or sectioned. The application of any of the denaturing agents listed in this Section to the outer surfaces of molds or blocks of boneless meat, meat by-products, or meat food products shall not be considered adequate. The denaturing agent shall be mixed thoroughly with all of the material to be denatured and shall be applied in such quantity and manner that it cannot easily and readily be removed by washing or soaking. Denaturant shall be used to give the meat, meat by-products, raw animal fat, or rendered animal fats and oils, a distinctive color, odor, or taste so that such material cannot be confused with an article of human food.
 3. All denaturing shall be done immediately upon condemnation of the meat or product, or immediately after the meat or product is prepared or during preparation.
 4. True containers shall be legibly marked with the words "Beef or horse meat from dead animals for pet food only and not for human consumption" in letters at least 3/4 inch in height, on all sides and in at least two places if the container has less than four sides.
 5. Every carrying container in which meat obtained from a dead animal is packaged shall have an exterior surface sufficiently absorbent so that the markings on at least two sides, in letters two inches high "Pet food only," will not become illegible during handling, storage, or transportation of the container.
- C. Sales of meat obtained from a dead animal are permitted only to kennels, zoos, and animal food manufacturing plants registered by the Department, and records of sales shall be maintained by the purchaser and animal food manufacturing plant.
- D. Each vehicle used for the transportation of fresh or frozen pet food shall be clearly and legibly marked with the name of the manufacturer in letters not less than four inches in height on both sides of the cab or body.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-207 renumbered from Section R3-9-207 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3).

R3-2-208. Diseased and Injured Animals

- A. Diseased animals.
 1. No meat from any diseased animal shall be processed, sold or stored at premises where food is sold or prepared for human consumption, unless it is decharacterized and clearly identified "Not for Human Consumption."
 2. Subsection (A)(1) does not apply to meat from animals affected by any disease that does not render the meat unfit

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for human consumption if the affected animals are slaughtered in establishments where meat inspection is maintained under A.R.S. § 3-2051 and 9 CFR, Chapter III, Subchapter A, which is incorporated by reference in R3-2-202(A).

B. Injured animals. An injured animal may be slaughtered by:

1. The animal's owner at the owner's premises if the meat is used solely for consumption by the owner, the owner's immediate family, or employees. The owner shall keep the animal's hide until it has been inspected and marked or tagged by a livestock officer under A.R.S. § 3-2011.
2. An official slaughter establishment, if:
 - a. The animal is inspected by a livestock officer at origin; or
 - b. The animal is transported to the official slaughter establishment with a self-inspection certificate; or
 - c. The animal is transported to an official slaughter establishment with a waiver from the Associate Director and the waiver is documented by the livestock officer.
3. An exempt slaughterer, if the meat is used solely for consumption by the animal's owner, the owner's immediate family or employees, and if:
 - a. The animal's body temperature is 103° F or less and except for the injury its condition appears normal; and
 - b. The animal is inspected by a livestock officer at origin who verifies the temperature and condition of the animal and approves it for slaughter; or
 - c. The Associate Director waives the inspection and the waiver is documented by the livestock officer, and the exempt slaughterer verifies the temperature and condition of the animal.

C. Non-ambulatory disabled cattle. Non-ambulatory disabled cattle shall not be slaughtered by any official or exempt slaughterer. Non-ambulatory disabled cattle are cattle that cannot rise from a recumbent position or that cannot walk, including, but not limited to, those with broken appendages, severed tendons or ligaments, nerve paralysis, fractured vertabul column, or metabolic conditions.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-203 renumbered from Section R3-9-203 (Supp. 91-4). Amended effective July 13, 1995 (Supp. 95-3). Former Section R3-2-208 renumbered to R3-2-203; new Section R3-2-208 renumbered from Section R3-2-203 and amended by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-209. Exempt Non-mobile Slaughter Establishments

In addition to A.R.S. § 3-2050 and the material incorporated in R3-2-202(A), the following shall be provided when slaughtering animals in an exempt non-mobile slaughter establishment:

1. General.
 - a. A metal knocking box or concrete box with metal door to confine the animal before stunning;
 - b. A distance of at least three feet from the header rail to the adjacent wall;
 - c. A bleeding rail with its top at least 16 feet above the floor; and

- d. Dressing rails and cooler rails placed so the lowest part of the carcass is at least 12 inches from the floor.
2. Coolers. A chill cooler and separate holding cooler may be provided or both may be combined in one unit. The walls shall be light colored, smooth, free from cracks, and impervious to moisture. The door between the slaughtering department and the chill cooler shall be clad with rust-resistant material. Rails shall be spaced at least two feet from walls, columns, refrigeration equipment, or other fixed equipment to prevent contact with the carcasses.
3. Disposal of blood. If blood is not permitted to drain into the sewage system, it may be collected in a metal tank and removed from the premises.
4. Drainage.
 - a. Floors that require flushing during operations shall have sloped floor drains to carry off the effluent. Drainage systems shall conform to state and local plumbing codes.
 - b. Grease recovery systems shall not mask odors or create a harborage for pests.
5. Ventilation and lighting. Natural ventilation may be supplemented by artificial means and shall be sufficient to ensure the absence of dust, masking odors, or steam vapors. To ensure adequate lighting at all times and at all places, natural lighting shall be supplemented by well-distributed artificial lighting.
6. Potable water supply, wash basins, sterilizing facilities.
 - a. Hot and cold running water, under pressure, shall be available in all parts of the plant and in conformity with the requirements of the Arizona Department of Health Services. The hot water used for sterilizing equipment, floors, and walls that may be contaminated by the dressing procedure or handling of diseased carcasses, viscera, and other animal parts, shall be at least 180° F. A thermometer shall be installed to verify the temperature of the water at the point of use. A cleanup hose shall be available for use.
 - b. One or more wash basins shall be located in the slaughtering department. The wash basins shall be equipped with hot and cold running water, delivered through a combination mixing faucet with an outlet at least 12 inches above the rim of the bowl. The water delivery shall be foot-pedal operated, and the drainage outlet shall lead directly into the sewage lines. Soap and disposable towels shall be convenient to the wash basins.
 - c. The tool sterilizer shall be maintained at 180° F and be in operation at all times during slaughter activities.
7. Protection against flies, rodents, or other vermin.
 - a. Establishments shall be free of flies, rats, mice, roaches, and other pests or vermin. The establishment shall be constructed and maintained to prevent entrance of pests to the premises and to eliminate breeding places from the surrounding area and in the establishment.
 - b. Animal handling facilities such as stock pens and runways shall be clean and manure or other waste materials removed shall not accumulate at or near the establishment.

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New Section adopted by final rulemaking at 5 A.A.R. 1593, effective May 5, 1999 (Supp. 99-2).

ARTICLE 3. FEEDING OF ANIMALS**R3-2-301. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-301 renumbered from Section R3-9-301 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Section repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-302. Permit to Feed Garbage to Swine; Requirements

A swine garbage feeding permit holder or applicant for a permit to feed garbage to swine shall comply with the following requirements:

1. An approved cooker is installed, is in operating condition on the premises, and fenced off from all swine.
2. A concrete slab, trough, or other easily cleanable area, and equipment for feeding garbage is provided.
3. Premises utilized for swine garbage feeding are reasonably clean, free of litter, adequately drained, and provide for removal of animal excrement and garbage not consumed.
4. Individually operated swine garbage feeding premises are separated from other swine premises by a minimum distance of 200 feet in all directions and constructed to prevent the escape of any swine.
5. In addition, all swine garbage feeding permit holders shall follow all federal garbage feeding regulations as outlined in 9 CFR Part 166 as revised on January 1, 2018.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-302 renumbered from Section R3-9-302 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

ARTICLE 4. ANIMAL DISEASE PREVENTION AND CONTROL**R3-2-401. Definitions**

1. "Animal Name" refers to the shelter impound number of the animal.
2. "Anti-Rabies Vaccine" is an active immunizing agent used to prevent infection caused by the rabies virus approved by the State Veterinarian pursuant to A.R.S. § 11-1002.
3. "Approved Rabies Vaccinator Curriculum" means an in-person vaccination training curriculum approved by the State Veterinarian of Arizona and administered by a supervising veterinarian.
4. "Biologics" means medical preparations made from living organisms and their products, including serums, vaccines, antigens, and antitoxins.
5. "Certified Rabies Vaccinator" means an unlicensed individual who is appointed and certified by a supervising veterinarian and authorized under A.R.S. § 32-2240.02 to vaccinate domestic animals against rabies, who is employed by a shelter, as defined herein, and who in the absence of a licensed veterinarian, has agreed to supervise the acquisition, storage, administration, and record keeping of the anti-rabies vaccine.

6. "Compendium of Animal Rabies Prevention and Control" refers to the 2016 edition of the NASPHV Compendium of Animal Rabies Prevention and Control, incorporated by reference, and does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
7. "Domestic animal" means a mammal, not regulated by title 3, that is kept primarily as a pet or companion or that is bred to be a pet or companion.
8. "Foreign Animal Disease" means a transboundary animal disease or pest, or an aquatic animal disease or pest, not known to exist in the United States.
9. "NASPHV" refers to the National Association of State Public Health Veterinarians.
10. "Rabies Certificate" refers to the NASPHV FORM 51 (revised 2007) or equivalent computer-generated form.
11. "Shelter" means an animal care and control shelter or pound operated by any town, city, county or the state, including privately run animal shelters that are utilized by a town, city, county or the state.
12. "State Veterinarian" means the person appointed as the State Veterinarian under A.R.S. § 3-1211.
13. "Supervising Veterinarian" means a veterinarian licensed by the Arizona Veterinary Medical Examining Board, who is authorized under these rules to designate a Certified Rabies Vaccinator.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-401 renumbered from Section R3-9-401 (Supp. 91-4). Former Section R3-2-401 renumbered to R3-2-402; new Section R3-2-401 adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final rulemaking at 30 A.A.R. 311 (February 16, 2024), effective March 24, 2024 (Supp. 24-1).

R3-2-402. Mandatory Disease Reporting by Veterinarians and Veterinary Laboratories

- A. All veterinarians and laboratories performing diagnostic services on animals shall:
- B. Notify the State Veterinarian at (602) 542-4293 and diseasereporting@azda.gov, within four hours of diagnosing or suspecting any disease or clinical signs of disease listed below:
 1. African horse sickness
 2. African swine fever
 3. African trypanosomiasis
 4. Anthrax
 5. Avian influenza
 6. Bovine Babesiosis
 7. Bovine spongiform encephalopathy
 8. Classical Swine Fever
 9. Contagious agalactia
 10. Contagious bovine pleuropneumonia
 11. Contagious caprine pleuropneumonia
 12. Crimean Congo Hemorrhagic Disease
 13. Dourine
 14. Enterovirus encephalomyelitis
 15. Equine infectious anaemia

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16. Equine Neurologic Diseases (Eastern, Western, Venezuelan, West Nile Virus, Equine Herpesvirus-1/ Equine Herpesvirus Myeloencephalopathy)
 17. Foot and Mouth Disease
 18. Glanders
 19. Heartwater (Ehrlichia ruminantium)
 20. Hemorrhagic septicemia (Pasteurella multocida)
 21. Hendra virus (Equine morbillivirus)
 22. Infectious haematopoietic necrosis of fish
 23. Japanese encephalitis
 24. Lumpy skin disease
 25. Malignant catarrhal fever
 26. Melioidosis (Burkholderia pseudomallei)
 27. Nairobi sheep disease
 28. Newcastle Disease
 29. Nipah
 30. Peste des Petits Ruminants
 31. Rabies
 32. Rabbit Hemorrhagic Disease
 33. Rift Valley Fever
 34. Rinderpest
 35. Schmallenberg virus/Akabane
 36. Senecavirus A
 37. Screwworm myiasis
 38. Sheep and goat pox
 39. Surra (Trypanosoma evansi)
 40. Swine Vesicular Disease
 41. Theileriosis (T. parva or T. annulata)
 42. Tuberculosis (Mycobacterium bovis)
 43. Tularemia
 44. Turkey rhinotracheitis (Avian metapneumovirus)
 45. Trypanosomiasis
 46. Viral hemorrhagic septicemia of fish
 47. Vesicular exanthema of swine virus
 48. Vesicular stomatitis
- B.** Notify the State Veterinarian at (602) 542-4293 and diseasereporting@azda.gov, within 24 hours of diagnosing or suspecting any disease or clinical signs of disease listed below:
1. Brucellosis (Brucella spp.)
 2. Chronic Wasting Disease in Cervids
 3. Contagious Equine Metritis
 4. Epizootic Lymphangitis
 5. Equine Piroplasmiasis
 6. Equine Viral Arteritis
 7. Fowl typhoid (Salmonella gallinarum)
 8. Ornithosis (Psittacosis, Avian Chlamydiosis, Chlamydia psittaci)
 9. Pigeon Fever (Corynebacterium pseudotuberculosis)
 10. Pseudorabies (Aujeszky's disease)
 11. Q fever
 12. Pullorum disease (Salmonella pullorum)
 13. Scrapie
 14. Sheep scabies
 15. Strangles (Strep equi spp. equi)
 16. Swine enteric coronavirus diseases
 17. Trichomoniasis (Trichomonas foetus)
- Aquatic Diseases**
1. Crayfish plague
 2. Epizootic hematopoietic necrosis disease
 3. Epizootic ulcerative syndrome
 4. Gyrodactylosis
 5. Abalone Viral Ganglioneuritis
 6. Bonamiosis (B. exitiosa/ostreae)
 7. Marteiliiosis (M. refringens)
 8. Perkinsosis (P. marinus /olseni)
 9. Salmonid alphavirus infection
 10. Infection with Xenohalictis californiensis
 11. Infectious hematopoietic necrosis
 12. Infectious hypodermal and haematopoietic necrosis
 13. Infectious myonecrosis
 14. Infectious salmon anemia
 15. Koi herpesvirus disease
 16. Necrotizing hepatopancreatitis
 17. Red sea bream iridoviral disease
 18. Spring viremia of carp
 19. Taura syndrome
 20. Tilapia Lake Virus (TiLV)
 21. Viral hemorrhagic septicemia
 22. Viral nervous necrosis (VNN)
 23. White spot disease
 24. White tail disease
 25. Yellowhead
- C.** Notify the State Veterinarian by email at diseasereporting@azda.gov or facsimile at (602) 542-4290 within 30 days after diagnosing any of the diseases listed below:
1. Anaplasmosis
 2. Avian infectious bronchitis
 3. Avian infectious laryngotracheitis
 4. Bluetongue
 5. Bovine cysticercosis
 6. Bovine genital campylobacteriosis
 7. Bovine viral diarrhea
 8. Camelpox
 9. Caprine arthritis/encephalitis
 10. Duck viral hepatitis
 11. Echinococcosis/hydatidosis
 12. Enzootic abortion of ewes
 13. Enzootic bovine leukosis (BLV)
 14. Epizootic hemorrhagic disease
 15. Equine Herpesvirus - 4
 16. Equine influenza
 17. Infectious bovine rhinotracheitis
 18. Infectious bursal disease
 19. Johne's disease
 20. Leishmaniasis
 21. Leptospirosis
 22. Maedi-visna (OPP)
 23. Marek's disease
 24. Mycoplasma Gallisepticum
 25. Mycoplasma Synoviae
 26. Myxomatosis in rabbits
 27. Porcine cysticercosis
 28. Porcine Reproductive and Respiratory Syndrome
 29. Paratyphoid abortion in Ewes (Salmonella abortusovis)
 30. Swine influenza
 31. Trichinellosis (Trichinella spiralis)

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-402 renumbered from Section R3-9-402 (Supp. 91-4). Former Section R3-2-402 renumbered to R3-2-403; new Section R3-2-402 renumbered from R3-2-401 and amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26

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A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-403. Quarantine for Diseased Animals

- A. A quarantine order shall be issued by the Director or his designee when the presence of a Foreign Animal Disease is suspected or diagnosed.
- B. A quarantine order may be issued by the Director or his designee on the advice of the State Veterinarian when the presence of a disease is suspected or diagnosed.
- C. The quarantine order may isolate specific animals, premises, counties, districts, or sections of the state and shall restrict the movement of animals.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-403 renumbered from Section R3-9-403 (Supp. 91-4). Former Section R3-2-403 repealed; new Section R3-2-403 renumbered from Section R3-2-402 and amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4). New Section made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-404. Importation, Manufacture, Sale, and Distribution of Biologics

- A. Any person importing, manufacturing, selling, or distributing any biologic intended for diagnostic or therapeutic treatment of animals shall request, in writing, permission from the State Veterinarian.
- B. The State Veterinarian shall not approve the importation, manufacture, sale, or distribution of any biologic that will interfere with the state's animal disease control programs.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-404 renumbered from Section R3-9-404 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-405. Depopulation of Animals Infected with a Foreign Animal Disease

When a Foreign Animal Disease is diagnosed, the State Veterinarian may order the owner, agent, or feedlot operator to immediately depopulate and dispose of all infected and exposed animals on the premises if necessary to prevent the spread of the disease among animals.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-405 renumbered from Section R3-9-405 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2).

Emergency expired December 19, 2016 (Supp. 16-4).
Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-406. Disease Control; Designated Feedlots

- A. Designated feedlots are subject to the following restrictions:
- B. A designated feedlot shall have a restricted feeding pen. A restricted feeding pen shall:
 - 1. Be isolated from all other pens,
 - 2. Have separate loading and unloading chutes, alleys, and handling facilities from all other pens,
 - 3. Not share water or feeding facilities accessible to other areas,
 - 4. Be posted at all corners with permanently affixed signs stating "Restricted Feeding Area,"
 - 5. Have a minimum of eight feet between restricted and other pens and facilities, and
 - 6. Have no common fences or gates with other pens.
- C. An operator may place diseased cattle or bison that are under state quarantine into a restricted feeding pen as follows:
 - 1. All cattle or bison, except steers and spayed heifers, shall be branded with an "F" at least two inches in height, adjacent to the tailhead before entering the pen; and
 - a. Imported cattle or bison, of any age and from any area shall be transported under seal and shall be accompanied by an entry permit number and a Certificate of Veterinary Inspection or federal restricted movement document; or
 - b. Native Arizona cattle or bison shall be accompanied by an Arizona livestock inspection certificate, as approved by the State Veterinarian or designee.
- D. An operator may move cattle or bison from a restricted feeding pen to slaughter or to another designated feedlot only by prior written approval of the State Veterinarian or APHIS veterinarian.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-406 renumbered from Section R3-9-406 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-407. Disease Control; Equine Infectious Anemia

- A. The Arizona official test for EIA is either the agar-gel immunodiffusion test, known as the Coggins Test, or the Competitive Enzyme-Linked Immunosorbent Assay test, known as the CELISA test. The test shall be performed in a laboratory approved by APHIS, and required samples shall be drawn by an accredited veterinarian, the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.
- B. Disposal of equine testing positive.
 - 1. When an Arizona equine tests positive to EIA, the testing laboratory shall notify the State Veterinarian by telephone at (602) 542-4293 and email at diseasereporting@azda.gov, within four hours.
 - 2. The EIA-positive equine shall be quarantined at its current location, segregated from other equine, and shall not be moved unless authorized by the State Veterinarian. The equine shall be retested by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian within two weeks of the notification.
 - 3. Within 14 days of being notified by the testing laboratory of a positive test conducted under subsection (B)(2), the State Veterinarian or the State Veterinarian's designee

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shall brand the equine on the left side of its neck with "86A" not less than two inches in height.

4. Within 10 days after being branded, the EIA-positive equine shall be:
 - a. Humanely destroyed,
 - b. Confined to a screened stall marked "EIA Quarantine" that is at least 200 yards from other equine, or
 - c. Consigned to slaughter at a slaughtering establishment. If consigned to slaughter, the equine shall be accompanied by a Permit for Movement of Restricted Animals, VS 1-27, issued by the State Veterinarian, the State Veterinarian's designee, or an APHIS veterinarian.
5. Offspring of mares testing EIA-positive shall be quarantined, segregated from other equine, and tested for EIA at six months of age. Offspring testing positive shall be handled as prescribed in subsections (B)(3) and (B)(4).
6. If an EIA-positive equine is located on premises other than those of the owner at the time a quarantine under this Section, the State Veterinarian may authorize movement of the EIA-positive equine to the owner's premises if requested by the owner. Movement shall be under the direct supervision of the State Veterinarian or the State Veterinarian's designee. If the owner lives in another state, the owner may move the equine to that state with the permission of the chief livestock health official of the state and APHIS.
- C. The State Veterinarian shall require testing of any equine located in the same facility as the EIA-positive equine or any equine considered exposed to the EIA-positive equine. The owner of the equine tested shall pay the expenses for the testing.
- D. The owner of any equine found to be EIA-positive shall not be indemnified by the state for any loss caused by the destruction or loss of value of the equine.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-407 renumbered from Section R3-9-407 (Supp. 91-4). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-408. Disposition of Livestock Exposed to Rabies

Livestock bitten by a known or suspected rabid animal shall be handled using the methods prescribed in the NASPHV Compendium of Animal Rabies Control.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-408 renumbered from Section R3-9-408 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final rulemaking at 30 A.A.R. 311 (February 16, 2024), effective March 24, 2024 (Supp. 24-1).

24-1).

R3-2-409. Rabies Vaccines for Animals

- A. All animals in Arizona vaccinated against rabies shall be vaccinated as prescribed in the NASPHV Compendium of Animal Rabies Control.
- B. A person who is not a licensed veterinarian may be certified as a rabies vaccinator by a licensed veterinarian after completing the approved rabies-vaccinator curriculum. Initial certification shall be valid for one year and renewals after the first year shall be valid for two years. Each renewal shall only be granted upon completion of the current rabies-vaccinator curriculum.
- C. Anti-rabies vaccines may be administered under the supervision of a licensed veterinarian or by a Certified Rabies Vaccinator to animals on the premises of shelters before release.
- D. Duties and responsibilities of the Certified Rabies Vaccinator are to:
 1. Abide by all local, state, and federal laws and regulations pertaining to the operation of a shelter, including those laws and regulations governing possession and use of anti-rabies vaccine.
 2. Comply with the Compendium of Animal Rabies Prevention and Control, including storage of anti-rabies vaccine at the required temperature, and administration of anti-rabies vaccine in an aseptic manner that meets the current standards of veterinary practice.
 3. Refer for appropriate treatment domestic animals that experience an adverse event to a licensed veterinarian; and report the adverse event to the supervising veterinarian and the vaccine manufacturer.
 4. Procure anti-rabies vaccine through the state veterinary license number of the supervising veterinarian.
 5. A Rabies Certificate must be completed in full for every vaccinated domestic animal, shall include the legible name of the Certified Rabies Vaccinator, and shall be signed by the Certified Rabies Vaccinator or supervising veterinarian.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective October 16, 1986 (Supp. 86-5). Amended effective January 6, 1989 (Supp. 89-1). Section R3-2-409 renumbered from Section R3-9-409 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final rulemaking at 30 A.A.R. 311 (February 16, 2024), effective March 24, 2024 (Supp. 24-1).

R3-2-409.01. Requirements of Certified Rabies Vaccinator Approved Curriculum; Recordkeeping; Inspection

- A. Approved curriculum training shall include an instructional section and a practical exam showing competency; and shall include, but not be limited to, the following topics:
 1. Anatomy.
 2. Personnel safety.
 3. Acceptable methods of disposal of supplies.
 4. Humane methods of handling domestic animals.
 5. Proper vaccine storage and handling.
 6. Proper vaccine administration.
 7. Record keeping.

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8. Management and reporting of adverse events.
- B. These rules are provided as components of a certified rabies-vaccinator program, and no fee shall be charged by the State Veterinarian, however the State Veterinarian takes no position on establishment of reasonable fees by a supervising veterinarian for implementation of a certified rabies-vaccinator program.
- C. The Certified Rabies Vaccinator shall keep records of all vaccination-related activities for three years including, but not limited to:
 1. Rabies certificates.
 2. Adverse event reports, including reports of human exposure to rabies vaccines.
- D. A shelter is subject to periodic random inspection by the Office of the State Veterinarian. Upon request by the Office of the State Veterinarian, the responsible supervising veterinarian or Certified Rabies Vaccinator shall immediately produce requested records.
- E. Following an audit or inspection, if evidence exists of non-compliance with the above standards, the State Veterinarian reserves the right to terminate a Certified Rabies Vaccinator's certification.

Historical Note

New Section made by final rulemaking at 30 A.A.R. 311 (February 16, 2024), effective March 24, 2024 (Supp. 24-1).

R3-2-410. Trichomonas Testing Requirements

- A. Definitions. For purposes of this Section, the following definitions shall apply.

"Accredited Veterinarian" means an individual who is currently licensed to practice veterinary medicine in the State of Arizona and is an Accredited Level II by the United States Department of Agriculture, Animal Plant Health Inspection Service.

"Approved Laboratory" means any laboratory designated and approved by the State Veterinarian for examining *T. foetus* samples and reporting all results to the State Veterinarian.

"Bull" means an intact male bovine 12 months of age and older and is not confined to a drylot dairy.

"Change of Ownership" means when a bull is sold, leased, gifted, or exchanged and changes premises for breeding purposes in Arizona.

"Commingle" means cattle of opposite sex in the same enclosure or pasture with a reasonable opportunity for sexual contact.

"Direct to Slaughter" means transporting an animal from site of testing to a sale yard or directly to a slaughter plant without unloading or commingling prior to arrival.

"Official *T. foetus* bull test" means the sampling of a bull by a licensed, accredited veterinarian. Such test must be conducted after at least seven days separation from all female bovine. The bull and sample must be officially and individually identified and documented for laboratory submission. The official laboratory test shall be a polymerase chain reaction (PCR), or other technologies as approved by the State Veterinarian and adopted through a Director's Administrative Order. The test is not considered official until results are reported by the testing laboratory.

"Official *T. foetus* laboratory testing" means the laboratory procedures that shall be approved by the State Veterinarian for identification of *T. foetus*.

"Positive *T. foetus* bull" means a bull that has had a positive official *T. foetus* bull test.

"*Trichomonas foetus*" OR "*T. foetus*" means a protozoan parasite that is the causative agent to the contagious venereal disease Trichomoniasis.

- B. Testing requirements for Official *T. foetus*.
 1. All Arizona origin bulls sold, leased, gifted, exchanged or otherwise changing possession for breeding purposes in Arizona shall be tested for *T. foetus* via Official *T. foetus* bull test prior to sale or change of ownership in the state, unless going to direct slaughter. *T. foetus* testing shall be performed on bulls prior to change of ownership of that bull.
 2. The Official *T. foetus* test shall be collected by an Accredited Veterinarian and performed through an Approved Laboratory.
 3. Pooled testing is not an official test.
 4. The *T. foetus* negative test is valid for 60 days after the test is performed, providing the bull is kept separated from all female bovine.
- C. Positive bull identification.
 1. When a positive *T. foetus* bull is identified, the Accredited Veterinarian shall notify the producer upon receipt of the positive test results.
 2. Regardless of R3-2-402, the Accredited Veterinarian and Approved Laboratory shall notify the State Veterinarian of a positive *T. foetus* bull within 24 hours of receiving the results. The State Veterinarian's Office, working in coordination with the regional livestock inspection staff, shall to the best of their ability notify the regional bovine producers about the positive test within 14 days upon notification of positive test. The State Veterinarian and/or livestock inspection staff is not required to reveal any details of the test just that there is a positive test in the region.
 3. The Accredited Veterinarian that performed the test shall return to place of testing to verify the Official Identification of the positive bull.
 4. The Accredited Veterinarian, or a person under direct supervision of the Veterinarian, shall brand the bull with an official "S" brand adjacent to the tailhead on the right hip.
 5. If the bull testing positive is not at the premises where the *T. foetus* testing occurred, the Accredited Veterinarian will immediately notify the State Veterinarian's Office.
 6. If an Accredited Veterinarian is unable to return to the premises in a time that is reasonable for sale of the bull, the producer shall take the positive *T. foetus* bull directly to the regional livestock sale yard.
 - a. The producer shall immediately notify the sale yard of the positive *T. foetus* bull. Failure to notify the sale yard of the positive *T. foetus* bull will result in a violation of this Section and the producer shall be subject to the penalties of A.R.S. § 3-1205(D).
 - b. Prior to sale at the sale yard, a Livestock Officer shall verify the official identification of the positive *T. foetus* test bull.
 - c. After the official identification is verified, the bull shall be branded with an official "S" brand adjacent to the tailhead on the right hip. The branding shall be

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done under direct supervision of a Livestock Officer or Livestock Inspector.

7. If a bull arrives at a livestock auction without an Official *T. foetus* bull test, the bull shall be quarantined at the auction and tested at the expense of the owner or shall be branded with an "S" brand and be sold only for slaughter.
- D. Disposal of bull testing positive.**
1. A bull testing positive for *T. foetus* or branded with the official "S" brand shall go direct to slaughter or shall be placed under State Quarantine and fed in a restricted feeding pen within a designated feedlot according to R3-2-406.
 2. The *T. foetus* positive bull shall not be commingled with any other female bovine. The bull shall go from the testing premises to direct slaughter or to the restricted feeding pen within 30 days of the positive *T. foetus* test.
 3. All remaining herd bulls shall be under a Trichomonas Herd Management Program overseen by the Herd Veterinarian until two negative *T. foetus* tests are performed and documented.
 4. "S" branded bulls purchased at a sale yard shall go direct to a slaughter plant without unloading or commingling prior to arrival.
- E. Trespassing or Stray Bulls.**
1. In the event of a trespassing or stray bull, the herd owner who locates the bull, may request an Official *T. foetus* bull test for that bull. In the event of a positive Official *T. foetus* bull test, subsections (B) and (C) shall apply.
 2. The cost of the veterinary services and Official *T. foetus* bull test shall be the responsibility of the herd owner. In the event of a stray bull, the animal will be subject to A.R.S. §§ 3-1401 et seq.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020; new Section made by final rulemaking at 26 A.A.R. 812, effective June 8, 2020 (Supp. 20-2).

R3-2-411. Repealed**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4812, effective December 7, 2000 (Supp. 00-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-412. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-413. Sheep and Goats; Intrastate Movement

- A.** Before intrastate movement of a sheep more than 18 months of age, or a sheep or goat of any age not in a slaughter channel, the producer shall identify the animal to the flock of birth using official identification before leaving the flock of birth. A sheep or goat not in a slaughter channel includes an animal not for sale, transfer, or movement to:
1. A slaughter facility,
 2. Custom slaughter, or
 3. A feeding operation before movement to slaughter.
- B.** Subsection (A) does not apply if the first point of commingling with animals other than those in the flock of birth is an Arizona auction market that is an approved tagging site.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3628, effective January 1, 2003 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

ARTICLE 5. STATE-FEDERAL COOPERATIVE DISEASE CONTROL PROGRAM**R3-2-501. Tuberculosis Control and Eradication Procedures**

- A.** Procedures for tuberculosis control and eradication in cattle, bison, and goats shall be as prescribed in 9 CFR Part 77 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- B.** Procedures for tuberculosis control and eradication in cervidae not listed as restricted live wildlife in A.A.C. R12-4-406 shall be as prescribed in 9 CFR 77 Subpart C as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended subsection (A) effective October 16, 1986 (Supp. 86-5). Section R3-2-501 renumbered from Section R3-9-501 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-502. Repealed**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-502 renumbered from Section R3-9-502 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Section repealed by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

R3-2-503. Brucellosis Control and Eradication Procedures

- A.** Procedures for brucellosis control and eradication in cattle and bison shall be as prescribed in 9 CFR 78 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
- B.** Procedures for brucellosis control and eradication in swine shall be as prescribed in 9 CFR 78 Subpart D as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.

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- C. Procedures for brucellosis control and eradication in animals not listed as restricted live wildlife in A.A.C. R12-4-406, shall be as prescribed in the USDA publication, Brucellosis in Cervidae: Uniform Methods and Rules, effective September 30, 2003. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4).
Amended effective October 16, 1986 (Supp. 86-5).
Amended effective January 6, 1989 (Supp. 89-1). Section R3-2-503 renumbered from Section R3-9-503 (Supp. 91-4). Amended March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-504. Pseudorabies Procedures for Eradication

Procedures for pseudorabies control and eradication in swine shall be as prescribed in 9 CFR 85 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.

Historical Note

Adopted effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-505. Scrapie Procedures for Eradication

The Department controls and eradicates scrapie using the procedures outlined in 9 CFR 79 as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

ARTICLE 6. HEALTH REQUIREMENTS GOVERNING ADMISSION OF ANIMALS**R3-2-601. Repealed****Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-601 renumbered from Section R3-9-601 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney

general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2).
Emergency expired December 19, 2016 (Supp. 16-4).
Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-602. Importation Requirements

- A. All animals transported or moved into the state of Arizona, shall be accompanied by a valid, official Certificate of Veterinary Inspection from the state of origin, or a VS 9-3 form for National Poultry Improvement Plan flocks. All animals shall be imported in accordance with this Section and the species-specific Section in this Article. Any violation of this Article is subject to a hold order pursuant to R3-2-605.
- B. Livestock may not enter the state of Arizona unless accompanied by an Arizona entry permit number documented on the Certificate of Veterinary Inspection. This requirement applies regardless of the species, breed, sex, class, age, point of origin, place of destination, or purpose of the movement of the livestock entering the state, except:
1. Equine;
 2. Livestock consigned directly to slaughter at a state or federally licensed slaughter establishment; or
 3. Livestock being transported through the state.
- C. An animal affected with or recently exposed to any infectious, contagious, or communicable disease, or which originates in a state or federal quarantine area, shall not be transported or moved into the state of Arizona unless a permit for the entry is first obtained from the Arizona State Veterinarian's Office. All conditions for the movement of animals from a quarantined area established by the quarantining authority or APHIS shall be met. Animals imported from a quarantine area may be subject to additional import requirements by the State Veterinarian prior to entry into Arizona.
- D. The owner or owner's agent shall obtain prior permission from the State Veterinarian to ship or move into the state of Arizona any animal from a lot or herd from which an animal shows clinical signs of disease or positive reaction to a test required for admission to Arizona.
- E. The Director may enter into an agreement to allow New Mexico livestock consigned directly to an Arizona livestock auction to enter the state on a New Mexico brand inspection certificate in place of a Certificate of Veterinary Inspection. If the agreement is entered, it shall be posted on the Arizona Department of Agriculture's website. In the event the agreement is terminated or expires, the Department shall put notice of the termination on the website. The livestock owner or owner's agent is responsible for ensuring that the agreement is current prior to shipping the livestock. This process is subject to the restrictions included in the agreement.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-602 renumbered from Section R3-9-602 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-603. Repealed**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section

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R3-2-603 renumbered from Section R3-9-603 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-604. Repealed**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-604 renumbered from Section R3-9-604 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-605. Hold Order for Animals Entering Illegally

- A. Animals entering the state in violation of any Section under this Article, may be placed under a hold order at the risk and expense of the owner until released by an authorized representative of the State Veterinarian. Animals placed under a hold order for noncompliance with this Article may be released only after the State Veterinarian is satisfied by testing, dipping, or observation over time, that the animals are not a threat to the livestock industry.
- B. The State Veterinarian may order that an imported animal failing to meet entry requirements be returned to the state of origin, consigned directly to slaughter, confined to a designated feedlot, or consigned to a feedlot in another state within two weeks of the request. Any extension to this time-frame must be approved in writing by the State Veterinarian.
- C. If the owner or owner's agent fails to comply with an order to return an animal to the state of origin within the time-frame required in subsection (B), the Department shall require that the animal be immediately gathered and tested at the owner's risk and expense to avoid exposure of Arizona animals to disease. The owner shall pay the expenses no later than five days after receipt of the bill. Failure to do so will result in an auction of sufficient livestock to pay the expenses which shall be held within 10 days at public auction. If additional expenses occur due to lack of cooperation by the owner or the owner's agent, the Director shall order the further sale of livestock.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Former Section R3-9-605 renumbered to R3-2-605 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-606. Certificate of Veterinary Inspection

- A. A Certificate of Veterinary Inspection is valid for not more than 30 days after the date of issue, except where otherwise noted in this Article, and shall contain:
 1. The name and address of the Consignor and Consignee;

2. The physical address of the origin of the animal;
3. The physical address of the animal's final destination;
 - a. Entry permit number if applicable;
 - b. Official identification if applicable; and
 - c. Certificate of Veterinary Inspection individual certificate number.
 - d. Qualifying required tests with completion dates.
- B. The Certificate of Veterinary Inspection shall be forwarded to the State Veterinarian in Arizona within 14 days of issue.
- C. A VS form 17-30 is deemed a valid international CVI if the following conditions are met:
 1. Accompanied by a valid brand inspection certificate from a southern border state with an entry permit number; and
 2. Official identification as documented on the VS form 17-30.
- D. Official Certificates of Veterinary Inspection may be used in electronic or paper form.
- E. Additions, deletions, and unauthorized or uncertified changes inserted or applied to a Certificate of Veterinary Inspection renders the certificate void and may be subject to state or federal penalties.
- F. The veterinarian issuing a Certificate of Veterinary Inspection shall certify that the animals shown on the Certificate of Veterinary Inspection are free from evidence of any infectious, contagious, or communicable disease or known exposure.
- G. An accredited veterinarian shall inspect animals for entry into the state.
- H. The Director may limit the period for which a Certificate of Veterinary Inspection is valid to less than 30 days if advised by the State Veterinarian of the occurrence of a disease that constitutes a threat to the livestock industry.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-606 renumbered from Section R3-9-606 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 884, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-607. Entry Permit Number

- A. An entry permit number for interstate movement may be obtained from the Office of the State Veterinarian, by calling (602) 542-4293 during the hours of 8 a.m. to 5 p.m. Monday through Friday, excluding state holidays. Any person applying for an entry permit number shall provide the following information:
 1. The name and address of the Consignor and Consignee;
 2. The number and kind of animals;
 3. The physical address of the origin of shipment;
 4. The physical address of the shipment's final destination;
 5. The method of transportation; and
 6. Any other information required by the State Veterinarian.

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- B. An entry permit number is valid for a maximum of 30 calendar days from the date of issuance unless otherwise indicated on the CVI.
- C. An entry permit number shall be issued if the animals listed on the Certificate of Veterinary Inspection are in compliance with this Article. To cope with changing disease conditions, the State Veterinarian may refuse to issue an entry permit number or may require additional conditions not specifically established in this Article if necessary to protect animal health in Arizona.
- D. The entry permit number issued shall be affixed or written on the Certificate of Veterinary Inspection, brand inspection certificate, and any other official documents as follows: "Arizona Permit No. _____" followed by the serialized number.
- E. The State Veterinarian shall refuse to grant an entry permit number to any person who repeatedly commits the following:
 1. Giving false information concerning an entry permit number for transportation of animals,
 2. Failing to fulfill the conditions of an entry permit number, or
 3. Failing to obtain an entry permit number.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-607 renumbered from Section R3-9-607 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-608. Repealed**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-608 renumbered from Section R3-9-608 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Repealed by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-609. Diversion; Prohibitions

A person consigning, transporting, or receiving an animal into the state of Arizona shall not authorize, order, or carry out diversion of the animal to a destination or consignee other than as set forth on the Certificate of Veterinary Inspection and entry permit, if required, without first obtaining permission from the State Veterinarian.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-609 renumbered from Section R3-9-609 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R.

781, effective June 8, 2020 (Supp. 20-2).

R3-2-610. Tests; Official Confirmation

A state or federal animal diagnostic laboratory or APHIS-approved laboratory shall perform or confirm any animal testing required by a state or federal authority as a condition for entry into Arizona.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-610 renumbered from Section R3-9-610 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4).

R3-2-611. Transporter Duties

- A. All owners and operators of railroads, trucks, airplanes, or other conveyances transporting animals into or through the state shall possess all of the importation documents required by this Article. These documents shall be attached to the waybill, or be in the possession of the vehicle driver, or person in charge of the animals. When a single Certificate of Veterinary Inspection and entry permit number is issued for animals being moved in more than one vehicle, the driver of each vehicle shall possess the original or a copy of the Certificate of Veterinary Inspection containing the entry permit number, if required.
- B. The owner or operator of a railroad car, truck, airplane, or other conveyance used to transport animals into or through the state shall maintain the conveyance in a clean and sanitary condition.
- C. The owners and operators of railroads, trucks, airplanes, or other conveyances who transport animals into the state in violation of this Section shall clean and disinfect the conveyance in which the animals were illegally brought into the state before using the conveyance for transporting more animals. The cleaning and disinfection shall be performed under the supervision of an authorized representative of the State Veterinarian or the USDA.
- D. The owners or operators of railroads, trucks, airplanes, or other conveyances shall follow the USDA requirements and Arizona Department of Agriculture rules and statutes, in the humane transport of animals into, within, or through the state.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-611 renumbered from Section R3-9-611 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-612. Importation of Cattle and Bison

- A. The Certificate of Veterinary Inspection for cattle and bison shall include:
 1. A valid entry permit number.

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2. The number of cattle and bison covered by the Certificate of Veterinary Inspection, an accurate description and official identification, if applicable except for "F" branded heifers consigned to a designated feedlot identified by brand.
 3. The health status of the cattle and bison including:
 - a. The date of the inspection;
 - b. The dipping date, if applicable;
 - c. The date of negative results for required testing under this Article; and
 - d. The vaccination status as required by this Article.
 4. The method of transportation; and
 5. For bulls subject to testing under R3-2-612(I), a statement that the bulls:
 - a. Tested negative for *Tritrichomonas foetus* within 30 days prior to shipment using a polymerase chain reaction test; and
 - b. Have had no breeding activity during the interval between the collection of the samples and the date of shipment.
- B.** The owner of cattle and bison entering Arizona or the owner's agent shall comply with the requirements in this Article. Failure to comply with entry requirements will incur the following conditions:
1. Pay the expenses incurred by a hold order to test and retest the imported cattle or bison or return them to the state of origin.
 2. For imported beef breeding cattle, breeding bison, and dairy cattle, ensure that an accredited veterinarian applies official identification to each bovine or bison.
- C.** Arizona shall not accept:
1. Cattle or bison from brucellosis infected, exposed, or quarantined herds regardless of their vaccination or test status, or both, except:
 - a. Steers and spayed females, and
 - b. Cattle or bison shipped directly for immediate slaughter to an official state or federal slaughter establishment;
 2. Cattle or bison of unknown brucellosis exposure status, unless consigned for feeding purposes to a designated feedlot;
 3. Dairy cattle from a state or region within a foreign country without brucellosis status comparable to a Class-Free State, or without tuberculosis status comparable to an Accredited-Free State;
 4. Dairy and dairy cross steers, and dairy and dairy cross spayed heifers from Mexico;
 5. Beef breeding cattle or breeding bison from a state or region within a foreign country without brucellosis status comparable to a Class A State, or without tuberculosis status comparable to a Modified Accredited State.
- D.** Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
1. Brucellosis testing is not required in dairy and beef cattle from a brucellosis Class-Free State that does not have free-ranging brucellosis infected bison or wildlife.
 2. Brucellosis not required for any cattle or bison consigned to a designated feedlot that are branded with an "F" adjacent to the tail head as long as the State Veterinarian grants permission to apply the "F" brand upon arrival. All "F" branded cattle or bison that leave the designated feedlot shall be shipped directly to:
 - a. An official state or federal slaughter establishment for immediate slaughter,
 - b. Another designated feedlot, or
 - c. Another state if shipping is permitted by the State Veterinarian in the state of destination.
3. All female dairy cattle four months of age or older, imported into Arizona, shall be official calfhood vaccinates, officially identified, certified, and legibly tattooed except for the following:
- a. Show cattle for exhibition,
 - b. Cattle consigned directly to an official state or federal slaughter establishment for immediate slaughter, and
 - c. Cattle consigned for feeding purposes to a designated feedlot with an entry permit number.
4. For beef breeding cattle, breeding bison, and dairy breeding cattle from a Class A state the owner or owner's agent:
- a. Shall ensure that the cattle remain under quarantine and isolation until the cattle test negative for brucellosis. The test shall be performed no earlier than 45 days and no later than 120 days after entry.
 - b. Shall retest dairy cattle if the State Veterinarian determines there is a potential risk of the introduction of brucellosis in the state.
 - c. Is not required to quarantine or test for brucellosis official calfhood vaccinates less than 18 months of age, if permission is granted by the State Veterinarian.
5. The owner or owner's agent:
- a. Shall notify the State Veterinarian within seven days of moving cattle or bison that are under quarantine from the destination listed on the import permit and Certificate of Veterinary Inspection.
 - b. Shall notify the State Veterinarian at the time animals are retested for brucellosis, if the animals are under quarantine and are not moved from the destination listed on the import permit and Certificate of Veterinary Inspection.
 - c. Is not required to notify the State Veterinarian if the cattle or bison are shipped directly to an official state or federal slaughter establishment for immediate slaughter.
- E.** Tuberculosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from other states.
1. No tuberculosis test is required for:
 - a. Beef breeding cattle or breeding bison, from a tuberculosis accredited Free State if the state accredited status is documented on the Certificate of Veterinary Inspection and entry permit; or
 - b. Steers and spayed heifers.
 2. Beef breeding cattle and breeding bison from a Tuberculosis Modified Accredited State or Tuberculosis Class Free State with a Tuberculosis Quarantine in effect, shall test negative for Bovine Tuberculosis within 60 days prior to entry into Arizona.
 3. All dairy breeding cattle greater than 120 days of age shall test negative for Bovine Tuberculosis within 60 days prior to entry into Arizona.
- F.** Brucellosis testing requirements for beef breeding cattle, breeding bison, and dairy cattle imported into Arizona from Mexico.

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1. Prior to entry into Arizona, beef breeding cattle, breeding bison, or dairy cattle from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427, as revised on January 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.
 2. The owner or owner's agent shall ensure that beef breeding cattle, breeding bison, and dairy cattle from Mexico remain under import quarantine and isolation until tested negative for brucellosis. The test shall not be performed earlier than 60 days nor later than 120 days after entry into Arizona. All cattle or bison consigned to a designated feedlot shall be branded with an "F" adjacent to the tail head before entry into Arizona unless the State Veterinarian grants permission to apply the "F" brand on arrival. Unless neutered, all beef breeding cattle, breeding bison, and dairy cattle leaving the designated feedlot shall go directly to an official state or federal slaughter establishment for immediate slaughter or to another designated feedlot. The owner of the designated feedlot shall ensure that official identification records are kept on all incoming consignments and then submit the records monthly to the State Veterinarian. An accredited veterinarian shall identify, on a form approved by the State Veterinarian, all cattle and bison leaving the designated feedlot. A copy of the form shall accompany the cattle or bison to slaughter and a copy shall be submitted to the State Veterinarian.
 3. Dairy cattle from Mexico shall test for brucellosis again 30 days after calving, unless the dairy cattle were consigned directly to a feedlot.
- G. Tuberculosis testing requirements for cattle and bison imported into Arizona from Mexico.**
1. Prior to entry into Arizona, cattle and bison from Mexico shall meet the requirements of 9 CFR 93.424 through 93.427 as revised on January 1, 2018, incorporated by reference in subsection (F)(1).
 2. Steers and spayed heifers from states or regions in Mexico shall not enter the state if they have not been determined by the State Veterinarian to have fully implemented the Control, Eradication, or Free Phase of the bovine tuberculosis eradication program of Mexico.
 3. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Control Phase of the bovine tuberculosis eradication program of Mexico shall not be imported into Arizona without permission of the State Veterinarian.
 4. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have fully implemented the Eradication Phase of the bovine tuberculosis eradication program of Mexico may be imported into Arizona, if they have either:
 - a. Tested negative for tuberculosis in accordance with procedures equivalent to the 9 CFR Part 77 as amended on January 9, 2013 within 60 days before entry into the United States, or
 - b. Originated from a herd that is equivalent to an accredited herd in the United States and are moved directly from the herd of origin across the border as a single group and not commingled with other cattle or bison before arriving at the border.
 5. Steers and spayed heifers from states or regions in Mexico determined by the State Veterinarian to have achieved the Free Phase of the bovine tuberculosis eradication program of Mexico may move directly into Arizona without testing or further restrictions if they are moved as a single group and not commingled with other cattle before arriving at the border.
- H. Bovine scabies requirements.**
1. The owner or owner's agent shall ensure that no cattle or bison affected with or exposed to scabies is shipped, trailed, driven, or otherwise transported or moved into Arizona except cattle or bison identified and moving under a VS Form 1-27 and seal for immediate slaughter at an official state or federal slaughter establishment.
 2. The owner or owner's agent of cattle or bison from an official state or federal scabies quarantined area shall comply with the requirements of 9 CFR 73, Scabies in Cattle, as revised on January 1, 2018, before moving the cattle or bison into Arizona. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department.
 3. The State Veterinarian may require that breeding and feeding cattle and bison from known scabies infected areas and states be dipped or treated even if the animals are not known to be exposed. The State Veterinarian shall require that dairy cattle be dipped only if the animals are known to be exposed; otherwise an accredited veterinarian's examination and certification shall be sufficient.
- I. Trichomoniasis requirements for bulls imported into Arizona from other states.**
1. The owner or owner's agent shall ensure bulls:
 - a. Test negative for *Tritrichomonas foetus* within 30 days prior to shipment using a polymerase chain reaction test or a diagnostic test approved by the state veterinarian, except for bulls:
 - i. Less than 12 months of age,
 - ii. Consigned directly to a state or federal licensed slaughter facility,

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- iii. Consigned directly to a dairy,
- iv. Consigned directly to an exhibition or rodeo,
- v. Consigned directly to a licensed feedlot for castration on arrival,
- vi. Branded with an "F" adjacent to the tailhead and consigned directly to a designated feedlot for feeding and later movement directly to slaughter, and
- b. Have no breeding activity during the interval between the collection of a sample and the date of shipment.
- c. The following statements documented on the CVI in reference to R3-2-612(A)(5):
 - i. Test negative for *Tritrichomonas foetus* within 30 days prior to shipment using a polymerase chain reaction test; and
 - ii. Have had no breeding activity during the interval between the collection of the samples and the date of shipment.
- 2. An accredited veterinarian approved to collect samples for *Tritrichomonas foetus* testing by the state animal health official in the state of origin shall collect the *Tritrichomonas foetus* test samples.
- 3. A laboratory approved to conduct tests for *Tritrichomonas foetus* by the state animal health official in the state of origin shall perform the test for *Tritrichomonas foetus*.
- J. For purposes of this Section beef breeding cattle means intact beef cattle.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-612 renumbered from Section R3-9-612 (Supp. 91-4). Amended effective March 5, 1997 (Supp. 97-1). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 14 A.A.R. 884, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-613. Importation of Swine

- A. A Certificate of Veterinary Inspection for swine shall include:
 - 1. A valid entry permit number;
 - 2. The following statements recorded on the CVI:
 - a. The swine listed on this CVI have never been fed garbage; and
 - b. The swine listed on this CVI have not been vaccinated for pseudorabies;
 - 3. Official Identification; and
 - 4. If applicable, the validated brucellosis-free herd number and last test date for swine originating from a validated brucellosis-free herd.
- B. Brucellosis test requirements. Swine imported into Arizona from other states shall:
 - 1. Originate from a validated swine brucellosis-free herd or from a swine brucellosis-free state; or
 - 2. Test negative for brucellosis within 30 days before entry.
- C. For purposes of this Section, breeding swine means intact swine that have had breeding activity.
- D. It is unlawful for any person to import into the state of Arizona live feral swine. Any person or corporation owning or possessing a live feral swine in this state shall at all times keep such feral swine in a safe and suitable enclosure so that it may not run at large or damage the person or property of others. For

purposes of this Section, feral swine means a hog, boar, or pig that appear to be untamed, undomesticated, or in a wild state; or appear to be contained for commercial hunting or trapping.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Amended effective June 29, 1984 (Supp. 84-3). Section R3-2-613 renumbered from Section R3-9-613 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4812, effective December 7, 2000 (Supp. 00-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-614. Importation of Sheep and Goats

- A. A Certificate of Veterinary Inspection for sheep and goats shall include:
 - 1. A valid entry permit number; and
 - 2. A statement that:
 - a. The sheep or goats are not infected with bluetongue, or exposed to scrapie, and do not originate from a scrapie-infected or source flock; and
 - b. The sheep or goats test negative for *Brucella ovis* if a test is required by subsection (B); and if applicable
 - c. Breeding rams have been individually examined and are free of gross lesions of ram epididymitis.
- B. A breeding ram six months of age or older shall test negative for *Brucella ovis* within 30 days of entry or originate from a certified brucellosis-free flock. An exhibition ram that returns to the out-of-state flock of origin within five days of the conclusion of the exhibit is exempt from the testing requirement of this subsection.
- C. Arizona native commercial flocks participating in a *Brucella ovis* control program through testing performed by an accredited and licensed veterinarian may return to Arizona from another state without testing, provided the flock has not mingled with other flocks.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-614 renumbered from Section R3-9-614 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-615. Importation of Equine

- A. A Certificate of Veterinary Inspection for equine shall include:
 - 1. An accurate identification for each equine including age, sex, breed, color, name, brand, tattoo, scars, microchip if any, and distinctive markings; and
 - 2. A statement that the equine has a negative test for EIA, including:
 - a. The date and results of the test;
 - b. The name of the testing laboratory; and
 - c. The laboratory accession number.

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- B. Equine entering the state are not required to obtain an entry permit number.
- C. All equine six months of age or older shall, using a test established in R3-2-407(A), test negative for EIA within 12 months before entry. Testing expenses shall be paid by the owner.
- D. Extended Equine Certificates of Veterinary Inspection (EECVI) are valid for the life of the certificate (up to 6 months) in the state of Arizona. The equine listed on the EECVI shall be officially identified with a microchip.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-615 renumbered from Section R3-9-615 (Supp. 91-4). Amended effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-616. Importation of Cats and Dogs

A dog or cat shall be accompanied by a Certificate of Veterinary Inspection that documents the animal is currently vaccinated against rabies if older than three months of age according to the requirements of the National Association of State Public Health Veterinarians' Compendium of Animals Rabies Control, incorporated by reference in R3-2-409.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-616 renumbered from Section R3-9-616 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-617. Importation of Poultry

Poultry entering the state shall appear healthy, not originate from a poultry quarantine area, comply with all interstate requirements of APHIS, and be accompanied by a Certificate of Veterinary Inspection or Form 9-3 from the National Poultry Improvement Program.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-617 renumbered from Section R3-9-617 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Repealed by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-618. Importation of Psittacine Birds

- A. The owner or the owner's agent of a psittacine bird entering Arizona shall obtain a Certificate of Veterinary Inspection issued by a veterinarian within 30 days of entry, certifying:
 1. The bird is not infected with the agent that causes avian chlamydiosis, and
 2. The bird was not exposed to birds known to be infected with avian chlamydiosis within the past 30 days.

- B. The Certificate of Veterinary Inspection shall accompany the psittacine bird at the time of entry into Arizona.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-618 renumbered from Section R3-9-618 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Repealed by emergency rulemaking at 22 A.A.R. 1750, effective immediately upon filing, June 22, 2016, as determined by the attorney general, for 180 days at 22 A.A.R. 1750 (Supp. 16-2). Emergency expired December 19, 2016 (Supp. 16-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-619. Repealed**Historical Note**

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-619 renumbered from Section R3-9-619 (Supp. 91-4). Section repealed by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1).

R3-2-620. Importation of Zoo Animals

- A. An owner or owner's agent may transport or move zoo animals into the state of Arizona if the animals are accompanied by an official Certificate of Veterinary Inspection, and consigned to a zoo or in the charge of a circus or show.
- B. The owner, or owner's agent, of livestock except swine and equine in a "Petting Zoo" shall have the livestock tested for tuberculosis within 12 months before importation. A negative test result is required for entry into Arizona.
- C. A business that transports or exhibits zoo animals shall be licensed by the Arizona Game and Fish Department.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-620 renumbered from Section R3-9-620 (Supp. 91-4). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-621. Expired**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 876, effective May 3, 2008 (Supp. 08-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

R3-2-622. Expired**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 25, effective December 8, 1999 (Supp. 99-4). December 8, 1999 effective date corrected to reflect what is on file in

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the Office of the Secretary of State; correct effective date is January 1, 2000 (Supp. 01-1). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 135, effective December 15, 2016 (Supp. 16-4).

ARTICLE 7. LIVESTOCK INSPECTION**R3-2-701. Department Livestock Inspection**

- A. A Division employee shall inspect range cattle, as defined in R3-2-702(A), at a ranch if the owner or agent of livestock is:
 1. Moving cattle out-of-state,
 2. Transferring cattle ownership, or
 3. Shipping cattle for custom slaughter.
- B. An owner or agent of cattle cannot be issued both non-range and range self-inspection certificates.
- C. With prior approval from a Division employee, livestock can be moved to a licensed custom slaughter facility using the livestock owner's or agent's or feedlot operator's self-inspection certificate. A Division employee must validate the self-inspection certificate prior to slaughter.
- D. The Department shall not issue a self-inspection certificate to an owner or agent of livestock or feedlot operator if that individual has been convicted of a felony under A.R.S. Title 3 within the three-year period before the date on the self-inspection application. The Department may deny self-inspection to an applicant if within the five-year period before the date on the self-inspection application, the applicant was convicted of any A.R.S. Title 3 offense or an A.R.S. Title 13 offense related to livestock. A Division employee shall inspect livestock if an applicant is denied self-inspection authority.
- E. During fiscal year 2024, livestock officers and inspectors shall collect from the person in charge of cattle, dairy cattle, or sheep inspected a service charge of \$10 plus the per head inspection fee set out in A.R.S. § 3-1337 for making inspections for the transfer of ownership, sale, slaughter or transportation of the animals.

Historical Note

Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-701 renumbered from Section R3-9-701 (Supp. 91-4). Section R3-2-701 repealed; new Section R3-2-701 adopted effective February 4, 1998 (Supp. 98-1). Error in subsection (A)(3) corrected under R1-1-109, filed with the Office of the Secretary of State October 18, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final exempt rulemaking at 26 A.A.R. 1471, effective August 25, 2020 (Supp. 20-3). Amended by final exempt rulemaking at 27 A.A.R. 1264, effective

September 29, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 2017 (August 12, 2022), effective September 24, 2022 (Supp. 22-3). Amended by exempt rulemaking at 29 A.A.R. 3483 (November 3, 2023), effective October 30, 2023 (Supp. 23-4).

R3-2-702. Livestock Self-inspection

- A. Definitions.

"Dairy" means an owner or agent of a place or premise where one or more lactating animals are kept for milking purposes and from which a part or all of the milk is provided, sold, or offered for sale that meets both of the following conditions: the livestock is not permitted to range and the dairy is permitted by the Department. If these conditions are met, then a Division employee may grant the applicant dairy status.

"Description" means sex, breed, color, and markings, as applicable to the type of livestock.

"Exhibition" means an event including a fair, show, or field day that has as its primary purpose the opportunity for a member of a livestock organization, including 4-H and FFA, to display an animal raised by the individual in a judged competition.

"Feedlot" means an operator of a beef cattle feedlot or feed yard in which the livestock is not permitted to range and that is licensed by the Department. If these conditions are met, then a Division employee may grant the applicant feedlot status.

"Livestock" means cattle, sheep, goats, and swine.

"Livestock broker" means an owner or agent who engages in the business of buying and selling livestock and has immediate possession of the livestock for 10 days or less in which the livestock is not permitted to range. If these conditions are met, then a Division employee may grant the applicant livestock broker status.

"Non-range" means any owner or agent of an enclosed property that is 100 acres or less that meets all of the following conditions: the fence enclosing the livestock is well maintained, the livestock is not permitted to range, and the owner or agent of the livestock lives where the livestock are kept. If these conditions are met, then a Division employee may grant the applicant non-range status.

"Range" means every character of lands, enclosed or unenclosed, outside of cities and towns, upon which livestock is permitted by custom, license or permit to roam and feed. A.R.S. § 3-1201(7)

"Range cattle" means cattle customarily permitted to roam upon the ranges of the state, whether public domain or in private control, and not in the immediate actual possession or control of the owner although occasionally placed in enclosures for temporary purposes. A.R.S. § 3-1201(8)

B. Application.

1. Owners or agents of livestock or feedlot operators shall request a book of self-inspection certificates from the Department. The applicant shall submit a written application form obtained from the Department and provide the following information:
 - a. Name, mailing address, physical address, telephone number, and email address;
 - b. Name of business and type of livestock operation;
 - c. Whether the applicant has been convicted of a violation of A.R.S. Title 3, or a violation of A.R.S. Title

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- 13 related to livestock within the past five years, and if so, the case number, court, charge, and sentence;
- d. Recorded brand number;
 - e. Individual or individuals designated to sign self-inspection certificates, if applicable; and
 - f. Signature and date.
2. The holder of a self-inspection book shall advise the Department within 30 days of any change to the information provided on an application form.
 3. The holder of a self-inspection book shall renew registration with the Department every three years from the date the initial or renewal application form is signed.
 4. If a holder with self-inspection privileges has been convicted of a criminal violation under A.R.S. Title 3, or a violation of Title 13 related to livestock, that holder shall notify the Department immediately and their privileges shall be revoked.
 5. Prior to a Department employee issuing a book of self-inspection certificates, the owner shall submit the following payment amount and the Department shall receive the payment in full prior to issuing the book:
 - a. \$25.00 for a twenty five page feedlot or livestock broker book;
 - b. \$20.00 for a twenty page dairy book; or
 - c. \$10.00 for a ten page non-range, range, sheep, goat, or swine book.
- C. Self-inspection certificate.**
1. An owner or agent of livestock or feedlot operator shall provide the following information, as applicable, on a self-inspection certificate whenever livestock subject to self-inspection are moved or ownership is transferred:
 - a. Name, address, and signature, of the owner or agent of livestock or feedlot operator;
 - b. Date of the shipment or transfer of ownership;
 - c. If moved, location from which and to which the livestock are moved, including the name of the auction, feedlot, arena, slaughter establishment, pasture, or other premises, and physical location;
 - d. Name of transporter;
 - e. Number and description of livestock;
 - f. Official identification of each dairy cattle and sexually intact cattle over 18 months of age shipped out of state and back tag numbers of culled dairy cattle;
 - g. Brand number, expiration date, and location;
 - h. Name and address of buyer;
 - i. Number of head of cattle sold for which Beef Council fees are payable under A.R.S. §§ 3-1236 and 3-1238.
 2. The owner or agent of livestock or feedlot operator shall complete a self-inspection certificate, except when livestock are subject to inspection by a Division employee under R3-2-701, and distribute copies of the certificate as follows:
 - a. One copy and any fees that are owed under subsection (C)(1)(i) shall be sent to the Department within 10 days after the end of the month in which it was used;
 - b. If the livestock are shipped, the original certificate shall accompany the livestock whenever they are in transit and one copy shall be retained by the person transporting the livestock; or
 - c. If ownership of the livestock is transferred without shipment, two copies shall be provided to the new owner or agent of livestock or feedlot operator; and one copy shall be retained by the seller.
3. A certificate may be used once to either transfer livestock ownership or to move livestock to a specific destination. If the livestock are diverted to a destination other than that stated on the self-inspection certificate, the certificate is void. The owner or agent of livestock, or feedlot operator shall complete a new certificate and send both the voided and new certificates to the Department within 10 days after the end of the month in which the certificates are used or voided.
 4. An owner or agent of livestock or feedlot operator shall use a self-inspection certificate only with a shipment of livestock matching the description for which the certificate is issued and only for the self-inspection issued date. If any of the information on the self-inspection certificate changes, the certificate is void and the owner or agent of livestock or feedlot operator shall complete a new certificate.
 5. An altered, erased, completed but unused, or defaced self-inspection certificate is void. A voided certificate shall be returned to the Department within 10 days after the end of the month in which it is voided.
 6. Upon request, certificates shall be returned to the Department by the owner or agent of livestock or feedlot operator. If an operation licensed for self-inspection is sold, leased, transferred, or otherwise disposed of, the owner or agent of livestock or feedlot operator shall notify the Department and return all self-inspection certificates to the Department within 30 days of the transaction.
 7. If the owner or agent of livestock or feedlot operator cannot find an unused or used certificate, they must sign an affidavit provided by the Department verifying the certificate is lost and cannot be found. New certificates will not be issued until the signed affidavit has been received by the Department.
- D. Sale of livestock.** A seller shall document a sale by completing a self-inspection certificate as prescribed in subsection (C) and providing a bill of sale to the purchaser as required under A.R.S. § 3-1291.
- E. Feedlot receiving form.**
1. The operator of a feedlot shall document receipt of incoming cattle on a form obtained from the Department. The operator shall include the following information on the form:
 - a. Name of feedlot and location;
 - b. Month and year for which report is made;
 - c. Number of cattle received, date received, and name and address of owner;
 - d. Description of the cattle;
 - e. If not Arizona native cattle, the import permit and Certificate of Veterinary Inspection numbers;
 - f. If native Arizona cattle, self-inspection certificate number or Department inspection certificate number; and
 - g. Pen number to which cattle are initially assigned.
 2. The operator shall return the completed form within 10 days after the end of the month of the reporting period.
- F. Quarantine.** Livestock under quarantine by the Department shall not be shipped or sold by use of a self-inspection certificate.
- G. Violations.** The Department shall process violations of this Section as prescribed under A.R.S. § 3-1203(D).

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Adopted effective August 19, 1983 (Supp. 83-4). Section R3-2-702 renumbered from Section R3-9-702 (Supp. 91-4). Section R3-2-702 repealed; new Section R3-2-702 adopted effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking under Laws 2016, Ch. 160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-703. Seasonal Self-inspection Certificate

Exhibition cattle, sheep, goats, and swine.

1. An applicant for a seasonal self-inspection certificate prescribed under A.R.S. § 3-1346 shall request a seasonal self-inspection certificate from the Department. The applicant shall provide the following information, as applicable:
 - a. Name, mailing address, physical address if different from mailing address, telephone number, and email address;
 - b. Name of 4-H or FFA group, and group leader;
 - c. Physical description of livestock;
 - d. Official identification of livestock, except for native cattle born and raised in Arizona;
 - e. Permit number and Certificate of Veterinary Inspection number for livestock imported from another state;
 - f. Name of seller and self-inspection certificate number or Department inspection certificate number for livestock purchased from an Arizona seller; and
 - g. Signature and date of signature of the owner or lessee. If the owner or lessee is under 18 years of age, a signature of the parent or guardian and date of signature are required.
2. The Department employee who records the information required in subsection (1) shall advise the applicant of the required fee prescribed under A.R.S. § 3-1346(A). The Department shall issue a seasonal self-inspection certificate upon receipt of the fee.
3. An exhibitor shall provide the following information, as applicable, on a seasonal self-inspection certificate whenever livestock subject to seasonal self-inspection is moved or ownership is transferred:
 - a. Name, address, telephone number, email address, and signature;
 - b. Date of movement;
 - c. Name of exhibition and location;
 - d. Final disposition of the livestock (sale, death, or retention) and date of occurrence; and
 - e. If the livestock is sold, name, address, and phone number of purchaser (person or slaughter plant).
4. The holder of a seasonal self-inspection certificate shall return the certificate to the Department within two weeks of the sale or slaughter of the livestock or at the end of the show season if the livestock is retained.

Historical Note

Adopted effective November 27, 1987 (Supp. 87-4). Section R3-2-703 renumbered from Section R3-9-703 (Supp. 91-4). Section R3-2-703 repealed; new Section R3-2-703 adopted effective February 4, 1998 (Supp. 98-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Amended by exempt rulemaking under Laws 2016, Ch.

160, § 9 at 22 A.A.R. 2400, effective August 6, 2016 (Supp. 16-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-704. Emergency Expired**Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1). Section made by emergency rulemaking at 24 A.A.R. 3589, with an immediate effective date of December 13, 2018, valid for 180 days (Supp. 18-4). Emergency expired (Supp. 20-2).

R3-2-705. Repealed**Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Amended by final rulemaking at 8 A.A.R. 3628, effective August 7, 2002 (Supp. 02-3). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1).

R3-2-706. Repealed**Historical Note**

Adopted effective February 4, 1998 (Supp. 98-1). Section repealed by final rulemaking at 9 A.A.R. 513, effective April 6, 2003 (Supp. 03-1).

R3-2-707. Ownership and Hauling Certificate for Equines; Fees

The fee for a new, transferred, or replacement Ownership and Hauling Certificate for Equines as prescribed under A.R.S. §§ 3-1344(B) and 3-1345(B) is \$10 per certificate.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 3932, effective August 22, 2002 (Supp. 02-3).

R3-2-708. Equine Rescue Facility Registration

- A. "Arizona Equine Rescue Standards" means the American Association of Equine Practitioners Care Guidelines for Equine Rescue and Retirement Facilities, 2004 Edition. This material, which includes the Veterinary Checklist for Rescue/Retirement Facilities, is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, Arizona 85007. A copy of this material may also be obtained from the American Association of Equine Practitioners web site at http://www.aaep.org/pdfs/rescue_retirement_guidelines.pdf. The American Association of Equine Practitioners is located at 4033 Iron Works Parkway, Lexington, Kentucky 40511.
- B. An equine rescue facility shall pay the annual registration fee and file the following documents with the Department's Animal Services Division for the facility to be included on the Department's registry of equine rescue facilities:
 1. An application form containing the facility's name, physical and mailing address, and contact person and the contact person's phone number and email address.
 2. A copy of documents filed with the Arizona Corporation Commission demonstrating the facility's current status as a nonprofit corporation in good standing in this state.
 3. A letter from a licensed veterinarian, dated within 15 days of filing, certifying that the facility is not inadequate with respect to any of the Arizona Equine Rescue Stan-

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dards and attaching a signed copy of the completed Arizona Equine Rescue Standards' veterinary checklist.

- C. Registration is valid for one year. Registration may be renewed annually by complying with subsection (B).
- D. The annual registration fee is \$75.
- E. A nonprofit corporation owning multiple equine rescue facilities must file the letter and checklist described in subsection (B)(3) and pay the annual registration fee for each location it wants included on the registry.
- F. The Department shall remove a facility from the registry if it determines that the facility is not presently incorporated as a nonprofit corporation in this state or is inadequate with respect to any of the Arizona Equine Rescue Standards.

Historical Note

New Section made by final rulemaking at 16 A.A.R. 876, effective July 3, 2010 (Supp. 10-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL**R3-2-801. Definitions**

In addition to the definitions in A.R.S. §§ 3-601 and 3-661, the following terms apply to this Article:

"3-A Sanitary Standards" and "3-A Accepted Practices," as published by the International Association for Food Protection, effective on or before October 15, 2017, means the criteria for design, materials, construction and use of dairy processing equipment. This material is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department located at 1110 W. Washington St., Ste. 450, Phoenix, AZ 85007 or available for purchase online at <https://www.3-a.org/>.

"C-I-P" means a procedure by which equipment, pipelines, and other facilities are cleaned-in-place as prescribed in the 3-A Accepted Practices.

"Converted" means the process by which a frozen dessert is changed from a frozen to semi-frozen form without any change in the ingredients.

"Fluid milk" means milk and any other product made by the addition of a substance to milk or to a liquid form of milk product if the milk or other product is produced, processed, distributed, sold or offered or exposed for sale for human consumption.

"Fluid trade product" means any trade product as defined in A.R.S. § 3-661(5) that resembles or imitates any fluid milk product.

"Food establishment" means any establishment, except a private residence, that prepares or serves food for human consumption, regardless of whether the food is consumed on the premises.

"Frozen desserts mix" or "mix" means any frozen dessert before being frozen.

"Grade A raw milk" means raw milk produced on a dairy farm that conforms to Section 7 of the PMO and the requirements of R3-2-805.

"Parlor" and "milk room" mean the facilities used for the production of Grade A raw milk for pasteurization or Grade A raw milk.

"Plant" means any place, premise, or establishment, or any part, including specific areas in retail stores, stands, hotels, restaurants, and other establishments where frozen desserts are manufactured, processed, assembled, stored, frozen, or converted for distribution or sale, or both. A plant may consist of rooms or space where utensils or equipment is stored, washed, or sanitized and where ingredients used in manufacturing frozen desserts are stored. Plant includes:

"Manufacturing plant" means a location where frozen desserts are manufactured, processed, pasteurized, and converted.

"Handling plant" means a location that is not equipped or used to manufacture, process, pasteurize, or convert frozen desserts, but where frozen desserts are sold or offered for sale other than at retail.

"PMO" means the Grade A Pasteurized Milk Ordinance, 2023 Revision. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1110 W. Washington St., Suite 450, Phoenix, AZ 85007. A copy of the incorporated material may also be viewed at <https://agriculture.az.gov/>.

"Retail food store" means any establishment offering packaged or bulk goods for human consumption for retail sale.

Historical Note

Former Regulations 1-11. Section R3-2-801 renumbered from R3-5-01 (Supp. 91-4). R3-2-801 renumbered to R3-2-803; new Section R3-2-801 adopted effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 2215, effective May 9, 2001 (Supp. 01-2). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 12 A.A.R. 3030, effective September 30, 2006 (Supp. 06-3). Amended by final rulemaking at 14 A.A.R. 889, effective May 3, 2008 (Supp. 08-1). Amended by emergency rulemaking at 20 A.A.R. 1134, effective May 2, 2014, for 180 days (Supp. 14-2). Emergency expired. Amended by exempt rulemaking at 21 A.A.R. 2407, effective September 22, 2015 (Supp. 15-3). Amended by final rulemaking at 22 A.A.R. 2169, effective October 2, 2016 (Supp. 16-3). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by exempt rulemaking at 20 A.A.R. 2841 (September 13, 2024), with an immediate effective date of August 27, 2024 (Supp. 24-3).

R3-2-802. Milk and Milk Products Standards

Unless specifically mentioned in A.R.S. Title 3, Chapter 4, Article 1, or in this Article, all milk and milk products, except frozen desserts, sold or distributed for human consumption shall meet the PMO standards for production, processing, storing, handling, and transportation.

Historical Note

Former Regulations 1, 2. Section R3-2-802 renumbered from R3-5-02 (Supp. 91-4). Section repealed; new Section adopted effective December 2, 1998 (Supp. 98-4).

R3-2-803. Milk and Milk Products Labeling

- A. The manufacturer or processor shall ensure that milk and milk products listed in A.R.S. § 3-601(10), and Sections 1 and 2 of the PMO are designated by the name of the product and shall conform to its definition.

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- B. The manufacturer or processor of milk and milk products shall conform with the labeling requirements in A.R.S. §§ 3-601.01 and 3-627, Section 4 of the PMO, and 21 CFR 101, 131, and 133, amended April 1, 2017. This CFR material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department.
- C. The name of the manufacturer or processor shall be on all cartons or closures where it can be easily seen. A manufacturer or processor that has plants in other states shall use a code number or letter to designate the state in which a carton or closure is manufactured or processed. If a manufacturer or processor has a plant within Arizona, the Dairy Supervisor shall issue a code number or letter for each plant and shall keep a record of the number or letter issued. Manufacturers and processors shall include the Arizona code, 04, with the plant code assigned by the Dairy Supervisor.
- D. If milk or milk products are manufactured or processed and packaged at a plant for other retailers and the container or closure is not labeled the same as the manufacturer's or processor's like product, the manufacturer or processor shall include the statement "Manufactured or Processed at (name and address of plant or code number or letter)" on the carton or closure. The carton or closure may also contain the statement, "Distributed by: (name of person or firm)."
- E. Any person planning to use a new or modified label on a container shall submit the proposed label to the Dairy Supervisor for review.
1. If the proposed label does not meet labeling standards specified in subsection (B), the Dairy Supervisor shall note the required changes on the proposed label, and sign and return the proposed label to the applicant.
 2. A person who requests additional time to use the inventory amounts of slow moving cartons or closures before using a modified label shall submit a written request to the Dairy Supervisor. The Dairy Supervisor may approve continued use of the existing cartons and closures if:
 - a. The use does not present a public health issue, and
 - b. The information on the cartons and closures is not misleading.
- (brand or common name of trade product)
instead of _____,"
(common name of dairy product)
- b. "Nondairy products served here."
3. No food establishment shall advertise or otherwise represent to the public that it serves, or uses in the preparation of a food, a real product when it actually serves or uses a trade product.
- C. Labeling: Except as follows, all labels shall comply with the PMO and 21 CFR 101, 131, and 133.
1. The Dairy Supervisor shall approve a new or modified trade product label before the label is used. The applicant shall file a written request with duplicate copies of the proposed label and any supporting materials necessary to establish the truthfulness, reasonableness, relevancy, and completeness of the label.
 2. Unless each ingredient of a trade product is homogenized or pasteurized, the whole product shall not be labeled or advertised as an homogenized or pasteurized product. Individual ingredients that are homogenized or pasteurized may be identified as homogenized or pasteurized in the listing of ingredients.
 3. Except for combined ingredients constituting less than 1% of the whole product or unless each ingredient of a trade product qualifies as grade A, the whole product shall not be labeled or advertised as a grade A product. Ingredients that qualify as grade A may be identified as grade A in the listing of ingredients.
 4. Any trade product produced outside the state and labeled as prescribed in R3-2-802 and R3-2-803, may be sold within the state provided that the product meets the requirements of A.R.S. §§ 3-663 and 3-665.

Historical Note

Former Regulations 1 - 8; Amended effective December 7, 1976 (Supp. 76-5). Correction, subsection (A)(2) through (H) omitted, Supp. 76-5 (Supp. 79-4). Section R3-2-804 renumbered from R3-5-04 (Supp. 91-4). R3-2-804 renumbered to R3-2-805; new Section R3-2-804 renumbered from R3-2-803 and amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

Historical Note

Former Regulations 1 - 21; Amended effective August 4, 1978 (Supp. 78-4). Section R3-2-803 renumbered from R3-5-03 (Supp. 91-4). R3-2-803 renumbered to R3-2-804; new Section R3-2-803 renumbered from R3-2-801 and amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-804. Trade Products

- A. Any fluid trade product containing milk solids shall be regulated as a fluid milk product.
- B. Advertising, display, and sale:
1. Any retail food store may submit its methods and techniques for the advertising, display, and sale of trade products and real products to the Dairy Supervisor to determine compliance with this Section.
 2. No food establishment shall sell or provide any patron or employee, for use as food, any trade product or food whose main ingredient is a trade product, unless one of the following disclosures is posted for each trade product, in a prominent place on the premises, or is plainly visible on each menu where other food items are described:
 - a. "_____ served here

R3-2-805. Grade A Raw Milk For Consumption

- A. All cattle and other dairy animals from which Grade A raw milk is produced shall be tested and found free of tuberculosis before any milk is sold. All herds shall be tested for tuberculosis at least every 12 months. All cattle and other dairy animals from which Grade A raw milk is produced shall be tested and found free of brucellosis before any milk is sold, and shall be tested every 12 months or have negative brucellosis ring tests of the milk at least once each month, or both, as determined by the State Veterinarian.
- B. Grade A raw milk shall be cooled immediately after completion of milking to 45° F or less and shall be maintained at that temperature until delivery.
- C. Grade A raw milk shall be bottled on the farm where it is produced. Raw milk products authorized under A.R.S. § 3-606, except for hard cheeses aged 60 days or more as defined in 7 CFR 58.439, shall be processed, manufactured and packaged on the farm where the milk is produced. Bottling and capping shall be done in a sanitary manner on approved equipment. Hand-capping is prohibited. Caps and cap stock shall be kept in sanitary containers until used.

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- D. All vehicles used for the distribution of Grade A raw milk shall prominently display the distributor's name.
- E. Grade A raw milk shall be labeled as prescribed in R3-2-803 and A.R.S. § 3-606.

Historical Note

Former Regulations 1, 2. Section R3-2-805 renumbered from R3-5-05 (Supp. 91-4). Section R3-2-805 repealed; new Section R3-2-805 renumbered from R3-2-804 and amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-806. Parlors and Milk Rooms**A. Construction Plans.**

1. Any person constructing or extensively altering a parlor or milk room shall submit the plans and specifications to the Dairy Supervisor for written approval before work begins. The Dairy Supervisor shall approve or deny the plans within 10 business days.
2. Plans shall consist of a scaled plot design with elevations and pertinent dimensions.
3. Any deviations from the requirements in this Section and from approved plans and specifications may be made only after written approval of the Dairy Supervisor.

B. Site.

1. The parlor and milk room shall be located in a place free from contaminated surroundings.
2. Feed racks, calf pens, bull pens, hog pens, poultry pens, horse stables, horse corrals, and shelter sheds shall not be closer than 100 feet to the milk room or closer than 50 feet to the parlor.

C. Surroundings.

1. Dirt or unpaved corrals and unpaved lanes shall not be closer than 25 feet to the parlor or closer than 50 feet to the milk room; corrals shall be constructed to remove runoff from the lowest point of the grade.
2. A paved (concrete or equivalent) ramp or corral shall be provided to allow the animals to enter and leave the parlor. This paved area shall be curbed sufficiently high enough to contain waste material and water used to clean this area.

- D. Drains and waste disposal systems shall be adequate to drain the volume of water used in rinsing and cleaning, as well as the waste created by animals in the parlor. Instead of natural drainage, automatic pumps or other means shall be provided for drainage disposal.

E. Milk room.

1. The milk room shall consist of one or more rooms for the handling of the milk and the cleaning, sanitization, and storage of the milk-handling equipment. Hot and cold running water outlets shall be provided as needed for sanitation. There shall be a minimum of five feet between a farm milk tank at the widest point and the milk room wall where the wash vats are installed. Except for currently installed milk tanks, there shall be at least three feet between any farm tank or farm tank appurtenance and the milk room walls.
2. Passageway. The passageway between the milk room and parlor shall have at least a 3-foot clearance for ingress and egress. Equipment such as milk receivers, dump tanks, or coolers that are part of an enclosed milk line system may be installed in the passageway if:
 - a. A 3-foot clearance is allowed for the walkway;

- b. Space is provided between walls and equipment to permit the disassembly of equipment for cleaning or inspection;
- c. The passageway between the parlor and the milk room may be closed at one end. The parlor may be separated from the passageway by a pipe rail fence if the slope of the parlor floor is away from the passageway. If the slope of the parlor floor is toward the passageway, a concrete wall between the passageway and parlor floor of at least 12 inches in height shall be provided.
- d. Rustless pipe sleeves with tight-fitting flanges and protective closures shall be installed where the milk lines, hoses for tankers, and wash lines go through the walls of the passageway.

3. Floors.

- a. The floors of the milk room, and passageway, if provided, shall be constructed of four-inch thick concrete, or other impervious material troweled smooth. The milk room floor shall slope at least 1/4 inch per 12 inches to a vented trapped drain. The passageway floor shall slope at least one inch per 10 feet toward a drain or gutter. All floor and wall junctions shall have at least a two-inch radius cove.
- b. Drainage from the milk room may be independent from or connected to the parlor drainage. Floor drains shall be vented, have a water trap, and a clean-out plug. All floor drains and pipes under the milk room and parlor floor shall meet all applicable plumbing codes.

4. Walls and ceilings.

- a. All walls and ceilings shall be constructed of a light colored, impervious material with a smooth finish. If concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete.
- b. The main ceiling height shall allow sufficient room for access to, and sampling from, the bulk milk storage tank.

5. Doors and windows.

- a. All opening windows shall have at least 16-inch mesh screen.
- b. Exterior doors of the milk room shall open outward, be solid, self-closing, and tight fitting. Any door from the passageway shall be a solid door, metal covered on both sides of the bottom half. Wooden door jambs or frames shall terminate six inches above the floor, and the concrete floor cove shall extend to the jambs or frames.
- c. All working areas in the milk room shall contain at least 30 foot-candles of natural and/or artificial lighting.

6. Ventilation. The milk room shall provide adequate ventilation to minimize condensation on ceilings, walls and equipment. Vents shall be protected from the penetration of insects, dust and other contaminants. The milk room shall contain one or more ceiling vents. Ceiling vents shall not be installed directly above bulk milk storage tanks.

7. Tanker loading area. A tanker-loading area, at least 10 feet by 12 feet, paved, curbed, and sloped to drain, shall be provided adjacent to the milk room where milk is transferred from a farm tank to a milk tanker. If a tanker is used instead of a farm tank, a tanker shelter shall be

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provided that complies with the construction, light, drainage, and general maintenance requirements of the milk room.

8. Farm tank installations. All farm tanks for the cooling and storing of milk shall be installed in the milk room. Bulk milk tanks equipped with agitator shaft opening seals may, if approved by the Dairy Supervisor, be bulk-headed through a wall.

F. Parlor.

1. Floors.
 - a. The floors shall be constructed of four-inch thick concrete or other, light-colored, impervious material, finished smooth. The floors, alleys, gutters, mangers, and curbs shall slope lengthwise toward a drain or gutter. The cow standing platform in the elevated stall parlor shall slope sufficiently to provide for adequate drainage and cleaning.
 - b. Floor and wall junctions shall have at least a two-inch radius cove and shall be an integral part of the floor.
 - c. The cow standing platform, litter alley, holding corral and concrete lane shall be treated to prevent slipping.
2. Walls. All walls shall be constructed of a light-colored, impervious material. If necessary, means shall be provided to prevent the entrance of swine, fowl and other prohibited animals. All walls shall be finished smooth on the inside with the top ledge rounded on open walls. If a parlor wall forms a part of the holding corral or an entrance or exit lane, it shall be finished smooth on the outside. If a concrete block or masonry construction is used, all voids below the floor line shall be filled with concrete. In elevated stall parlors, the wall under the cow standing platform adjacent to the milking area shall be finished smooth and designed to prevent leakage.
3. Stalls. A tandem stall and a herringbone stall shall have a smooth, flat, non-absorbent splash panel behind each cow.
4. Light. Natural and/or artificial light shall be at least 30 foot-candles at the floor level and located to minimize shadows in the milking area.
5. Gutters.
 - a. All parlors shall have gutters to catch the defecation of cows while in the stall and for any water used for rinsing.
 - b. Pipe used for parlor gutter drainage shall be at least four inches in diameter and meet applicable plumbing codes.
6. Curbs.
 - a. In elevated stall parlors, the cow standing platform shall be curbed on the side next to the milking alley and the curb shall be at least six inches in height with the top rounded to retain the elevated stall floor washings. This curb may be lowered to not less than two inches at the area where the milking machines are applied. Metal curbs shall be free of voids and sealed to stall and floor or wall.
 - b. Floor level parlors shall contain a curb under the stanchion line at least six inches wide, 12 inches high from the stall floor, except if metal mangers are used the top of this curb shall be rounded.
7. Stanchions.
 - a. The stanchion shall be metal or other impervious, easily cleanable material.

- b. Mangers and feed boxes in all types of parlors shall be constructed of impervious materials, finished smooth, and provided with drainage outlets at low points.

8. Ventilation. Adequate ventilation shall be provided in the parlor, holding corral, and wash area, if roofed.

- G.** Roof drainage from parlors and milk rooms shall not drain into a corral unless the corral is paved and properly drained.
- H.** If animals are fed in the parlor, feed storage facilities shall be provided. Feed storage rooms, when installed, shall be partitioned from the parlor and shall be fly and rodent proof. The feed discharge area of the bulk feed storage shall be concrete or other impervious material that is curbed and drained. Bulk feed may discharge directly into the parlor. A bulk feed tank located opposite the passageway shall be at least six feet from the milk room. Overhead feed storage is permissible if it is fly, rodent, and dust tight. Feed shall be conveyed to the manger or feed box in a tightly closed dust-free system. Overhead metal feed tanks may be used.
- I.** Facilities to store dairy supplies shall be provided. Only supplies that come in contact with the milk or milk contact surface of the milk-handling equipment may be stored in the milk room and shall be protected from toxic materials, vectors, and dust.

Historical Note

Former Regulations 1 - 11. Section R3-2-806 renumbered from R3-5-06 (Supp. 91-4). Section amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 22 A.A.R. 2169, effective October 2, 2016 (Supp. 16-3).

R3-2-807. Frozen Dessert Plant and Processing Standards

A. Plant and Processing Standards.

1. The plant area shall be clean, orderly and free from refuse, rubbish, smoke, dust, air pollution and strong or foul odors originating on the premises. A drainage system shall be provided for the rapid drainage of water away from the building. If unsatisfactory conditions occur in the plant area, with respect to smoke, dust, air pollution, or odors, provision shall be made to protect the frozen desserts and ingredients from contamination.
2. Sewage and industrial waste shall be disposed in accordance with the provisions of the state or county environmental laws. Refuse, unless in appropriate containers, shall not accumulate on the premises.
3. Roads, driveways, yards, and parking areas adjacent to the plant shall be paved or treated to prevent dust and shall be smooth and well drained to prevent accumulation of stagnant liquid.
4. Buildings.
 - a. The building exterior and interior shall be kept clean and in good repair.
 - b. In processing and packaging areas, outside doors, windows, skylights, transoms, or other openings shall be protected and operated to preclude the entrance of dust, insects, vermin, rodents, and other animals. Outside doors shall be self-closing wherever practical. Window sills on new construction shall slope inward at least 45-degrees. Outside conveyor openings and other outside openings shall be protected by doors, screens, flaps, fans, or tunnels. Pipes shall be sealed where they extend through exterior walls. Outside pipe openings shall be covered when not in use.

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- c. Rooms. All rooms, compartments, coolers, freezers, and dry storage space in which any raw material, packaging or ingredient supplies, or finished products are handled, processed, manufactured, packaged, or stored shall be constructed to ensure clean and orderly operations.
 - i. Boiler and tool rooms shall be separate from rooms where milk products are received, where processing and packaging is done, or where equipment, facilities, and containers are washed and stored.
 - ii. Toilets and dressing rooms shall be conveniently located and toilets shall not open directly into any room where milk products, ingredients, or frozen desserts are handled, processed, packaged, or stored. Toilet and dressing room doors shall be self-closing. Toilets and dressing rooms shall be well vented to the outer air, and contain hand-washing facilities, hot and cold running water, soap, single-service towels or air dryers. Hand-washing signs shall be posted. Fixtures shall be kept clean and in good repair.
 - iii. Rooms for receiving milk and other raw ingredients and materials shall be separated from the processing area to avoid contamination of frozen desserts in the processing operations, except that products in cans or other closed containers may be received and transferred to a cooler or other storage without being received in a separate room.
 - iv. If tank truck deliveries of milk, milk products, or frozen desserts mix are made, other than occasional deliveries, a tank truck room large enough to accommodate the entire truck shall be provided with equipment for cleaning. A covered outside unloading pad may be used for truck tankers with filter dome vents, if washing and sanitizing facilities are provided. If a tank truck room is not located on the premises of an existing plant, facilities for washing and sanitizing tank trucks shall be provided at another location where the washing and sanitizing facility is free from dust and extreme weather conditions.
 - v. Except for existing processing and packaging rooms, there shall be at least three feet clearance between installations and the wall to prevent overcrowding and to facilitate cleaning. Existing facilities not meeting this requirement shall be permitted if cleaning can be accomplished and permission is obtained from the Dairy Supervisor or the Dairy Supervisor's designee. All processing and packaging rooms shall be equipped with hand-washing facilities including hot and cold running water, soap, single-service towels, or air-dryer.
 - vi. Refrigeration rooms and units shall be constructed of impervious material and shall be kept clean and sanitary.
 - vii. Separate rooms shall be provided so that the manufacturing, processing, and packaging are separate from the cleaning and sterilizing of utensils and containers.
 - viii. No person shall reside or sleep in a frozen desserts plant or in any room connected with it. No animal shall be kept or permitted in a frozen desserts plant.
- d. Walls and ceilings shall be constructed of smooth, washable, impervious material. They shall be light-colored, kept clean and sanitary, and refinished when discolored. A darker color material may be used to a height not exceeding 60 inches from the floor.
- e. Floors shall be an impervious, smooth-surfaced material that may be flushed clean with water. Except for hardening rooms, floors shall slope 3/16 to 1/4 inch per foot to one or more trapped outlets. No open channel drainage is permitted in new construction or in extensive remodeling of existing plants. Floor drains are not required in freezers used for storing frozen desserts or frozen ingredients. However, the floors shall be sloped to drain to at least one exit and shall be kept clean. Floors in new construction or extensive remodeling shall be joined and coved with the walls to form water-tight joints. Smooth wood floors may only be permitted in rooms where there will be no spillage of product or ingredients, such as rooms where wrapped or packaged frozen products are packed in multiple-pack containers. Toilets and dressing rooms shall have impervious floors and smooth walls.
- f. Plumbing shall be installed to prevent back-up of sewage or odors into the plant.
- g. All rooms and compartments, including storage space for materials, ingredients, and packages, and toilets and dressing rooms, shall be ventilated to maintain sanitary conditions, and to minimize or eliminate condensation and odors.
- h. Lighting, whether natural or artificial, shall be well distributed in all rooms and compartments. Light bulbs and fluorescent tubes shall be protected so that broken glass cannot fall into any product or equipment.
 - i. Rooms where frozen desserts are handled, processed, manufactured, or packaged, or where equipment or utensils are washed, shall have at least 30 footcandles of light on all working surfaces;
 - ii. Areas where dairy products are examined for condition and quality shall have at least 50 footcandles of light; and
 - iii. All other rooms shall have at least 20 footcandles of light 30 inches above the floor.
- i. Containers for collecting and holding waste other than dry waste paper and other dry packaging material shall be constructed of metal or other impervious material, covered with tight-fitting lids or covers, and emptied or disposed of daily or at least once during the shift. Clothing, tools, equipment, and other material not used with the frozen desserts operations shall not accumulate in the work areas or in the storage rooms.
- j. A room or other space separate from any room or space where milk products or frozen desserts are received, handled, processed, packaged, or stored, shall be provided where employees may change and store clothing. This area shall contain hand-washing

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- facilities, with hot and cold running water, soap or other detergents, and single-service towels or air dryers. Self-closing containers shall be provided for used towels and other wastes.
- k. Approval of plans. Plans shall be submitted to the Dairy Supervisor, for any new or remodeled frozen dessert manufacturer, to be reviewed for compliance with this Section. The Dairy Supervisor may allow variances to the requirements in this Section, if protection from contamination is provided for all products handled.
5. Water and steam.
 - a. Potable hot and cold water shall be available in sufficient quantity for all plant operations and facilities. Non-potable water may be used for boiler feed and condenser water, if the water lines are separated from the water lines carrying the potable water supply and the equipment is constructed to preclude contamination of any product or product contact surface. If water for washing frozen desserts equipment and utensils and for use in rehydration or as an ingredient in any frozen desserts is obtained from other than a regulated municipal supply, a bacteriological examination shall be made of the water supply at least once every six months by a laboratory acceptable to the Dairy regulatory program to determine potability. If the examination indicates contamination of the water supply, a device shall be installed to eliminate the contamination.
 - b. If steam is used, it shall be provided in sufficient volume and pressure for the operation of equipment or for sterilization, or both. Steam that comes in contact with frozen desserts, ingredients, or with the product contact surface, shall be steam of culinary quality as prescribed in Appendix H, Part III, Culinary Steam – Milk and Milk Products, of the PMO.
 6. Equipment and utensils.
 - a. New equipment shall meet applicable 3-A Sanitary Standards. All equipment, including connections, coming in contact with frozen desserts or ingredients during processing, manufacturing, handling, or packaging, shall be made of stainless steel. No equipment shall be permitted that is rusted, corroded, or in any other condition that may result in contamination of the frozen desserts. Non-metallic parts with product contact surfaces shall consist of material that meets 3-A Sanitary Standards for Plastic or Rubber and Rubber-like Materials or shall be of plastic approved by the United States Food and Drug Administration. Equipment, apparatus, and piping shall be easily accessible for cleaning and shall be kept in good repair and free from cracks and corroded surfaces. Stationary equipment, including welded sanitary lines and apparatus that permit in-place-cleaning, may be used if prior approval from the Dairy Supervisor has been obtained. C-I-P piping and welded sanitary pipeline systems shall be permitted if engineered and installed according to 3-A Accepted Practices for Permanently Installed Sanitary Product and Solution Pipelines and Cleaning Systems. If rigid pipelines are not practical, plastic pipelines listed in the 3-A Accepted Practices may be used. Product pumps shall be sanitary and easily dismantled for cleaning or shall be constructed to allow C-I-P procedures. All parts of interior surfaces of equipment, pipes (except C-I-P piping), or fittings, including valves and connections shall be accessible for inspection. The Dairy Supervisor may require other equipment, apparatus or piping if stationary equipment, apparatus or piping cannot or is not being effectively cleaned-in-place.
 - b. Equipment for storage and distribution of liquid sweetening agents shall be constructed of metals, alloys, or other material that will withstand corrosive action by the ingredient. The equipment and the ingredients shall be protected from contamination.
 - c. Pasteurizing equipment shall meet the standards prescribed in the PMO and 3-A Accepted Practices for Sanitary Construction, Installation, Testing and Operation of High-Temperature-Short-Time Pasteurizers and 3-A Sanitary Standards for Non-Coiled Type Batch Pasteurizers. Batch-type pasteurizers shall be provided with close-coupled outlet valves protected against leakage and shall be equipped with thermometers that record the information of each day's operation on separate charts. Air space thermometers and indicating thermometers shall be provided to check the recording thermometers. The recording thermometer chart shall contain the date, the identity of the pasteurizing number, the batch and product name, and the signature of the employee responsible for this information. The record shall be kept on file at the plant for at least six months. The accuracy of the recording thermometer shall be checked daily using the indicating thermometer and the time and temperature shall be documented on the recording chart. Chart recorders and thermometers for batch pasteurizers shall be tested and sealed by the Dairy Supervisor or the Supervisor's designee after testing and seals shall not be removed without immediately notifying the Dairy Supervisor or the Supervisor's designee.
 - d. Every plant shall contain hardening rooms, refrigerating rooms, or refrigerated cabinets with space for storage of frozen desserts and perishable ingredients.
 - e. All utensils used in the receiving, storing, processing, manufacturing, packaging, and handling of frozen desserts or any ingredients shall be of smooth, stainless steel, or plastic listed in the 3-A Accepted Practices and shall have flush seams. Utensils that are badly worn, rusted, or corroded or that cannot be rendered clean and sanitary by washing shall not be used. Lead solder shall not come in contact with milk or milk products or frozen desserts.
 7. Cleaning and sanitizing.
 - a. Cleaning and sanitizing. Equipment, sanitary piping and utensils used in receiving, storing, processing, manufacturing, packaging, and handling frozen desserts and ingredients, and all product contact surfaces of homogenizers, high pressure pumps, packing glands on agitators, pumps and vats, and lines shall be kept clean. Before use, all equipment coming in contact with milk products or frozen desserts shall have a bactericidal or sanitizing treatment. Equipment not designed for C-I-P cleaning shall be disassembled, thoroughly cleaned and sanitized. Biodegradable dairy cleaners, wetting agents,

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- detergents, sanitizing agents, or other similar material that does not adversely affect or contaminate the frozen desserts or ingredients may be used. Steel wool or metal sponges shall not be used to clean any equipment or utensils with product contact surfaces. C-I-P cleaning shall be used only on equipment and pipeline systems designed, engineered, and installed for that type of cleaning. Other equipment and areas in the plant shall be thoroughly cleaned with appropriate methods that prevent potential contamination of ingredients, packaging and frozen desserts. Exhaust stacks, elevators and elevator pits, conveyors and similar facilities shall be inspected and cleaned regularly.
- b. Equipment shall be sanitized by using one of the following methods:
 - i. Using 180° F water for at least two minutes.
 - ii. Using steam under pressure for at least two minutes or until all parts of the equipment being sanitized have reached 180° F, or the condensate off the equipment remains at 180° F for at least two minutes.
 - iii. Using chlorine with a residual of at least 50 ppm after one minute contact with equipment, or if sprayed, with a residual of at least 100 ppm after five minutes.
 - iv. Using any other sanitizing substance prescribed in Appendix F of the PMO.
8. Pasteurization and cooling.
 - a. All frozen desserts mix, except for flavoring agents used in frozen desserts, shall be pasteurized.
 - b. Frozen desserts mix shall be pasteurized by heating every particle as described in Table 1.
 - c. Continuous flow pasteurizers, high-temperature-short-time and higher-heat-shorter-time, shall have all public health controls sealed against access and alteration. The seals shall be applied by the Dairy Supervisor or the Supervisor's designee after testing and shall not be removed without immediately notifying the Dairy Supervisor or the Supervisor's designee. The system shall be designed to meet the requirements of the PMO.
 - d. After pasteurization all mix shall be cooled immediately to 45° F or less and shall be maintained at that temperature until frozen. Milk, cream, and other fluid milk products other than sterilized, evaporated or sweetened condensed milk in hermetically sealed containers shall be stored at 45° F or less.
 - i. Refrigerated vehicles or approved insulated containers shall be used when transporting frozen desserts mix from the manufacturing or other plant to a retail manufacturer, and
 - ii. Mix shall be moved from coolers or refrigeration units in a manufacturing plant to freezers by using pipes, tubing, or other means listed in the Permanently Installed Product and Solution Pipelines and Cleaning Systems Used in Milk and Milk Product Processing Plants section of the 3-A Accepted Practices.
 9. Storage.
 - a. Utensils and equipment. Utensils and portable equipment used in processing, handling, or packaging of frozen desserts shall be stored above the floor in clean, dry locations and in a self-draining position on racks constructed of impervious, corrosion-resistant material.
 - b. Supplies and containers. Whenever possible, supplies shall be kept in a room separate from the processing, handling, and packaging of frozen desserts and under conditions that result in keeping the materials clean and free from dust, moisture, insects, rodents, or other possible contamination. Supplies shall be arranged to permit cleaning of the area and easy inspection and access. Insecticides and rodenticides shall be plainly labeled, segregated, and stored in a separate room or cabinet away from the edible material or packaging supplies. Caps, parchment papers, wrappers, liners, gaskets, and single-service sticks, spoons, covers, and containers for frozen desserts or ingredients shall be stored only in sanitary tubes, wrappings, or cartons and kept in a clean, dry place until used and shall be handled in a sanitary manner.
 - c. Raw milk products. Raw products for use in frozen desserts that are conducive to bacterial growth shall be handled and stored to minimize bacterial growth. When stored, raw products shall be maintained at 45° F or lower until processing commences.
 - d. Non-refrigerated products. Products such as non-fat dry milk and other frozen desserts ingredients that do not require refrigeration for proper storing shall be placed in dry storage to be easily accessible for inspection and removal, and for adequate cleaning of the room. Dunnage, pallets or other similar method of elevation shall be used. Frozen desserts or ingredients shall not be stored with any product that would damage them or impair their quality. Opened containers of ingredients shall be protected from contamination.
 - e. Refrigerated products. All products that require refrigeration shall, except as otherwise specified, be stored under conditions of temperature and humidity that best maintain quality and condition. Products shall not be stored directly on wet floors or be exposed to foreign odors or conditions such as dripping or condensation that may cause package or product damage.
 10. Notification of change in products to be manufactured. Any person manufacturing only frozen desserts with butterfat, or only frozen desserts with fats other than butterfat, and uses the other type of fat shall first notify the Dairy Supervisor.
 11. Clearing lines and equipment. If the same equipment is used for processing, pasteurizing, and packaging frozen desserts made with dairy products and frozen desserts made with vegetable fats, oils, or proteins, any remaining product shall be completely removed from the lines and equipment and sanitized before introducing another product into the lines and equipment. All equipment and lines shall be sanitized either at the end or beginning of each day's operations.
 12. Packaging and containers.
 - a. Frozen desserts shall be packaged in commercial containers using packaging material that protects the product from contamination. The packaging, cutting, molding, dispensing, and other handling or preparation of frozen desserts and their ingredients shall be in a sanitary manner. Frozen dessert con-

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tainers shall be filled at the place of pasteurization using approved mechanical equipment. Existing manual processes may be permitted if done in a manner that prevents all contact surface contamination and is approved by the Dairy Supervisor.

- b. Multi-use containers for frozen desserts shall be kept clean and dry. If used for transporting frozen desserts, the containers shall be:
 - i. Rinsed immediately after emptying,
 - ii. Cleaned upon return to the plant, and
 - iii. Protected from contamination during storage.
- c. Metal cans and containers shall be free from rust and corrosion.
- d. Paper and plastic containers, liners, covers, or other materials coming in contact with frozen desserts shall be free from contamination.
- e. Single-service containers shall not be reused.

B. Personnel.

1. Plant employees shall wash their hands before beginning work and upon returning to work after using toilet facilities, eating, smoking, or otherwise soiling their hands. Employees shall keep their hands clean and follow good hygienic practices while on duty. Expectorating or using tobacco in rooms or compartments where frozen desserts or ingredients are exposed is prohibited. Clean, white, or light-colored, washable outer garments shall be worn by all employees engaged in handling dairy products, mix or frozen desserts. Hair coverings for head and facial hair shall be worn by all employees engaged in the processing, pasteurizing, packaging, handling, and storage of frozen desserts, product containers, and utensils.
2. Frozen desserts shall be handled so that there is no direct contact between an employee's hands and the product.
3. A person who has a discharging or infected wound, sore or lesion on hands, arms or other exposed portions of the body shall not work in any plant processing or packaging room or in any capacity resulting in contact with milk products or frozen desserts or equipment used in the processing or handling of milk products or frozen desserts. An employee returning to work following illness from a communicable disease shall provide a certificate from a physician attesting to the employee's complete recovery before processing or handling milk products or frozen desserts.

C. Quality standards.

1. Milk products used in the manufacture of frozen desserts shall meet the following standards:

Product	Standard Plate Count Not to Exceed
Raw Milk	500,000 per ml.
Pasteurized Milk	50,000 per ml.
Raw Cream	500,000 per ml.
Pasteurized Cream	100,000 per ml.

2. Butter, 80% cream, plastic cream, mixtures of butterfat, sugar or sweetening agent, moisture and flavoring, condensed milk, mixes and all other similar products shall meet the following standards:

Bacterial Standards	Not to Exceed
Standard Plate Count	50,000 per gram
Coliform Count	20 per gram
Yeast Count	50 per gram
Mold Count	50 per gram

3. Powdered non-fat dry milk, dry whey, and dry buttermilk shall meet the PMO standards.

4. Fats and oils other than from milk shall meet the standards of the United States Food, Drug and Cosmetic Act as amended, or those of any applicable state regulation for fats and oils of food grade standards.
5. Frozen desserts in broken or opened containers or in containers from which the product has been partially used may be returned to the plant for examination but shall not be used or sold for making frozen desserts.
6. All reconstituted frozen desserts shall be pasteurized before packaging.

D. Labeling.

1. All packages of frozen desserts, including cans or other containers of frozen desserts mix but not including frozen desserts packaged in accordance with a customer's request and in the presence of the customer, shall be labeled as prescribed in the federal Food, Drug and Cosmetic Act, as amended.
2. Each frozen dessert package shall contain:
 - a. The code number assigned by the Dairy Supervisor, identifying the specific manufacturing plant; or
 - b. The name and address of the frozen dessert manufacturer.

- E. License suspension. The Dairy Supervisor may suspend the license of a frozen dessert plant whenever the bacteria count, coliform determination, yeast or mold count exceeds the quality standards for frozen desserts in three out of the last five samples taken on separate days. In addition, the Dairy Supervisor may suspend the permit of a frozen dessert plant for failure to comply with any of the provisions of this Section.

Historical Note

Adopted effective December 7, 1976 (Supp. 76-5).
 Amended effective December 5, 1977 (Supp. 77-6). Section R3-2-807 renumbered from R3-5-07 (Supp. 91-4).
 Amended effective December 2, 1998 (Supp. 98-4).
 Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

Table 1. Pasteurization

Batch (Vat) Pasteurization	
Temperature	Time
69°C (155°F)	30 minutes
Continuous Flow (HTST) Pasteurization	
Temperature	Time
80°C (175°F)	25 seconds
83°C (180°F)	15 seconds
Continuous Flow (HHST) Pasteurization	
Temperature	Time
89°C (191°F)	1.0 seconds
90°C (194°F)	0.5 seconds
94°C (201°F)	0.10 seconds
96°C (204°F)	0.05 seconds
100°C (212°F)	0.01 seconds

Historical Note

Table 1 made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Table 1 heading added for clarity (Supp. 21-3).

R3-2-808. Frozen Desserts Reconstituted from Powdered Mixes

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Except for R3-2-807(A)(8), retail establishments that reconstitute frozen desserts from powdered mixes and dispense the desserts on the premises shall comply with the requirements prescribed in R3-2-807 and the following standards:

1. All equipment, containers, and utensils shall be washed and air-dried after each use and shall be sanitized before each use, in accordance with the sanitation standards established in subsection R3-2-807(A)(7)(b).
2. When not in use, all equipment, utensils, and containers shall be stored above the floor in a clean, dry location free from dust, moisture, insects, rodents, or other possible sources of contamination.
3. Excess quantities of the reconstituted frozen dessert shall not be made from the powdered mix in advance and stored outside the dispensing machine.
4. Frozen desserts shall be reconstituted according to the directions provided by the powdered mix manufacturer.

Historical Note

Adopted effective May 11, 1977 (Supp. 77-3). Section R3-2-808 renumbered from R3-5-08 (Supp. 91-4). Section R3-2-808 renumbered to Section R3-2-809; new Section R3-2-808 adopted effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-809. Medicinal, Chemical, and Radioactive Residues in Milk

A. All dairies shall comply with the following procedures to exclude medicinal, chemical, and radioactive residues from milk intended for human consumption:

1. Identify all cows that have been treated with or have consumed medicinal, chemical, and radioactive agents capable of being secreted in milk;
2. Maintain a written record of the date of treatment, type, and quantity of the medicine or chemical administered to each cow;
3. Milk all treated cows last, or with separate equipment to prevent contamination of the wholesome milk supply;
4. Clean and sanitize all equipment, utensils, and containers used in the handling of milk from the treated cows before the equipment is used in the handling of any milk intended for human consumption; and
5. Discard all milk from the treated cows for the period of time recommended by the attending veterinarian or as indicated on the package or label of the medicine used in the treatment of the cow.

B. Enforcement.

1. When the residue of a chemical, medicinal, or radioactive agent is found in the milk of a dairy and the Dairy Supervisor determines that the residue may be deleterious to human health, the Director shall immediately suspend the dairy from further selling, offering for sale, or distributing milk for human consumption until:
 - a. The Dairy Supervisor determines that the practice causing the contamination of the milk has been corrected and the dairy is in compliance with the procedures established in subsection (A);
 - b. Any milk that has not been excluded from human consumption as required by subsection (A) is appropriately discarded; and
 - c. The first milk shipment following suspension indicates negative test results for medicinal, chemical, or radioactive residues.

2. If the Dairy Supervisor determines that a dairy is not in compliance with the procedures established in subsection (A), the Dairy Supervisor may suspend the dairy until the prescribed procedures are observed.

Historical Note

Section R3-2-809 renumbered from R3-2-808 and amended effective December 2, 1998 (Supp. 98-4).

R3-2-810. License Fees

During fiscal year 2024, an applicant shall pay the following fee to obtain or renew a dairy license:

1. For a license to operate a milk distributing plant or business: \$300 plus \$2,500 per pasteurizer.
2. For a license to operate a manufacturing milk processing plant: \$100.
3. For a license to engage in the business of producer-distributor as an interstate milk shipper listed facility: \$150 plus \$2,500 per pasteurizer.
4. For a license to engage in the business of producer-distributor: \$150.
5. For a license to engage in the business of producer-manufacturer: \$25.
6. For a license to engage in the manufacture of trade products: \$100.
7. For a license to engage in the business of selling at wholesale milk or dairy products, or both: \$100.
8. For a license to sample milk or cream: an initial fee of \$50 and a renewal fee of \$30.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 1331, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1756, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 18 A.A.R. 2060, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3127, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2449, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2404, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1937, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2219, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2081, effective August 27, 2019 (Supp. 19-3). Amended by final exempt rulemaking at 26 A.A.R. 1471, effective August 25, 2020 (Supp. 20-3). Amended by final exempt rulemaking at 27 A.A.R. 1264, effective September 29, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 2017 (August 12, 2022), effective September 24, 2022 (Supp. 22-3). Amended by exempt rulemaking at 29 A.A.R. 3483 (November 3, 2023), effective October 30, 2023 (Supp. 23-4).

R3-2-811. Dairy Farm Permit

A. A dairy farm, as defined in the PMO, may apply for a PMO milk producer permit by submitting the following information about the dairy farm on a form provided by the Department:

1. Legal name,
2. Physical and mailing address,
3. Telephone number,
4. Owner's name,

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5. Herd size,
 6. Daily milk production,
 7. Water source,
 8. Waste water disposal system,
 9. Number of bulk storage tanks, and
 10. Certification that the dairy farm facilities comply with Grade A requirements.
- B.** An applicant for a dairy farm permit shall demonstrate compliance with the minimum standards set out in the PMO by a Department inspection.
- C.** A permittee shall maintain compliance with the minimum standards set out in the PMO and shall be subject to inspection by the Department in accordance with the PMO.
- D.** The Department may suspend a permit for a permittee's failure to comply with the minimum standards and may revoke a permit if the permittee fails to correct deficiencies within a reasonable time.
- E.** Dairy farm permits are not transferable.

Historical Note

New Section made by emergency rulemaking at 20 A.A.R. 1134, effective May 2, 2014, for 180 days (Supp. 14-2). Emergency expired; new Section made by exempt rulemaking at 21 A.A.R. 2407, effective September 22, 2015 (Supp. 15-3).

ARTICLE 9. EGG AND EGG PRODUCTS CONTROL**R3-2-901. Definitions and Interpretation Guidance**

- A.** In addition to the definitions provided in A.R.S. §§ 3-701, 3-703 and 3-704, the following shall apply to this Article:
1. "Business owner or operator" means any person who owns ten percent or more of a business, or a person who controls the operations of a business.
 2. "Check" means an individual egg that has a broken shell or crack in the shell but with its shell membranes intact and its contents do not leak. A "check" is considered to be lower in quality than a "dirty."
 3. "Dirty" means a shell that is unbroken and that has dirt or foreign material adhering to its surface, which has prominent stains, or moderate stains covering more than 1/32 of the shell surface if localized, or 1/16 of the shell surface if scattered.
 4. "Egg-laying hen" means any hen that produces eggs for human consumption.
 5. "Egg products":
 - a. Means eggs, in raw or pasteurized form, that are removed from the shell in a liquid, frozen, dried, or freeze-dried state, but are not fully cooked.
 - b. May consist of whole eggs, yolks, whites, or any blend of yolk and white, with or without additives, if eggs are the main ingredient.
 6. "Housed in a cage-free manner" means confined in a housing system that provides egg-laying hens with all of the following:
 - a. The amount of usable floor space per egg-laying hen equal to or greater than that required by the 2017 edition of the United Egg Producers' Animal Husbandry Guidelines for U.S. Egg-Laying Flocks: Guidelines for Cage-Free Housing.
 - b. An indoor or outdoor controlled environment, which can consist of multi-tiered aviaries, partially-slatted systems, single-level all litter floor systems, or other systems, and which allows egg-laying hens to have:
 - i. Unrestricted freedom to roam;
 - ii. An environment that allows them to exhibit natural behaviors, including, at a minimum, scratch areas, perches, nest boxes, and dust bathing areas; and
 - iii. An environment in which farm employees can provide care while standing within the hens' usable floor space.
7. "Leaker" means an individual egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exuding or free to exude through the shell.
 8. "Lot" means any quantity of two or more eggs.
 9. "Lot Consolidation" means the removal of damaged eggs from cartons labeled by a producer or producer dealer and replacement of the damaged eggs with eggs of the same grade, size, brand, expiration date and source.
 10. "Multi-tiered aviaries" means cage-free housing systems in which egg-laying hens have unfettered access to multiple elevated flat platforms that provide the egg-laying hens with usable floor space both on top of and underneath the platforms.
 11. "Partially-slatted systems" means cage-free housing systems in which egg-laying hens have unfettered access to elevated flat platforms under which manure drops through the flooring to a pit or litter removal belt below.
 12. "Pasteurized in-shell eggs" means eggs that have been pasteurized with the shell intact by any method approved by the Federal Food and Drug Administration or the department.
 13. "Repacking" means changing the identity of a lot of eggs by removing them from the original container labeled by a packer and placing them into another container not labeled by the packer at the point of origin with the same grade, size, lot number, source and/or brand.
 14. "Single-level all-litter floor systems" means cage-free housing systems bedded with litter, in which egg-laying hens have limited or no access to elevated flat platforms.
 15. "Spot-check" sample means any sample less than a representative sample described in the chart in R3-2-903(B).
 16. "Ultimate consumer" means a person consuming eggs or egg products and a restaurant using eggs in the preparation of a meal.
 17. "Usable floor space" means the total square footage of floor space provided to each egg-laying hen, as calculated by dividing the total square footage of floor space provided to the egg-laying hens in an enclosure by the number of egg-laying hens in that enclosure. "Usable floor space" shall include both ground space and elevated level flat platforms upon which hens can roost, but shall not include perches or ramps.
 18. "UEP" means United Egg Producers.
 19. "United Egg Producers Animal Husbandry Guidelines" means the United Egg Producers Animal Husbandry Guidelines for U.S. Egg Laying Flocks, 2017 Edition. This material is incorporated by reference, does not include any later amendments or editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007, or the United Egg Producers at 1720 Windward Concourse, Ste. 230, Alpharetta, GA 30005.
 20. "United Egg Producers Certified" means a company that has achieved United Egg Producers Certified status pursuant to the requirements prescribed by the United Egg Producers Animal Husbandry Guidelines.

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21. "United Egg Producers Certified logo" means the official symbol and accompanying language used to identify eggs produced by United Egg Producers Certified companies.
 22. "United Egg Producers Cage Free Certified logo" means the official symbol and accompanying language used to identify cage-free eggs produced by United Egg Producers Certified companies.
- B.** Wherever appropriate, and if not expressly indicated, words in the singular form shall be construed to include the plural and vice versa. Nouns and pronouns in masculine, feminine and neuter genders shall be construed to include any other gender.
- C.** Examples shall not be construed to limit, expressly or by implication, the matter they illustrate.
- D.** The word "includes" and its derivatives means "includes, but is not limited to" and corresponding derivative expressions.

Historical Note

Former Rule 1; Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-01 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-901 (Supp. 82-1). Section R3-6-101 renumbered to R3-2-901 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final rulemaking at 28 A.A.R. 802 (April 22, 2022), effective October 1, 2022 (Supp. 22-2).

R3-2-902. Standards, Grades, and Weight Classes for Eggs; Pasteurized In-Shell Eggs

- A.** Standards for Eggs. All standards, grades, and weight classes of quality for chicken eggs in the shell shall meet the grades for eggs as prescribed in AMS 56, United States Standards, Grades, and Weight Classes for Shell Eggs, revised as of July 20, 2000. This material is incorporated by reference, does not include any later amendments or editions, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007 and the United States Department of Agriculture, Agricultural Marketing Service, Poultry Programs, STOP 0259, Room 3944-South, 1400 Independence Ave., S.W., Washington, DC 20250-0259, or online at www.ams.usda.gov/grades-standards/eggs. "AMS" means Agricultural Marketing Service, United States Department of Agriculture.
- B.** Standards for Pasteurized In-Shell Eggs. It is unlawful for a producer, producer dealer, dealer, or retailer to sell, offer for sale, or expose for sale pasteurized in-shell eggs that are packed for human consumption unless both of the following conditions are met:
1. Quality and weight classes:
 - a. The eggs used to produce pasteurized in-shell eggs shall meet Consumer Grades A or AA and Weight Classes for Eggs of subsection (A).
 - b. At destination:
 - i. Pasteurized in-shell eggs shall contain no more than 7 percent (9 percent for Jumbo size) Checks and not more than 1 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.

- ii. In lots of two or more cases, no individual case may exceed 10 percent Checks.
 - c. Pasteurized in-shell eggs shall meet the weight classes as indicated in Table I. Weight Classes for Pasteurized In-Shell Eggs.
2. Labeling requirements. Except as provided in subsection (B)(2)(j), it is unlawful for an egg producer, producer dealer, dealer or retailer to sell, offer for sale, or expose for sale pasteurized in-shell eggs that are packed for human consumption unless each container intended for sale to the ultimate consumer is labeled on one outside top, side, or end with all of the following:
- a. The consumer container is conspicuously labeled "KEEP REFRIGERATED" or with words of similar meaning as approved by the Department. Consumer container labeling that complies with the safe handling instructions required by Section 101.17 of Title 21 of the Code of Federal Regulations shall be deemed to comply with this subsection.
 - b. The consumer container is conspicuously labeled "produced from" in conjunction with the appropriate consumer grade in letters no smaller than 1/2 size of the labeled consumer grade. The use of the consumer grade without the qualifier "produced from" is not permitted.
 - c. The words "Best By", or "Use by" immediately followed by the month and day in bold type. Months shall be abbreviated Jan, Feb, Mar, Apr, May, Jun, Jul, Aug, Sep, Oct, Nov or Dec. The "Use by," or "Best before" date shall not exceed 75 days from the date on which the pasteurized in-shell eggs were pasteurized, excluding the date of pasteurization. Processors of in-shell eggs that subject the eggs to the pasteurization process shall establish a sell-by date by completion of an appropriate shelf stability study that includes public health and safety criteria. The processor shall retain the study on file at the processing plant and make it available to the Department upon request.
 - d. If the pasteurized in-shell eggs are repacked, the original "Best By" or "Use by" date shall apply.
 - e. A Julian pack date which is the consecutive day of the year on which the pasteurized in-shell eggs were pasteurized.
 - f. The identification number of the plant of origin.
 - g. A conspicuous identification of the eggs as "pasteurized."
 - h. All state and federal labeling requirements.
 - i. This Section does not apply to pasteurized in-shell eggs that are packaged for export.
 - j. Subsection (B) does not apply to pasteurized in-shell eggs that are packaged for interstate commerce or pasteurized in-shell eggs that are packaged for military sales if exported to a state or federal agency that requires a different format for the sell-by or best-if-used-by date on pasteurized in-shell eggs, and the processor is utilizing that format.

Historical Note

Former Rule 2; Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-02 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-902 (Supp. 82-1). Section R3-6-102

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renumbered to R3-2-902 (Supp. 91-4). Section repealed, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final

rulemaking at 14 A.A.R. 892, effective May 3, 2008 (Supp. 08-1). Amended by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

Table I. Weight Classes for Pasteurized In-Shell Eggs

Weight Classes for Pasteurized In-Shell Eggs			
Size or weight class	Minimum net weight per dozen (ounces)	Minimum net weight 30 per dozen (pounds)	Minimum net weight for individual eggs at rate per dozen (ounces)
Jumbo	30	56	29
Extra large	27	50 1/2	26
Large	24	45	23
Medium	21	39 1/2	20
*A lot average tolerance of 3.3 percent for individual eggs in the next lower weight class is permitted as long as no individual case within the lot exceeds 5 percent.			

Historical Note

Table I. Weight Classes for Pasteurized In-Shell Eggs made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-903. Sampling: Schedule and Methods for Evidence

- A. An inspector may conduct random spot-check sampling of a lot of eggs to determine whether the lot meets minimum quality and weight standards and is in compliance with R3-2-907.
- B. Representative egg sampling, under A.R.S. § 3-710(G), shall be based on Table II. A lot that does not meet minimum quality or weight standards or is not in compliance with R3-2-907 shall receive a warning notice hold tag.
 1. An inspector may draw additional samples to determine whether the lot meets the minimum requirements.
 2. When loose eggs are out of the case, the sample shall be based on a carton.
 3. Eggs shall be sampled on a 30-dozen-case basis. When eggs are packed in other lot quantities, an inspector shall convert the quantity of eggs to the equivalent 30-dozen-case basis to establish the official sample size.

Historical Note

Former Rule 3; Amended effective March 17, 1976 (Supp. 76-2). Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-03 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-903 (Supp. 82-1). Section R3-6-103 renumbered to R3-2-903 (Supp. 91-4). Section repealed, new Section R3-2-903 renumbered from R3-2-906 and amended effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by final rulemaking at 28 A.A.R. 802 (April 22, 2022), effective October 1, 2022 (Supp. 22-2).

Table II. Minimum Number of Cases and Cartons Comprising a Representative Sample

Lot size of cartons	Minimum eggs for inspection	Lot size of 30 doz. per case	Minimum cases for inspection ¹
1 - 4 cartons	All	1 case	1 case
5 - 30 cartons inclusive	50	2 - 10 cases inclusive	2 cases
31 - 120 cartons inclusive	100	11 - 25 cases inclusive	3 cases
120 - 210 cartons inclusive	200	26 - 50 cases inclusive	4 cases
211 - 315 cartons inclusive	300	51 - 100 cases inclusive	5 cases
		101 - 200 cases inclusive	8 cases
		201 - 300 cases inclusive	11 cases
		301 - 400 cases inclusive	13 cases
		401 - 500 cases inclusive	14 cases
		501 - 600 cases inclusive	16 cases
		For each additional 50 cases or fraction of a case in excess of 600 cases	1 case

¹An inspector shall take 100 eggs from each case for inspection.

Historical Note

Table II was made under new Section R3-2-903 renumbered from R3-2-906 and amended effective July 13, 1995 (Supp. 95-3); it was last amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). The table and historical notes were moved out of R3-2-903 to maintain the numbering codification scheme of tables made at 26 A.A.R. 781 (Supp. 20-2).

R3-2-904. Quarterly Report Periods

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Quarterly reports are due as prescribed in A.R.S. § 3-716(D). The quarterly report periods for inspection fees are:

1. July 1 to September 30,
2. October 1 to December 31,
3. January 1 to March 31, and
4. April 1 to June 30.

Historical Note

Former Rule 4; Amended effective March 17, 1976 (Supp. 76-2). Amended as an emergency effective November 18, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-6). Former Section R3-6-04 amended as an emergency now adopted and amended as a permanent rule effective February 19, 1982. Section renumbered as R3-2-904 (Supp. 82-1). Section R3-6-104 renumbered to R3-2-904 (Supp. 91-4). Section repealed, new Section R3-2-904 renumbered from R3-2-907 and amended effective July 13, 1995 (Supp. 95-3).

R3-2-905. Inspection Fee Rate

- A. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per dozen on all shell eggs sold as prescribed in A.R.S. § 3-716(A).
- B. All dealers, producer-dealers, manufacturers, and producers shall pay an inspection fee at the rate of 3.0 mills (.00300) per pound on all egg products sold as prescribed in A.R.S. § 3-716(A).
- C. For scheduled continuous grading, certification, and inspection services. The following rates apply to continuous grading service on a resident basis and continuous grading service on a nonresident basis per grader:
 1. Regular rate: \$38.00/hour;
 2. Overtime rate: \$57.00/hour;
 3. Holiday rate: \$58.00/hour.
- D. For plant survey, unscheduled temporary, certification, auditing and appeal grading services. The following rates apply to temporary and auditing service per grader:
 1. Regular rate: \$57.00/hour;
 2. Overtime rate: \$85.00/hour;
 3. Holiday rate: \$87.00/hour.

Historical Note

Former Rule 5; Former Section R3-6-05 renumbered as Section R3-2-905 (Supp. 82-1). Section R3-6-105 renumbered to R3-2-905 (Supp. 91-4). Section repealed, new Section R3-2-905 renumbered from R3-2-908 and amended effective July 13, 1995 (Supp. 95-3). Amended by emergency rulemaking at 12 A.A.R. 4063, effective October 1, 2006 for 180 days (Supp. 06-4). Emergency renewed at 13 A.A.R. 1509, effective April 9, 2007 for 180 days (Supp. 07-2). Amended by final rulemaking at 13 A.A.R. 1639, effective June 30, 2007 (Supp. 07-2). Amended by final rulemaking at 28 A.A.R. 802 (April 22, 2022), effective October 1, 2022 (Supp. 22-2).

R3-2-906. Violations and Penalties

- A. A dealer, producer-dealer, manufacturer, producer, or retailer, at each individual location, is subject to the penalties in subsection (B) for any of the following violations:
 1. Category A:
 - a. Making a false or misleading statement relating to advertising or selling eggs and egg products;
 - b. Acting as a dealer, producer-dealer, producer, or manufacturer without a valid license;

- c. Selling shell eggs with an incorrect or incomplete expiration date, or without an expiration date;
- d. Selling grade AA or grade A eggs after the expiration date on the carton, case, or container. Selling pasteurized in-shell eggs without or past the "Best By" or "Use by" date;
- e. Failing to maintain records and reports required by this Article;
- f. Failing to label a carton, case, or container with one size, one grade, one brand name, or, as required under R3-2-907;
- g. Moving eggs or an egg case, carton, or container with a warning tag or notice, or removing a warning tag or notice without permission from the Director;
- h. Refusing to submit egg or egg product, an egg case, carton, container, subcontainer, lot, load, or display of eggs to inspection; or
- i. Refusing to stop, at the request of an authorized representative of the Department, any vehicle transporting eggs or egg products;
- j. Selling eggs that have not been produced in accordance with the standards prescribed under R3-2-907;
- k. Failing to raise egg-laying hens in this state in accordance with the standards prescribed under R3-2-907.

2. Category B:

- a. Extending the expiration date of shell eggs as defined in A.R.S. § 3-701(13); or
- b. Advertising, representing, or selling out-of-state eggs as local eggs.

3. Category C:

- a. Failing to ensure that shell eggs for human consumption are kept refrigerated at an ambient temperature not higher than 45° F;
- b. Failing to ensure that frozen egg products for human consumption, labeled for storage at 0° F or below, are kept under refrigeration at a temperature of 0° F or lower;
- c. Failing to ensure that liquid egg products for human consumption are kept refrigerated at a temperature not higher than 40° F; or
- d. Failing to meet the sanitary standards egg processing of R3-2-908.

- B. Any violation of this Article or of A.R.S. Title 3, Chapter 5, Article 1 not listed in subsection (A) is subject to a Category A civil penalty.

- C. Under A.R.S. § 3-739, the civil penalty for a violation of subsection (A) is in Table III.

Historical Note

Former Rule 6; Amended effective February 19, 1982.

Former Section R3-6-06 renumbered as Section R3-2-906 (Supp. 82-1). Section R3-6-106 renumbered to R3-2-906 (Supp. 91-4). Former Section R3-2-906 renumbered to R3-2-903, new Section adopted effective July 13, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 4058, effective October 7, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 2089, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final rulemaking at 28 A.A.R. 802 (April 22, 2022), effective

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October 1, 2022 (Supp. 22-2).

Table III. Violations and Penalties

Number of Violations	Category A	Category B	Category C
1	Warning	Warning	Warning
2	\$50	\$50	\$100
3	\$100	\$100	\$200
4		\$150	\$400
5		\$200	\$500
6		\$250	
7		\$300	

Historical Note

Table III made by made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Heading added for clarity (Supp. 21-3).

R3-2-907. Poultry Husbandry; Standards for Production of Eggs and Biosecurity Requirements

- A. Until September 30, 2022, all egg-laying hens in this state shall be raised according to UEP Animal Husbandry Guidelines.
- B. Until September 30, 2022, all eggs sold in this state produced by hens shall be from hens raised according to the UEP Animal Husbandry Guidelines. All eggs shall display the UEP Certified logo on their cases, cartons, and containers, or the egg dealer shall annually provide the Department with a copy of a current independent third-party audit that demonstrates that the eggs were produced by hens raised according to UEP Animal Husbandry Guidelines.
- C. Beginning October 1, 2022, all egg-laying hens in this state shall be housed in accordance with the UEP Animal Husbandry Guidelines and shall be provided with no less than one square foot of usable floor space per egg-laying hen.
- D. Beginning October 1, 2022, all eggs and egg products sold in this state shall be from hens that are housed in accordance with the UEP Animal Husbandry Guidelines and provided with no less than one square foot of usable floor space per egg-laying hen.
- E. Beginning no later than January 1, 2025, all egg-laying hens in this state shall be housed in a cage-free manner.
- F. Beginning no later than January 1, 2025, all eggs and egg products sold in this state shall be from hens housed in a cage-free manner.
- G. Subsections (A) through (F) do not apply to egg producers or business owners or operators operating or controlling the operation of one or more egg ranches each having fewer than 20,000 egg-laying hens producing eggs. Subsections (A) through (E) also do not apply to any hens that are raised cage-free or any eggs produced by hens that are raised cage-free.
- H. Beginning no later than October 1, 2022, in order to sell eggs or egg products within the state, a business owner or operator must have a certificate from the Supervisor certifying that the eggs or egg products are produced in compliance with subsections (C) through (F), or are exempt under subsection (G). The Supervisor will certify that eggs and egg products are produced in compliance with subsections (C) through (G) if the eggs or egg products are accompanied by documentation from a government or private third-party inspection and continuous process verification service that the Supervisor deems acceptable establishing that the eggs or egg products were produced in compliance with this Section. The immediate container of

eggs and egg products shall be plainly and conspicuously marked with the words "ARS 710J" in bold-faced type not less than one-eighth inch in height; or in another manner pre-approved by the Department.

- I. It shall be a defense to any action to enforce this Rule that a business owner or operator relied in good faith upon a written certification by the supplier that the eggs or egg products at issue were derived from an egg-laying hen which was housed in compliance with this Section.
- J. All producers and producer dealers with operations within the state shall have a written biosecurity plan in place. At a minimum each producer and producer dealer shall:
 1. Restrict access to all areas where poultry are housed or kept.
 2. Take steps to ensure that contaminated material is not transported into any poultry barns.
 3. Cover and secure feed in a manner that prevents wild bird, rodents or other animals from accessing the feed.
 4. Cover and properly contain poultry carcasses, used litter, or other disease-containing organic materials that prevents wild birds, rodents or other animals from accessing the material and movement of the materials by the wind.
 5. Keep houses in good repair and all areas to which the birds have access should be kept free of materials hazardous to the birds.
- K. The biosecurity plan shall contain the following:
 1. Methods for the disposal and handling of poultry manure.
 2. Procedures for prevention, control and eradication of vectors for poultry diseases.
 3. Procedures for the detection, control and treatment of poultry diseases.
 4. Methods for the disposal and handling of culled birds and entire flocks under normal cyclic operations and following emergency depletion as a result of disease.
 5. A facility poultry disease control and prevention plan which includes standard operating procedures with respect to specific measures to control and prevent disease including but not limited to structural and operational disease control and prevention provisions.
 6. Procedures to prevent cross contamination between nest run and in line eggs.
 7. Procedures to prevent the introduction and transmittal of diseases by vehicles and any other forms of transportation.
 8. Signed agreements with all employees containing biosecurity procedures regarding contact with outside poultry and wild birds.
- L. A producer and producer dealer shall allow the Department to enter the premises during normal working hours to inspect the biosecurity plan documents and the biosecurity that is implemented.

Historical Note

Former Rule 7; Former Section R3-6-07 renumbered as Section R3-2-907 (Supp. 82-1). Section R3-6-107 renumbered to R3-2-907 (Supp. 91-4). Section R3-2-907 renumbered to R3-2-904 effective July 13, 1995 (Supp. 95-3). New Section made by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2). Amended by final rulemaking at 28 A.A.R. 802 (April 22, 2022), effective October 1, 2022 (Supp. 22-2).

R3-2-908. Sanitary Standards; Egg Processing

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- A. All egg producers and retail locations where lot consolidation is conducted in this state shall meet the facility and sanitary operation requirements prescribed by the Regulations Governing the Voluntary Grading of Shell Eggs, 7 CFR 56, effective March 30, 2008. This material is incorporated by reference, does not include any later editions, and is available for inspection at the Department of Agriculture, 1688 W. Adams St., Phoenix, AZ 85007.
- B. No person other than a producer or producer dealer shall repack eggs. All eggs sold to the ultimate consumer must be pre-packaged with all required labeling requirements of this Article and A.R.S. Title 3 Chapter 5. A producer, producer dealer shall not pack or repack eggs that have been in retail distribution channels.
- C. A retailer may lot consolidate eggs labeled for the ultimate consumer by a packer. A daily log with lot information is required and shall include volume consolidated, grade, size, brand, lot and source.
- B. An expired license may be renewed within 90 days after expiration by payment of a \$50 late fee.
- C. Upon request of the licensee, the Department shall assess the licensed facility and, if applicable, certify the facility is free from infectious diseases and causative agents listed in R3-2-1009 before issuing a Certificate of Aquatic Health. All expenses properly incurred in the certification procedure of the inspection, including time, travel, and laboratory expenses, shall be paid to the Department by the licensee requesting certification.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

R3-2-1003. General Licensing Provisions

- A. An applicant for a license to operate an aquaculture facility or a fee fishing facility, or to operate as an aquaculture processor or aquaculture transporter shall provide the following information on a form furnished by the Department:
 1. Whether the applicant is an individual, corporation, partnership, cooperative, association, or other type of organization;
 2. The name and address of the applicant;
 3. A corporation shall specify the date and state of incorporation;
 4. The principal name of the business, and all other business names that may be used;
 5. The name, mailing address, and telephone number of the applicant's authorized agent;
 6. The street address or legal description of the location of the facility to be licensed; and
 7. The signature of the person designated in subsection (A)(5), and the date the application is completed for submission to the Department.
- B. The Department shall grant a license when all conditions are met and assign a Department establishment number to each facility.
- C. All licenses expire on December 31 for the year issued.
- D. A licensee shall advise the Department in writing of any change in the information provided on the application during the license year. This information shall be provided within 30 calendar days of the change.
- E. To prevent the spread of diseases and causative agents listed in R3-2-1009, the Department may inspect and take samples from any facility or shipment being transported. A licensee shall notify the Department within 72 hours of becoming aware of the presence of any disease or causative agent listed in R3-2-1009. Aquatic animals found to be infected with a disease or causative agent listed in R3-2-1009 are prohibited from interstate or intrastate movement without prior written Department approval.
- F. The Department shall quarantine or seize aquatic animals, alive or dead, plants, or products for examination or diagnostic study when there is a potential for spread of a disease or causative agent listed in R3-2-1009, or any other disease or causative agent that could constitute a threat to aquatic animals or plants of the state. The Department shall issue a written notice to the licensee specifying:
 1. The reason for the Department's action; and
 2. The licensee's right to request a hearing as prescribed in A.R.S. § 3-2906.

Historical Note

Former Rule 8; Amended effective October 1, 1979 (Supp. 79-5). Former Section R3-6-08 renumbered as Section R3-2-908 (Supp. 82-1). Amended effective January 1, 1985 (Supp. 84-6). Amended effective December 30, 1987 (Supp. 87-4). Amended effective March 23, 1990 (Supp. 90-1). Section R3-6-108 renumbered to R3-2-908 (Supp. 91-4). Section R3-2-908 renumbered to R3-2-905 effective July 13, 1995 (Supp. 95-3). New Section made by final rulemaking at 15 A.A.R. 863, effective October 1, 2009 (Supp. 09-2). Amended by made by final rulemaking at 26 A.A.R. 781, effective June 8, 2020 (Supp. 20-2).

R3-2-909. Repealed**Historical Note**

Former Rule 9; Former Section R3-6-09 renumbered as Section R3-2-909 (Supp. 82-1). Section R3-6-109 renumbered to R3-2-909 (Supp. 91-4). Section repealed effective July 13, 1995 (Supp. 95-3).

ARTICLE 10. AQUACULTURE**R3-2-1001. Definitions**

In addition to the definitions provided in A.R.S. § 3-2901, the following shall apply unless the context otherwise requires:

1. "Certificate of Aquatic Health" is an official document from an issuing state or an equivalent form published by the United States Fish and Wildlife Service or the United States Department of Agriculture attesting that the live aquatic animals described thereon have been inspected and are free of the diseases and causative agents set forth in R3-2-1009.
2. "Department" means the Arizona Department of Agriculture.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2).

R3-2-1002. Fees for Licenses; Inspection Authorization and Fees

- A. License fees are established as follows:
 1. Aquaculture facility: \$100 annually.
 2. Fee fishing facility: \$100 annually.
 3. Aquaculture processor: \$100 annually.
 4. Aquaculture transporter: \$100 annually.
 5. Special licenses: \$10 annually.

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- G. A licensee shall conspicuously mark all quarantined aquatic products and quarantined areas in a manner specified by the Department.
- H. A licensee shall pay all diagnostic, quarantine, and destruction costs.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

R3-2-1004. Specific Licensing Provisions; Aquaculture Facility; Fee Fishing Facility; Special License Facility

- A. In addition to the application requirements in R3-2-1003, an applicant for a license to operate an aquaculture facility, a fee fishing facility, or a special license facility under A.R.S. § 3-2908(A) shall provide the following information on a form provided by the Department:
1. Water sources, transmission, and conveyances;
 2. Method used to dispose of tailing waters and solid wastes;
 3. Number and size of ponds, raceways, and tanks, if applicable;
 4. Whether hatchery facilities are included;
 5. A list of all animals and plants to be authorized under the license by genus, species, and common name.
- B. An application to culture or possess an aquatic animal or plant that has not previously occurred in the drainage where the facility is located shall be accompanied by a written proposal. The applicant's proposal shall include:
1. Anticipated benefits from introducing the species;
 2. Anticipated adverse effects from introducing the species, as it may affect indigenous or game fish, including hybridization;
 3. Anticipated diseases inherent to introducing the species;
 4. Suggestions for post-introduction evaluation of status and impacts of the introduced species; and
 5. Structural and operational methods implemented to prevent escape of the species, if applicable.
- C. Each body of water serving a facility shall be contained within the boundaries of the land owned or leased by the licensee.
- D. A facility using public waters having natural or artificial inlets, rivers, creeks, washes, or canals shall provide mechanical screening approved by the Department to prevent live aquatic animals and plants, including eggs and fry, from escaping beyond the aquaculture facility boundaries or into public bodies of water.
- E. An applicant for a special license under A.R.S. § 3-2908(A) shall also provide the following information to the Department at the time of application:
1. A written narrative describing the project in detail, the project purpose, the hypothesis, and the project duration; and
 2. The proposed disposition of the aquatic animals or plants upon completion of the project.
- F. The Department shall consider the recommendations of the Arizona Game and Fish Department, under A.R.S. § 3-2903, when determining whether to issue a license or an import permit under R3-2-1010. The Department may issue a license excluding some of the aquatic animal or plant species listed in the application.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3,

2004 (Supp. 04-1).

R3-2-1005. Fee Fishing Facility

A licensee shall not allow an aquatic animal to be removed from a fee fishing facility unless:

1. The aquatic animal is dead, and
2. The licensee provides the person removing the aquatic animal with written proof of sale identifying the:
 - a. Facility, by name, address, and Department establishment number issued under R3-2-1003(B);
 - b. Date of harvest; and
 - c. Number and species of aquatic animals transported from the facility.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

R3-2-1006. Processor License

- A. In addition to complying with the application requirements of R3-2-1003, applicants for a license to operate as an aquaculture processor as defined in A.R.S. § 3-2901(12) shall provide the following information on a form furnished by the Department:
1. Water sources, transmission, conveyances, and annual consumption in gallons or acre feet;
 2. Method used to dispose of tailing waters and solid wastes;
- B. A processing facility shall operate in a clean and sanitary condition during all periods of operation. The following are the minimum requirements for such establishments.
1. Each establishment shall have sanitary floors and walls impervious to water.
 2. All outside windows and doors shall be screened.
 3. There shall be a supply of potable water.
 4. There shall be a sewage disposal system of such a type as not to be a breeding place for insects and not to constitute a hazard or to endanger public health.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2).

R3-2-1007. Transporter License; Transport; Delivery

- A. In addition to the application requirements in R3-2-1003, an applicant for a license to operate as an aquaculture transporter of live aquatic animals as defined in A.R.S. § 3-2901(15) shall, on a form provided by the Department:
1. Designate whether the license is for interstate or intrastate transport, or both;
 2. List aquatic transporting equipment to be used, including tanks and vehicles, and vehicle license number; and
 3. State prior year volume or anticipated annual tonnage of live aquatic animals transported.
- B. A transporter shall ensure that the aquatic transporting equipment has adequate water and oxygen at a temperature and in a quantity normal for the health of the live aquatic animals and shall be clearly marked, "Live Fish."
- C. In addition to a copy of the Certificate of Aquatic Health, a transporter shall transport each container of live aquatic animals within the state with a document identifying:
1. Consignor's name, address, and telephone number;
 2. Consignee's name, address, and telephone number;
 3. Quantity and size of the aquatic animal being transported;
 4. Genus, species, and common name of the aquatic animal being transported;
 5. Date of shipment; and

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6. Department establishment number.
- D.** A transporter shall deliver live aquatic animals only to a retail outlet, as prescribed at A.R.S. § 3-2907(J) or to a person listed in R3-2-1010(B).

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

R3-2-1008. Repealed**Historical Note**

Adopted effective May 3, 1993 (Supp. 93-2). Section repealed by final rulemaking at 10 A.A.R. 673, effective April 3, 2004 (Supp. 04-1).

R3-2-1009. Disease Certification

- A.** A licensee requesting and receiving a Certificate of Aquatic Health shall have their facility inspected and all live aquatic animals, fertilized eggs and milt shall be found free of, but not limited to, the following diseases and causative agents:
1. Causative agent: Egtved Virus. Disease: VHS, Viral Hemorrhagic Septicemia of Salmonids.
 2. Causative agent: Infectious Hematopoietic Necrosis Virus. Disease: IHN, Infectious Hematopoietic Necrosis of Salmonids.
 3. Causative agent: Infectious Pancreatic Necrosis Virus. Disease: IPN, Infectious Pancreatic Necrosis of Salmonids.
 4. Causative agent: *Ceratomyxa shasta*. Disease: Ceratomyxosis of Salmonids.
 5. Causative agent: *Rhabdovirus carpio*. Disease: Spring Viremia of carp. Certification is required in this case only when the original origin of the shipment is from outside the United States.
 6. Causative agent: *Renibacterium salmoninarum*. Disease: BKD, Bacterial Kidney Disease of Salmonids.
 7. Causative agent: *Aeromonas salmonicida*. Disease: Furunculosis.
 8. Causative agent: *Myxobolus cerebralis*. Disease: Whirling Disease of Salmonids.
- B.** The Department may require inspection for any disease or causative agent not listed in subsection (A) when there is evidence that the disease or causative agent may constitute a threat to aquatic animals or plants, aquatic wildlife or the aquaculture industry. The Department shall send written notice to all licensees pursuant to this Chapter when implementing this subsection, naming the disease or causative agent of concern. Action to quarantine or seize aquatic animals or plants pursuant to this subsection shall not be subject to delay pending such written notice.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2).

R3-2-1010. Importation of Aquatic Animals

- A.** The owner, or owner's agent, importing live aquatic animals into the state shall ensure the animals are accompanied by the following:
1. A Certificate of Aquatic Health as defined in R3-2-1001, based upon an inspection of the originating facility within the 12 months preceding the shipment;
 2. A transporter license issued under R3-2-1007; and
 3. An import permit number issued by the Department under this Section, legibly written or typed on the certificate of aquatic health.

- B.** The owner, or owner's agent, of live aquatic animals, except those imported by a retail outlet as prescribed in A.R.S. § 3-2907(J), shall ensure that the animals are consigned to or in the care of:
1. An Arizona resident;
 2. An aquaculture facility, fee fishing facility, or special license holder licensed by the Department;
 3. A holder of an aquatic wildlife stocking permit issued by the Arizona Game and Fish Department; or
 4. A holder of any aquatic animal license issued by the Arizona Game and Fish Department.
- C.** The owner, or owner's agent, may obtain an import permit number from the Department, Office of the State Veterinarian, by providing the following information:
1. Consignor's name, address, and telephone number;
 2. Consignee's name, address, and telephone number;
 3. Consignee's Department establishment number issued by the Department or a copy of an aquatic wildlife stocking permit or the license issued by the Arizona Game and Fish Department;
 4. Origin of the shipment;
 5. Genus, species, and common name of aquatic animals to be imported; and
 6. Quantity and size classification of aquatic animals to be imported.
- D.** An import permit number remains valid for 15 calendar days from the date of issuance by the Department.
- E.** The Department shall refuse entry to any shipment that does not comply with this rule.
- F.** The Department shall quarantine and require destruction of any shipment, after its arrival, that it determines is infected with or was previously exposed to any causative agent or disease listed in R3-2-1009.

Historical Note

Adopted effective May 3, 1993 (Supp. 93-2). Amended by final rulemaking at 8 A.A.R. 4043, effective November 9, 2002 (Supp. 02-3).

ARTICLE 11. VOLUNTARY EGG GRADING PROGRAM**R3-2-1101. Definitions**

For the purpose of this Article, unless the context otherwise requires, the terms in this Section shall have the following meaning:

"Acceptable" means suitable for the purpose intended.

"Administrator" means the supervisor as defined in A.R.S. § 3-701.

"Ambient temperature" means the air temperature maintained in an egg storage facility or transport vehicle.

"AMS" means Agricultural Marketing Service, United States Department of Agriculture.

"Applicant" means any person or entity who requests any grading service.

"Appeal grading" means a re-grading requested by a recipient who is dissatisfied with an initial grading decision.

"Associate Director" means the associate director of the animal service division.

"Auditing services" means the act of providing independent verification of written quality assurance and value added standards for production, processing and distribution of eggs. Auditing services are performed by graders authorized by the Administrator to perform such audits and the service provided

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will be in accordance with the provisions of this Article for grading services, as appropriate.

“Cage mark” means any stain-type mark caused by an egg coming in contact with a material that imparts a rusty or blackish appearance to the shell.

“Case” means, when referring to containers, an egg case, as used in commercial practice in the United States, holding 30 dozens of eggs.

“Class” means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same size, kind, species, or method of processing.

“Chick papers” means the papers in which chicks are delivered.

“Condition” means any condition (including, but not being limited to, the state of preservation, cleanliness, soundness, wholesomeness, or fitness for human food) of any product which affects its merchantability.

“Consumer grades” means U.S. Grade AA, A, and B.

“Controlling person” means a person at least 21 years of age legally accountable for operations and management of the egg production plant.

“Department” or “AZDA” means the Arizona Department of Agriculture.

“Director” means the Director of the Arizona Department of Agriculture.

“Egg grading service” means the personnel who are actively engaged in the administration, application, and direction of egg grading programs and services pursuant to this Article.

“Eggs” means eggs of domesticated chickens.

“Eggs of current production” means eggs that are no more than 21 days old.

“Grademark” means the official identification symbol used to identify eggs officially graded by AZDA in accordance with this Article.

“Grader” means any employee assigned by AZDA to investigate and certify in accordance with this Article, the class, quality, quantity, or condition of products.

“Grading or grading service” means the determination by a grader that a product meets the standards of this Article regarding the class, quality, quantity, or condition of the product for the purpose of issuing a grade or grading certificate. Such determination may be performed by examining all product units or representative samples drawn by the grader; may be performed as a temporary, resident or non-resident grading service; and includes regrading performed in response to an appeal of a previous grading decision.

“Grading certificate” means a statement, either written or printed, issued by a grader pursuant to this Article, relative to the class, quantity, quality, or condition of products.

“Holiday or legal holiday” means the legal public holidays specified by State of Arizona Accounting Manual (SAAM).

“Identify” means to apply a grademark to products or the containers thereof.

“Interested party” means any person financially interested in a transaction involving any grading, appeal grading, or regrading of any product.

“Office of grading” means the office of any resident grader at the plant.

“Official AZDA certificate” means any form of certification, either written or printed, used under this Article to certify with respect to the sampling, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

“Official AZDA memorandum” means any initial record of findings made by an authorized person in the process of grading or sampling pursuant to this Article, any processing or plant-operation report made by an authorized person in connection with grading or sampling under this Article, and any report made by an authorized person of services performed pursuant to this Article.

“Official AZDA mark” means the grademark and any other mark, or any variations in such marks approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product, stating that the product was graded, or indicating the appropriate U.S. grade or condition of the product, or for the purpose of maintaining the identity of products graded under this Article, including but not limited to, those set forth in R3-2-1111.

“Official identification” means any AZDA standard designation of class, grade, quality, size, quantity, or condition specified in this Article or any symbol, stamp, label, logo, or seal indicating that the product has been officially AZDA graded and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Supervisor and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

“Official plant” means the facilities used for a shell egg operation that has been approved by AZDA for grading purposes.

“Origin grading” means a grading made on a lot of eggs at a plant where the eggs are graded and packed.

“Packaging” means the primary or immediate container in which eggs are packaged and which serves to protect, preserve, and maintain the condition of the eggs.

“Packing” means the secondary container in which the primary or immediate container is placed to protect, preserve, and maintain the condition of the eggs during transit or storage.

“Person” means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

“Plant” means the facilities used for a shell egg operation.

“Potable water” means water that has been approved by the State health authority or agency or laboratory acceptable to the Administrator as safe for drinking and suitable for food processing.

“Product or products” means eggs of the domesticated chicken.

“Quality” means the inherent properties of any product which determine its relative degree of excellence.

“Quality assurance inspector” means any designated company employee other than the plant owner, manager, foreman, or

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supervisor, authorized by the State supervisor to examine product and to supervise the labeling, dating, and lotting of officially graded eggs and to assure that such product is packaged under sanitary conditions, graded by authorized personnel, and maintained under proper inventory control until released by an employee of the Department.

“Recipient” means the individual or entity whose application for grading services has been approved by the Department.

“Resident grading service” means continuous supervision, in an official plant, of the handling or packaging of any product.

“Sampling” means the act of taking samples of any product for grading or certification.

“SE” means *Salmonella* Enteritidis.

“Shell protected” means eggs which have had a protective covering such as oil applied to the shell surface. The product used shall be acceptable to the Food and Drug Administration.

“Shipped for retail sale” means eggs that are forwarded from the processing facility for distribution to the ultimate consumer.

“State supervisor” means the immediate supervisor of a Grader.

“Washed ungraded eggs” means eggs which have been washed and that are either sized or unsized, but not segregated for quality.

Historical Note

Section R3-2-1101 recodified from R3-2-101 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). New Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1102. General Provisions

- A.** Administration. The Administrator shall perform such duties as the Associate Director may require in the enforcement or administration of the provisions of this Article. The Administrator is authorized to waive for limited periods any particular provisions of this Article to permit experimentation so that new procedures, equipment, and processing techniques may be tested to facilitate definite improvements and at the same time to determine full compliance with the spirit and intent of this Article. The AZDA and its officers and employees shall not be liable in damages through acts of commission or omission in the administration of this Article.
- B.** Basis of grading service.
 1. Grading service with respect to the determination of the quality of products shall be on the basis of the United States Standards, Grades, and Weight Classes for shell eggs. However, grading service may be rendered with respect to products which are bought and sold on the basis of institutional contract specifications or specifications of the recipient; and such service, when approved by the Administrator, shall be rendered on the basis of such specifications. The supervision of packaging shall be in accordance with such instructions as may be approved or issued by the Administrator.
 2. Whenever grading service is performed on a representative sample basis, such sample shall be drawn and consist of not less than the minimum number of cases as indicated in:

- a. R3-2-903 for stationary lots; or
 - b. QAD 700 Shell Egg Graders Handbook Section 8 on-line sampling of Shell Eggs (8-30-2016).
3. Accessibility of product. Each product for which grading service is requested shall be so conditioned and placed as to permit a proper determination of the class, quality, quantity, or condition of such product.
- C.** Prerequisites to grading. Grading of products shall be rendered pursuant to this Article and under such conditions and in accordance with such methods as may be prescribed or approved by the Administrator.
- D.** Supervision. All plant grading service shall be subject to supervision at all times by an AZDA grader. Such service shall be rendered in accordance with instructions issued by the Administrator where the facilities and conditions are satisfactory for the conduct of the service and the requisite graders are available.
- E.** Other applicable regulations. Compliance with this Article shall not excuse failure to comply with any other applicable Federal, State, or local laws or regulations.

Historical Note

Section R3-2-1102 recodified from R3-2-102 (Supp. 97-1). Amended effective October 8, 1998 (Supp. 98-4).

Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1103. Equipment and Facilities for Graders

Equipment and facilities to be furnished by the recipient for use of graders in performing service on a resident basis shall include, but not be limited to, the following:

- A.** An accurate metal stem thermometer.
- B.** An accurate means to determine pH level of wash water.
- C.** Test kits for checking the concentration level of the solution used for sanitizing eggs and monitoring the concentration level of potable water treatment compounds in plants having chlorinators. The kit must be designed for testing the compound being used.
- D.** Protective equipment including, general purpose gloves and safety glasses to all egg graders who are monitoring the strength of potable water treatment compounds and egg sanitizing solutions, unless plant employees are trained to perform the testing under the direct supervision of the grader.
- E.** Electronic digital-display scales graduated in increments of 1/10-ounce or less for weighing individual eggs and test weights for calibrating such scales. Plants packing product based on metric weight must provide scales graduated in increments of one gram or less.
- F.** Electronic digital-display scales graduated in increments of 1/4-ounce or less for weighing the lightest and heaviest consumer packages packed in the plant and test weights for calibrating such scales.
- G.** Scales graduated in increments of 1/4-pound or less for weighing shipping containers and test weights for calibrating such scales.
- H.** Test weights sufficient in size to verify the accuracy of the lightest and heaviest unit of measurement weighed on any given scale located in the plant.
- I.** Two candling lights that provide a sufficient combined illumination through both the aperture and downward through the bottom to facilitate accurate interior and exterior quality determinations.

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- J. A candling booth adequately darkened and located in close proximity to the work area that is reasonably free of excessive noise. The booth must be sufficient in size to accommodate two graders, two candling lights, and other necessary grading equipment.
- K. If deemed necessary by the supervisor, a cart or method of conveyance for the transportation of samples to and from the candling booth.
- L. Furnished office space, suitable wireless internet connection, a desk and file or storage cabinets (equipped with a satisfactory locking device), suitable for the security and storage of official supplies, and other facilities and equipment as may otherwise be required. Such space and equipment must meet the approval of the Administrator.

Historical Note

Section R3-2-1103 recodified from R3-2-103 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1104. Schedule of Operation of Official Plants

Grading operating schedules for services performed pursuant to this Article shall be requested in writing and be approved by the Administrator. Normal operating schedules for a full week consist of a continuous eight-hour period per day (excluding not to exceed one hour for lunch), five consecutive days per week, within the administrative workweek, Saturday through Friday, for each shift required. Less than eight-hour schedules may be requested and will be approved if a grader is available. Clock hours of daily operations need not be specified in the request, although as a condition of continued approval, the hours of operation shall be reasonably uniform from day to day. Graders are to be notified by management one day in advance of any change in the hours grading service is requested.

Historical Note

Section R3-2-1104 recodified from R3-2-104 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1105. Application for Grading Service

- A. An application for AZDA grading service may be made by egg producer or a producer dealer with operations located in Arizona.
- B. Form of application. Each application for grading or sampling a specified lot of any product shall include such information as may be required by the Administrator in regard to the product and the premises where such product is to be graded or sampled. The applicant shall designate the employees of the applicant who will be authorized to provide information to the AZDA grader or graders as may be necessary for the performance of the grading service.
- C. Application for grading service in official plants; approval. Any person desiring to process and pack products in a plant under grading service must receive approval of such plant and facilities as an official plant prior to the rendition of such service. When a signed application for service has been received, the State supervisor or the supervisor's assistant shall complete a plant survey pursuant to this Article. An application for grading service shall be approved when the application has been filed for grading service; a successful plant survey is

completed; and all required facility or equipment modifications are completed.

- D. Denial of service. An application for grading service may be denied by the Administrator when:

1. The applicant fails to meet the requirements of this Article prescribing the conditions under which the service is made available.
2. The product is owned by or located on the premises of a person currently denied the benefits of this Article.
3. Any individual holding office or a responsible position with or having a substantial financial interest or share in the applicant is currently denied the benefits of the Act or was responsible in whole or in part for the current denial of the benefits of this Article to any person or entity.
4. The Administrator determines that the application is an attempt on the part of a person currently denied the benefits of this Article to obtain grading services.
5. The applicant, after an initial survey has been made in accordance with this Article, fails to bring the grading facilities and equipment into compliance with this Article within a reasonable period of time.
6. Notwithstanding any prior approval whenever, before initiation of service, the applicant fails to fulfill commitments concerning the initiation of the service.
7. It appears that performing the services specified in this Article would not be in the best interests of the public welfare or of the Government.
8. It appears to the Administrator, in his sole discretion, that prior commitments of the Department or lack of resources necessitate denial of service.

- E. Debarment. An applicant may be permanently debarred for the following reasons:

1. The giving or offering, directly or indirectly, of a bribe, or any money, loan, gift, or anything of value to an employee of the Department to obtain any benefit or special treatment;
2. Taking any action that falsely brings the Department in disrepute or that creates the appearance of impropriety;
3. Knowingly making a false or misleading statement of a material fact to the Department;
4. Using any official identification, grademark, stamp, symbol, label, seal, or identification without authority from the Department;
5. Forging, counterfeiting, or falsely simulating any grading certificate, symbol, stamp, label, seal, or identification authorized pursuant to this Article;
6. Use of an official grademark, certificate, symbol, stamp, label, seal, or identification without authority;
7. Failure to make an official plant or product accessible for grading service;
8. Interference with the performance of duty of an AZDA grader, licensee, contractor, or employee.
9. Failure to pay a Department invoice within 30 days after issuance of the invoice; or
10. Any other violation of any provision of the statutes, rules and regulations of the Department that threatens the health, safety, or welfare of the public.

- F. Notification. An applicant shall be promptly notified of the reasons for a denial of service. A written petition for reconsideration of such denial may be filed by the applicant with the Administrator if postmarked or delivered within 10 days after the receipt of notice of the denial. Such petition shall state specifically the errors alleged to have been made by the Administrator in denying the application. Within 20 days following the

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receipt of such a petition for reconsideration, the Administrator shall approve the application or notify the applicant of the reasons for the denial thereof. Service of notice may be accomplished by regular mail and/or email.

- G.** Withdrawal of application. An application for grading service may be withdrawn by the applicant at any time before the service is performed, provided that the applicant pays all expenses incurred by the AZDA in connection with such application.

Historical Note

Section R3-2-1105 recodified from R3-2-105 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1106. Authority of Applicant

- A.** Proof that an authorized controlling person is applying for any grading service may be required at the discretion of the Administrator. Such proof may include, but is not limited to:
1. Documentation, as specified under A.R.S. § 41-1080(A), of the applicant's lawful presence in the U.S.
 2. Proof of business entity structure of the plant.
 3. Proof of ownership interest or position held in the plant.
 4. Documentation of designated authority from the business entity under which the plant operates.
- B.** The approved recipient of grading services must notify the Department of a change of control or ownership of the official plant within 15 days after such change is effective.

Historical Note

Section R3-2-1106 recodified from R3-2-106 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1107. Order of Service

AZDA grading service shall be performed, insofar as practicable and subject to the availability of qualified graders, on a first-come, first-served basis, except that precedence may be given to an application for an appeal grading.

Historical Note

Section R3-2-1107 recodified from R3-2-107 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1108. Types of Grading Service

- A.** Scheduled continuous grading service on a resident basis and continuous grading service on a nonresident basis. Service on a resident basis has a scheduled tour of duty, while service on a nonresident basis has a nonscheduled tour of duty, but is of a reoccurring nature. Both of these services are performed when an applicant requests that an AZDA/inspector grader be stationed in the applicant's processing plant and grade eggs in accordance with U.S. Standards. The applicant agrees to comply with the facility, operating, and sanitary requirements of resident service. The charges for resident grading services are based on the hours of the regular tour of duty. Eggs graded under AZDA resident grading service are only eligible to be

identified with the official grademarks shown in R3-2-1111 when processed and graded under the supervision of a grader/inspector, or quality assurance inspector as provided in R3-2-1114.

- B.** Unscheduled temporary grading service. Temporary grading service is performed when an applicant requests resident grading on a fee basis. The applicant must meet all of the facility, operating, and sanitary requirements of resident service. Charges or fees are based on the time and expenses needed to perform the work. Eggs graded under temporary grading service are only eligible to be identified with the official AZDA grademarks when they are processed and graded under the supervision of a grader or quality assurance inspector as provided in R3-2-1114.
- C.** Auditing service. Auditing service is performed when an applicant requests independent verification of written quality assurance and value added standards for production, processing, and distribution of eggs. Charges or fees are based on time, travel, and expenses needed to perform the work.
- D.** The Department shall determine the number of graders needed to perform grading services. Recipients shall not ask AZDA graders to assume plant managerial responsibilities.

Historical Note

Section R3-2-1108 recodified from R3-2-108 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1109. Suspension of Grading Service or Plant Approval for Correctable Cause

- A.** Provision of grading services is a privilege and not a right. Any plant approval of grading services given pursuant to this Article may be suspended by the Administrator for:
1. Failure to maintain grading facilities and equipment in a satisfactory state of repair, sanitation, or cleanliness.
 2. The use of operating procedures which are not in accordance with this Article;
 3. Alterations of grading facilities or equipment which have not been approved in accordance with this Article; or
 4. Any reasons listed under R3-2-1105(D) "Denial of Service," or required by any other need to protect public health, safety, or welfare.
- B.** Suspension may occur prior to the right to have a hearing in cases in which immediate suspension is required to protect public health, safety, or welfare. Whenever it is feasible to do so, written notice in advance of such suspension of plant approval shall be given to the person concerned and shall specify a reasonable period of time in which corrective action must be taken. If advance written notice is not given, the action shall be promptly confirmed in writing after the suspension and the reasons therefor shall be stated, except in instances where the person has already corrected the deficiency. During such period of suspension, grading service shall not be rendered. After appropriate corrective action is taken, grading service will be restored immediately, or as soon thereafter as a grader can be made available.
- C.** If the grading facilities or methods of operation are not brought into compliance within a reasonable period of time as specified by the Administrator, the Administrator shall send formal notice of the suspension pursuant to A.R.S. Title 41, Chapter 6, Article 10. Any suspension shall continue in effect

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pending the outcome of a hearing unless otherwise ordered by the Administrator.

- D. Upon suspension of grading service, all grademarks (labels, seals, tags, or packaging material bearing other official identification), shall, under the supervision of a person designated by the AZDA, be destroyed, obliterated, or sequestered in a manner acceptable to the AZDA.
- E. In any case where grading service is suspended under this Section, the person concerned may thereafter apply for grading service once the conditions giving rise to the suspension or withdrawal have been remediated.

Historical Note

Section R3-2-1109 recodified from R3-2-109 (Supp. 97-1). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 3755, effective May 10, 2002 (Supp. 02-3). Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1110. Authority to Use Official Insignia

- A. Authority to use official AZDA grademarks. Authority to use an AZDA grademark on products is granted only to recipients who utilize the services of a grader or quality assurance inspector in accordance with this Article. Packaging materials bearing official identification marks shall be approved pursuant to R3-2-1110 to R3-2-1111, inclusive, and shall be used only for the purpose for which approved and prescribed by the Administrator. Any unauthorized use or disposition of approved labels or packaging materials which bear any official AZDA identification may result in cancellation of grading service, denial of the permission to use of labels or packaging materials bearing official identification, or denial of other benefits of the Act pursuant to the provisions of R3-2-1105 D.
- B. Approval of official identification. No label, container, or packaging material which bears official identification may contain any statement that is false or misleading. No label, container, or packaging material bearing official identification may be printed or prepared for use until the printers' or other final proof has been approved by the Administrator in accordance with this Article. It is the recipient's responsibility to ensure label compliance with the Federal Food, Drug, and Cosmetic Act, the Fair Packaging and Labeling Act, and the regulations promulgated under this Article. The use of finished labels must be approved as prescribed by the Administrator. A grader may apply official identification stamps to shipping containers if they do not bear any statement that is false or misleading. If the label is printed or otherwise applied directly to the container, the principal display panels of such container shall for this purpose be considered as the label. The label shall contain the name, address, and ZIP Code of the packer or distributor of the product, the name of the product, a statement of the net contents of the container, and the AZDA grademark.
- C. Nutritional labeling. Nutrition information must be included on the labeling of each unit container of consumer packaged eggs in accordance with the General Regulations for the Enforcement of the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act, located at 21 CFR §§ 101.1 to 101.108. The nutrition information included on labels is subject to review by the Food and Drug Administration prior to approval by the Department.
- D. Refrigeration labeling. All containers bearing official AZDA "Grade AA" or "Grade A" identification shall be labeled to indicate that refrigeration is required, for example, "Keep refrigerated," or words of similar meaning.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1111. Form of AZDA Grademark and Information Required

- A. Form of official identification symbol and grademark. The logo set forth in Illustration 1 shall be the official identification symbol for purposes of this Article and when used, imitated, or simulated in any manner in connection with eggs, shall be *prima facie* evidence that the product has been officially graded in compliance with this Article.
- B. Eggs with consumer grades. Except as otherwise authorized, the AZDA grademark used to officially identify AZDA consumer-graded eggs shall be of the form and design indicated in Illustrations 2 through 4. The logo shall be of sufficient size so that the printing and other information contained therein is legible and in approximately the same proportion as shown in these figures. No variation may be used for the color scheme of Illustration 4.
- C. The "Produced From" AZDA grademark. The Illustration 5 grademark may be used to identify products for which there are no official U.S. grade standards (for example, pasteurized shell eggs, and/or hard boiled eggs), provided that these products are approved by the Department and are prepared from AZDA compliant Consumer Grade AA or A eggs. The Illustration 5 grademark may utilize any one of the designs shown in Illustrations 2 through 4. The "Produced From" text outside the symbol shall be conspicuous, legible, and in approximately the same proportion and close proximity to the symbol as shown in Illustration 5.
- D. Information required on AZDA grademark. Except as otherwise authorized by the Administrator, each AZDA grademark shall include the letters "AZDA" and the U.S. grade of the product it identifies, such as "Grade AA," as shown in Illustration 2. Such information shall be printed with the symbol and the wording within the symbol in contrasting colors in a manner such that the design is legible and conspicuous on the material upon which it is printed.
- E. Product class. The size or weight class of the product, such as "Large," may appear within the grademark as shown in Illustration 3. If the size or weight class is omitted from the grademark, it must appear prominently on the main panel of the carton.
- F. Plant number. The plant number of the official plant preceded by the letter "P" must be shown on each carton or packaging material.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020

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(Supp. 20-2).

2020 (Supp. 20-2).

Illustration 1. AZDA



Historical Note

Illustration 1 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

Illustration 2. AZDA Grade AA



Historical Note

Illustration 2 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

Illustration 3. AZDA Grade AA Large



Historical Note

Illustration 3 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9,

Illustration 4. AZDA AA Grade



Historical Note

Illustration 4 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

Illustration 5. AZDA Grade AA Produced From Shell Eggs
Produced From



Historical Note

Illustration 5 made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-4-1112. Lot Marking of Officially Identified Eggs

Each carton identified with the AZDA grademarks shown in R3-2-1111 shall be legibly lot-numbered on the consumer package and the carton, and may also be shown on the individual egg. The lot number shall be the consecutive day of the year (Julian date) on which the eggs were packed (for example, 132), except other lot-numbering systems may be used when submitted in writing and approved by the Administrator.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1113. Retention Directives

A grader may use retention tags or other devices and methods as approved by the Administrator for the identification and control of eggs which are not in compliance with this Article or are held for further examination, and for any equipment, utensils, rooms or

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compartments which are found unclean or otherwise in violation of this Article. Any such item shall not be released until in compliance with this Article and retention identification shall not be removed by anyone other than a grader.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1114. Prerequisites to Packaging Eggs Identified with Grademarks

Quality assurance inspector required. The official grademark identification of any product as provided in this Article shall be done only under the supervision of a grader or quality assurance inspector. The grader or quality assurance inspector shall have supervision over the use and handling of all material bearing any official grademark identification.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1115. Grading Requirements of Eggs Identified with AZDA Grademarks

- A. Eggs to be identified with the AZDA grademarks illustrated in R3-2-1111 must be individually graded by a grader.
- B. In order to be officially identified with an AZDA consumer grademark, eggs shall:
 1. Be of current production;
 2. Be produced and processed within the borders of Arizona;
 3. Not possess any undesirable odors or flavors;
 4. Not have previously been shipped for retail sale;
 5. Meet consumer Grade A or Grade AA, as prescribed in AMS 56, United States Standards, Grades, and Weight Classes for Shell Eggs, revised as of July 20, 2000, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007, and can be found online at https://www.ams.usda.gov/sites/default/files/media/Shell_Egg_Standard%5B1%5D.pdf;
 6. Be produced and packaged in a facility in accordance with the Food and Drug Administration, Department of Health and Human Services' requirements for the Production, Storage, and transportation of Shell Eggs as specified in 21 CFR §§ 118.1 to 118.12, revised as of April 1, 2011, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007;
 7. Be produced and packaged in a facility that meets the Regulations Governing the Inspection of Eggs under the Egg Products Inspection Act (EPIA), as specified in 7 CFR §§ 57.1 to 57.970, revised as of April 12, 2006, which is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007;
 8. Be produced in a facility that has implemented a SE environmental monitoring program which includes testing for SE in chick papers and in the house environment when the pullets are 14-16 weeks of age, 40-45 weeks of age, four to six weeks post-molt, and pre-depopulation.

9. Be produced in a facility that has implemented and maintained a vaccination program to protect against SE infection, which includes a minimum of two attenuated live vaccinations and one killed or inactivated vaccination, or an alternative vaccination program that has been approved by the Department after having been demonstrated in the Department's estimation to be equally effective.

- C. Management at an official plant is responsible for notifying the AZDA grader whenever contaminated or adulterated eggs are present in the official plant. Any eggs identified as contaminated or adulterated must be properly labeled and controlled by plant management. This includes eggs originating from a layer house with an SE-positive environment or eggs testing positive for the presence of SE. Failure to control, detain and/or notify the grader of the presence of contaminated or adulterated eggs in the official plant will constitute a violation of this Article. Department employees are authorized to inspect lay houses and review plant documents to determine compliance with this Article.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1116. Payment of Fees and Charges

- A. Fees and charges for any grading service shall be paid by the recipient by check, draft, or money order payable to the "Arizona Department of Agriculture Egg Program." AZDA may require that fees and charges shall be paid in advance, and shall include travel, per diem, or other expenses incurred by the Department in connection with providing grading services.
- B. The cost of an appeal grading or review of a grader's decision shall be borne by the appellant on a unscheduled temporary basis at rates set forth in R3-2-1117, plus travel, per diem, or other expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged for the regrading.
- C. Invoices for services previously rendered will be issued no later than the 10th day following the end of the period in which the service was rendered and are payable in full upon receipt.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1117. Charges for Grading Service

- A. Scheduled continuous grading service. The following rates apply to continuous grading service on a resident basis and continuous grading service on a nonresident basis per grader:
 1. Regular rate: \$38.00/hour
 2. Overtime rate: \$57.00/hour
 3. Holiday rate: \$58.00/hour
- B. Plant survey, unscheduled temporary, auditing and appeal grading services. The following rates apply to temporary and auditing service per grader:
 1. Regular rate: \$57.00/hour
 2. Overtime rate: \$85.00/hour
 3. Holiday rate: \$87.00/hour
- C. Reapplication after termination of service by recipient. If a recipient causes termination under R3-2-1105(D), and reapplies within 12 months from the date of termination, there will

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be an additional re-application fee of \$300 in addition to the above fees.

- D. Extra charges.** The following extra charges shall be assessed:
1. All hours worked by an assigned grader or another grader in excess of the approved tour of duty, worked on a non-scheduled workday, or worked on a State holiday outside of the approved tour of duty, will be considered as over-time, at the rate of time and one-half.
 2. For all hours of work performed in a plant without an approved tour of duty, the charge will be the temporary grading service.
- E. No charges.** No charges will be assessed:
1. Solely because of a change in name or ownership of the official plant, unless the recipient of services fails to notify the Department within the time limit specified in R3-2-1105, in which case the above charges will apply.
 2. When the assigned grader is temporarily reassigned by AZDA to perform grading service for another service recipient.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1118. Termination by Recipient

Grading services under this Article shall be unilaterally terminated by the recipient of such service when:

- A. Service is not installed within six months from the date the application is filed due to inaction by the applicant or recipient on Department requirements.
- B. Service remains inactive for a period of more than six months due to a recipient's request for removal of a grader and the recipient does not accept reassignment of another grader by the Department.
- C. The recipient is terminated for cause based on violations listed in R3-2-1105(D).

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1119. Mutual Termination

- A. The Department and the recipient of service may mutually agree to termination of the service, under the following terms:
- B. Previously paid fees will not be returned to the service recipient.
- C. Pending charges will be paid in full for completed work of the Department.
- D. A pending application will be considered terminated, but a new application may be filed at any time, without penalty.
- E. Termination shall not take effect until the end of a 30-days' notice period, unless the parties agree otherwise.
- F. The mutual decision to terminate and any related agreements are documented in writing.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1120. Appeals

- A. Appeal grading. An appeal grading may be requested by any recipient or authorized designee or other interested party ("appellant") who is dissatisfied with the determination by a grader of the class, quality, quantity, or condition of any prod-

uct as evidenced by the AZDA grademark and accompanying label, or as stated on a grading certificate.

1. The appeal shall be filed with the original grader's immediate supervisor.
 2. Initial review of the appeal shall be made by the original grader's immediate supervisor, or by one or more licensed graders assigned by the immediate supervisor to review the appeal.
 2. An appeal may be made orally or in writing. If made orally, written confirmation is required. The appellant shall clearly state the reasons for requesting the appeal grading and a description of the product, or the decision which is questioned. If such appeal request is based on the results stated on an official certificate, the original and all available copies of the certificate shall be provided to the grader assigned to perform the appeal grading.
 3. The appellant's request for the appeal grading may be refused when it appears to the reviewer that the reasons given in the request are frivolous or not substantial, the quality or condition of the product has undergone a material change since the original grading, the original lot has changed in some manner, or the appellant has not materially complied with the requirements of this Article. In such case, the appellant shall be promptly notified of the reason or reasons for such refusal.
 4. If an appeal grading is granted, it shall be performed by a grader other than the original grader. Whenever practical, an appeal grading shall be conducted jointly by two independent graders.
 5. The following procedures shall be used for appeal grading:
 - a. The appeal sample shall consist of product taken from the original sample container plus an equal number of samples selected at random.
 - b. When the original samples are not available or have been altered, such as the removal of undergrades, the appeal sample size for the lot shall consist of double the samples required in R3-2-1102.
 - c. Eggs shall not have been moved from the original place of grading and must have been maintained under adequate refrigeration.
 6. Immediately after an appeal grading is completed, an appeal certificate shall be issued to show that the original grading was upheld, modified, or rejected. Such certificate shall supersede any previously issued certificate for the product involved and shall clearly identify the number and date of the superseded certificate. The issuance of the appeal certificate may be withheld until any previously issued certificate and all copies have been returned when such action is deemed necessary to protect the interest of the Department. When the appeal grader assigns a different grade to the lot, the existing AZDA grademark shall be changed or obliterated as necessary. When the appeal grader assigns a different class or quantity designation to the lot, the labeling shall be corrected.
- B. Appeal for suspension, termination or denial of service or debarment.** Any person whose grading service is suspended, terminated, denied service, or debarred, may request a hearing before an administrative law judge pursuant to A.R.S. Title 41, Chapter 6, Article 10. The decision of the administrative law judge is subject to review by the Director as provided by A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R.

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916, with an immediate effective date of April 9, 2020
(Supp. 20-2).

R3-2-1121. AZDA Grading Certificates

- A. Forms. AZDA grading certificates and sampling report forms (including appeal grading certificates and regrading certificates) shall be issued on forms approved by the Administrator.
- B. Issuance.
 - 1. Resident grading basis. Certificates will be issued only upon request therefor by the applicant or AZDA. When requested, a grader shall issue a certificate covering product graded by such grader. In addition, a grader may issue a grading certificate covering product graded in whole or in part by another grader when the grader has knowledge that the product is eligible for certification based on personal examination of the product or official grading records.
 - 2. Other than resident grading. Each grader shall, in person or by the grader's authorized agent, issue a grading certificate covering each product graded by such grader. A grader's name may be signed on a grading certificate by a person other than the grader, if such person has been designated as the authorized agent of such grader by the Administrator, provided that:
 - a. The certificate is prepared from an official memorandum of grading signed by the grader; and
 - b. A notarized power of attorney authorizing such signature has been issued to such person by the grader and is on file in the office of grading. In such case, the authorized agent shall sign both the agent's name and the grader's name, for example, "John Doe by Mary Roe."
- C. Disposition. The original and required or requested copies of the grading certificate, immediately upon issuance, shall be delivered, mailed, or electronically submitted to the recipient or the recipient's designee. One copy is required to be sent and the recipient may request additional copies. Other copies shall be filed and retained in accordance with the disposition schedule for grading program records.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R.
916, with an immediate effective date of April 9, 2020
(Supp. 20-2).

R3-2-1122. Minimum Facility and Operating Requirements for Egg Grading and Packing Plants

- A. For grading services that are provided on a resident or temporary basis, QAD 700 Shell Egg Graders Handbook Section 02 through Section 08, revised as of August 30, 2016. This material is incorporated by reference, does not include any later amendments or editions of the incorporate matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007; and the following minimum facility and operating conditions will be required:
- B. Applicants must comply with all applicable Federal, State and local government occupational safety and health regulations.
- C. Processing facilities are required to have a documented and implemented Quality Management System that meets Title 21, Part 117 of the U.S. Code of Federal Regulations "Current Good Manufacturing Practice, Hazard Analysis, and Risk-based Preventive Controls for Human Foods," revised as of April 1, 2018. This material is incorporated by reference, does not include any later amendments or editions of the incorporate matter, and is on file with the Department at 1688 W. Adams St., Phoenix, AZ 85007.

D. General requirements for premises, buildings and plant facilities.

1. The outside premises shall be free from refuse, rubbish, waste, unused equipment, and other materials and conditions which constitute a source of odors or a harbor for insects, rodents, and other vermin.
2. The outside premises adjacent to grading, packing, cooler, and storage rooms must be constructed to provide proper drainage to prevent conditions that may constitute a source of odors or propagate insects or rodents.
3. Buildings shall be of sound construction so as to prevent, insofar as practicable, the entrance or harboring of vermin.
4. Grading and packing rooms shall be of sufficient size to permit installation of necessary equipment and conduct grading and packing in a sanitary manner. These rooms shall be kept reasonably clean during grading and packing operations and shall be thoroughly cleaned at the end of each operating day.
5. The floors, walls, ceilings, partitions, and other parts of the grading and packing rooms including benches and platforms shall be constructed of materials that are readily cleanable, maintained in a sanitary condition, and impervious to moisture in areas exposed to cleaning solutions or moist conditions. The floors shall be constructed as to provide proper drainage.
6. Adequate toilet accommodations that are conveniently located and separated from the grading and packing rooms are to be provided. Handwashing facilities shall be provided with hot and cold running water, an acceptable handwashing detergent, and a sanitary method for drying hands. Toilet rooms shall be ventilated to the outside of the building and be maintained in a clean and sanitary condition. Signs shall be posted in the toilet rooms instructing employees to wash their hands before returning to work. In new or remodeled construction, toilet rooms shall be located in areas that do not open directly into processing rooms.
7. A separate refuse room or a designated area for the accumulation of trash must be provided in plants which do not have a system for the daily removal or destruction of such trash.
8. Adequate packing and packaging storage areas are to be provided that protect packaging materials and are dry and maintained in a clean and sanitary condition.

E. Grading and packing room requirements.

1. The egg grading or candling area shall be capable of adequate darkening to make possible the accurate quality determination of the candled appearance of eggs. There shall be no light source or reflection of light that interferes with, or prohibits the accurate quality determination of eggs in the grading or candling areas.
2. The grading and candling equipment shall provide adequate light to facilitate quality determinations. When needed, other light sources and equipment or facilities shall be provided to permit the detection and removal of stained and dirty eggs or other undergrade eggs.
3. The grading and candling equipment must be sanitarily designed and constructed to facilitate cleaning. Such equipment shall be kept reasonably clean during grading and packing operations and be thoroughly cleaned at the end of each operating day.

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4. Egg weighing equipment shall be constructed of materials to permit cleaning; operated in a clean, sanitary manner; and shall be capable of ready adjustment.
5. Adequate ventilation, heating, and cooling shall be provided where needed.
- F. Cooler room requirements.**
 1. Cooler rooms holding eggs that are identified with a consumer grade shall be refrigerated and capable of maintaining an ambient temperature no greater than 45 °F (7.2 °C).
 2. Accurate thermometers shall be provided for monitoring cooler room temperatures.
 3. Cooler rooms shall be free from objectionable odors and from mold, and shall be maintained in a sanitary condition.
- G. Egg protecting operations.**
 1. Egg protecting (oil application) operations shall be conducted in a manner to avoid contamination of the product and maximize conservation of its quality.
 2. Component equipment within the egg protecting system, including holding tanks and containers, must be sanitarily designed and maintained in a clean and sanitary manner, and the application equipment must provide an adequate amount of oil for shell coverage of the volume of eggs processed.
 3. Eggs with excess moisture on the shell shall not be shell protected.
 4. Oil having any off odor, or that is obviously contaminated, shall not be used in egg protection operations. Oil is to be filtered prior to application.
 5. The component equipment of the application system shall be washed, rinsed, and treated with a bactericidal agent each time the oil is removed.
 6. Adequate coverage and protection against dust and dirt shall be provided when the equipment is not in use.
- H. Egg cleaning operations.**
 1. Egg washing equipment must be sanitarily designed, maintained in a clean and sanitary manner, and thoroughly cleaned at the end of each operating day.
 2. Egg drying equipment must be sanitarily designed and maintained in a clean and sanitary manner. Air used for drying purposes must be filtered. These filters shall be cleaned or replaced as needed to maintain a sanitary process.
 3. The temperature of the wash water shall be maintained at 90 °F (32.2 °C) or higher, and shall be at least 20 °F (6.7 °C) warmer than the internal temperature of the eggs to be washed. These temperatures shall be maintained throughout the cleaning cycle. Accurate thermometers shall be provided for monitoring wash water temperatures.
 4. Approved cleaning compounds shall be used in the wash water.
 5. Wash water shall be maintained at a measurable pH level of 11 or higher. Accurate testing equipment shall be provided and accessible to the grader. If continuous monitoring of pH is not possible, the applicant should devise a monitoring system for documenting pH with a frequency that has been validated.
 6. Wash water shall be changed approximately every four hours or more often if needed to maintain sanitary conditions, and at the end of each shift. Remedial measures shall be taken to prevent excess foaming during the egg washing operation.
7. Replacement water shall be added continuously to the wash water of washers. Chlorine or quaternary sanitizing rinse water may be used as part of the replacement water, provided, they are compatible with the washing compound. Iodine sanitizing rinse water may not be used as part of the replacement water.
8. Only potable water may be used to wash eggs. Each official plant shall submit certification to the office of grading stating that their water supply is potable. An analysis of the iron content of the water supply, stated in parts per million, is also required. When the iron content exceeds two parts per million, equipment shall be provided to reduce the iron content below the maximum allowed level. Frequency of testing for potability and iron content shall be determined by the Administrator. When the water source is changed, new tests are required.
9. Waste water from the egg washing operation shall be piped directly to drains.
10. The washing, rinsing, and drying operations shall be continuous and shall be completed as rapidly as possible to maximize conservation of the egg's quality and to prevent sweating of eggs. Eggs shall not be allowed to stand or soak in water. Immersion-type washers shall not be used.
11. Prewetting eggs prior to washing may be accomplished by spraying a continuous flow of water over the eggs in a manner which permits the water to drain away or other methods which may be approved by the Administrator. The temperature of the water shall be the same as prescribed in this Section.
12. Washed eggs shall be spray-rinsed with water having a temperature equal to, or warmer than, the temperature of the wash water. The spray-rinse water shall contain a sanitizer that has been determined acceptable for the intended use by the supervisor and of not less than 100 PPM nor more than 200 PPM of available chlorine or its equivalent. Alternate procedures, in lieu of a sanitizer rinse, may be approved by the Administrator.
13. Test kits shall be provided and used to determine the strength of the sanitizing solution.
14. During non-processing periods, eggs shall be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a buildup of heat that may diminish the quality of the egg.
15. Washed eggs shall be reasonably dry before packaging and packing.
16. Steam, vapors, or odors originating from the washing and rinsing operation shall be continuously and directly exhausted to the outside of the building.
- I. Requirements for eggs officially identified with a grademark.**
 1. Eggs that are officially identified with an AZDA grademark shall be placed under refrigeration at an ambient temperature no greater than 45 °F (7.2 °C) promptly after packaging.
 2. Eggs that are to be officially identified with the AZDA grademark shall be packed only in new packaging materials that are clean, free of mold, mustiness and off odors, or clean and sanitized packaging material designed to be reused, and must be of sufficient strength and durability to adequately protect the eggs during normal distribution. When packed in other than fiber packing material, the containers must be of sound construction and maintained in a reasonably clean manner.
- J. Use of approved chemicals and compounds.**

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1. All egg washing and equipment cleaning compounds, defoamers, destainers, sanitizers, inks, oils, lubricants, or any other compound that comes into contact with the eggs shall be approved by the national supervisor for their specified use and handled in accordance with the manufacturer's instructions.
 2. All pesticides, insecticides, and rodenticides shall be approved for their specified use and handled in accordance with the manufacturer's instructions.
- K. Marking individual eggs.** The marking of individual eggs may be requested by processors as part of a specification requirement or for other marketing purposes.
1. Stamping eggs. Recognizing the difficulty in clearly stamping the rounded surface of an egg, a lot average tolerance of 10-percent for individual eggs with partial, illegible, or no marks in any combination is permitted with no individual case exceeding 20-percent. These tolerances may be applied as a moving average when performing online sampling or as a lot average while performing stationary lot gradings. If more than 50% of the image or letter or letters is missing, the symbol is illegible. Stamped eggs are not classified as stains or dirty. They are to be graded without regard to marking. An official grade cannot be assigned to a mixed lot of eggs that contains individually marked and unmarked eggs. If requested, the lot may be graded for all factors except ink stains. Lot averages may be shown on the certificate. The section "Official Grade and Size" shall state "No AZDA Grade." The following statement shall also be placed in the "Remarks" section: "Lot contains marked and unmarked eggs. Eggs graded for all factors except ink stains." Individual eggs with ink blotches or smears from dating devices are to be classified as stains or dirty, depending on the intensity and/or area of the stain [guidance not clear]. Inks used in marking individual eggs which will be officially graded are to be approved by the Administrator prior to their use. The request for approval should be accompanied with a copy of the ink formula, the name of the product, and the name and address of the manufacturer.
 2. Laser etching (marking eggs). The use of a laser etching system to mark information is subject to joint review by the Food and Drug Administration (food safety impact evaluation) and AZDA (quality impact evaluation). Only approved laser etching systems may be used to identify eggs to be officially graded and identified with an AZDA grademark. The amount of the shell surface available for laser etching and the information etched on the shell is subject to review by the resident grader and the supervisor. The information etched on the shell must not interfere with the graders ability to evaluate the quality attributes of the egg.
 3. When an individual egg is marked, whether an applied ink or laser etched, the information must be consistent with the information on the label, for example, any marketing claims, production code, or packer identity. If this information is not consistent throughout the lot, the eggs are not eligible to be identified with an AZDA grademark.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020

(Supp. 20-2).

R3-2-1123. Health and Hygiene of Personnel

- A.** No person known to be affected by a communicable or infectious disease shall be permitted to come in contact with the product.
- B.** Plant personnel coming into contact with the product shall wear clean clothing.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1124. Use of the "Produced From" Labeling

- A.** Use of the wording "Produced From" in conjunction with the AZDA grademark, is limited to products derived from AZDA Grade AA or Grade A eggs for which there are no U.S. grade standards (for example, pasteurized eggs or hard-cooked eggs). The following guidelines are to be used when monitoring the official grade identification of these types of products.
 1. Approval. Applicants interested in utilizing the "Produced From" labeling must submit a written proposal to the Administrator. The proposal is to include the type or types of product to be labeled and the applicant's plan for controlling the use and labeling of officially identified product. After review by the supervisor, the supervisor is to forward the request to the Administrator for final review and approval. Upon approval, the supervisor is to reconfirm all of the requirements with the applicant prior to any actual grade identification.
 2. Verification visits. To assure that only officially graded eggs are being used, the processing, packing, and packaging must be closely monitored. Each verification visit shall include a review of records, product inventory, processing procedures, packing, packaging, storage, and shipping practices to confirm that the applicant is following the protocol outlined in their approved plan. In plants with resident service, the supervisor or Administrator is to be present during the initial production period to monitor the process and verify compliance. The grader will conduct all subsequent monitoring and verification activities with oversight from the supervisor. In temporary or fee locations, plant management must notify the supervisor each time the "produced from" labeling will be used or, alternatively, provide the supervisor with a projected production schedule. At these locations, compliance will be based on the applicant's established history of compliance as outlined in the following schedule:
 - a. Level 1 - The supervisor or administrator is to monitor and verify the process on the initial day of production. The supervisor or a grader will conduct subsequent visits. At least one additional verification visit is to be conducted during the next 10 production days. If no discrepancies are noted, one visit is to be conducted for each 30 days of production until three consecutive satisfactory visits have been completed. Once this verification period has ended without any noted program non-conformance, monitoring may proceed to Level 2.
 - b. Level 2 - Supervisor or a grader is to conduct quarterly verification visits provided the applicant continues to meet all program requirements. If any nonconformance is noted during these visits, monitoring reverts back to Level 1. Misuse of the labeling will result in cancellation of the approval.

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- B.** Recordkeeping. Recipients shall maintain, and make available for review, all invoices or applicable Grading Certificates covering product received, produced, and shipped. At a minimum, these records must include the name and address of original packer, amount received, quantity produced, brand names, lot numbers, quantity shipped and name and address of receivers. Records must be maintained for two years.
- C.** Cost. There will be no additional charge to resident plants when graders monitor product labeling during their normal grading activities. When graded product is shipped from official plants to other processing locations for re-packaging that are not under continuous AZDA supervision, time and expenses associated in conducting the verification visits will be charged to the recipient at the current Temporary grading and auditing service rate.

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

R3-2-1125. Specification Grading

- A.** Applicants may request for additional specifications to be certified that exceed the standards of this Chapter. The requested specifications must be submitted in writing to the administrator for approval. The approving official will review the information for approval or advise the applicant of the reason or reasons for disapproval. If the specification is approved, a letter enclosing a copy of the approved application and specification will be returned to the applicant with a request to provide copies of the specification to each supplier and applicable AZDA grader. Each page of the approved specification will have an approval stamp bearing the date of approval and the signature of the approving official. Additionally, each page will be sequentially numbered such as page 1 of 5, page 2 of 5, etc.
- B.** Plant management is responsible for advising graders when they are preparing to pack eggs in accordance with an approved specification. However, each grader must be familiar with the approved specification list and, to the extent practically possible, be aware when products with approved specifications are being packed at the duty location. When a plant packs product requiring compliance with an approved specification, the grader shall obtain a copy of the specification from plant management and assure that all provisions of the specification are met. As applicable, product that meets specification requirements will be identified in accordance with procedures outlined in the approved specification. When the specification requires the issuance of a grading certificate, the following statement is to be placed in the remarks section of the certificate: "Product covered by this certificate meets specification requirements for _____."

Historical Note

Section made by final exempt rulemaking at 26 A.A.R. 916, with an immediate effective date of April 9, 2020 (Supp. 20-2).

ARTICLE 12. ACQUISITION AND USE OF SODIUM PENTOBARBITAL AND DERIVATIVES BY UNLICENSED INDIVIDUALS IN ANIMAL SHELTERS

R3-2-1201. Definitions

1. "Agreement" shall refer to a contract signed by the responsible person and the State Veterinarian whereby the responsible person has met all requirements set forth in Section R3-2-1202. The agreement remains in effect until

the expiration of the DEA registration or a change in employment status of the responsible person with the animal shelter.

2. "Approved curriculum" means any euthanasia-training curriculum approved by the AVMA or the State Veterinarian of Arizona.
3. "Authorized employee" means an unlicensed individual who is authorized to euthanize animals, takes direction from a responsible person or a licensed person, and has obtained State-Veterinarian-approved training in the use and handling of controlled substances as set forth in this Article.
4. "AVMA" means the American Veterinary Medical Association.
5. "AVMA Guidelines for the Euthanasia of Animals: 2020 Edition" means that specific edition of guidelines and does not include any later amendments or editions of the incorporated material, and is on file with the Department.
6. "Controlled Substances Act" refers to 21 U.S.C.A. § 801, et seq.
7. "Controlling person" means the natural person who exercises legal ownership, control, or designated leadership of a shelter.
8. "DEA" refers to the federal Drug Enforcement Agency.
9. "Licensed person" means a veterinarian licensed by the Arizona Veterinary Medical Examining Board, who is exempt from the euthanasia training requirements.
10. "Responsible person" means an unlicensed individual who meets the requirements of R3-2-1202, who is employed by the shelter, and who in the absence of a licensed person, has agreed to supervise the acquisition, storage, administration, and record-keeping of the controlled substances in accordance with the Controlled Substances Act and this Article.
11. "Shelter" means an animal care and control shelter operated by any town, city, county or the state, including privately operated animal shelters that are utilized by a town, city, county or the state.
12. "State Veterinarian" means the person appointed as the State Veterinarian under A.R.S. § 3-1211.

Historical Note

New Section made by final rulemaking at 29 A.A.R. 1327 (June 9, 2023), effective July 8, 2023 (Supp. 23-2).

R3-2-1202. General Provisions

- A.** Euthanasia of animals shall be done in compliance with the provisions of this Article and in accordance with procedures established under A.R.S. § 11-1021 by the local governing body.
- B.** Any shelter that does not employ a licensed supervisory veterinarian may apply for a DEA controlled-substances registration for each physical location in order to administer euthanasia. DEA will only grant the registration if the shelter is approved by, and meets the standards of, the State Veterinarian, as follows:
1. The responsible person is formally designated by the controlling person of the shelter as the individual responsible to obtain and manage controlled substances on behalf of the shelter;
 2. The responsible person must successfully complete an approved euthanasia training course;
 3. The responsible person and the State Veterinarian must execute an agreement obligating the responsible person to comply with this Article;

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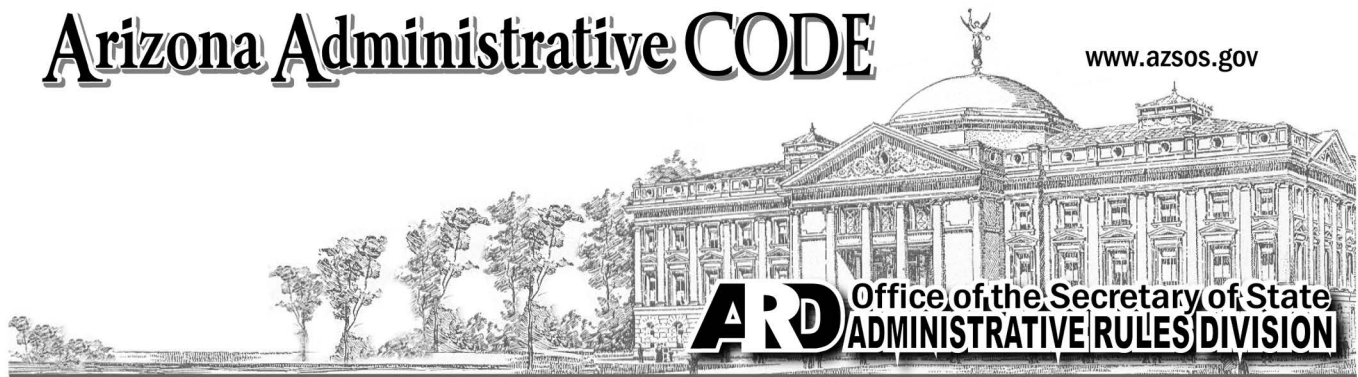
4. The responsible person is 21 years of age or older; and
 5. The responsible person shall provide three professional references to the State Veterinarian to demonstrate professionalism and good moral character.
- C. Duties and responsibilities of the responsible person are to:
1. Abide by all local, state, and federal laws and regulations pertaining to the operation of a shelter, including those laws and regulations governing possession and use of controlled substances.
 2. Ensure that any authorized employee who administers euthanasia complies with the American Veterinary Medical Association (AVMA) Guidelines for the Euthanasia of Animals: 2020 Edition.
 3. Ensure that any authorized employee who administers euthanasia has successfully completed a curriculum of euthanasia training approved by the State Veterinarian.
- D. Prior to the expiration of the current DEA registration, the responsible person shall submit an application to the State Veterinarian at least 45 days prior to that expiration, requesting re-approval of the shelter according to the requirements of this Article. The State Veterinarian approval shall run concurrently with the DEA registration, except as indicated in subsection (E).
- E. The shelter shall inform the State Veterinarian within 14 days of a change in:
1. Ownership or controlling person;
 2. Location;
 3. Responsible person; or
 4. Expiration or termination of an agreement or contract between a town, city, county or state utilizing the services of a privately operated shelter or shelters.
- F. Upon a change listed in subsection (E), the controlling person shall file an application with the State Veterinarian, requesting re-approval of the shelter according to the requirements of this Article. The existing agreement terminates upon the date of the change, and the shelter shall not administer any controlled substances until the State Veterinarian approves the new application and a new DEA registration is obtained.
- A. The following organizations offer approved euthanasia courses: The American Humane Association; The National Animal Care and Control Association; Companion Animal Euthanasia Training Academy. The State Veterinarian reserves the right to approve or withdraw the approval of curricula at any time. Approved curriculum training shall include an instructional section and a practical exam showing skill competency; and shall include, but not be limited to, the following topics:
1. Anatomy;
 2. Personnel safety, controlled substance diversion, and compassion fatigue;
 3. Controlled substance handling and mechanism of action;
 4. Humane methods of handling and euthanasia of domestic animals;
 5. Methods to ensure barriers between animals during euthanasia;
 6. Concepts particular to euthanasia of wild or feral animals;
 7. Administering pre-euthanasia sedatives;
 8. Verification of death; and
 9. Acceptable methods of disposal of animal remains and euthanasia supplies.
- B. The responsible person shall keep records of all euthanasia-related activities including, but not limited to:
1. Identification of animals euthanized;
 2. Reason for euthanasia;
 3. Method of euthanasia;
 4. Adverse events; and
 5. All recordkeeping required by the Controlled Substances Act.
- C. A shelter is subject to periodic random inspection by the Office of the State Veterinarian. Upon request by the Office of the State Veterinarian, the responsible person or controlling person shall immediately produce records.
- D. Following an audit or inspection, if evidence exists of non-compliance with the standards in this Section, the State Veterinarian reserves the right to modify the agreement. The State Veterinarian may also terminate the agreement, and notify the DEA that the shelter has lost approval by the State Veterinarian to administer euthanasia by unlicensed individuals.

Historical Note

New Section made by final rulemaking at 29 A.A.R. 1327 (June 9, 2023), effective July 8, 2023 (Supp. 23-2).

R3-2-1203. Requirements of Euthanasia Approved Curriculum; Recordkeeping; Inspection**Historical Note**

New Section made by final rulemaking at 29 A.A.R. 1327 (June 9, 2023), effective July 8, 2023 (Supp. 23-2).



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TITLE 3. AGRICULTURE

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The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
July 1, 2024 through September 30, 2024

Editor's note: This Chapter contains Section R3-4-301 amended under an emergency rulemaking as authorized under Laws 2024, Ch. 214, § 11(B). Section B states "The Department of Environmental Quality is exempt from rulemaking requirements of Title 41, Chapter 6, Arizona Revised Statutes, until July 1, 2025 for the purpose of establishing fees pursuant to this section."

On August 26, 2024, the Department of Agriculture Advisory Council voted in favor of continuing the existing applicant fees under R3-4-301(G)(1) and (2) in FY 2025. The Attorney General approved the emergency and approved the Department's request that the rule become effective on September 14, 2024, the general effective date of Laws 2024, Ch. 214 from the Fifty-sixth Legislature, Second Regular Session.

EMERGENCY RULEMAKING

[R3-4-301.](#) [Nursery Certification](#) [23](#)

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The release of this Chapter in Supp. 24-3 replaces Supp. 23-4, 1-56 pages.

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

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

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

THE ADMINISTRATIVE CODE

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

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

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

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

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

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

RULE HISTORY

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

AUTHENTICATION OF PDF CODE CHAPTERS

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

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

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

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

EXEMPTIONS FROM THE APA

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

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

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

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

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

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

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Administrative Rules Division

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TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE - PLANT SERVICES DIVISION

Authority: A.R.S. §§ 3-107, 3-201 et seq., 3-441 et seq., and 3-481 et seq.

Supp. 24-3

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Article 3 consisting of Sections R3-4-301 through R3-4-307 adopted effective January 17, 1989.

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(Authority: A.R.S. § 3-205.02 et seq.)

Article 5, consisting of Section R3-4-501 renumbered from R3-4-205 and amended, effective April 9, 1998 (Supp. 98-2).

Article 5, consisting of Sections R3-4-501 through R3-4-506, repealed by summary action with an interim effective date of February 10, 1995; interim effective date of February 10, 1995 now the permanent date (Supp. 96-3).

Article 5, consisting of Sections R3-4-501 through R3-4-505 adopted effective October 15, 1993 (Supp. 93-4).

Article 5, consisting of Sections R3-4-501 through R3-4-504 repealed effective October 15, 1993 (Supp. 93-4).

Title 3, Chapter 4, Article 5, Sections R3-4-501 through R3-4-504 renumbered from Title 3, Chapter 1, Article 5, Sections R3-1-501 through R3-1-504 (Supp. 91-4).

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Article 6, consisting of Sections R3-4-601 through R3-4-618 and Appendix A, adopted effective July 6, 1993 (Supp. 93-3).

Article 6, consisting of Sections R3-4-601 through R3-4-633 and Appendix A, repealed effective July 6, 1993 (Supp. 93-3).

Title 3, Chapter 4, Article 6, Sections R3-4-601 through R3-4-633 and Appendix 1 renumbered from Title 3, Chapter 1, Article 6, Sections R3-1-601 through R3-1-633 and Appendix 1.

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(Authority: A.R.S. § 3-481 et seq.)

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(Authority: A.R.S. § 3-441 et seq.)

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ARTICLE 1. GENERAL PROVISIONS

R3-4-101. Definitions

In addition to the definitions provided in A.R.S. §§ 3-201, 3-231, 3-441, and 3-481, the following terms apply to this Chapter:

“Appliance” means any box, tray, container, ladder, tent, vehicle, implement, or any article or thing that is or may be used in growing, harvesting, handling, packing, or transporting any agricultural commodity.

“Carrier” means any plant or thing that can transport or harbor a plant pest.

“Certificate” means an original document issued by the Department, the United States Department of Agriculture, or authorized officer of the state of origin, stating name, quantity, and nature of the regulated commodity, and the compliance information required by a specific regulation.

“Commodity” means any plant, produce, soil, material, or thing that may be subject to federal and state laws and rules.

“Container” means any box, crate, lug, chest, basket, carton, barrel, keg, drum, can, sack, or other receptacle for a commodity.

“Cotton” means all parts of *Gossypium* spp., except manufactured cotton products.

“Equipment” means any vehicle, device, implement, ladder, tent, or any article or thing that is or may be used in growing, harvesting, handling, packing, or transporting any agricultural commodity.

“Gin trash” means organic waste or materials resulting from ginning cotton.

“Host” means a plant on or in which a pest can live or reproduce, or both.

“Husk” means the membranous outer envelope of many seeds and fruit, such as an ear of corn or a nut.

“Infested” means:

- (i) Any plant or other material on or in which a pest is found, or
- (ii) A geographical area where a pest is known to occur.

“Inspector” means an employee of the Department or other governmental agency who enforces any law or rule of the Department.

“Lot” means any one group of plants or things, whether or not containerized that is set apart or is separate from any other group.

“Nursery” means real property or other premises on or in which nursery stock is propagated, grown, or cultivated or from which source nursery stock is offered for distribution or sale. (A.R.S. § 3-201(5))

“Permit” means an official document authorizing the movement of a host plant and carrier.

“Person” means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character, or another agency.

“Pests” includes all noxious weeds, insects, diseases, mites, spiders, nematodes and other animal or plant organisms found

injurious, or likely to become injurious, to any domesticated, cultivated, native or wild plant, or to the product of any such plant. (A.R.S. § 3-201(7))

“Phyto-sanitary certificate” means a certificate issued by a plant regulatory official for the purpose of certifying a commodity or appliance as pest free.

“Plant” or “crop” includes every kind of vegetation, wild or domesticated, and any part thereof, as well as seed, fruit or other natural product of such vegetation. (A.R.S. § 3-201(8))

“Processed product” means any fruit, vegetable, or other food product covered under the regulations in this part which has been preserved by any recognized commercial process, including, but not limited to canning, freezing, dehydrating, drying, the addition of chemical substances, or by fermentation. (7 CFR § 52.2)

“Sell” means to exchange for money or its equivalent including to offer, expose, or possess a commodity for sale or to otherwise exchange, barter, or trade.

“Soil” means any non-liquid combination of organic, or organic and inorganic material in which plants can grow.

“Subcontainer” means any container being used within another container.

“Transport” means moving an article from one point to another.

“Treatment” means an application of a substance as either a spray, mist, dust, granule, or fumigant; or a process in which a substance or procedure is used to control or eradicate a plant pest.

“Vector” means an organism (usually an insect) that may carry a pathogen from one host plant to another.

“Vehicle” means an automotive device, such as a car, bus, truck, or private or recreational vehicle.

Historical Note

Former Rule 1; Amended effective June 16, 1977 (Supp. 77-3). Section R3-1-01 renumbered to R3-4-101 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2). New Section R3-4-101 renumbered from R3-4-102 without change, effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 19 A.A.R. 3860, effective January 4, 2014 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-102. Licensing Time-frames

- A. Overall time-frame. The Department shall issue or deny a license within the overall time-frames listed in Table 1 after receipt of the complete application. The overall time-frame is the total of the number of days provided for the administrative completeness review and the substantive review.
- B. Administrative completeness review.
 - 1. The administrative completeness review time-frame established in Table 1 begins on the date the Department receives the application. The Department shall notify the applicant in writing within the administrative completeness review time-frame whether the application or request is incomplete. The notice shall specify what information is missing. If the Department does not provide notice to the applicant within the administrative

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completeness review time-frame, the Department considers the application complete.

2. An applicant with an incomplete license application shall supply the missing information within the completion request period established in Table 1. The administrative completeness review time-frame is suspended from the date the Department mails the notice of missing information to the applicant until the date the Department receives the information.
 3. If the applicant fails to submit the missing information before the expiration of the completion request period, the Department shall close the file, unless the applicant requests an extension. An applicant whose file has been closed may obtain a license by submitting a new application.
- C. Substantive review. The substantive review time-frame established in Table 1 shall begin after the application is administratively complete.
1. If the Department makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the additional information period provided in Table 1. The substantive review time-frame is suspended from the date of the Department request until the information is received by the Department. If the applicant fails to provide the information identified in the written request within the additional information period, the Department shall deny the license.
 2. The Department shall issue a written notice granting or denying a license within the substantive review time-frame. If the application is denied, the Department shall send the applicant written notice explaining the reason for the denial with citations to supporting statutes or rules, the applicant's right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

Historical Note

Former Rule 2; Amended effective June 19, 1978 (Supp. 78-3). Section R3-1-02 renumbered to R3-4-102 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Section R3-4-102 renumbered to R3-4-101; new Section R3-4-102 adopted effective October 8, 1998 (Supp. 98-4).

R3-4-103. Repealed**Historical Note**

Former Rule 3. Section R3-1-03 renumbered to R3-4-103 (Supp. 91-4). Repealed effective September 22, 1994 (Supp. 94-3).

R3-4-104. Repealed**Historical Note**

Former Rule 4. Section R3-1-04 renumbered to R3-4-104 (Supp. 91-4). Repealed effective September 22, 1994 (Supp. 94-3).

R3-4-105. Repealed**Historical Note**

Former Rule 5. Section R3-1-05 renumbered to R3-4-105 (Supp. 91-4). Amended effective September 22, 1994 (Supp. 94-3). Section repealed by final rulemaking at 6 A.A.R. 41, effective December 8, 1999 (Supp. 99-4).

R3-4-106. Repealed**Historical Note**

Former Rule 6. Section R3-1-06 renumbered to R3-4-106 (Supp. 91-4). Repealed effective September 22, 1994 (Supp. 94-3).

R3-4-107. Repealed**Historical Note**

Former Rule 7. Section R3-1-07 renumbered to R3-4-107 (Supp. 91-4). Amended effective September 22, 1994 (Supp. 94-3). Section repealed by final rulemaking at 19 A.A.R. 3860, effective January 4, 2014 (Supp. 13-4).

R3-4-108. Repealed**Historical Note**

Former Rule 8. Section R3-1-08 renumbered to R3-4-108 (Supp. 91-4). Repealed effective September 22, 1994 (Supp. 94-3).

R3-4-109. Repealed**Historical Note**

Former Rule 9. Section R3-1-09 renumbered to R3-4-109 (Supp. 91-4). Repealed effective September 22, 1994 (Supp. 94-3).

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Table 1. Time-frames (Calendar Days)

License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
QUARANTINE						
Plant and Crop Safeguards, Inspection, and Certification	R3-4-203	14	14	30	30	44
Boll Weevil and Pink Bollworm	R3-4-204(D)	14	14	30	30	44
Small-Grain Crop Approval	R3-4-204(E)(4)(b)	14	14	30	30	44
Boll Weevil and Pink Bollworm	R3-4-218	14	14	30	30	44
Lettuce Mosaic	R3-4-233	14	14	30	30	44
Noxious Weeds	R3-4-245	14	14	30	30	44
Colored Cotton	A.R.S. § 3-205.02 R3-4-501	14	0	0	0	14
NURSERY						
General Nursery Stock Inspection	R3-4-301(B)	30	14	1 yr	14	1 yr, 30 days
Special Nursery Stock Inspection: Ozonium Root Rot	R3-4-301(C)					
• Method of Growing New		7	14	60	14	67
• Renewal		7	14	30	14	37
• Indicator Crop Planted on Applicant's Property		7	14	4 yrs	14	4 yrs, 7 days
Special Nursery Stock Inspection: Rose Mosaic	R3-4-301(C)	7	14	180	14	187
Special Nursery Stock Inspection: Brown Garden Snail	R3-4-301(C)	7	14	30	14	37
Special Nursery Stock Inspection: Other	R3-4-301(C)	7	14	30	14	37
Phytosanitary Field Inspection	A.R.S. § 3-233(A)(7) R3-4-407	30	7	210	7	240
STANDARDIZATION						
Experimental Pack and Product for Fruit and Vegetables	A.R.S. § 3-487 R3-4-740	7	7	7	7	14
Experimental Pack and Product for Citrus Fruit	A.R.S. § 3-445 R3-4-814	7	7	7	7	14
Citrus Fruit Dealer, Packer, or Shipper License	A.R.S. § 3-449	14	14	14	14	28
Fruit and Vegetable Dealer, Packer, or Shipper License	A.R.S. § 3-492	14	14	14	14	28
SEED DEALERS AND LABELERS						
Seed Dealer	A.R.S. § 3-235 R3-4-408	14	14	14	14	28
Seed Labeler	A.R.S. § 3-235 R3-4-408	14	14	14	14	28

Historical Note

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Table 1 adopted effective October 8, 1998 (Supp. 98-4). Amended by final rulemaking at 7 A.A.R. 3812, effective August 10, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3633, effective August 7, 2002 (Supp. 02-3). Amended by final rulemaking at 8 A.A.R. 4454, effective October 2, 2002 (Supp. 02-4). Amended Section references under Arizona Native Plants to correspond to recodification at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 2665, effective June 8, 2004 (Supp. 04-2). Amended by final rulemaking at 19 A.A.R. 3860, effective January 4, 2014 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

ARTICLE 2. QUARANTINE**R3-4-201. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-201, 3-231, 3-441, 3-481, and R3-4-101, the following terms apply to this Article: “Associate Director” means the Associate Director of the Plant Services Division.

“Common carrier” means any person transporting a commodity or equipment for compensation or commercial purpose.

“Compliance agreement” means a written agreement or permit between a person and the Department for the purpose of allowing the movement or production of a regulated commodity or used equipment from a quarantined area of this state and containing demonstrated safeguarding measures to ensure compliance with the purposes of A.R.S. Title 3, Chapter 2, Article 1.

“Cotton harvesting machine” means any machine used to pick or harvest raw cotton in a field.

“Firewood” means wood that has been cut, sawn, or chopped into a shape and size commonly used for fuel, or other wood intended for fuel.

“Fumigate” means to apply a gaseous substance to a commodity or used equipment in a closed area to eradicate a pest.

“Green lumber” means freshly sawn, unseasoned wood.

“Hull” means the dry outer covering of a seed or nut.

“Infected” means any plant or other material on or in which a disease is found.

“Label” means all tags and other written, printed, or graphic representations in any form, accompanying or pertaining to a plant or other commodity.

“Limited permit” means a permit issued by the Department to a common carrier or responsible party to transport a commodity or used equipment that would otherwise be restricted.

“Master permit” means a permit issued by the Department to another state department of agriculture that gives that other state authority to certify, in accordance with the terms of the permit, that a regulated commodity or used equipment may enter Arizona without a quarantine compliance certificate.

“Origin inspection agreement” means a permit issued by the Department to a person that specifies terms to ship or transport a regulated commodity or used equipment into Arizona, which importation would otherwise be prohibited by this Article, and that the State Plant Regulatory Official agrees with.

“Package” means:

- (i) Any container, box, bag, or envelope used for the shipment of a commodity or used equipment through postal and parcel services, or
- (ii) Individual packets of seeds for planting.

“Pest free” means apparently free from all regulated plant pests, as determined by an inspection.

“Pest Management Program” means any state or federally recognized program designed for the prevention, monitoring, and control of a pest or disease. Based on a targeted management (Integrated Pest Management) or holistic approach (Total Systems Approach Program) that incorporates best management practices, monitoring, cultivation practices, cultural controls, treatment programs and/or pest resistant plant varieties, cultivars or hybrids for the control or effective management of any live life stages of a pest or disease.

“Quarantine compliance certificate” means a certificate issued by a plant regulatory official of the originating state that establishes that a commodity or used equipment has been treated or inspected to comply with Arizona quarantine rules and orders and includes a certificate of inspection.

“Receiver” means any person or place of business listed on a bill of lading, manifest, or freight bill as a consignee or destination for a commodity or used equipment.

“Regulated plant pest” means all live life stages of an arthropod, disease, plant, nematode, or snail that is regulated or considered under quarantine by a state or federal law, rule or order enforced by the Department.

“Responsible party” means a common carrier, person, or place of business that is legally responsible for the possession of a commodity or used equipment.

“Stub or soca cotton” means cotton stalks of a previous crop that begin to show signs of growth.

“Treatment Manual” means the USDA-APHIS-PPQ Treatment Manual, T301—Cotton and Cotton Products, revised May 2017. The Treatment Manual is incorporated by reference, does not include any later amendments or editions, and is available from the Department and online at http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf.

Historical Note

Former Rule, Quarantine Regulation 2; Amended effective July 1, 1975 (Supp. 75-1). Former Section R3-4-50 repealed, new Section R3-4-50 adopted effective October 23, 1978 (Supp. 78-5). Section R3-1-50 renumbered to R3-4-201 (Supp. 91-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 19 A.A.R. 3860, effective January 4, 2014 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-202. Domestic Importation

- A.** Any commodity shipped or transported into the state shall be made available for inspection if required to determine whether the commodity is free of all live pests subject to federal and state laws and rules.
- B.** Restrictions.
 - 1. Prior to or upon delivery, a shipper, consignor, or broker of a commodity, regulated or otherwise, (excluding processed products) which is shipped into the state must pro-

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vide the receiver with a bill of lading, manifest, or other similar documentation that indicates:

- a. The contact information of the consignor and consignee;
 - b. The contents of the shipment; and
 - c. The origin of the commodity.
2. A shipper, consignor, or broker must provide common carriers documentation prior to shipment containing the following additional information for any commodity that is shipped or transported into the state that is regulated by this Article or other state or federal law, rule or order enforced by the Department:
 - a. The name and physical address of the shipper and receiver;
 - b. A certificate of inspection for nursery stock, if applicable;
 - c. The botanical or common name of the commodity, if applicable;
 - d. The trade or descriptive name of the used container or used equipment, if applicable;
 - e. The quantity of each type of commodity;
 - f. The county and state or foreign country where each commodity originated;
 - g. Any other certificate or permit required by this Article or other state or federal law, rule or order enforced by the Department.
 3. Common carriers shall provide the receiver of a commodity regulated by this Article or other state or federal law, rule or order enforced by the Department, with the documentation required under subsection (B)(2) at the time the regulated commodity is delivered to the receiver.
 4. Certificate of Release. Any person receiving a regulated commodity from a post office, package transportation and delivery terminal, or any carrier without a Certificate of Release shall immediately notify the Department and request an inspection.
- E.** Disposition of commodity. When a common carrier is in possession of, or responsible for, a commodity that has been inspected by an inspector and found in violation of this Article or other state or federal law, rule or order enforced by the Department, and elects to ship the commodity out-of-state, A.R.S. § 3-210:
1. The inspector shall notify the shipper, consignor or broker that the commodity is being shipped out-of-state.
 2. The common carrier shall follow the directions provided by the inspector on moving the commodity out-of-state.

Historical Note

Former Rule, Quarantine Regulation 3. Section R3-1-51 renumbered to R3-4-202 (Supp. 91-4). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). New Section R3-4-202 renumbered from R3-4-201 and amended by final rulemaking at 19 A.A.R. 3860, effective January 4, 2014 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-203. Plant and Crop Safeguards, Inspection, and Certification

- A.** Definitions. In addition to the definitions provided in A.R.S. § 3-201, R3-4-101 and R3-4-201, the following terms apply to this Section:
1. “Actionable arthropod pest” means any arthropod pest that the Associate Director has determined to be an imminent threat to agriculture and horticulture within the state.

Table 2, Actionable Arthropod Pests includes, but is not limited to, arthropod pests that would require immediate action and are prohibited from entry into the state.

2. “Actionable nematode pest” means any nematode pest that the Associate Director has determined to be an imminent threat to agriculture and horticulture within the state. Table 3, Actionable Nematode Pests includes, but is not limited to, nematode pests that would require immediate action and are prohibited from entry into the state.
 3. “Pest Management Program” means any state or federally recognized program designed for the prevention, monitoring, and control of an actionable arthropod pest or actionable nematode pest. Based on a targeted management (Integrated Pest Management) or holistic approach (Total Systems Approach Program) that incorporates best management practices, monitoring, cultivation practices, cultural controls, treatment programs and/or pest resistant plant varieties, cultivars or hybrids for the control of any live life stages of an actionable arthropod pest or actionable nematode pest associated with the commodity, with a zero pest presence tolerance.
- B.** Regulated area. Unless otherwise indicated, all states, districts, and territories of the United States.
- C.** Commodities covered.
1. All plants and plant products for propagation, including nursery stock (bareroot or potted), budwood, seed for planting, cuttings, stolons, and tissue culture shipped or transported into the state that is a known host for an actionable arthropod pest or actionable nematode pest from the place of origin. Additionally, all agricultural, ornamental, and vegetable seed shall comply with the laws and regulations in Article 4 and any other law, order or federal regulation enforced by the Department.
 2. All commercially harvested or bulk shipments of a plant or crop, excluding processed products, which are shipped or transported into the state that may harbor an actionable arthropod pest.
 3. All domestic soil shipped or transported into the state that is:
 - a. Not authorized under a permit or compliance agreement issued by the U.S. Department of Agriculture;
 - b. Not sterilized and not packaged for retail sale;
 - c. Attached to a plant for the purpose of propagation; or
 - d. Used for the purpose of landscaping or grading.
 4. All firewood and green lumber with attached bark.
 5. All used equipment utilized for the propagation, harvesting, transport, and/or maintenance of a commodity listed in subsections (C)(1), (2), (3), or (4).
- D.** Restrictions.
1. For commodities listed in subsection (C) that are not accompanied by proof of compliance with this Section as indicated in the remainder of subsection (D); or are found infested with, or exposed to, an actionable arthropod pest or actionable nematode pest may be placed under quarantine until a disposition is determined by an inspector, A.R.S. § 3-203.
 2. In addition to the requirements under any other Section in this Article, law, order, or federal law enforced by the Department, the commodities listed in subsection (C)(1), are authorized for shipment or transport into the state provided a plant regulatory official at the place of origin issues a quarantine compliance certificate and statement of compliance with this Section by one of the following:

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- a. For an actionable arthropod pest known to occur at origin:
 - i. The commodities in the shipment or shipments are inspected and a plant regulatory official provides a certificate attesting that the commodity is apparently free of any live life stages of an actionable arthropod pest;
 - ii. The Associate Director and State Plant Regulatory Official of the origin state has placed the producer under a compliance agreement, authorizing a Pest Management Program for actionable arthropod pests, and has provided certification of compliance to the producer if all provisions of a Pest Management Program are met; or
 - iii. A certificate attesting to treatment for actionable arthropod pests known to occur in the origin location is issued by a plant regulatory official.
 - b. For an actionable nematode pest known to occur at origin:
 - i. The origin state determined through an annual survey conducted within the 12-month period immediately before shipment that the actionable nematode pests do not exist on the property or in the facility used to grow the commodity.
 - ii. The commodity in the shipment was sampled two weeks before shipment, and found free of actionable nematode pests.
 - iii. The commodity was protected from infestation of the actionable nematode pests by implementing all of the following steps:
 - (1) Propagated from clean seed or from cuttings taken 12 inches or higher above ground level;
 - (2) Planted in sterilized soil or other media prepared or treated to ensure freedom from actionable nematode pests;
 - (3) Retained in a sterilized container or bed;
 - (4) Placed on a sterilized bench or sterilized support 18 inches or higher from the ground or floor level; and
 - (5) Found pest-free using a sampling method approved by the Associate Director.
 3. In addition to the requirements under any other Section in this Article, law, order, or federal law enforced by the Department, the commodities listed in subsection (C)(2), are authorized for shipment or transport into the state provided a plant regulatory official at the place of origin issues a quarantine compliance certificate and statement of compliance with this Section by one of the following:
 - a. Authorize and validate compliance for an area-wide control program for actionable arthropod pests known to occur at the origin location;
 - b. Inspect bulk shipments of commodities by standard risk-based sampling rates to achieve a 95% confidence level that the shipment is apparently free of any live life stages of an actionable arthropod pest known to occur at origin; or
 - c. Require treatment for actionable arthropod pests known to occur in the origin location by a method known to control the pest and verify effectiveness of treatment.
 4. In addition to the requirements under any other Section in this Article, law, order, or federal law enforced by the Department, the commodities listed in subsection (C)(3), are authorized for shipment or transport into the state provided a plant regulatory official at the place of origin issues a quarantine compliance certificate and statement of compliance with this Section by one of the following:
 - a. Authorize and validate a Pest Management Program or an area-wide control program for actionable arthropod pests; or
 - b. Require treatment for actionable arthropod pests known to occur in the origin location by a method known to control the pest.
 5. In addition to the requirements under any other Section in this Article, law, order, or federal law enforced by the Department, the commodities listed in subsection (C)(4), are authorized for shipment or transport into the state provided a plant regulatory official at the place of origin issues a quarantine compliance certificate and statement of compliance with this Section by one of the following:
 - a. Heat treatment as indicated in the USDA Treatment Manual, Heat Treatment Schedule: T314-a; and accompanied by a treatment certificate issued by a certified heat-treatment facility, or a state or federal regulatory official; or
 - b. Any other method approved by the Associate Director that eliminates all live life stages of an actionable arthropod pest.
 6. In addition to the requirements under any other Section in this Article, law, order, or federal law enforced by the Department, the equipment listed in subsection (C)(5), are authorized for shipment or transport into the state provided it is accompanied by a quarantine compliance certificate issued by the origin state attesting that the commodity is reasonably free of all soil and extraneous plant material that could harbor a live life stage of an actionable arthropod pest.
- E. Exemptions.**
1. The Associate Director may issue an exemption to a restriction in this Section at the request of a State Plant Regulatory Official on an area-wide or county-wide basis, under the following conditions:
 - a. For an area-wide or county-wide exemption of a commodity (Master Permit):
 - i. The State Plant Regulatory Official agrees to comply with the conditions of a Master Permit that indicates the necessary safeguarding measures including monitoring, inspection, treatment, alternate treatment, and/or certification of the commodity.
 - ii. The Department may suspend or revoke a Master Permit if one or more shipments of a commodity are not in compliance with the conditions of the authorized Master Permit or live life stages of an actionable arthropod pest or actionable nematode pest are found.
 - b. For an exemption provided to a shipper of a commodity (Origin Inspection Agreement):
 - i. The State Plant Regulatory Official and the shipper agree to comply with the conditions of an Origin Inspection Agreement that indicates the necessary safeguarding measures including monitoring, inspection, treatment, alternate

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- treatment, and/or certification of the commodity.
- ii. The Department may suspend or revoke an Origin Inspection Agreement if one or more shipments of a commodity are not in compliance with the conditions of the Origin Inspection Agreement or live life stages of an actionable arthropod or actionable nematode pest are found.
2. Notwithstanding any other restriction, the Associate Director may declare a state, or an area within a state, exempt to a condition in this Section if it is demonstrated by a State Plant Regulatory Official that an actionable arthropod pest or actionable nematode pest is known not to occur in the origin state and that the actionable arthropod pest or actionable nematode pest is part of a state or federal authorized pest monitoring program that justifies the "free from" status.
- F.** Violations. Any shipper of a commodity listed in subsection (C) that is not in compliance with the restrictions indicated in subsection (D), or an actionable arthropod pest or actionable nematode pest are found on the shipment, the shipper may be temporarily suspended from shipping or transporting commodities listed in subsection (C) into the state under the following guidelines:
- a. The shipper will be notified of the violations and corrective measures will be provided;
 - b. The origin State Plant Regulatory Official will be notified of the violation and suspension;
 - c. The shipper will be required to contact the origin State Plant Regulatory Official to confirm completion of corrective measures;
 - d. The origin State Plant Regulatory Official will contact the Department to request approval to retract the suspension upon successful completion of the corrective measures; and
 - e. The Associate Director may retract the suspension upon satisfactory completion of the corrective measures.
- Historical Note**
- Former Rule, Quarantine Regulation 4. Repealed effective October 23, 1978 (Supp. 78-5). Section R3-1-52 renumbered to R3-4-203 (Supp. 91-4). New Section made by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4). Section amended by final rulemaking at 29 A.A.R. 3932 (December 29, 2023) effective February 4, 2024 (Supp. 23-4).
- R3-4-204. Cotton Pest Management: Interior**
- A.** Definitions. The following terms apply to this Section:
1. "Crop remnant" means the stalks, leaves, bolls, lint, pods, and seeds of cotton.
 2. "Stub cotton" means cotton stalks of a previous crop that begin to show signs of growth.
 3. "Volunteer cotton" means a sprout from seed of a previous crop.
- B.** Regulated commodities and appliances. Cotton, all parts.
- C.** Cultural practices.
1. Arizona's cultural zones are:
 - a. Zone "A" -- Yuma County west of a line extended directly north and directly south of Avenue 58E.
 - b. Zone "B" -- Cochise County, Graham County, and Greenlee County.
 - c. Zone "C" -- Mohave County and La Paz County, except for the following: T6N, R11W, 12W, 13W; T5N, R12W, 13W; T4N, R12W, 14W, 15W; T3N, R10W, 11W; and T2N, R11W.
 - d. Zone "D" -- Pima County; the following portions of Pinal County: T10S, R10E, sections 34-36; T10S, R11E, section 31; T7S, R16E; T6S, R16E; T5S, R15E; T5S, R16E and T4S, R14E; and the following portions of the Aguila area: T6N, R8W; T7N, R8W, 9W, 10W; T7N, R11W, other than sections 24, 25 and 36; and T8N, R9W, sections 31-36.
 - e. Zone "E" -- All portions of the state not included in zones "A", "B", "C", and "D."
2. No stub or volunteer cotton shall be grown in or allowed to grow in the state. The landowner or grower shall be responsible for eliminating stub or volunteer cotton.
 3. Tillage deadline. Except as provided in subsection (C)(4), a grower shall ensure that a crop remnant of a host plant remaining in the field after harvest is shredded and the land tilled to destroy the host plant and its root system so no stalks remain attached to the soil before the following dates or before planting another crop, whichever occurs earlier: Zone "A", January 15; Zone "B", March 1; Zone "C", February 15; Zone "D", March 1; Zone "E", February 15.
 4. Rotational crop following cotton harvest.
 - a. If a grower elects to plant a small-grain crop following a cotton harvest, the grower may, after the host plant is shredded, irrigate and plant with wheat, barley, or oats (or other similar small-grain crops approved in writing by the Associate Director before planting) instead of tilling as prescribed in subsection (C)(3). The small-grain crop shall be planted before the tillage deadline for the zone.
 - b. The Associate Director shall approve small-grain crops other than wheat, barley, and oats, if the planting, growth, and harvest cycles of the small-grain crop prevents the maturation of stub or volunteer cotton. A grower shall submit a written request for approval of a small-grain crop, other than wheat, barley, or oats, at least 15 days before the tillage deadline for the zone. The written request shall include the scientific and common name of the proposed small-grain crop and the estimated date of harvest.
 - c. If a grower elects to plant a crop other than an approved small-grain crop following a cotton harvest, the requirements specified in subsection (C)(3) apply.
 5. Planting dates.
 - a. A grower who meets the tillage deadline specified in subsection (C)(3) for the preceding cotton crop year shall not plant cotton earlier than 15 days after the tillage deadline for the zone.
 - b. A grower who does not meet the tillage deadline specified in subsection (C)(3) for the preceding cotton crop year shall not plant cotton on a farm until 15 days after the grower ensures that all crop remnants of a host plant remaining in the fields after harvest are shredded and the land tilled to destroy the host plant and its root system so no stalks remain attached to the soil.
 6. Dry planting. Any grower who meets the tillage deadline for the zone may dry plant cotton five days after the till-

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age deadline for that zone, but shall not water until 15 days after the tillage deadline for that zone.

7. An inspector shall give written notice to any owner or person in charge or control of the nuisance found in violation of subsection (C). The processes established in subsections (C)(3) and (C)(4) shall be repeated, as necessary, to destroy the pests.

Historical Note

Former Rule, Quarantine Regulation 5. Amended effective January 24, 1978 (Supp. 78-1). Former Section R3-4-53 repealed, new Section R3-4-53 adopted effective December 2, 1982. See also R3-4-53.01 through R3-4-53.07 (Supp. 82-6). Section R3-1-53 renumbered to R3-4-204 (Supp. 91-4). Section repealed, new Section adopted effective May 7, 1993 (Supp. 93-2). Amended effective September 22, 1994 (Supp. 94-3). Amended effective July 10, 1995 (Supp. 95-3). Amended effective November 7, 1996 (Supp. 96-4). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 2082, effective May 15, 2000 (Supp. 00-2). Amended by final rulemaking at 19 A.A.R. 3860, effective January 4, 2014 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-205. Renumbered**Historical Note**

Adopted effective December 2, 1982. See also R3-4-53 and R3-4-53.02 through R3-4-53.07 (Supp. 82-6). Section R3-1-53.01 renumbered to R3-4-205 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2). New Section adopted effective December 20, 1994 (Supp. 94-4). Section R3-4-205 renumbered to R3-4-501 and amended, effective April 9, 1998 (Supp. 98-2).

R3-4-206. Repealed**Historical Note**

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01 and R3-4-53.03 through R3-4-53.07 (Supp. 82-6). Section R3-1-53.02 renumbered to R3-4-206 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

R3-4-207. Repealed**Historical Note**

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01, R3-4-53.02 and R3-4-53.04 through R3-4-53.07 (Supp. 82-6). Section R3-1-53.03 renumbered to R3-4-207 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

R3-4-208. Repealed**Historical Note**

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01 through R3-4-53.03 and R3-4-53.05 through R3-4-53.07 (Supp. 82-6). Section R3-1-53.04 renumbered to R3-4-208 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

R3-4-209. Repealed**Historical Note**

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01 through R3-4-53.04, R3-4-53.06, and R3-4-

53.07 (Supp. 82-6). Amended effective October 21, 1983 (Supp. 83-5). Amended effective July 24, 1985 (Supp. 85-4). Amended effective May 5, 1986 (Supp. 86-3). Amended effective May 10, 1988 (Supp. 88-2). Amended subsection (B) effective December 27, 1988 (Supp. 88-4). Amended effective December 22, 1989 (Supp. 89-4). Section R3-1-53.06 renumbered to R3-4-209 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

R3-4-210. Repealed**Historical Note**

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01 through R3-4-53.05 and R3-4-53.07 (Supp. 82-6). Section R3-1-53.06 renumbered to R3-4-210 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

R3-4-211. Repealed**Historical Note**

Adopted effective December 2, 1982. See also R3-4-53, R3-4-53.01 through R3-4-53.06 (Supp. 82-6). Section R3-1-53.07 renumbered to R3-4-211 (Supp. 91-4). Repealed effective May 7, 1993 (Supp. 93-2).

R3-4-212. Repealed**Historical Note**

Former Rule, Quarantine Regulation 6. Amended effective July 1, 1975 (Supp. 75-1). Amended effective April 26, 1976 (Supp. 76-2). Amended effective June 16, 1977 (Supp. 77-3). Repealed effective June 19, 1978 (Supp. 78-3). Adopted as an emergency effective October 21, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 19, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Emergency expired. Former Section R3-4-54 adopted as an emergency now adopted without change effective May 15, 1984. See also R3-4-54.01 thru R3-4-54.05 (Supp. 84-3). Section R3-1-54 renumbered to R3-4-212 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

R3-4-213. Repealed**Historical Note**

Adopted as an emergency effective October 21, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 19, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Emergency expired. Former Section R3-4-54.01 adopted as an emergency now adopted and amended effective May 15, 1984. See also R3-4-54, R3-4-54.02 thru R3-4-54.05 (Supp. 84-3). Section R3-1-54.01 renumbered to R3-4-213 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

R3-4-214. Repealed**Historical Note**

Adopted as an emergency effective October 21, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 19, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Emergency expired. Former Section R3-4-54.02 adopted as an emergency now adopted and amended effective May 15, 1984. See also R3-4-54, R3-4-54.01, R3-4-54.03 thru R3-4-54.05 (Supp. 84-3). Sec-

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tion R3-1-54.02 renumbered to R3-4-214 (Supp. 91-4).
Repealed effective April 3, 1997 (Supp. 97-2).

R3-4-215. Repealed**Historical Note**

Adopted as an emergency effective October 21, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 19, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Emergency expired. Former Section R3-4-54.03 adopted as an emergency now adopted and amended effective May 15, 1984. See also R3-4-54, R3-4-54.01, R3-4-54.02, R3-4-54.04 and R3-4-54.05 (Supp. 84-3). Section R3-1-54.03 renumbered to R3-4-215 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

R3-4-216. Repealed**Historical Note**

Adopted as an emergency effective October 21, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Adopted as an emergency effective January 19, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-1). Emergency expired. Former Section R3-4-54.04 adopted as an emergency now adopted and amended effective May 15, 1984. See also R3-4-54, R3-4-54.01 thru R3-4-54.03, and R3-4-54.05 (Supp. 84-3). Section R3-1-54.04 renumbered to R3-4-216 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

R3-4-217. Repealed**Historical Note**

Adopted effective May 15, 1984. See also R3-4-54, R3-4-54.01 thru R3-4-54.04 (Supp. 84-3). Section R3-1-54.05 renumbered to R3-4-217 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

R3-4-218. Boll Weevil Pest: Exterior Quarantine**A. Definitions.** In addition to the definitions provided in A.R.S. § 3-201, R3-4-101 and R3-4-201, the following terms apply to this Section:

1. "Cotton appliance" means a container used in handling cotton, including sacks, bags, tarps, boxes, crates, and machinery used in planting, harvesting and transporting cotton.
2. "Cotton lint" means the remnant produced when cottonseed is processed in a gin.
3. "Cottonseed" means a seed derived from cotton plants which is destined for propagation or other use.
4. "Fumigation certificate" means a quarantine compliance certificate that specifies the fumigation chemical used, the treatment schedule, and the commodity treated.
5. "Hibiscus" means all parts of *Hibiscus* spp.
6. "Pest" means the following, notwithstanding the definition in A.R.S. § 3-201: Boll weevil, *Anthonomus grandis* (Boheman).
7. "Spanish moss" means all parts of *Tillandsia usneoides*.

B. Area under quarantine. In the state of Texas, the following counties: Anderson, Angelina, Aransas, Atascosa, Austin, Bastrop, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Brooks, Burleson, Burnett, Caldwell, Calhoun, Cameron, Camp, Cass, Chambers, Cherokee, Collin, Colorado, Comal, Cooke, Coryell, Dallas, Delta, Denton, De Witt, Dimmit, Duval, Ellis, Falls, Fannin, Fayette, Fort Bend, Franklin,

Freestone, Frio, Galveston, Gillespie, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hamilton, Hardin, Harris, Harrison, Hays, Henderson, Hidalgo, Hill, Hood, Hopkins, Houston, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Karnes, Kaufman, Kendall, Kenedy, Kinney, Kleberg, Lamar, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Llano, Madison, Marion, Matagorda, Maverick, McLennan, McMullen, Medina, Milam, Mills, Montague, Montgomery, Morris, Nacogdoches, Navarro, Newton, Nueces, Orange, Panola, Parker, Polk, Rains, Red River, Refugio, Robertson, Rockwall, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Shelby, Smith, Somervell, Starr, Tarrant, Titus, Travis, Trinity, Tyler, Upshur, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Willacy, Williamson, Wilson, Wise, Wood, Zapata, and Zavala.

C. Regulated commodities.

1. Gin trash,
2. Cotton lint,
3. Cottonseed,
4. Used cotton appliances or equipment that have any cotton plants attached or contained therein,
5. Cotton plants,
6. Spanish moss, and
7. Hibiscus plants.

D. Restrictions. A person shall not ship or transport into Arizona from an area under quarantine:

1. Gin trash, cotton lint, cottonseed, or used cotton appliances or equipment that have any cotton plants attached or contained therein unless the commodity or appliance is accompanied by an original fumigation certificate attesting the commodity or appliance has been fumigated as prescribed in the Treatment Manual.
2. Cotton plants or hibiscus plants unless the commodity is accompanied by an original quarantine compliance certificate attesting the commodity was treated with a chemical to kill the pest and was visually inspected and found free of all live life stages of the pest within five days of shipment.
3. Spanish moss, unless the commodity is accompanied by an original quarantine compliance certificate attesting the commodity was treated by one of the following methods:
 - a. Commercial drying; or
 - b. Chemical treatment using a pesticide registered and labeled for use on the commodity to kill all live life stages of the pest.

Historical Note

Former Rule, Quarantine Regulation 7. Section R3-4-55 repealed, new Section adopted effective August 16, 1990 (Supp. 90-3). Section R3-1-55 renumbered to R3-4-218 (Supp. 91-4). Appendix to R3-4-218 removed; R3-4-218 amended by final rulemaking effective January 4, 2014 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-219. Repealed**Historical Note**

Former Rule, Quarantine Regulation 8. Repealed effective December 19, 1980 (Supp. 80-6). Adopted as an emergency effective April 11, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-2). Emergency adoption expired. Permanent rule adopted effective November 15, 1984 (Supp. 84-6). Former Section R3-4-56 repealed, former Sections R3-4-56.01 through R3-4-

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56.04 renumbered and amended as Section R3-4-56 effective June 20, 1986 (Supp. 86-3). Repealed June 29, 1990 (Supp. 90-2). New Section adopted effective April 11, 1991 (Supp. 91-2). Section R3-1-56 renumbered to R3-4-219 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 3380, effective October 2, 2004 (Supp. 04-3). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-220. Citrus Nursery Stock Pests

A. Definitions. In addition to the definitions provided in A.R.S. § 3-201, R3-4-101 and R3-4-201, the following terms apply to this Section:

1. "Diseases" means any of the following diseases, notwithstanding the definition in A.R.S. § 3-201:
 - a. Citrus Cachexia (CCaVd),
 - b. Citrus Exocortis Virus (CEVd),
 - c. Citrus Psorosis Virus (CPsV),
 - d. Citrus Tristeza Virus (CTV), or
 - e. Citrus greening disease (HLB), *Candidatus Liberibacter asiaticus*.
2. "Shoot-tip-grafting" means a treatment method that employs micro-grafting to eliminate the chances of transmitting a disease.
3. "Thermotherapy" means a treatment method for propagative material that employs high temperatures to eliminate the presence of a disease.

B. Area under quarantine. All states, territories, and districts of the United States, except the state of Arizona.

C. Regulated commodities. Citrus nursery stock. All plants or plant parts, except seed or attached green fruit, of all species, varieties, or hybrids of the genera *Citrus*, *Eremocitrus*, *Fortunella*, *Poncirus*, and *Microcitrus*.

D. Restrictions.

1. The commodity listed in subsection (C) is prohibited from entry into the state from the area under quarantine unless one of the following conditions are met prior to shipment:
 - a. The regulated commodity is permitted under a USDA-APHIS approved program for the interstate movement of citrus nursery stock;
 - b. A regulated commodity that is not subject to the restrictions for the interstate movement of citrus nursery stock may be certified under an origin state department of agriculture authorized program or National Clean Plant Network program that ensures the regulated commodity is foundation or source material, or has been propagated from a foundation or source tree that has been:
 - i. Tested and found free of the diseases listed in subsections (A)(1)(a),(b),(c), and (d) within the previous 36 months;
 - ii. Tested and found free of the disease listed in subsection (A)(1)(e) within the previous 12 months;
 - iii. Treated by thermotherapy or shoot-tip-grafting;
 - iv. Assigned and tagged with an index number; and
 - v. Released from the origin state or federal quarantine.
 - c. The regulated commodity is safeguarded and certified by an alternative method approved by the Associate Director.
2. A person shipping a regulated commodity into Arizona shall attach a single tag or label to each plant or plant

part, or to each individual container containing a plant or plant part, that is intended for resale by an Arizona receiver. The tag or label shall contain the following information separately provided for each scion variety grafted to a single rootstock:

- a. Name and address of the nursery that propagated the plant,
- b. Scion variety name,
- c. Scion variety registration number, and
- d. Rootstock variety name.

E. Disposition of regulated commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section shall be destroyed, treated, or transported out-of-state (A.R.S. § 3-210).

Historical Note

Former Rule, Quarantine Regulation 9. Amended effective July 1, 1975 (Supp. 75-1). Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Section repealed, new Section adopted effective June 14, 1990 (Supp. 90-2). Section R3-1-57 renumbered to R3-4-220 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 3380, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 4065, effective December 4, 2006 (Supp. 06-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-221. Repealed**Historical Note**

Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Repealed effective June 14, 1990 (Supp. 90-2). Section R3-1-57.01 renumbered to R3-4-221 (Supp. 91-4).

R3-4-222. Repealed**Historical Note**

Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Repealed effective June 14, 1990 (Supp. 90-2). Section R3-1-57.02 renumbered to R3-4-222 (Supp. 91-4).

R3-4-223. Repealed**Historical Note**

Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Repealed effective June 14, 1990 (Supp. 90-2). Section R3-1-57.03 renumbered to R3-4-223 (Supp. 91-4).

R3-4-224. Repealed**Historical Note**

Former Section R3-4-57 amended and renumbered as R3-4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Repealed effective June 14, 1990 (Supp. 90-2). Section R3-1-57.04 renumbered to R3-4-224 (Supp. 91-4).

R3-4-225. Repealed**Historical Note**

Former Section R3-4-57 amended and renumbered as R3-

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4-57 through R3-4-57.05 effective February 16, 1982 (Supp. 82-1). Repealed effective June 14, 1990 (Supp. 90-2). Section R3-1-57.05 renumbered to R3-4-225 (Supp. 91-4).

R3-4-226. Repealed**Historical Note**

Former Rule, Quarantine Regulation 10; Amended effective August 31, 1981 (Supp. 81-4). Former Section R3-4-58 repealed, new Section R3-4-58 adopted effective July 13, 1989 (Supp. 89-3). Section R3-1-58 renumbered to R3-4-226 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 3380, effective October 2, 2004 (Supp. 04-3). Amended by final rulemaking at 12 A.A.R. 4065, effective December 4, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-227. Repealed**Historical Note**

Former Rule, Quarantine Regulation 11. Section R3-1-59 renumbered to R3-4-227 (Supp. 91-4). Repealed effective April 3, 1997 (Supp. 97-2).

R3-4-228. Repealed**Historical Note**

Former Rule, Quarantine Regulation 12. Amended effective July 1, 1975 (Supp. 75-1). Amended effective June 19, 1978 (Supp. 78-3). Amended subsection (C) effective January 21, 1981 (Supp. 81-1). Amended effective August 11, 1987 (Supp. 87-3). Section R3-1-60 renumbered to R3-4-228 (Supp. 91-4). Amended by final rulemaking at 10 A.A.R. 3374, effective October 2, 2004 (Supp. 04-3). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-229. Nut Tree Pests

A. Definitions. In addition to the definitions provided in A.R.S. § 3-201, R3-4-101 and R3-4-201, the following terms apply to this Section:

1. "Brooming" means a phytoplasma disease that drastically reduces nut production and sometimes causes death of the host tree.
2. "Pest" means any of the following, notwithstanding the definition in A.R.S. § 3-201:
 - a. Pecan leaf casebearer, *Acrobasis juglandis*;
 - b. Pecan nut casebearer, *Acrobasis nuxvorella*;
 - c. Pecan phylloxera, *Phylloxera notabilis*; and
 - d. The phytoplasma disease that causes brooming disease of walnut.

B. Area under quarantine: All states, districts, and territories of the United States except California.

C. Infested area.

1. For the pests in subsections (A)(2)(a) and (b): All states and districts east of and including the states of Montana, Wyoming, Colorado, and New Mexico.
2. For the pest in subsection (A)(2)(c): Alabama, Arkansas, Louisiana, Mississippi, Oklahoma, and Texas.
3. For the pest in subsection (A)(2)(d): All states and districts east of and including Montana, Wyoming, Colorado, and New Mexico.

D. Commodities covered:

1. All species and varieties of the following trees and all plant parts capable of propagation, except the nuts. Plant parts include buds, scions, and rootstocks:
 - a. Hickory and pecan (*Carya* spp.);
 - b. Walnut and butternut (*Juglans* spp.);
2. All by-products of pruning, harvesting and/or processing, including firewood of a commodity listed in subsection (D)(1).
3. Any used equipment used during the growing, harvesting, care, or maintenance of a commodity listed in subsection (D)(1);
4. Any used container, used in the handling, storage, or transport of a commodity listed in subsection (D)(1).

E. Restrictions:

1. The commodities listed in subsection (D)(1), that are potted in any growing media shall be prohibited from the area under quarantine, unless otherwise exempted by the Associate Director.
2. The commodities listed in subsection (D)(1), that are not potted in any growing media, shall be admitted into Arizona:
 - a. From the infested area prescribed in subsections (C)(1) and (C)(2) if treated at origin and each lot or shipment is accompanied by a certificate issued by a plant regulatory official affirming the commodity has been treated in accordance with a selected method prescribed in subsections (F)(1), (2), or (5);
 - b. From an area under quarantine outside the infested area, if each lot or shipment is accompanied by a certificate issued by a plant regulatory official affirming that the commodities originated in a county not known to be infested with the pests listed in subsections (A)(2)(a), (b), and (c).
3. The commodities listed in subsection (D)(1)(b) shall be:
 - a. Prohibited from entering Arizona from the infested area prescribed in subsection (C)(3);
 - b. Admitted into Arizona from an area under quarantine outside the infested area prescribed in subsection (C)(3), if each lot or shipment is accompanied by a certificate issued by a plant regulatory official affirming the pest listed in subsection (A)(2)(d) is unknown in the origin county.
4. The commodities listed in subsection (D)(2) are prohibited from entering the state unless treated by a method prescribed in subsections (F)(1), (3), or (5).
5. The commodities listed in subsections (D)(3) and (4) are prohibited from entering the state unless treated by a method indicated in subsections (F)(1),(4) or (5).

F. Treatments:

1. Methyl bromide fumigation at manufacturers recommended rates.
2. A hot-water dip at 140° F or more for a minimum of 30 continuous seconds.
3. Heat treated to an internal temperature of 160° F at the center of the commodity for at least 75 minutes.
4. Used equipment and containers.
 - a. Steam-cleaned, inspected, and certified free from debris by the origin state, or
 - b. Cold treatment in a cold storage chamber at or below 0° F for at least seven consecutive days (168 hours).
5. Any other treatment approved by the Associate Director.

Historical Note

Former Rule, Quarantine Regulation 13. Amended subsections (C), (E) and (G) effective May 5, 1986 (Supp.

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86-3). Section R3-1-61 renumbered to R3-4-229 (Supp. 91-4). Amended effective January 16, 1996 (Supp. 96-1). Amended by final rulemaking at 6 A.A.R. 41, effective December 8, 1999 (Supp. 99-4). Subsection citation in subsection (E)(1)(b) amended to correct manifest typographical error (Supp. 03-2). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-230. Repealed**Historical Note**

Former Rule, Quarantine Regulation 14. Section R3-1-62 renumbered to R3-4-230 (Supp. 91-4). Section repealed by final rulemaking at 10 A.A.R. 3380, effective October 2, 2004 (Supp. 04-3).

R3-4-231. Nut Pests

- A.** Definitions. In addition to the definitions provided in A.R.S. § 3-201 and R3-4-101 and R3-4-201, the following terms apply to this Section:

“Pest” means any of the following, notwithstanding the definition in A.R.S. § 3-201:

1. Pecan weevil, *Curculio caryae*;
2. Butternut curculio, *Conotrachelus juglandis*;
3. Black walnut curculio, *Conotrachelus retentus*;
4. Hickory shuckworm, *Cydia caryana*.

“Sticktights” means the remnant husks and/or debris that remain on an in-shell nut after the cleaning process.

B. Area under quarantine:

1. For the pest under subsection (A)(1): The New Mexico counties of Chaves, Curry, Eddy, and Lea and all other states and districts of the United States except California.
2. For the pest under subsection (A)(2): The New Mexico counties of Lea, Eddy, and Dona Ana, and all other states and districts of the United States except California.
3. For the pests under subsections (A)(3) and (4): All states and districts of the United States except California.

C. Commodities covered:

1. Nuts of all species and varieties of hickory, pecan (*Carya spp.*), walnut and butternut (*Juglans spp.*), except extracted nut meats.
2. Any used equipment used during growing, harvesting, care, or maintenance of a commodity listed in subsection (C)(1).
3. Any used container, used in the handling, storage, or transport of a commodity listed in subsection (C)(1).

D. Restrictions:

1. A commodity listed in subsection (C)(1), originating in or shipped from the area under quarantine, shall be admitted into Arizona if the commodity has been cleaned of husks, hulls, debris, and sticktights and each lot or shipment is accompanied by a certificate issued by a plant regulatory official affirming the commodity has been treated by a method prescribed in subsections (E)(1), (2), (3), or (5).
2. A commodity listed in subsections (C)(2) and (3) shall be admitted into Arizona if the commodity has been treated by a method prescribed in subsections (E)(3), (4), or (5).

E. Treatment:

1. Cold treatment: The commodities shall be held in a cold storage chamber at or below 0° F for at least seven consecutive days (168 hours). The treatment shall not start until the entire content of the lot of nuts has reached 0° F.
2. A hot-water bath treatment at 140° F for a minimum of five continuous minutes. Water temperature shall be

maintained at or above 140° F during the entire treatment period.

3. Methyl bromide fumigation at manufacturers recommended rates.
4. Used equipment and containers.
 - a. Steam-cleaned, inspected, and certified free from debris by the origin state,
 - b. Cold treatment in a cold storage chamber at or below 0° F for at least seven consecutive days (168 hours).
5. Any other treatment approved by the Associate Director.

Historical Note

Former Rule, Quarantine Regulation 15. Amended effective July 13, 1989 (Supp. 89-3). Section R3-1-63 renumbered to R3-4-231 (Supp. 91-4). Amended by final rulemaking at 6 A.A.R. 41, effective December 8, 1999 (Supp. 99-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-232. Repealed**Historical Note**

Former Rule, Quarantine Regulation 16. Repealed effective February 16, 1979 (Supp. 79-1). Section R3-1-64, “Repealed” renumbered to R3-4-232, “Repealed” (Supp. 91-4).

R3-4-233. Lettuce Mosaic Virus

- A.** Definitions. In addition to the definitions provided in R3-4-101, the following terms apply to this Section:

1. “Breeder seed” means unindexed lettuce seed that a lettuce breeder or researcher controls, and that is not available for commercial sale or propagation.
2. “Breeder trial” means breeder seed grown to develop a new variety of lettuce.
3. “Mosaic-indexed” means that a laboratory tested at least 30,000 lettuce seeds from a seed lot and found that all sampled seeds were determined to be free from lettuce mosaic virus.
4. “Pest” means lettuce mosaic virus.
5. “Unindexed lettuce seed” means lettuce seed that is not mosaic-indexed.

- B.** Area Under Quarantine: All states, districts, and territories of the United States.

- C.** Regulated Commodities: Plants and plant parts, including seeds, of all varieties of lettuce, *Lactuca sativa*.

D. Restrictions.

1. A person shall not import into, transport within, plant, or sell in Arizona unindexed lettuce seed unless the unindexed lettuce seed is exempted under subsection (E) or the person obtains a permit as prescribed in subsection (G).
2. Each container or subcontainer of mosaic-indexed seed shall bear a label with the statement “Zero infected seeds per 30,000 tested (0 in 30,000)” as well as the name of the certified or accredited laboratory that tested the seed under subsection (D)(5).
3. A person shall not import into, transport within, plant, or sell in Arizona lettuce transplants unless the transplants are exempted under subsection (E), or unless an original certificate, issued by the origin state, accompanies the shipment. The certificate shall declare:
 - a. The name of the exporter,
 - b. The variety name and lot number of the seed from which the transplants were grown, and

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- c. Verification that the seeds from which the transplants were grown were mosaic-indexed.
 - 4. A grower shall disk or otherwise destroy all lettuce fields within 10 days after the last day of commercial harvest or abandonment, unless prevented by documented weather conditions or circumstances beyond the control of the grower.
 - 5. Laboratories that index lettuce seed that is shipped to Arizona shall be certified by the agricultural department of the laboratory's state of origin or by the Arizona Department of Agriculture, in accordance with A.R.S. § 3-145, or shall be accredited by the National Seed Health System. Laboratories shall provide a copy of their certificate or accreditation letter to the Arizona Department of Agriculture by January 1 of the year that shipping will take place.
- E. Exemptions. The requirements of subsection (D) do not apply to:
 - 1. Lettuce seed sold in retail packages of 1 oz. or less to the homeowner for noncommercial planting,
 - 2. Shipments of lettuce transplants consisting of five flats or less per receiver for noncommercial planting,
 - 3. Breeder trials for a plot of 1/20 of an acre or less, or
 - 4. Breeder trials for a plot of greater than 1/20 of an acre but no more than 1.25 acres provided the breeder or researcher:
 - a. Places a flag, marked with a trial identification number, at each corner of a breeder trial plot;
 - b. Provides the following written information to the Department within 10 business days of planting breeder seed:
 - i. GPS coordinates for each breeder trial plot using NAD 83 decimal degrees;
 - ii. A detailed map showing the location of each breeder trial plot;
 - iii. An identification number for each breeder trial plot; and
 - iv. The name, address, telephone number, and e-mail address for the breeder or researcher;
 - c. Monitors the lettuce for pest symptoms, and notifies the Department, by telephone, by the end of the first business day following the detection of pest symptoms;
 - d. Removes and destroys all plants exhibiting pest symptoms from the breeder trial plot and places them in a sealed container for disposal in a landfill;
 - e. Labels bills of lading or invoices accompanying breeder seed into Arizona with the statement "LETTUCE SEED FOR BREEDER TRIALS ONLY"; and
 - f. Destroys lettuce plants remaining in a breeder trial plot within 10 days after the completion of breeding trials unless prevented by documented weather conditions or circumstances beyond the control of the researcher or breeder.
- F. A breeder or researcher may conduct multiple breeder trials in Arizona under the provisions of subsection (E)(3) and (4).
- G. Permits.
 - 1. A person may apply for a permit to import unindexed lettuce seed for temporary storage in Arizona if the person:
 - a. Maintains the identity of the seed while in Arizona;
 - b. Does not sell or distribute the seed for use in the state;
 - c. Does not transfer the seed to any other facility in the state; and
 - d. Reships the seed from the state within seven days or the period of time specified on the permit, whichever is longer.
 - 2. A person may apply for a permit to transport unindexed lettuce seed into Arizona to be mosaic-indexed.
- H. Disposition of Violation.
 - 1. Any infected shipment of lettuce seed or transplants arriving in or found within the state, in violation of this Section, shall be immediately destroyed. The owner or the owner's agent shall bear the cost of the destruction.
 - 2. Any shipment of unindexed lettuce seed or transplants arriving in or found within the state in violation of this Section shall be immediately sent out-of-state or destroyed at the option of the owner or the owner's agent. The owner or the owner's agent shall bear the cost of the destruction or of sending the lettuce seed or transplants out-of-state.
 - 3. Any Arizona lettuce fields in violation of this Section shall be abated as established in A.R.S. §§ 3-204 and 3-205. The owner or person in charge may be assessed a civil penalty established in A.R.S. § 3-215.01.
 - 4. Violation of any provision of a permit issued under subsection (G) may result in suspension or revocation of the permit.

Historical Note

Former Rule, Quarantine Regulation 17. Amended effective July 1, 1975 (Supp. 75-1). Section R3-1-65 renumbered to R3-4-233 (Supp. 91-4). Section repealed; new Section adopted effective December 2, 1998 (Supp. 98-4). Amended effective December 2, 1998 (Supp. 98-4). Amended by final rulemaking at 14 A.A.R. 4091, effective December 6, 2008 (Supp. 08-4).

R3-4-234. Repealed**Historical Note**

Former Rule, Quarantine Regulation 18. Amended effective April 26, 1976 (Supp. 76-2). Repealed effective December 19, 1980 (Supp. 80-6). Adopted effective August 1, 1985 (Supp. 85-2). Section R3-1-66 renumbered to R3-4-234 (Supp. 91-4). Section repealed; new Section made by final rulemaking at 7 A.A.R. 4434, effective September 24, 2001 (Supp. 01-3). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-235. Repealed**Historical Note**

Adopted effective August 1, 1985 (Supp. 85-2). Section R3-1-66.01 renumbered to R3-4-235 (Supp. 91-4). Section repealed by final rulemaking at 7 A.A.R. 4434, effective September 24, 2001 (Supp. 01-3).

R3-4-236. Repealed**Historical Note**

Adopted effective August 1, 1985 (Supp. 85-2). Section R3-1-66.02 renumbered to R3-4-236 (Supp. 91-4). Section repealed by final rulemaking at 7 A.A.R. 4434, effective September 24, 2001 (Supp. 01-3).

R3-4-237. Repealed**Historical Note**

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Adopted effective August 1, 1985 (Supp. 85-2). Section R3-1-66.03 renumbered to R3-4-237 (Supp. 91-4). Section repealed by final rulemaking at 7 A.A.R. 4434, effective September 24, 2001 (Supp. 01-3).

R3-4-238. Repealed**Historical Note**

Former Rule, Quarantine Regulation 19. Amended effective April 26, 1976 (Supp. 76-2). Amended effective August 15, 1989 (Supp. 89-3). Section R3-1-67 renumbered to R3-4-238 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 4065, effective December 4, 2006 (Supp. 06-4). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-239. Imported Fire Ants

- A. Definitions. "Pest" means any species of imported fire ants, including *Solenopsis invicta* and *Solenopsis richteri*, notwithstanding the definition in A.R.S. § 3-201.
- B. Area under quarantine. A state or portion of a state listed in 7 CFR 301.81-3, 57 FR 57327, December 4, 1992, Federal Domestic Order DA-2018-11, April 17, 2018, and any area a state declares infested. This material is incorporated by reference, on file with the Department and the Office of the Secretary State, and does not include any later amendments or editions.
- C. Regulated commodities.
 1. Soil, separately or with other articles, except potting soil shipped in an original container in which the potting soil is packaged after commercial preparation; and
 2. All plants associated with soil, except:
 - a. Plants that are maintained indoors year-round, and are not for sale; and
 - b. Plants shipped bare-root and free of soil.
- D. Restrictions.
 1. An Arizona receiver of a regulated commodity shall establish a Department-approved quarantine holding area that meets the following specifications:
 - a. The floor is of a permeable surface, such as sand or soil, and free from debris, grass, or weeds;
 - b. The area is isolated from public access, surrounded by a fence or other barrier;
 - c. The integrity and security of the area is maintained at all times; and
 - d. If outdoors, the area is at least 15 feet from any masonry wall, property boundary, or non-quarantine plant.
 2. A shipper or receiver shall unload a regulated commodity at destination into an approved quarantine holding area as prescribed in subsection (D)(1). The Department may inspect the regulated commodity as follows:
 - a. A regulated commodity from an area under quarantine in subsection (B) shall be held at least three consecutive days, unless otherwise released by an inspector.
 - b. A regulated commodity may be inspected to determine compliance with this Section.
 - c. A disposition shall be provided by an inspector upon completion of an inspection.
 - d. If an inspection to determine compliance with this Section is not conducted, an inspector shall release the regulated commodity.

3. A receiver shall only apply a pesticide or other chemical to a regulated commodity located in a quarantine holding area as authorized by the Associate Director.

- E. Exemptions. Soil samples of no more than 15 pounds that comply with the interstate movement requirements of 7 CFR §§ 301.81 et seq., 75 FR 4240, January 26, 2010, Federal Domestic Order DA-2018-11, April 17, 2018, are exempt from the requirements of this Section.
- F. Disposition of commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section may be treated, destroyed, or transported out-of-state by the owner and at the owner's expense as authorized by the Associate Director.

Historical Note

Former Rule, Quarantine Regulation 20. Amended effective July 1, 1975 (Supp. 75-1). Amended effective April 26, 1976 (Supp. 76-2). Correction amendment effective April 26, 1976 included deletion of Arkansas (see subsection (C)) (Supp. 77-1). Amended effective June 16, 1977 (Supp. 77-3). Repealed effective June 19, 1978 (Supp. 78-3). New Section adopted effective December 22, 1989 (Supp. 89-4). Section R3-1-68 renumbered to R3-4-239 (Supp. 91-4). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 9 A.A.R. 2095, effective August 2, 2003 (Supp. 03-2). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-240. Repealed**Historical Note**

Former Rule, Quarantine Regulation 21. Amended effective December 5, 1974 (Supp. 75-1). Amended effective June 16, 1977 (Supp. 77-3). Section repealed, new Section adopted effective June 14, 1990 (Supp. 90-2). Section R3-1-69 renumbered to R3-4-240 (Supp. 91-4). Amended by final rulemaking at 9 A.A.R. 1046, effective May 5, 2003 (Supp. 03-1). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-241. Palm Pests

- A. Definitions. In addition to the definitions provided in A.R.S. § 3-201, R3-4-101 and R3-4-01, the following term applies to this Section:
 "Pest" means, notwithstanding the definition in A.R.S. § 3-201:
 1. *Candidatus* Phytoplasma palmarum subgroup 16SrIV, strain A (Lethal yellowing);
 2. *Candidatus* Phytoplasma 16SrIV-D (Texas Phoenix palm decline);
 3. *Fusarium oxysporum* f. sp. *palmarum* (Fusarium wilt of queen and Mexican fan palm); or
 4. *Myndus crudus*, a planthopper that vectors the pest defined in subsections (A)(1) and (2).
- B. Area under quarantine. For the pest in subsection (A)(1):
 1. In the state of Florida, the following counties: Broward, Collier, Hendry, Lee, Martin, Miami-Dade, Monroe, and Palm Beach.
 2. In the state of Texas, the following counties: Cameron, Hidalgo, and Willacy.
 3. For the pest in subsection (A)(2):
 - a. In the state of Florida, the following counties: Alachua, Desoto, Duval, Hardee, Highlands, Hillsbor-

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- ough, Indian River, Lake, Manatee, Miami-Dade, Orange, Polk, Sarasota, and Volusia.
- b. In the state of Louisiana, the following parish: Orleans.
 - c. In the state of Texas, the following counties: Bexar, Cameron, Hidalgo, Kleberg, Nueces, Tarrant, and Willacy.
4. For the pest in subsection (A)(3):
 - a. The state of Florida.
 - b. In Texas, the following county: Houston.
 5. For the pest in subsection (A)(4):
 - a. The state of Florida.
 - b. In Texas, the following counties: Houston.
- C. Regulated commodities. All propagative parts of the following plants, except seed:
1. *Aiphanes lindeniana*,
 2. *Allagoptera arendria*,
 3. *Andropogon virginicus* (Broomsedge),
 4. *Arenga engleri*,
 5. *Borassus flabellifer* (Palmyra Palm),
 6. *Caryota mitis* (Cluster Fishtail Palm),
 7. *Caryota rumphiana* (Giant Fishtail Palm),
 8. *Chelyocarpus chuco*,
 9. *Chrysalidocarpus cabadae*, syn. *Dypsis cabadae* (Cabada Palm),
 10. *Cocos nucifera* (Coconut Palm),
 11. *Corypha elata* (Buri Palm),
 12. *Cynodon dactylon* (Bermuda Grass),
 13. *Cyperus* spp. (Sedges),
 14. *Dictyosperma album* (Princess Palm),
 15. *Eremochloa ophiuroides* (Centipede Grass),
 16. *Gaussia attenuata* (Puerto Rican Palm),
 17. *Howea belmoreana* (Belmore Sentry Palm),
 18. *Latania* spp. (Latan Palm),
 19. *Livistona chinensis* (Chinese Fan Palm),
 20. *Livistona rotundifolia* (Javanese Fan Palm),
 21. *Mascarena verschaffeltii* (Spindle Palm),
 22. *Nannorrhops ritchiana* (Mazari Palm),
 23. *Neodypsis decaryi*, syn. *Dypsis decaryi* (Triangle Palm),
 24. *Pandanus utilis* (Screw Pine),
 25. *Panicum purpurascens* (Para Grass),
 26. *Panicum bartowense*,
 27. *Paspalum notatum* (Bahia Grass),
 28. *Phoenix canariensis* (Canary Island Date Palm),
 29. *Phoenix dactylifera* (Date Palm),
 30. *Phoenix reclinata* (Sengal Date Palm),
 31. *Phoenix roebelenii* (Pigmy Date Palm),
 32. *Phoenix rupicola* (Cliff Date Palm),
 33. *Phoenix sylvestris* (Wild Date Palm),
 34. *Phoenix zeylanica* (Ceylon Date Palm),
 35. *Polyandrococos caudescens*,
 36. *Pritchardia* spp.,
 37. *Pseudopheoenix sargentii* (Florida Cherry Palm),
 38. *Ravenea hildebrandtii*,
 39. *Sabal mexicana* (Rio Grande Palmetto),
 40. *Sabal palmetto* (Cabbage Palmetto),
 41. *Stenotaphrum secundatum* (St. Augustine Grass),
 42. *Sygarus romanzoffiana* (Queen palm),
 43. *Syagrus schizophylla*
 44. *Thrinax radiata* (Florida Thatch Palm),
 45. *Trachycarpus fortunei* (Windmill Palm),
 46. *Veitchia* spp.,
 47. *Washingtonia robusta* (Mexican Fan Palm), and
 48. *Zoysia* spp. (*Zoysia* Grass).

- D. Restrictions. The commodities in subsection (C) are prohibited from the area under quarantine unless the following conditions are met prior to shipment:
1. The plant regulatory official issues a certificate or certifies an ongoing Pest Management Program attesting that the conditions in subsections (D)(2), (3), (4), and (5) were met prior to shipment;
 2. No field grown plants are included in the shipment;
 3. The commodity was inspected prior to shipment and no symptoms of any pest in subsections (A)(1), (2), or (3) were observed;
 4. The commodity was treated with a labeled product to eliminate all live life stages of the pest (A)(4); and
 5. The commodity originates from an outdoor facility no closer than one-half mile from a known infested area of a pest indicated in subsections (A)(1), (2), or (3).
- E. Disposition of commodity not in compliance. A regulated commodity shipped into Arizona in violation of this Section shall be destroyed or transported out-of-state by the owner and at the owner's expense.

Historical Note

Former Rule, Quarantine Regulation 22. Repealed effective April 25, 1977 (Supp. 77-2). New Section adopted effective December 22, 1989 (Supp. 89-4). Section R3-1-70 renumbered to R3-4-241 (Supp. 91-4). Amended by final rulemaking at 9 A.A.R. 1046, effective May 5, 2003 (Supp. 03-1). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-242. Repealed**Historical Note**

Former Rule, Quarantine Regulation 23. Amended effective July 1, 1975 (Supp. 75-1). Correction (Supp. 76-5). Repealed effective April 25, 1977 (Supp. 77-2). Section R3-1-71 renumbered to R3-4-242 (Supp. 91-4). New Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-243. Repealed**Historical Note**

Former Rule, Quarantine Regulation 24. Repealed effective April 25, 1977 (Supp. 77-2). Section R3-1-72 renumbered to R3-4-243 (Supp. 91-4).

R3-4-244. Repealed**Historical Note**

Former Rule, Quarantine Regulation 25. Repealed effective June 19, 1978 (Supp. 78-3). Section R3-1-73 renumbered to R3-4-244 (Supp. 91-4). New Section adopted effective July 10, 1995 (Supp. 95-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 2082, effective May 15, 2000 (Supp. 00-2). Amended by final rulemaking at 11 A.A.R. 5315, effective February 4, 2006 (Supp. 05-4). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-245. Noxious Weeds

- A. Definitions. In addition to the definitions provided in A.R.S. § 3-201, R3-4-101 and R3-4-201, the following apply to this Section:

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1. "Class A Noxious Weed" is categorized as a species of plant that is not known to exist or of limited distribution in the state and is a high priority pest for quarantine, control, or mitigation. Class A noxious weeds are listed in Table 4, Class A Noxious Weeds.
 2. "Class B Noxious Weed" is categorized as a species of plant that is known to occur, but of limited distribution in the state and may be a high priority pest for quarantine, control or mitigation if a significant threat to a crop, commodity, or habitat is known to exist. Class B noxious weeds are listed in Table 5, Class B Noxious Weeds.
 3. "Class C Noxious Weed" is categorized as a species of plant that is widespread but may be recommended for active control based on risk assessment. Class C noxious weeds are listed in Table 6, Class C Noxious Weeds.
- B. Restrictions:**
1. No Class A, B, or C Noxious Weed, or commodity infested or contaminated with a Class A, B, or C Noxious Weed, shall be admitted into the state unless otherwise authorized by the Associate Director.
 2. The Department may quarantine and abate an area infested or contaminated with a Class A or Class B Noxious Weed if it has been determined by the Associate Director that an imminent threat to agriculture or horticulture exists.
- Historical Note**
- Former Rule, Quarantine Regulation 26. Amended effective June 19, 1978 (Supp. 78-3). Amended subsection (B) effective May 2, 1986 (Supp. 86-3). Section R3-1-74 renumbered to R3-4-245 (Supp. 91-4). Section repealed, new Section adopted effective July 10, 1995 (Supp. 95-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 6 A.A.R. 2082, effective May 15, 2000 (Supp. 00-2). Amended by final rulemaking at 11 A.A.R. 5315, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).
- R3-4-246. Repealed**
- Historical Note**
- Adopted effective July 1, 1975 (Supp. 75-1). Correction (Supp. 76-1). Amended effective May 10, 1988 (Supp. 88-2). Section R3-1-75 renumbered to R3-4-246 (Supp. 91-4). Amended by final rulemaking at 9 A.A.R. 2098, effective August 2, 2003 (Supp. 03-2). Repealed by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).
- R3-4-247. Repealed**
- Historical Note**
- Amended effective April 26, 1976 (Supp. 76-2). Amended effective June 16, 1977 (Supp. 77-3). Repealed effective June 19, 1978 (Supp. 78-3). Section R3-1-76 renumbered to R3-4-247 (Supp. 91-4).
- R3-4-248. Japanese beetle**
- A. Definitions.** In addition to the definitions provided in A.R.S. § 3-201, R3-4-101 and R3-4-201, the following apply to this Section:
1. "Host commodities" means the commodities listed in the JBHP, Appendix 6.
 2. "JBHP" means the U.S. Domestic Japanese Beetle Harmonization Plan, adopted by the National Plant Board on August 19, 1998, and revised June 20, 2016.
 3. "Pest" means the Japanese beetle, *Popillia japonica*, notwithstanding the definition in A.R.S. § 3-201.
- B. Area under quarantine:** All Category 2 and 3 areas listed in the JBHP, which is incorporated by reference, does not include any later amendments or editions, and is on file with the Department, the Office of the Secretary of State, and the National Plant Board at <http://nationalplantboard.org/japanese-beetle-harmonization-plan/>.
- C. Host commodities covered.** All commodities, except grass sod, listed in the JBHP, Appendix 12.
- D. An out-of-state grower who imports a host commodity into Arizona shall comply with the JBHP, except as provided under subsection (E).**
- E. Restrictions on importation.**
1. An out-of-state grower shall not import into Arizona a host commodity under subsection (C) from an area under quarantine unless the commodity is accompanied by a certificate issued by a plant regulatory official of the origin state ensuring compliance with the requirements of the JBHP, Appendix 1.
 2. Notwithstanding the requirements of the JBHP, Appendix 1, the Associate Director may admit grass sod from an out-of-state grower for shipment to Arizona if:
 - a. The out-of-state grower requests an exception agreement from the Department;
 - b. The out-of-state grower, the State Plant Regulatory Official of the origin state, and the Associate Director sign an agreement that includes the following terms:
 - i. The out-of-state grower shall ship sod grown only in a Japanese beetle-free county;
 - ii. The State Plant Regulatory Official or designee shall place and monitor Japanese beetle traps on the grass sod farm during the agreement period. At least one trap shall be placed on each 10 acres of land. A buffer zone of a one-mile radius shall be established around the grass sod farm, and two traps per square mile shall be placed in the buffer zone. The Department shall revoke the agreement if the origin state documents that one or more Japanese beetles are detected in any trap;
 - iii. The State Plant Regulatory Official or designee shall inspect sod before shipment to ensure it is free of the pest; and
 - iv. The out-of-state grower shall notify the Associate Director or their designee of sod shipments destined to Arizona prior to shipment.
 - c. Both the out-of-state grower and the State Plant Regulatory Official shall perform any other requirement established by the Associate Director to ensure the grass sod is free from all life stages of Japanese beetle.
 3. An out-of-state grower shall not import into Arizona a host commodity from a Category 4 state unless certified by the State Plant Regulatory Official or designee attesting that the host commodity is apparently free of Japanese beetle and has been treated by an approved method to eliminate all live life stages of the pest.
 4. Exemptions from importation ban:
 - a. Privately-owned houseplants grown indoors; and
 - b. Commodities that have been treated by an alternate method approved by the Associate Director and cer-

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tified by a plant regulatory official of the state of origin.

Historical Note

Adopted effective June 16, 1977 (Supp. 77-3). Section R3-1-77 renumbered to R3-4-248 (Supp. 91-4). Amended by final rulemaking at 7 A.A.R. 5345, effective November 8, 2001 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

Table 2. Actionable Arthropod Pests

Common Name	Scientific Name
Acuminate scale	<i>Kilifia acuminata</i>
African cotton leafworm	<i>Spodoptera litura</i>
African false powder-post beetle	<i>Bostrychoplites cornutus</i>
African honey bee	<i>Apis mellifera scutellata</i>
Alfalfa plant bug	<i>Adelphocoris lineolatus</i>
Allium (Onion) Leafminer	<i>Phytomyza gymnostoma</i>
American palm cixid	<i>Haplaxius (Myndus) crudus</i>
Apple maggot	<i>Rhagoletis pomonella</i>
Apple mealybug	<i>Phenacoccus aceris</i>
Apple skinworm	<i>Tortrix franciscana</i>
Army ant	<i>Labidus coecus</i>
Asian citrus psyllid	<i>Diaphorina citri</i>
Asian conifer auger beetle	<i>Sinoxylon unidentatum</i>
Asian Longhorned beetle	<i>Anoplophora glabripennis</i>
Asiatic garden beetle	<i>Maladera castanea</i>
Asiatic rice borer	<i>Chilo suppressalis</i>
Asparagus beetle	<i>Crioceris asparagi</i>
Avocado red mite	<i>Oligonychus yothersi</i>
Avocado seed weevil	<i>Helipus lauri</i>
Avocado whitefly	<i>Trialetrodes floridensis</i>
Azalea whitefly	<i>Pealius azaleae</i>
Bagworm	<i>Thyridopteryx ephemeraeformis</i>
Bean butterfly	<i>Lampides boeticus</i>
Bean fly	<i>Ophiomyia phaseoli</i>
Bean leaf beetle	<i>Cerotoma trifurcata</i>
Bean pod borer	<i>Maruca vitrata</i>
Bifasciulate scale	<i>Chrysomphalus bifasciculatus</i>
Black cherry fruit fly	<i>Rhagoletis fausta</i>
Black imported fire ant	<i>Solenopsis richteri</i>
Black orangeworm	<i>Holcocera iceryaeella</i>
Black thread scale	<i>Ischnaspis longirostris</i>
Black walnut curculio	<i>Conotrachelus retentus</i>
Blueberry maggot	<i>Rhagoletis mendax</i>
Boxwood leafminer	<i>Monarthropalpus buxi</i>
Brown citrus aphid	<i>Toxoptera citricida</i>
Brown cockroach	<i>Periplaneta brunnea</i>
Brown Marmorated Stink Bug	<i>Halyomorpha halys</i>
Browntail moth	<i>Nygmia phaeorrhoea</i>
Butternut curculio	<i>Conotrachelus juglandis</i>
Cabbage moth	<i>Mamestra brassicae</i>

Cabbage thrips	<i>Idolothrips augusticeps</i>
Cactus moth	<i>Cactoblastis cactorum</i>
Cactus weevil	<i>Gerstaeckeria nobilis</i>
California red scale	<i>Aonidiella aurantii</i>
Camphor scale	<i>Pseudaonidia duplex</i>
Caribbean fruit fly	<i>Anastrepha suspensa</i>
Carob moth	<i>Ectomyelois ceratoniae</i>
Carrot rust fly	<i>Psila rosae</i>
Cereal leaf beetle	<i>Oulema melanopus</i>
Chaff scale	<i>Parlatoria pergandii</i>
Chestnut moth	<i>Cydia splendana</i>
Chilean false red mite	<i>Brevipalpus chilensis</i>
Chilli thrips	<i>Scirtothrips dorsalis</i>
Chinch bug	<i>Blissus leucopterus</i>
Chinese obscure scale	<i>Parlatoreopsis chinensis</i>
Chinese rose beetle	<i>Adoretus sinicus</i>
Citron bug	<i>Leptoglossus gonagra</i>
Citrus blackfly	<i>Aleurocanthus woglumi</i>
Citrus snow scale	<i>Unaspis citri</i>
Citrus spiny whitefly	<i>Aleurocanthus spiniferus</i>
Citrus whitefly	<i>Dialeurodes citri</i>
Cloudy-winged whitefly	<i>Singhiella citrifolii</i>
Clover root borer	<i>Hylastinus obscurus</i>
Clover seed midge	<i>Dasineura leguminicola</i>
Coconut scale	<i>Aspidiotus destructor</i>
Coffee bean weevil	<i>Araecerus fasciculatus</i>
Community wireworm	<i>Melanotus communis</i>
Comstock mealybug	<i>Pseudococcus comstocki</i>
Corn silk beetle	<i>Calomicrus brunneus</i>
Corn stem weevil	<i>Hyperodes humilis</i>
Cotton blister mite	<i>Acalitus gossypii</i>
Cottony grape scale	<i>Pulvinaria vitis</i>
Cowpea curculio	<i>Chalcodermus aeneus</i>
Crapemyrtle scale	<i>Acanthococcus lagerstroemiae</i>
Croton soft scale	<i>Phalacroccoccus howertoni</i>
Croton whitefly	<i>Orchamoplatus mammaeferus</i>
Cuban cockroach	<i>Panchlora nivea</i>
Curtain fig psyllid	<i>Macrohormotoma gladiata</i>
Cycad aulacaspis scale	<i>Aulacaspis yasumatsui</i>
Cycad weevil	<i>Tranes internatus</i>
Date palm mite	<i>Oligonychus afrasiaticus</i>
Death's head cockroach	<i>Blaberus craniifer</i>
Dogwood borer	<i>Synanthedon scitula</i>
Eastern subterranean termite	<i>Teticulitermes flavipes</i>
Eastern tent caterpillar	<i>Malacosoma americanum</i>
Eggplant pinworm	<i>Keiferia peniculo</i>
Egyptian cotton leafworm	<i>Spodoptera littoralis</i>
Emerald ash borer	<i>Agrilus plannipennis</i>
Euonymus scale	<i>Unaspis euonymi</i>

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European chafer	<i>Amphimallon majalis</i>
European cherry fruit fly	<i>Rhagoletis cerasi</i>
European corn borer	<i>Ostrinia nubilalis</i>
European crane fly	<i>Tipula paludosa</i>
European grape vine moth	<i>Lobesia botrana</i>
European peach scale	<i>Parthenolecanium persicae</i>
European pine shoot moth	<i>Rhyacionia bouliana</i>
Eyespotted bud moth	<i>Spilonota ocellana</i>
Face fly	<i>Musca autumnalis</i>
False codling moth	<i>Thaumotobia leucotreta</i>
False parlatoria scale	<i>Pseudoparlatoria parlatorioides</i>
Florida black scale	<i>Saissetia neglecta</i>
Florida carpenter ant	<i>Camponotus floridanus</i>
Florida red scale	<i>Chrysomphalus aonidum</i>
Florida subterranean termite	<i>Reticulitermes virginicus</i>
Florida wax scale	<i>Ceroplastes floridensis</i>
Florida woods cockroach	<i>Eurycotis floridana</i>
Fruit fly	<i>Anastrepha spp.</i>
Fruit piercing moth	<i>Eudocima fullonia</i>
Fuller rose weevil	<i>Naupactus cervinus</i>
Giffard whitefly	<i>Bemisia giffardi</i>
Glacial whitefly	<i>Trialeurodes glacialis</i>
Glassy-winged sharpshooter	<i>Homalodisca vitripennis</i>
Globose scale	<i>Sphaerolecanum prunastri</i>
Glover scale	<i>Lepidosaphes gloverii</i>
Grape thrips	<i>Drepanothrips reuteri</i>
Grass aphid	<i>Rhopalomyzus poae</i>
Grass scolytid	<i>Hypothenemus pubecens</i>
Grass webworm	<i>Herpetogramma licarsisalis</i>
Gray sugarcane mealybug	<i>Dysmicoccus boninsis</i>
Green cloverworm	<i>Plathypena scabra</i>
Ground mealybug	<i>Ripersiella hibisci</i>
Gypsy moth	<i>Lymantra dispar</i>
Haanchen barley mealybug	<i>Trionymus haancheni</i>
Hall scale	<i>Mercetaspis halli</i>
Hessian fly	<i>Mayetiola destructor</i>
Hickory shuckworm	<i>Cydia caryana</i>
Holly leafminer	<i>Phytomyza ilicis</i>
Indian wax scale	<i>Ceroplastes ceriferus</i>
Italian pear scale	<i>Epidiaspis leperii</i>
Jack Beardsley mealybug	<i>Pseudococcus jackbeardsleyi</i>
Japanese beetle	<i>Popillia japonica</i>
Japanese maple scale	<i>Lopholeucaspis japonica</i>
Khapra beetle	<i>Trogoderma granarium</i>
Kirkaldy whitefly	<i>Dialeurodes kirkaldyi</i>
Kondo ground mealybug	<i>Ripersiella kondonis</i>
Lantana defoliator	<i>Hypena strigata</i>
Lantana mealybug	<i>Phenacoccus parvus</i>
Lawn armyworm	<i>Spodoptera mauritia</i>

Leek moth	<i>Acrolepiopsis assectella</i>
Lesser clover leaf weevil	<i>Hypera nigrirostris</i>
Lesser snow scale	<i>Pinnaspis strachani</i>
Light brown apple moth	<i>Epiphyas postvittana</i>
Lilly weevil	<i>Agasphaerops nigra</i>
Little fire ant	<i>Wasmannia auropunctata</i>
Lobate lac scale	<i>Paratachardina pseudolobata</i>
Malaysian fruit fly	<i>Bactrocera latifrons</i>
Mango shield scale	<i>Milviscutulus mangiferae</i>
Maskell scale	<i>Lepidosaphes pallida</i>
Mealybug	<i>Delottococcus confusus</i>
Mealybug	<i>Hypogeococcus pungens</i>
Mealybug	<i>Planococcus lilacinus</i>
Mediterranean fruit fly	<i>Ceratitidis capitata</i>
Melon fruit fly	<i>Bactrocera curcurbitae</i>
Melon worm	<i>Diaphania hyalinata</i>
Mexican fruit fly	<i>Anastrepha ludens</i>
Mimosa webworm	<i>Homadula anisocentra</i>
Mining scale	<i>Howardia biclavis</i>
Myrmicine ant	<i>Monomorium destructor</i>
Myrmicine ant	<i>Monomorium floricola</i>
Northern citrus root weevil	<i>Pachnaeus opalus</i>
Obscure scale	<i>Melanaspis obscura</i>
Old house borer	<i>Hylotrupes bajulus</i>
Oleander pit scale	<i>Russellaspis pustulans</i>
Orchid aphid	<i>Macrosiphum lutea</i>
Oriental fruit fly	<i>Bactrocera dorsalis</i>
Oriental fruit moth	<i>Grapholita molesta</i>
Oriental scale	<i>Aonidiella orientalis</i>
Palm fiorinia scale	<i>Fiorinia fiorinae</i>
Palm thrips	<i>Thrips palmi</i>
Papaya fruit fly	<i>Toxotrypana curvicauda</i>
Pear leaf blister moth	<i>Leucoptera malifoliella</i>
Pecan leaf casebearer	<i>Acrobasis juglandis</i>
Pecan leaf phylloxera	<i>Phylloxera notabilis</i>
Pecan weevil	<i>Curculio caryae</i>
Pepper flower bud moth	<i>Gnorimoschema gudmannella</i>
Pepper maggot	<i>Zonosemata electa</i>
Pepper tree psyllid	<i>Calophya schini</i>
Persimmon borer	<i>Sannina uroceriformis</i>
Pickleworm	<i>Diaphania nitidalis</i>
Pine false webworm	<i>Acantholyda erythrocephala</i>
Pink hibiscus mealybug	<i>Maconellicoccus hirsutus</i>
Pink sugarcane mealybug	<i>Saccharicoccus sacchari</i>
Pitmaking pittosporum scale	<i>Planchonia arabis</i>
Plum curculio	<i>Conotrachelus nenuphar</i>
Plum fruit moth	<i>Cydia funebrana</i>
Plumeria whitefly	<i>Paraleyrodes perseae</i>
Potato stalk borer	<i>Trichobaris trinotata</i>

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Potato weevil	<i>Epicaerus cognatus</i>
Powder-post termite	<i>Cryptotermes brevis</i>
Primary Screwworm	<i>Cochliomyia hominivorax</i>
Proteus scale	<i>Parlatoria proteus</i>
Purple scale	<i>Lepidosaphes beekii</i>
Pyriiform scale	<i>Protopulvinaria pyriiformis</i>
Queensland fruit fly	<i>Bactrocera tryoni</i>
Range caterpillar	<i>Hemileuca oliviae</i>
Red imported fire ant	<i>Solenopsis invicta</i>
Red palm mite	<i>Raoiella indica</i>
Red-banded thrips	<i>Selenothrips rubrocinctus</i>
Rednecked cane borer	<i>Agrilus ruficollis</i>
Rhododendron whitefly	<i>Massilieuroides chittendeni</i>
Rose chafer	<i>Macrodactylus subspinosus</i>
Royal palm bug	<i>Xylastodoris luteolus</i>
Rufous scale	<i>Selenaspidus articulatus</i>
Saddleback caterpillar	<i>Acharia stimulea</i>
Satin moth	<i>Leucoma salicis</i>
Scurfy scale	<i>Chionaspis furfura</i>
Sirex woodboring wasp	<i>Sirex noctilo</i>
South African pit scale	<i>Planchonia stentae</i>
South American fruit fly	<i>Anastrepha fraterculus</i>
South American palm weevil	<i>Rhynchophorus palmarum</i>
Southeastern Boll Weevil Bio-type	<i>Anthonomus grandis</i>
Southern chinch bug	<i>Blissus insularis</i>
Southern citrus root weevil	<i>Pachnaeus litus</i>
Southern cornstalk borer	<i>Diatraea crambidoides</i>
Southern green stink bug	<i>Nezara viridula</i>
Southern potato wireworm	<i>Conoderus falli</i>
Spotted Lanternfly	<i>Lycorma delicatula</i>
Spotted wing drosophila	<i>Drosophila suzukii</i>
Spruce needleminer	<i>Taniva abolineana</i>
Square-necked grain beetle	<i>Cathartus quadricollis</i>
Stalk borer	<i>Papaipema nebris</i>
Strawberry root weevil	<i>Otiorynchus ovatus</i>
Subtropical pine tip moth	<i>Rhyacionia subtropica</i>
Sugarcane borer	<i>Diatraea saccharalis</i>
Sugarcane root borer	<i>Diaprepes abbreviatus</i>
Summer fruit tortrix	<i>Adoxophyes orana</i>
Sweetpotato weevil	<i>Cylas formicarius</i>
Tawny mole cricket	<i>Neoscapteriscus vicinus</i>
Tea parlatoria scale	<i>Parlatoria theae</i>
Tea scale	<i>Fiorinia theae</i>
Texas leaf-cutter ant	<i>Alta texana</i>
Tobacco wireworm	<i>Conoderus vespertinus</i>
Trilobe scale	<i>Pseudaonidia trilobitiformis</i>
Tropical fire ant	<i>Solenopsis geminata</i>
Tropical palm scale	<i>Hemiberlesia palmae</i>
Tuber flea beetle	<i>Epitrix tuberis</i>

Two-spotted leaf hopper	<i>Sophonia rufofascia</i>
Velvet longhorn beetle	<i>Trichoferus campestris</i>
Biburnum whitefly	<i>Aleurotrachelus jelinekii</i>
Weevil	<i>Artipus floridanus</i>
Weevil	<i>Hyperodes humilis</i>
West Indian fruit fly	<i>Anastrepha obliqua</i>
West Indian Sweet potato weevil	<i>Euscepes postfaciatus</i>
Western subterranean termite	<i>Reticulitermes hesperus</i>
Wheat strawworm	<i>Harmolita grandis</i>
White peach scale	<i>Pseudaulacaspis pentagona</i>
White waxy scale	<i>Ceroplastes destructor</i>
White-footed ant	<i>Technomyrmex difficilis</i>
Whitefringed beetles	<i>Graphognathus spp</i>
Willamette spider mite	<i>Eotetranychus willamettei</i>
Yellow scale	<i>Aonidiella citrina</i>
Yellow margined leaf beetle	<i>Microtheca ochroloma</i>

Historical Note

New Table 2, Actionable Arthropod Pests made by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4). Table 2 amended by final rulemaking at 29 A.A.R. 3932 (December 29, 2023) effective February 4, 2024 (Supp. 23-4).

Table 3. Actionable Nematode Pests

Common Name	Scientific Name
Burrowing nematode	<i>Radopholus similis</i>
Cobb's awl nematode	<i>Dolichodorus heterocephalus</i>
European dagger nematode	<i>Xiphinema diversicaudatum</i>
Golden nematode	<i>Globodera rostochiensis</i>
Oat cyst nematode	<i>Heterodera avenae</i>
Reniform nematode	<i>Rotylenchulus reniformis</i>
Sheath nematode	<i>Hemicycliophora arenaria</i>
Soybean cyst nematode	<i>Heterodera glycines</i>
Sting nematode	<i>Belonolaimus longicaudatus</i>
White cyst potato nematode	<i>Globodera pallida</i>

Historical Note

New Table 3, Actionable Nematode Pests made by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4). Table 3 amended by final rulemaking at 29 A.A.R. 3932 (December 29, 2023) effective February 4, 2024 (Supp. 23-4).

Table 4. Class A Noxious Weeds

Common Name	Scientific Name
African rue	<i>Peganum harmala</i>
Canada thistle	<i>Cirsium arvense</i>
Dudaim melon	<i>Cucumis melo v. Dudaim Naudin</i>
Dyer's woad	<i>Isatis tinctoria</i>
Floating water hyacinth	<i>Eichhornia crassipes</i>
Giant salvinia	<i>Salvinia molesta</i>
Globe-podded hoary cress	<i>Lepidium (Cardaria) draba</i>
Hydrilla	<i>Hydrilla verticillata</i>
Leafy spurge	<i>Euphorbia esula</i>

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Plumeless thistle	<i>Carduus acanthoides</i>
Purple loosestrife	<i>Lythrum salicaria</i>
Purple starthistle	<i>Centaurea calcitrapa</i>
Quackgrass	<i>Elymus repens (Elytrigia repens)</i>
Rush skeletonweed	<i>Chondrilla juncea</i>
Southern sandbur	<i>Cenchrus echinatus</i>
Spotted knapweed	<i>Centaurea stoebe ssp. micranthos</i>
Sweet resinbush	<i>Euryops subcarnosus</i>
Ward's weed	<i>Carrichtera annua</i>
Wild mustard	<i>Sinapis arvensis</i>

Historical Note

New Table 4, Class A Noxious Weeds made by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4). Table 4 amended by final rulemaking at 29 A.A.R. 3932 (December 29, 2023) effective February 4, 2024 (Supp. 23-4).

Table 5. Class B Noxious Weeds

Common name	Scientific name
African sumac	<i>Searsia lancea</i>
Black mustard	<i>Brassica nigra</i>
Branched broomrape	<i>Orobanche ramosa</i>
Bull thistle	<i>Cirsium vulgare</i>
Camelthorn	<i>Alhagi maurorum (A. pseudalhagi)</i>
Dalmatian toadflax	<i>Linaria dalmatica (L. genistifolia v. dalmatica)</i>
Diffuse knapweed	<i>Centaurea diffusa</i>
Field sandbur	<i>Cenchrus spinifex (synonym: C. incertus)</i>
Giant reed	<i>Arundo donax</i>
Halogeton	<i>Halogeton glomeratus</i>
Jointed goatgrass	<i>Aegilops cylindrica</i>
Malta starthistle	<i>Centaurea melitensis</i>
Musk thistle	<i>Carduus nutans</i>
Natal grass	<i>Melinis repens</i>
Onionweed	<i>Asphodelus fistulosus</i>
Ripgut brome	<i>Bromus diandrus</i>
Russian knapweed	<i>Acroptilon repens</i>
Russian olive	<i>Elaeagnus angustifolia</i>
Saharan mustard	<i>Brassica tournefortii</i>
Siberian elm	<i>Ulmus pumila</i>
Stinknet (Globe chamomile)	<i>Oncosiphon pilulifer (O. piluliferum)</i>
Scotch thistle	<i>Onopordum acanthium</i>
Yellow bluestem	<i>Bothriochloa ischaemum</i>
Yellow starthistle	<i>Centaurea solstitialis</i>

Historical Note

New Table 5, Class B Noxious Weeds made by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4). Table 5 amended by final rulemaking at 29 A.A.R. 3932 (December 29, 2023) effective February 4,

2024 (Supp. 23-4).

Table 6. Class C Noxious Weeds

Common name	Scientific name
Buffelgrass	<i>Cenchrus ciliaris (Pennisetum ciliare)</i>
Cheatgrass	<i>Bromus tectorum</i>
Field bindweed	<i>Convolvulus arvensis</i>
Fountain grass	<i>Pennisetum setaceum</i>
Garden or common morning glory	<i>Ipomoea purpurea</i>
Grannyvine	<i>Ipomoea tricolor</i>
Ivy-leaf morning glory	<i>Ipomoea hederacea</i>
Johnsongrass	<i>Sorghum halepense</i>
Kochia	<i>Kochia scoparia</i>
Lehman's lovegrass	<i>Eragrostis lehmanniana</i>
Morning glory	<i>Ipomoea triloba</i>
Morning glory	<i>Ipomoea x leucantha</i>
Puncturevine	<i>Tribulus terrestris</i>
Red brome	<i>Bromus rubens</i>
Salt cedar	<i>Tamarix spp.</i>
Siberian elm	<i>Ulmus pumila</i>
Tree of heaven	<i>Ailanthus altissima</i>

Historical Note

New Table 6, Class C Noxious Weeds made by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4). Table 6 amended by final rulemaking at 29 A.A.R. 3932 (December 29, 2023) effective February 4, 2024 (Supp. 23-4).

ARTICLE 3. NURSERY CERTIFICATION PROGRAM**EMERGENCY RULEMAKING****R3-4-301. Nursery Certification****A. Definitions.** The following terms apply to this Section.

"Associate Director" means the Associate Director of the Arizona Department of Agriculture's Plant Services Division.

"Certificate" means a document issued by the Director, Associate Director or by a Department inspector stating that the nursery stock has been inspected and complies with the criteria set forth by an agricultural agency of any state, county, or commonwealth.

"Certificate holder" means a person who holds a certificate issued in accordance with this Section.

"Collected nursery stock" means nursery stock that has been dug or gathered from any site other than a nursery location.

"Commercially clean" means nursery stock offered for sale is in a healthy condition and, though common pests may be present, they exist at levels that pose little or no risk.

"Common pest" means a pest, weed, or disease that is not under a state or federal quarantine or eradication program and is of general distribution within the state.

"Director" means the Director of the Arizona Department of Agriculture.

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“General nursery stock inspection certification” means an inspection carried out at the request of a person for the purpose of meeting the general nursery inspection requirements of another state.

“Nursery location” means real property with one physical address, upon which nursery stock is propagated, grown, sold, distributed, or offered for sale.

“Quarantine pest” means an economically important pest that does not occur in the state or that occurs in the state but is not widely distributed or is being officially eradicated.

“Single shipment nursery stock inspection certification” means a visit to a single location by a Department inspector to certify one or more shipments of nursery stock for compliance with the quarantine requirements of the receiving state, county, or commonwealth.

- B.** General nursery stock inspection certification. A person may apply for general nursery stock inspection certification by submitting to the Department the application described in subsection (E) for each nursery location. The applicant shall submit a \$50 inspection fee to the Department at the time of inspection for each nursery location. Each nursery location shall be inspected and certified separately. An application for initial certification may be submitted at any time. A certificate will be valid for one year, and may be renewed. A renewal application shall be submitted each year by February 15.
 1. The Department shall issue a general nursery stock inspection certificate to the applicant if, following a Department inspection, the nursery stock is found free of quarantine pests, and commercially clean of common pests that are adversely affecting the nursery stock.
 - a. The Department shall only certify nursery stock that is found free of quarantine pests. The applicant shall not remove from the nursery any nursery stock that is found infested with a quarantine pest until a Department inspector determines that the pest has been eliminated.
 - b. The Department shall restrict the movement of any nursery stock found infested with a common pest that a Department inspector determines is adversely affecting the nursery stock. The applicant shall establish a treatment program to control the pest and shall not remove the infested nursery stock from the nursery until a Department inspector determines that the pest has been controlled.
 2. A certificate holder shall ensure that a nursery with a general nursery stock inspection certificate remains free of quarantine pests and commercially clean of common pests that are adversely affecting the nursery stock throughout the period that the certificate is valid.
 3. A certificate holder shall not distribute, transport, or sell nursery stock interstate if it is infested with a quarantine pest or a common pest that is adversely affecting the nursery stock.
 4. A certificate holder may reproduce a general nursery stock inspection certificate without the Department’s permission for nursery use.
 5. A certificate holder shall ensure that the nursery’s general nursery stock inspection certificate accompanies each shipment of nursery stock that is moved out of the state.
 6. A certificate holder shall maintain all invoices or other shipping documents for shipments received by and shipped from the nursery for up to one year. The certificate holder shall make the documents available to the Department upon request, as authorized by A.R.S. § 3-201.01(A)(6).
7. The Department shall inspect a nursery with a general nursery stock inspection certificate at any time during the certificate period to verify compliance with this Section.
8. A general nursery stock inspection certificate expires on December 31 of each year unless renewed, suspended, or revoked as provided in this Section.
9. A person with a general nursery stock inspection certificate may also need to obtain a special nursery stock inspection certificate to meet a specific quarantine entry requirement of another state, as prescribed in subsection (C).
- C.** Special nursery stock inspection certification. A person may apply for special nursery stock inspection certification to meet specific quarantine entry requirements of another state that are not addressed by the general nursery stock inspection certificate described in subsection (B). The applicant shall submit to the Department the application described in subsection (E) and a \$50 inspection fee for each nursery location.
 1. An applicant shall ensure that the applicant’s nursery stock is free of quarantine pests as required by the receiving state and commercially clean of common pests that are adversely affecting the nursery stock. The Department shall not certify nursery stock that is infested with a quarantine pest until a Department inspector determines that the pest has been eliminated. The Department shall not certify nursery stock that is infested with a common pest that a Department inspector determines is adversely affecting the nursery stock.
 2. A certificate holder shall not reproduce or duplicate a special nursery stock inspection certificate without written permission from the Department.
 3. A special nursery stock inspection certificate is valid for one year from the issue date unless the receiving state requires a shorter certification period.
- D.** Single shipment nursery stock inspection certification. A person may apply for a single shipment nursery stock inspection certification to meet the entry requirements of another state by submitting to the Department the application described in subsection (E) with a \$50 inspection fee.
 1. An applicant for a single shipment nursery stock inspection certificate shall ensure that the nursery stock in each shipment is free from quarantine pests, as required by the receiving state, and commercially clean of common pests that are adversely affecting the nursery stock. The Department shall not certify nursery stock that is infested with a quarantine pest until a Department inspector determines that the pest has been eliminated. The Department shall not certify nursery stock that is infested with a common pest that a Department inspector determines is adversely affecting the nursery stock until the pest has been controlled.
 2. A single shipment nursery stock inspection certificate is valid for seven calendar days following the inspection date. A certificate holder may apply for a new certificate if the original certificate expires before the shipment leaves Arizona.
 3. A certificate holder shall not reproduce or duplicate a single shipment nursery stock inspection certificate.
 4. A person who has obtained a single shipment nursery stock inspection certificate for collected nursery stock shall retain a record, for at least one year from the ship-

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ment date, of the street address from which each plant in a shipment was collected. The person shall provide the collected nursery stock record to the Department upon request.

- E.** Application. A person applying for a certificate under this Section shall provide the following information on a form obtained from the Department:
1. Applicant's name, nursery name, mailing address, telephone and fax numbers, and email address, as applicable;
 2. Location at which inspection is to be made, by legal description or physical address;
 3. Number of acres, structures, or vehicles to be inspected, as applicable;
 4. For shipping, the state, county, or commonwealth of planned destination, the category of inspection, and the nursery stock to be certified;
 5. Applicant's Social Security number or tax identification number; and
 6. Applicant's signature and date of signature.
- F.** Based upon the circumstances of each case, the Associate Director may:
1. Refuse to issue a certificate if, after inspection, the Associate Director determines that an applicant has not met a requirement for certification.
 2. Revoke a certificate for a violation of a condition of the certificate.
 3. Suspend, for a period of up to 90 days, a certificate for misuse or misrepresentation related to the certificate.
 4. Refuse to issue or suspend a certificate issued under this Section if the applicant or certificate holder refuses to provide the Department with documents that demonstrate the ownership, origin, or destination of nursery stock presented for certification.
- G.** Notwithstanding subsections (B) through (D), during fiscal year 2025, an applicant for nursery stock inspection certification shall pay the following fee:
1. For general certification, \$250.
 2. For single shipment certification, \$50 for the first lot plus \$10 for each additional lot per Department site trip.

Historical Note

Section amended by emergency rulemaking at 30 A.A.R. 2981 (October 4, 2024), effective September 14, 2024, with a legal provision that the emergency expire on July 1, 2025, as specified in Laws 2024, Ch. 214, § 11(B) (Supp. 24-3).

R3-4-301. Nursery Certification

- A.** Definitions. The following terms apply to this Section.

"Associate Director" means the Associate Director of the Arizona Department of Agriculture's Plant Services Division.

"Certificate" means a document issued by the Director, Associate Director or by a Department inspector stating that the nursery stock has been inspected and complies with the criteria set forth by an agricultural agency of any state, county, or commonwealth.

"Certificate holder" means a person who holds a certificate issued in accordance with this Section.

"Collected nursery stock" means nursery stock that has been dug or gathered from any site other than a nursery location.

"Commercially clean" means nursery stock offered for sale in a healthy condition and, though common pests may be present, they exist at levels that pose little or no risk.

"Common pest" means a pest, weed, or disease that is not under a state or federal quarantine or eradication program and is of general distribution within the state.

"Director" means the Director of the Arizona Department of Agriculture.

"General nursery stock inspection certification" means an inspection carried out at the request of a person for the purpose of meeting the general nursery inspection requirements of another state.

"Nursery location" means real property with one physical address, upon which nursery stock is propagated, grown, sold, distributed, or offered for sale.

"Quarantine pest" means an economically important pest that does not occur in the state or that occurs in the state but is not widely distributed or is being officially eradicated.

"Single shipment nursery stock inspection certification" means a visit to a single location by a Department inspector to certify one or more shipments of nursery stock for compliance with the quarantine requirements of the receiving state, county, or commonwealth.

- B.** General nursery stock inspection certification. A person may apply for general nursery stock inspection certification by submitting to the Department the application described in subsection (E) for each nursery location. The applicant shall submit a \$50 inspection fee to the Department at the time of inspection for each nursery location. Each nursery location shall be inspected and certified separately. An application for initial certification may be submitted at any time. A certificate will be valid for one year, and may be renewed. A renewal application shall be submitted each year by February 15.
1. The Department shall issue a general nursery stock inspection certificate to the applicant if, following a Department inspection, the nursery stock is found free of quarantine pests, and commercially clean of common pests that are adversely affecting the nursery stock.
 - a. The Department shall only certify nursery stock that is found free of quarantine pests. The applicant shall not remove from the nursery any nursery stock that is found infested with a quarantine pest until a Department inspector determines that the pest has been eliminated.
 - b. The Department shall restrict the movement of any nursery stock found infested with a common pest that a Department inspector determines is adversely affecting the nursery stock. The applicant shall establish a treatment program to control the pest and shall not remove the infested nursery stock from the nursery until a Department inspector determines that the pest has been controlled.
 2. A certificate holder shall ensure that a nursery with a general nursery stock inspection certificate remains free of quarantine pests and commercially clean of common pests that are adversely affecting the nursery stock throughout the period that the certificate is valid.
 3. A certificate holder shall not distribute, transport, or sell nursery stock interstate if it is infested with a quarantine pest or a common pest that is adversely affecting the nursery stock.
 4. A certificate holder may reproduce a general nursery stock inspection certificate without the Department's permission for nursery use.

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5. A certificate holder shall ensure that the nursery's general nursery stock inspection certificate accompanies each shipment of nursery stock that is moved out of the state.
 6. A certificate holder shall maintain all invoices or other shipping documents for shipments received by and shipped from the nursery for up to one year. The certificate holder shall make the documents available to the Department upon request, as authorized by A.R.S. § 3-201.01(A)(6).
 7. The Department shall inspect a nursery with a general nursery stock inspection certificate at any time during the certificate period to verify compliance with this Section.
 8. A general nursery stock inspection certificate expires on December 31 of each year unless renewed, suspended, or revoked as provided in this Section.
 9. A person with a general nursery stock inspection certificate may also need to obtain a special nursery stock inspection certificate to meet a specific quarantine entry requirement of another state, as prescribed in subsection (C).
- C. Special nursery stock inspection certification.** A person may apply for special nursery stock inspection certification to meet specific quarantine entry requirements of another state that are not addressed by the general nursery stock inspection certificate described in subsection (B). The applicant shall submit to the Department the application described in subsection (E) and a \$50 inspection fee for each nursery location.
1. An applicant shall ensure that the applicant's nursery stock is free of quarantine pests as required by the receiving state and commercially clean of common pests that are adversely affecting the nursery stock. The Department shall not certify nursery stock that is infested with a quarantine pest until a Department inspector determines that the pest has been eliminated. The Department shall not certify nursery stock that is infested with a common pest that a Department inspector determines is adversely affecting the nursery stock.
 2. A certificate holder shall not reproduce or duplicate a special nursery stock inspection certificate without written permission from the Department.
 3. A special nursery stock inspection certificate is valid for one year from the issue date unless the receiving state requires a shorter certification period.
- D. Single shipment nursery stock inspection certification.** A person may apply for a single shipment nursery stock inspection certification to meet the entry requirements of another state by submitting to the Department the application described in subsection (E) with a \$50 inspection fee.
1. An applicant for a single shipment nursery stock inspection certificate shall ensure that the nursery stock in each shipment is free from quarantine pests, as required by the receiving state, and commercially clean of common pests that are adversely affecting the nursery stock. The Department shall not certify nursery stock that is infested with a quarantine pest until a Department inspector determines that the pest has been eliminated. The Department shall not certify nursery stock that is infested with a common pest that a Department inspector determines is adversely affecting the nursery stock until the pest has been controlled.
 2. A single shipment nursery stock inspection certificate is valid for seven calendar days following the inspection date. A certificate holder may apply for a new certificate if the original certificate expires before the shipment leaves Arizona.
3. A certificate holder shall not reproduce or duplicate a single shipment nursery stock inspection certificate.
 4. A person who has obtained a single shipment nursery stock inspection certificate for collected nursery stock shall retain a record, for at least one year from the shipment date, of the street address from which each plant in a shipment was collected. The person shall provide the collected nursery stock record to the Department upon request.
- E. Application.** A person applying for a certificate under this Section shall provide the following information on a form obtained from the Department:
1. Applicant's name, nursery name, mailing address, telephone and fax numbers, and email address, as applicable;
 2. Location at which inspection is to be made, by legal description or physical address;
 3. Number of acres, structures, or vehicles to be inspected, as applicable;
 4. For shipping, the state, county, or commonwealth of planned destination, the category of inspection, and the nursery stock to be certified;
 5. Applicant's Social Security number or tax identification number; and
 6. Applicant's signature and date of signature.
- F. Based upon the circumstances of each case, the Associate Director may:**
1. Refuse to issue a certificate if, after inspection, the Associate Director determines that an applicant has not met a requirement for certification.
 2. Revoke a certificate for a violation of a condition of the certificate.
 3. Suspend, for a period of up to 90 days, a certificate for misuse or misrepresentation related to the certificate.
 4. Refuse to issue or suspend a certificate issued under this Section if the applicant or certificate holder refuses to provide the Department with documents that demonstrate the ownership, origin, or destination of nursery stock presented for certification.
- G. Notwithstanding subsections (B) through (D), during fiscal year 2024, an applicant for nursery stock inspection certification shall pay the following fee:**
1. For general certification, \$250.
 2. For single shipment certification, \$50 for the first lot plus \$10 for each additional lot per Department site trip.

Historical Note

Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-301 renumbered from R3-1-301 (Supp. 91-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2). Amended by exempt rulemaking at 16 A.A.R. 1336, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1761, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2063, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3143, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2454, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking at 21 A.A.R. 2410, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1941, effective August 8, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2223, effective August

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3, 2018 (Supp. 18-2). Amended by final exempt rulemaking at 25 A.A.R. 2085, effective August 27, 2019 (Supp. 19-3). Amended by final exempt rulemaking at 26 A.A.R. 1473, effective August 25, 2020 (Supp. 20-3). Amended by final exempt rulemaking at 27 A.A.R. 1266, effective September 29, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 2020 (August 12, 2022), effective September 24, 2022 (Supp. 22-3). Amended by exempt rulemaking at 29 A.A.R. 3486 (November 3, 2023), effective October 30, 2023 (Supp. 23-4).

R3-4-302. Repealed**Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-302 renumbered from R3-1-301 (Supp. 91-4). Section repealed by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).

R3-4-303. Repealed**Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-303 renumbered from R3-1-303 (Supp. 91-4). Section repealed by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).

R3-4-304. Repealed**Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-304 renumbered from R3-1-304 (Supp. 91-4). Section repealed by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).

R3-4-305. Repealed**Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-305 renumbered from R3-1-305 (Supp. 91-4). Section repealed by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).

R3-4-306. Repealed**Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-306 renumbered from R3-1-306 (Supp. 91-4). Section repealed by final rulemaking at 12 A.A.R. 1378, effective June 4, 2006 (Supp. 06-2).

R3-4-307. Repealed**Historical Note**

Adopted effective January 17, 1989 (Supp. 89-1). Section R3-4-307 renumbered from R3-1-307 (Supp. 91-4). Repealed effective April 11, 1994 (Supp. 94-2).

ARTICLE 4. SEEDS**R3-4-401. Definitions**

In addition to the definitions provided in A.R.S. § 3-231, the following shall apply to this Article:

1. "Blend" means seed consisting of more than one variety of a kind, with each variety in excess of five percent by weight of the whole.
2. "Brand" means a word, name, symbol, number, or design used to identify seed of one person to distinguish it from seed of another person.
3. "Certifying agency" means:

- a. An agency authorized under the laws of this state to officially certify seed and that has standards and procedures approved by the U.S. Secretary of Agriculture to assure the varietal purity and identity of the seed certified, or
 - b. An agency of a foreign country determined by the U.S. Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to the procedures and standards adhered to generally by seed-certifying agencies under subsection (a) of this definition.
4. "Coated seed" means seed that has been covered with a substance that changes the size, shape, or weight of the original seed. Seed coated with ingredients such as rhizobia, dyes, and pesticides is not coated seed.
 5. "Conditioning" or "conditioned" means drying, cleaning, scarifying, and other operations that could change the purity or germination of the seed and require the seed lot to be retested to determine the label information.
 6. "Dormant" means viable seed, excluding hard seed, that fails to germinate when provided the specified germination conditions for that kind of seed.
 7. "Federal Seed Act" means the federal law at 7 U.S.C. §§ 1551-1611 (Federal Seed Act of 1939, as amended 85 FR 40571, August 6, 2020, <https://www.federalregister.gov/d/2020-12920>) and the regulations promulgated under 7 C.F.R. §§ 201.1 et seq. (as amended 47 FR 746, January 7, 1992, <https://www.ecfr.gov/current/title-7/part-201>). These materials are incorporated by reference, on file with the Department, and do not include any later amendments or editions.
 8. "Flower seeds" means seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold under the name of flower or wildflower seeds in this state.
 9. "Germination" means the emergence and development from the seed embryo of those essential structures that, for the kind of seed in question, are indicative of the ability to produce a normal plant under favorable conditions.
 10. "Hard seeds" means seeds that remain hard at the end of the prescribed germination test period because they have not absorbed water due to an impermeable seed coat.
 11. "Inert matter" means all matter that is not seed, including broken seeds, sterile florets, chaff, fungus bodies, and stones.
 12. "Mixture", "mix", or "mixed" means seed consisting of more than one kind, each in excess of five percent by weight of the whole.
 13. "Mulch" means a protective covering of any suitable substance placed with seed that acts to retain sufficient moisture to support seed germination, sustain early seedling growth and aid in preventing soil moisture evaporation, control of weeds, and erosion prevention.
 14. "Non-commercial Seed Sharing" means that no monetary consideration or compensation may be transferred in return for receiving seeds. Additionally, anyone distributing seeds under the rules of this definition may not expect, or create the expectation, that seeds must be returned in exchange for receiving seeds. If distribution of seeds is found to be in anticipation or connected to money paid for work or services rendered by the same person distributing seeds, such distribution shall not be considered non-commercial within these rules.

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15. "Origin" means the state where the seed was grown, or if not grown in the United States, the country where the seed was grown.
16. "Other crop seed" means seeds of plants grown as crops other than the kind or variety included in the pure seed, as determined by methods defined in this Article.
17. "Pure live seed" means the product of the percent of germination plus hard or dormant seed multiplied by the percent of pure seed divided by 100. The result is expressed as a whole number.
18. "Pure seed" means a kind of seed excluding inert matter and all other seed not of the kind being considered.
19. "Replacement date sticker" means a sticker on a label that displays a new test date.
20. "Retail" means sales that are not intended for agricultural use and are prepared for use by a consumer in home gardens or household plantings only.
21. "Seed count" means the number of seeds per unit weight in a container.
22. "Seizure" means taking possession of seed pursuant to a court order.
23. "Wholesale" means sales of seeds that are intended for agricultural use normally in quantities for resale, as by an agricultural retail merchant and are not prepared for use in home gardening or household plantings.
24. "Working sample" means the number of seeds required under §§ 402 and 403 of the Federal Seed Act.
5. Labeling of seed distributed for wholesale. After seed has been conditioned, a labeler shall ensure the seed is labeled as follows:
 - a. When supplied for retail or directly to a consumer, each bag or bulk lot must be completely labeled.
 - b. When supplied for wholesale, if each bag or other container is clearly identified by a lot number permanently displayed on the container or if the seed is in bulk, the labeling of seed may be by invoice.
 - c. When supplied for wholesale, if each bag or container is not identified by a lot number, it must carry complete labeling.
6. Seeds for sprouting. All labels of seeds sold for sprouting for salad or culinary purposes shall indicate the following information:
 - a. Commonly accepted name of kind or kinds;
 - b. Lot number;
 - c. Percentage by weight of each pure seed component in excess of 5 percent of the whole, other crop seeds, inert matter, and weed seeds, if occurring;
 - d. Percentage of germination of each pure seed component;
 - e. Percentage of hard seed, if present; and
 - f. The calendar month and year the germination test was completed to determine the percentages in subsections (c), (d) and (e).
7. Non-Commercial Seed Sharing. Agricultural, vegetable, or flower seeds that are distributed for sowing purposes in a non-commercial setting shall bear on each container a plainly written or printed label or tag in English with the following information:
 - a. The name of the kind or kinds and variety of each agricultural, vegetable, or flower seed component present. Hybrids shall be labeled as hybrids.
 - b. A word or statement indicating if the seed has been treated. And if treated, must be labeled as provided in subsection (C)(2).
 - c. Some form of reference identification that provides traceability. Retention of posterity file samples are not required.
 - d. Name and city or address of the non-commercial seed sharing entity.
 - e. The full name of the donor and calendar month and year the seed was donated.
 - f. The seed shall be free of foreign material, other than coatings or treatments, including germination medium, mulch, fertilizer, pre-planted containers, mats, tapes or other planting devices.
 - g. No distributed container shall hold more than eight ounces of agricultural seed or four ounces of vegetable or flower seed.
 - h. Germination and purity analysis are not required, however if a germination or purity percentage is noted on the label, it must be noted whether or not the analysis was performed according to the Association of Official Seed Analysts rules for testing seed.
 - i. At each location involved with non-commercial seed sharing a legible and visible sign shall state that the seeds being distributed may not meet germination or varietal purity standards prescribed by the state seed law. The sign must also state that patented seed or varieties protected by the Plant Variety Protection Act will not be accepted or distributed without permission of the certificate holder. (P.L. 91-577: 84

Historical Note

Former Rule, Arizona Seed Regulation 1. Amended effective August 31, 1981 (Supp. 81-4). Former Section R3-4-110 renumbered without change as Section R3-4-401 (Supp. 89-1). Section R3-4-401 renumbered from R3-1-401 (Supp. 91-4). Section repealed, new Section adopted effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 29 A.A.R. 3932 (December 29, 2023), effective February 4, 2024 (Supp. 23-4).

R3-4-402. Labeling**A. General requirements:**

1. Blank spaces or the words "free or none" mean "0" and "0.00%" for the purpose of applying the tolerances prescribed in this Article.
2. Labeling for purity and germination shall not show higher results than actually found by test.
3. The terms "foundation seed," "registered seed," and "certified seed", as defined in the "Federal Seed Act", are authorized for use on seed certified by a seed certifying agency under the laws of Arizona as delineated in R3-4-405.
4. Relabeling. Any person relabeling seed in its original container shall include the following information on a label or a replacement date sticker:
 - a. The calendar month and year the germination test was completed to determine the germination percentage and the sell-by date as required by subsection (C)(3)(i)(iv) or (C)(5)(c)(i),
 - b. The same lot designation as on the original labels, and
 - c. The identity of the person relabeling the seed if different from the original labeler.

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Stat. 1542; 7 U.S.C. §§ 2321 through 2582 as amended December 20, 2018, <https://uscode.house.gov/view.xhtml?path=/prelim@title7/chapter57&edition=prelim>. These materials are incorporated by reference, on file with the Department, and do not include any later amendments or editions).

B. Kind, variety, or type.

1. All agricultural seeds sold in this state, except as stated in subsection (B)(2), shall be labeled to include the recognized variety name or type or the words "Variety not stated." A brand is not a kind and variety designation and shall not be used instead of a variety name.
2. All cotton planting seed sold, offered for sale, exposed for sale, or transported for planting purposes in this state, shall have a label that includes both kind and variety.

C. Agricultural, vegetable, or flower seeds that are sold, offered for sale, or exposed for sale within this state shall bear on each container a plainly written or printed label or tag in English. No modifications or disclaimers shall be made to the required label information in the labeling or on another label attached to the container. No misleading information shall appear on the label. The label shall include the following information:

1. For agricultural, vegetable, and flower seeds that have been treated, the following is required and may appear on a separate label:
 - a. Language indicating that the seed has been treated;
 - b. The commonly-accepted chemical name of the applied substance or a description of the process used;
 - c. If a substance that is harmful to human or animals is present with the seed, a caution statement such as "Do not use for food, feed, or oil purposes." The caution for highly toxic substances shall be a poison statement and symbol; and
 - d. If the seed is treated with an inoculant, the date of expiration, which is the date beyond which the inoculant is not to be considered effective.
2. For agricultural seeds, except for lawn and turf grass seed and mixtures of lawn and turf grass seed as provided in subsection (C)(3); for seed sold on a pure live seed basis as provided in subsection (C)(7); and for hybrids that contain less than 95 percent hybrid seed as provided in subsection (C)(8):
 - a. The name of the kind and variety for each agricultural seed component in excess of five percent of the whole and the percentage by weight of each. If the variety of the kinds generally labeled as a variety designated in this Article is not stated, the label shall show the name of the kind and the words, "variety not stated." Hybrid seed shall be labeled as hybrid;
 - b. Lot number or other lot identification;
 - c. Origin of alfalfa, red clover, and field corn (except hybrid corn) or if the origin is unknown, a statement that the origin is unknown;
 - d. Percentage by weight of all weed seeds;
 - e. The name and rate of occurrence per pound of each kind of restricted noxious weed seed present;
 - f. Percentage by weight of agricultural seeds other than those required to be named on the label. Agricultural seeds may be designated as "crop seeds;"
 - g. Percentage by weight of inert matter;
 - h. The sum total of weight identified in subsections (a), (d), (f), and (g) shall equal 100 percent;

- i. For each named agricultural seed:
 - i. Percentage germination, excluding hard seed;
 - ii. Percentage of hard seeds, if present; and
 - iii. The calendar month and year the test was completed to determine the percentages. The statement "total germination and hard seed" may be included following the percentages required under subsections (i) and (ii).
 - j. Net weight of seed in the container or seed count per unit weight; and
 - k. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state.
3. For lawn and turf grass seed and lawn and turf grass seed mixtures:
 - a. For single kinds, the name of the kind or kind and variety and the percentage by weight.
 - b. For mixtures, the word "mix," "mixed", or "mixture" or "blend" shall be stated with the name of the mixture, along with the commonly accepted name of each kind or kind and variety of each agricultural seed component in excess of five percent of the whole and the percentages by weight.
 - c. The percentage by weight of each kind of pure seed shall be listed in order of its predominance and in columnar form. The heading "pure seed" and "germination" or "germ" shall be placed consistent with generally accepted industry practices.
 - d. Percentage by weight of agricultural seed other than those required to be named on the label which shall be designated as "crop seed."
 - e. The percentage by weight of inert matter for lawn and turf grass shall not exceed ten percent, except that 15 percent inert matter is permitted in Kentucky bluegrass labeled without a variety name. Foreign material that is not common to grass seed shall not be added, other than material used for coating, as in subsection (C)(4), or combination products, as in subsection (C)(9).
 - f. Percentage by weight of all weed seeds. Weed seed content shall not exceed one-half of one percent by weight.
 - g. The sum total for subsections (a), (b), (c), (d), (e) and (f) shall equal 100 percent.
 - h. Noxious weeds that are required by this Article to be labeled shall be listed under the heading "noxious weed seeds."
 - i. For each lawn and turf seed named under subsection (a) or (b):
 - i. Percentage of germination, excluding hard seed;
 - ii. Percentage of hard seed, if present;
 - iii. Calendar month and year the germination test was completed to determine percentages in subsections (i) and (ii); and
 - iv. For seed sold for retail non-farm usage the statement "sell by (month/year)" which shall be no more than 15 months from the date of the germination test excluding the month of the test.
 - j. Name and address of the labeler, or the person who sells, offers or exposes the seed for sale within this state.

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4. For coated agricultural, vegetable, flower, or lawn and turf seeds that are sold by weight:
 - a. Percentage by weight of pure seeds with coating material removed;
 - b. Percentage by weight of coating material;
 - c. Percentage by weight of inert material not including coating material;
 - d. Percentage of germination determined on 400 pellets with or without seeds;
 - e. All other applicable requirements in subsections (C)(1), (2), and (3).
5. For vegetable seeds in packets as prepared for use in home gardens or household plantings or vegetable seeds in pre-planted containers, mats, tapes, or other planting devices:
 - a. Name of kind and variety of seed;
 - b. Lot identification, such as by lot number or other means;
 - c. One of the following:
 - i. The calendar month and year the germination test was completed and the statement "Sell by (month/year)." The date indicated shall be no more than 15 months from the date of the test, excluding the month of the test;
 - ii. The calendar year for which the seed was packaged for sale as "packed for (year)" and the statement "sell by (year)"; or
 - iii. The percentage germination and the calendar month and year the test was completed to determine the percentage if the germination test was completed within 15 months, excluding the month of the test;
 - d. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state;
 - e. For seeds that germinate less than the standard established under R3-4-404(A), (B) and (C)(i): percentage of germination, excluding hard seed; percentage of hard seed, if present; and the words "Below Standard" in not less than 8-point type;
 - f. For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape or device, a statement to indicate the minimum number of seeds in the container.
6. For vegetable seeds in containers other than packets prepared for use in home gardens, household plantings, pre-planted containers, mats, tapes, or other planting devices:
 - a. The name of each kind and variety present in excess of five percent and the percentage by weight of each in order of its predominance;
 - b. Lot number or other lot identification;
 - c. For each named vegetable seed:
 - i. Percentage germination, excluding hard seed;
 - ii. Percentage of hard seed, if present; and
 - iii. The calendar month and year the test was completed to determine the percentages; The statement "Total germination and hard seed" may be included following the percentages required under subsections (C)(6)(c)(i) and (C)(6)(c)(ii);
 - d. Name and address of the labeler, or the person who sells, offers or exposes the seed for sale within this state; and
 - e. The labeling requirements for vegetable seeds in containers of more than one pound are met if the seed is weighed from a properly labeled container in the presence of the purchaser.
7. For agricultural seeds sold on a pure live seed basis, each container shall bear a label containing the information required by subsection (C)(2), except:
 - a. The label need not show:
 - i. The percentage by weight of each agricultural seed component as required by subsection (C)(2)(a); or
 - ii. The percentage by weight of inert matter as required by subsection (C)(2)(g); and
 - b. For each named agricultural seed, the label must show instead of the information required by subsection (C)(2)(h):
 - i. The percentage of pure live seed; and
 - ii. The calendar month and year in which the test determining the percentage of live seed was completed.
8. For agricultural and vegetable hybrid seeds that contain less than 95 percent hybrid seed:
 - a. Kind or variety shall be labeled as "hybrid,"
 - b. The percentage that is hybrid shall be labeled parenthetically in direct association following the named variety; for example – comet (85% hybrid), and
 - c. Varieties in which the pure seed contains less than 75 percent hybrid seed shall not be labeled hybrids.
9. For combination mulch, seed, and fertilizer products:
 - a. The word "combination" followed by the words "mulch – seed – fertilizer", as appropriate, shall appear on the upper 30 percent of the principal display panel. The word "combination" shall be the largest and most conspicuous type on the container, equal to or larger than the product name. The words "mulch – seed – fertilizer", as appropriate, shall be no smaller than one-half the size of the word "combination" and in close proximity to the word "combination."
 - b. The products shall not contain less than 70 percent mulch.
 - c. Agricultural, flower, vegetable, lawn, and turf seeds placed in a germination medium, mat, tape, or other device or mixed with mulch shall be labeled as follows:
 - i. Product name;
 - ii. Lot number;
 - iii. Percentage by weight of pure seed of each kind and variety named. The kind and variety named may be less than 5 percent of the whole;
 - iv. Percentage by weight of other crop seeds;
 - v. Percentage by weight of inert matter, which shall not be less than 70 percent;
 - vi. Percentage by weight of weed seeds;
 - vii. The total of subsections (iii), (iv), (v), and (vi) shall equal 100 percent;
 - viii. Name and number of noxious weed seeds per pound, if present;
 - ix. Hard seed percentage, if present, and percentage of germination of each kind or kind and variety named and the month and year the test was completed; and

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- x. Name and address of the labeler or the person who sells, offers or exposes the product for sale within this state.
- D. Labeling requirements: flowers.**
1. For flower seeds in packets prepared for use in home gardens or household plantings or flower seeds in pre-planted containers, mats, tapes, or other planting devices:
 - a. For all kinds of flower seeds:
 - i. The name of the kind and variety or a statement of type and performance characteristics as prescribed in subsection (D)(3); and
 - ii. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state, and one of the following subsections (D)(1)(a)(iii) through (v);
 - iii. The calendar month and year the germination test was completed and the statement "Sell by (month/year)." The date indicated shall be no more than 15 months from the date of the test excluding the month of the test; or
 - iv. The calendar year for which the seed was packaged for sale as "packed for (year)" and the statement "sell by (year)"; or
 - v. The percentage germination and the calendar month and year the test was completed to determine the percentage if the germination test was completed within 15 months, excluding the month of the test.
 - b. For kinds of flower seeds for which standard testing procedures are prescribed by the Association of Official Seed Analysts and that germinate less than the germination standards prescribed under the provisions of R3-4-404(B):
 - i. Percentage of germination, excluding hard seeds;
 - ii. Percentage hard seed, if present; and
 - iii. The words "Below Standard" in not less than eight-point type.
 - c. For flower seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape, or device, a statement to indicate the minimum number of seeds in the container.
 2. For flower seeds in containers other than packets and other than pre-planted containers, mats, tapes, or other planting devices and not prepared for use in home flower gardens or household plantings:
 - a. The name of the kind and variety or a statement of type and performance characteristics as prescribed in subsection (D)(3), and for wildflowers, the genus and species and subspecies, if appropriate;
 - b. The lot number or other lot identification;
 - c. For wildflower seed with a pure seed percentage of less than 90 percent:
 - i. The percentage, by weight, of each component listed in order of the component's predominance;
 - ii. The percentage by weight of weed seed, if present; and
 - iii. The percentage by weight of inert matter;
 - d. For kinds of seed for which standard testing procedures are prescribed by the Association of Official Seed Analysts:
 - i. Percentage of germination, excluding hard or dormant seed;
 - ii. Percentage of hard or dormant seed, if present; and
 - iii. The calendar month and year that the test was completed to determine the percentages in subsections (D)(2)(d)(i) and (ii);
 - e. For those kinds of flower seed for which standard testing procedures are not prescribed by the Association of Official Seed Analysts, the year of production or collection; and
 - f. Name and address of the labeler, or the person who sells, offers, or exposes the flower seed for sale within this state.
 3. Requirements to label flower seeds with kind and variety, or type and performance characteristics as prescribed in subsection (D)(1)(a)(i) and (D)(2)(a) shall be met as follows:
 - a. For seeds of plants grown primarily for their blooms:
 - i. If the seeds are of a single named variety, the kind and variety shall be stated, for example, "Marigold, Butterball";
 - ii. If the seeds are of a single type and color for which there is no specific variety name, the type of plant, if significant, and the type and color of bloom shall be indicated, for example, "Scabiosa, Tall, Large Flowered, Double, Pink";
 - iii. If the seeds consist of an assortment or mixture of colors or varieties of a single kind, the kind name, the type of plant, if significant, and the type or types of bloom shall be indicated. It shall be clearly indicated that the seed is mixed or assorted. An example of labeling such a mixture or assortment is "Marigold, Dwarf Double French, Mixed Colors";
 - iv. If the seeds consist of an assortment or mixture of kinds or kinds and varieties, it shall clearly indicate that the seed is assorted or mixed and the specific use of the assortment or mixture shall be indicated, for example, "Cut Flower Mixture", or "Rock Garden Mixture". Statements such as "General Purpose Mixture", "Wonder Mixture", or any other statement that fails to indicate the specific use of the seed shall not be considered as meeting the requirements of this subsection unless the specific use of the mixture is also stated. Containers with over three grams of seed shall list the kind or kind and variety names of each component present in excess of five percent of the whole in the order of their predominance, giving the percentage by weight of each. Components equal to or less than five percent shall be listed, but need not be listed in order of predominance. A single percentage by weight shall be given for these components that are less than five percent of the whole. If no component of a mixture exceeds five percent of the whole, the statement, "No component in excess of 5%" may be used. Containers with three grams of seed or less shall list the components without giving

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- percentage by weight and need not be in order of predominance.
- b. For seeds of plants grown for ornamental purposes other than their blooms, the kind and variety shall be stated, or the kind shall be stated together with a descriptive statement concerning the ornamental part of the plant, for example, "Ornamental Gourds, Small Fruited, Mixed."
- E. Label requirement for tree and shrub seeds. Tree or shrub seeds that are sold, offered for sale, or exposed for sale within this state shall bear on each container a plainly written or printed label or tag in English. No modifications or disclaimers shall be made to the required label information in the labeling or on another label attached to the container. Labeling of seed supplied under a contractual agreement meets this requirement if the shipment is accompanied by an invoice or by an analysis tag attached to the invoice if each bag or other container is clearly identified by a lot number permanently displayed on the container or if the seed is in bulk. Each bag or container not clearly identified by a lot number must carry complete labeling. The label shall include the following information:
1. For tree and shrub seeds that have been treated, the following may appear on a separate label:
 - a. Language indicating that the seed has been treated;
 - b. The commonly accepted chemical name of the applied substance or description of the process used;
 - c. If the substance is harmful to human or animals, a caution statement such as "do not use for food or feed or oil purposes". The caution for highly toxic substances shall be a poison statement and symbol; and
 - d. If the seed has been treated with an inoculant, the date of expiration, which is the date the inoculant is no longer considered effective;
 2. For all tree and shrub seeds subject to this Article:
 - a. Common name of the species of seed and if appropriate, the subspecies;
 - b. The scientific name of the genus and species and if appropriate, the subspecies;
 - c. Lot number or other lot identification;
 - d. Origin.
 - i. For seed collected from a predominantly indigenous stand, the area of collection given by latitude and longitude, a geographic description, or identification of a political subdivision, such as a state or county; or
 - ii. For seed collected from other than a predominantly indigenous stand, identification of the area of collection and the origin of the stand, or the statement "origin not indigenous";
 - e. The elevation or the upper and lower limits of elevations within which the seed was collected;
 - f. Purity as a percentage of pure seed by weight;
 - g. For those species listed under R3-4-404(C), the following apply except as provided in subsection (E)(2)(h):
 - i. Percentage germination excluding hard seed;
 - ii. Percentage of hard seed, if present;
 - iii. The calendar month and year the test was completed to determine the percentages in subsection (E)(2)(g)(i) and (ii);
- h. Instead of complying with subsections (E)(2)(g)(i), (ii), and (iii), the seed may be labeled, "Test is in process, results will be supplied upon request";
 - i. For those species for which standard germination testing procedures have not been prescribed, the calendar year in which the seed was collected; and
 - j. Name and address of the labeler, or the person who sells, offers, or exposes the seed for sale within this state.
- F. Hermetically sealed seed shall meet the following requirements as prescribed in the "Federal Seed Act:":
1. The seed shall have been packaged within nine months of harvest;
 2. The container used shall not allow water vapor penetration through any wall, including the seals, greater than 0.05 grams of water per 24 hours per 100 square inches of surface at 100°F with a relative humidity on one side of 90 percent and on the other side 0 percent. Water vapor penetration (WVP) is measured in accordance with the U.S. Bureau of Standards as: gm H₂O/24 hr/100 sq in/100°F /90% RHV 0% RH;
 3. The seed in the container shall not exceed the percentage of moisture, on a wet weight basis, as listed below:
 - a. Agricultural Seeds,
 - i. Beet, Field: 7.5;
 - ii. Beet, Sugar: 7.5;
 - iii. Bluegrass, Kentucky: 6.0;
 - iv. Clover, Crimson: 8.0;
 - v. Fescue, Red: 8.0;
 - vi. Mustard, India: 5.0;
 - vii. Ryegrass, Annual: 8.0;
 - viii. Ryegrass, Perennial: 8.0; and
 - ix. All Others: 6.0;
 - b. Vegetable Seeds,
 - i. Bean, Garden: 7.0;
 - ii. Bean, Lima: 7.0;
 - iii. Beet: 7.5;
 - iv. Broccoli: 5.0;
 - v. Brussels Sprouts: 5.0;
 - vi. Cabbage: 5.0;
 - vii. Carrot: 7.0;
 - viii. Cauliflower: 5.0;
 - ix. Celeriac: 7.0;
 - x. Celery: 7.0;
 - xi. Chard, Swiss: 7.5;
 - xii. Chinese Cabbage: 5.0;
 - xiii. Chives: 6.5;
 - xiv. Collards: 5.0;
 - xv. Corn, Sweet: 8.0;
 - xvi. Cucumber: 6.0;
 - xvii. Eggplant: 6.0;
 - xviii. Kale: 5.0;
 - xix. Kohlrabi: 5.0;
 - xx. Leek: 6.5;
 - xxi. Lettuce: 5.5;
 - xxii. Melon: 6.0;
 - xxiii. Mustard, India: 5.0;
 - xxiv. Onion: 6.5;
 - xxv. Onion, Welsh: 6.5;
 - xxvi. Parsley: 6.5;
 - xxvii. Parsnip: 6.0;
 - xxviii. Pea: 7.0;
 - xxix. Pepper: 4.5;
 - xxx. Pumpkin: 6.0;

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- xxxi. Radish: 5.0;
 - xxxii. Rutabaga: 5.0;
 - xxxiii. Spinach: 8.0;
 - xxxiv. Squash: 6.0;
 - xxxv. Tomato: 5.5;
 - xxxvi. Turnip: 5.0;
 - xxxvii. Watermelon: 6.5; and
 - xxxviii. All others: 6.0.
4. The container shall be conspicuously labeled in not less than 8-point type to indicate:
 - a. That the container is hermetically sealed,
 - b. That the seed has been preconditioned as to moisture content, and
 - c. The calendar month and year in which the germination test was completed; and
 5. The germination percentage of the seed at the time of packaging shall have been equal to or higher than the standards specified elsewhere in subsection R3-4-404.

Historical Note

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-111 renumbered without change as Section R3-4-402 (Supp. 89-1). Section R3-4-402 renumbered from R3-1-402 (Supp. 91-4). Amended effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 29 A.A.R. 3932 (December 29, 2023), effective February 4, 2024 (Supp. 23-4).

R3-4-403. Noxious Weed Seeds

- A. In addition to the noxious weeds prohibited in the "Federal Seed Act" a person shall not allow Class A, B, or C prohibited noxious weed seeds in seed regulated under this Article as prescribed under the provisions of R3-4-245:
 1. *Acroptilon repens* (L.) DC. – Russian knapweed;
 2. *Aegilops cylindrica* Host. – Jointed goatgrass;
 3. *Ailanthus altissima* – Tree of heaven;
 4. *Alhagi maurorum* – Camelthorn;
 5. *Arundo donax* – Giant reed;
 6. *Asphodelus fistulosus* – Onionweed;
 7. *Bothriochloa ischaemum* – Yellow bluestem;
 8. *Brassica nigra* – Black mustard;
 9. *Brassica tournefortii* – Saharan mustard;
 10. *Bromus diandrus* – Ripgut brome;
 11. *Bromus rubens* – Red brome
 12. *Bromus tectorum* – Cheatgrass
 13. *Carduus acanthoides* L. – Plumeless thistle;
 14. *Cardus nutans* – Musk thistle;
 15. *Carrichtera annua* – Ward's weed;
 16. *Cenchrus ciliaris* (*Pennisetum ciliare*) – Buffelgrass;
 17. *Cenchrus echinatus* L. – Southern sandbur;
 18. *Cenchrus spinifex* (*C. incertus*) – Field sandbur;
 19. *Centaurea calcitrapa* L. – Purple starthistle;
 20. *Centaurea diffusa* – Diffuse knapweed;
 21. *Centaurea melitensis* – Malta starthistle;
 22. *Centaurea solstitialis* L. – Yellow starthistle (St. Barnaby's thistle);
 23. *Centaurea stoebe* (*C. maculosa*). – Spotted knapweed;
 24. *Chondrilla juncea* L. – Rush skeletonweed;
 25. *Cirsium arvense* L. Scop. – Canada thistle;
 26. *Cirsium vulgare* – Bull thistle;
 27. *Convolvulus arvensis* L. – Field bindweed;
 28. *Cucumis melo* L. var. *Dudaim* Naudin – Dudaim melon (Queen Anne's melon);

29. *Eichornia crassipes* – Floating water hyacinth;
30. *Elaeagnus angustifolia* – Russian olive;
31. *Elymus repens* – Quackgrass;
32. *Eragrostis lehmanniana* – Lehman's lovegrass;
33. *Euphorbia esula* L. – Leafy spurge;
34. *Euryops subcarnosus* – Sweet resinbush;
35. *Halogeton glomeratus* (M. Bieb.) C.A. Mey – Halogeton;
36. *Hydrilla verticillata* (L.f.) Royle – Hydrilla (Florida-clo-dea);
37. *Ipomoea hederacea* – Ivy-leaf morning glory;
38. *Ipomoea purpurea* – Garden or common morning glory;
39. *Ipomoea tricolor* – Grannyvine;
40. *Ipomoea triloba* – Morning glory;
41. *Ipomoea x leucantha* – Morning glory;
42. *Isatis tinctoria* L. – Dyers woad;
43. *Kochia scoparia* – Kochia;
44. *Lepidium draba* (*Crucifera draba*) – Globed-podded hoary cress (Whitetop);
45. *Linaria dalmatica* (L. *genistifolia* var. *dalmatica*) – Dalmatian toadflax;
46. *Lythrum salicaria* L. – Purple loosestrife;
47. *Melinis repens* – Natal grass;
48. *Oncosiphon pilulifer* (*O. piluliferum*) – Stinknet (Globe chamomile);
49. *Onopordum acanthium* L. – Scotch thistle;
50. *Orobancha ramosa* L. – Branched broomrape;
51. *Peganum harmala* L. – African rue (Syrian rue);
52. *Pennisetum setaceum* – Fountain grass;
53. *Searsia lancea* – African sumac;
54. *Salvinia molesta* – Giant Salvinia;
55. *Sinapis arvensis* – Wild mustard;
56. *Sorghum halepense* – Johnsongrass;
57. *Tamarix* spp. – Salt cedar
58. *Tribulus terrestris* L. – Puncturevine;
59. *Ulmus pumila* – Siberian elm.

- B. A person shall not allow the following restricted noxious weeds, as a contaminant, in certified or registered seed:
 1. *Amaranthus* spp. – Pigweeds;
 2. *Avena fatua* – Wild oat;
 3. *Brassica* spp. – Cabbage and mustards;
 4. *Cenchrus* spp. – Sandburs;
 5. *Centaurea* spp. – Thistles;
 6. *Cuscuta* spp. – Dodder;
 7. *Cyperus* spp. – Sedges;
 8. *Ipomoea* spp. – Morning glories;
 9. *Lepidium* spp. – Cresses and worts;
 10. *Medicago* spp. – Burclovers;
 11. *Nassella* spp. – Needlegrasses;
 12. *Poa annua* – Annual bluegrass;
 13. *Salsola kali* var. *tenuifolia* – Russian thistle;
 14. *Solanum* spp. – Niteshades;
 15. *Xanthium* spp. – Cocklebur.

Historical Note

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-112 renumbered without change as Section R3-4-403 (Supp. 89-1). Section R3-4-403 renumbered from R3-1-403 (Supp. 91-4). Section R3-4-403 repealed, new Section R3-4-403 renumbered from R3-4-405 and amended effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 29 A.A.R. 3932 (December 29, 2023),

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effective February 4, 2024 (Supp. 23-4).

R3-4-404. Germination Standards

A. Vegetable seed shall have the following minimum percent germination or the minimum percent germination as found in the "Federal Seed Act," 7 C.F.R. § 201.31 (as amended July 7, 2020), which is incorporated by reference, not including future editions or amendments. The material is on file with the Department and available for purchase from the U. S. Government Bookstore (<http://bookstore.gpo.gov/>) or at the U.S. Government Printing Office, 732 N. Capitol St., NW, Washington, DC 20401 or it can be found online at <https://www.ecfr.gov/current/title-7/section-201.31>.

1. Artichoke: 60;
2. Asparagus: 70;
3. Asparagusbean: 75;
4. Bean, garden: 70;
5. Bean, Lima: 70;
6. Bean, runner: 75;
7. Beet: 65;
8. Broadbean: 75;
9. Broccoli: 75;
10. Brussels sprouts: 70;
11. Burdock, great: 60;
12. Cabbage: 75;
13. Cabbage, tronchuda: 70;
14. Cardoon: 60;
15. Carrot: 55;
16. Cauliflower: 75;
17. Celeriac: 55;
18. Celery: 55;
19. Chard, Swiss: 65;
20. Chicory: 65;
21. Chinese cabbage: 75;
22. Chives: 50;
23. Citron: 65;
24. Collards: 80;
25. Corn, sweet: 75;
26. Cornsalad: 70;
27. Cowpea: 75;
28. Cress, garden: 75;
29. Cress, upland: 60;
30. Cress, water: 40;
31. Cucumber: 80;
32. Dandelion: 60;
33. Dill: 60;
34. Eggplant: 60;
35. Endive: 70;
36. Kale: 75;
37. Kale, Chinese: 75;
38. Kale, Siberian: 75;
39. Kohlrabi: 75;
40. Leek: 60;
41. Lettuce: 80;
42. Melon: 75;
43. Mustard, India: 75;
44. Mustard, spinach: 75;
45. Okra: 50;
46. Onion: 70;
47. Onion, Welsh: 70;
48. Pak-choi: 75;
49. Parsley: 60;
50. Parsnip: 60;
51. Pea: 80;
52. Pepper: 55;

53. Pumpkin: 75;
54. Radish: 75;
55. Rhubarb: 60;
56. Rutabaga: 75;
57. Sage: 60;
58. Salsify: 75;
59. Savory, summer: 55;
60. Sorrel: 65;
61. Soybean: 75;
62. Spinach: 60;
63. Spinach, New Zealand: 40;
64. Squash: 75;
65. Tomato: 75;
66. Tomato, husk: 50;
67. Turnip: 80;
68. Watermelon: 70; and
69. All Others: The germination standard for all other vegetable and herb seed for which a standard has not been established shall be 50 percent.

B. The kinds of flower seeds listed in this subsection are those for which standard testing procedures have been prescribed and which are therefore required to be labeled in accordance with the germination percentage. For the kinds marked with an asterisk, the percentage listed is the sum total of the percentage germination and percentage of hard seed. A mixture of kinds does not meet the germination standard if the germination of any kind or combination of kinds constituting 25 percent or more of the mixture by number of seed is below the germination standard for the kind or kinds involved.

1. Archillea (The Pearl) – *Achillea ptarmica*: 50;
2. African Daisy – *Dimorphotheca aurantiaca*: 55;
3. African Violet – *Saintpaulia* spp: 30;
4. Ageratum – *Ageratum mexicanum*: 60;
5. Agrostemma (rose campion) – *Agrostemma coronaria*: 65;
6. Alyssum – *Alyssum compactum*, *A. maritimum*, *A. procumbens*, *A. saxatile*: 60;
7. Amaranthus – *Amaranthus* spp: 65;
8. Anagalis (primpernel) – *Anagalis arvensis*, *Anagalis coerulea*, *Anagalis grandiflora*: 60;
9. Anemone – *Anemone coronaria*, *A. pulsatilla*: 55;
10. Angel's Trumpet – *Datura arborea*: 60;
11. Arabis – *Arabis alpine*: 60;
12. Arctotis (African lilac daisy) – *Arctotis grandis*: 45;
13. Armeria – *Armeria formosa*: 55;
14. Asparagus, fern – *Asparagus plumosus*: 50;
15. Asparagus, sprenger, *Asparagus sprenger*: 55;
16. Aster, China – *Callistephus chinensis*; except Pompon, Powderpuff, and Princess types: 55;
17. Aster, China – *Callistephus chinensis*; Pompon, Powderpuff, and Princess types: 50;
18. Aubretia – *Aubretia deltoidea*: 45;
19. Baby Smilax – *Aparagus asparagoides*: 25;
20. Balsam – *Impatiens balsamina*: 70;
21. Begonia – (*Begonia fibrous rooted*): 60;
22. Begonia – (*Begonia tuberous rooted*): 50;
23. Bells of Ireland – *Molucella laevis*: 60;
24. Brachycome (swan river daisy) – *Brachycome iberidifolia*: 60;
25. Browallia – *Browallia elata* and *B. speciosa*: 65;
26. Bupthalam (sunwheel) – *Bupthalam salicifolium*: 60;
27. Calceolaria – *Calceolaria* spp: 60;
28. Calendula – *Calendula officinalis*: 65;
29. California Poppy – *Eschscholtzia californica*: 60;

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30. Calliopsis – *Coreopsis bicolor*, *C. drummondi*, *C. elegans*: 65;
31. Campanula:
 - a. Canterbury Bells – *Campanula medium*: 60;
 - b. Cup and Saucer Bellflower – *Campanula medium calycanthemata*: 60;
 - c. Carpathian Bellflower – *Campanula carpatica*: 50;
 - d. Peach Bellflower – *Campanula persicifolia*: 50;
32. Candytuft, Annual – *Iberis amara*, *I. umbellata*: 65;
33. Candytuft, Perennial – *Iberis gibraltarica*, *I. sempervirens*: 55;
34. Castor Bean – *Ricinus communis*: 60;
35. Cathedral Bells – *Cobaea scandens*: 65;
36. *Celosia argentea*: 65;
37. Centaurea: Basket Flower – *Centaurea americana*, Cornflower – *C. cyanus*, Dusty Miller – *C. candidissima*, Royal Centaurea – *C. imperialis*, Sweet Sultan – *C. moschata*, Velvet Centaurea – *C. gymnocarpa*: 60;
38. Snow-in-Summer *Cerastium biebersteini* and *C. tomentosum*: 65;
39. Chinese Forget-me-not – *Cynoglossum amabile*: 55;
40. Chrysanthemum, Annual – *Chrysanthemum carinatum*, *C. coronarium*, *C. Cineraria* – *Senecio cruentus*: 60;
41. Clarkia – *Clarkia elegans*: 65;
42. Cleome – *Cleome gigantea*: 65;
43. Coleus – *Coleus blumei*: 65;
44. Columbine – *Aquilegia* spp.: 50;
45. Coral Bells – *Heuchera sanguinea*: 55;
46. Coreopsis, Perennial – *Coreopsis lanceolata*: 40;
47. Corn, ornamental – *Zea mays*: 75;
48. Cosmos: Sensation, Mammoth and Crested types – *Cosmos bipinnatus*; Klondyke type – *C. sulphurea*: 65;
49. Crossandra – (*Crossandra infundibuliformis*): 50;
50. Dahlia – *Dahlia* spp: 55;
51. Daylily – *Heemerocallis* spp: 45;
52. Delphinium, Perennial – *Belladonna* and *Bellamosum* types; Cardinal Larkspur – *Delphinium cardinale*; *Chinensis* types; Pacific Giant, Gold Medal and other hybrids of *D. elatum*: 55;
53. Dianthus:
 - a. Carnation – *Dianthus caryophyllus*: 60;
 - b. China Pinks – *Dianthus chinensis*, *heddewigi*, *hedensis*: 70;
 - c. Grass Pinks – *Dianthus plumarius*: 60;
 - d. Maiden Pinks – *Dianthus deltoids*: 60;
 - e. Sweet William – *Dianthus barbatus*: 70;
 - f. Sweet Wivelsfield – *Dianthus allwoodi*: 60;
54. Didiscus – (blue lace flower) – *Didiscus coerulea*: 65;
55. Doronicum (leopard's bane) – *Doronicum caucasicum*: 60;
56. Dracaena – *Dracaena indivisa*: 55;
57. Dragon Tree – *Dracaena draco*: 40;
58. English Daisy – *Bellis perennis*: 55;
59. Flax – Golden flax (*Linum flavum*); Flowering flax L. *randiflorum*; Perennial flax, L. *perenne*: 60;
60. Flowering Maple – *Abutilon* spp: 35;
61. Foxglove – *Digitalis* spp: 60;
62. Gaillardia, Annual – *Gaillardia pulchella*; *G. picta*; Perennial – *G. grandiflora*: 45;
63. Gerbera (transvaal daisy) – *Gerbera jamesoni*: 60;
64. Geum – *Geum* spp: 55;
65. Gilia – *Gilia* spp: 65;
66. Glosiosa daisy (*rudbeckia*) – *Echinacea purpurea* and *Rudbeckia Hirta*: 60;
67. Gloxinia – (*Sinningia speciosa*): 40;
68. Godetia – *Godetia amoena*, *G. grandiflora*: 65;
69. Gourds: Yellow Flowered – *Cucurbita pepo*; White Flowered – *Lagenaria sisceraria*; Dishcloth – *Luffa cylindrica*: 70;
70. Gypsophila: Annual Baby's Breath – *Gypsophila elegans*; Perennial Baby's Breath – *G. paniculata*, *G. pacifica* *G. repens*: 70;
71. Helenium – *Helenium autumnale*: 40;
72. Helichrysum – *Helichrysum monstrosum*: 60;
73. Heliopsis – *Heliopsis scabra*: 55;
74. Heliotrope – *Heliotropium* spp: 35;
75. Helipterum (Acroclinium) – *Helipterum roseum*: 60;
76. Hesperis (sweet rocket) – *Hesperis matronalis*: 65;
77. *Hollyhock – *Althea rosea*: 65;
78. Hunnemanian (mexican tulip poppy) – *Hunnemanian fumariaefolia*: 60;
79. Hyacinth bean – *Dolichos lablab*: 70;
80. Impatiens – *Impatiens hostii*, *I. sultanii*: 55;
81. *Ipomoea – Cypress Vine – *Ipomoea quamoclit*; Moonflower – *I. noctiflora*; Morning Glories, Cardinal Climber, Hearts and Honey Vine – *Ipomoea* spp: 75, exception: *I. hederacea* – Ivy-leaf morning glory, *I. purpurea* – Garden or common morning glory, *I. tricolor* – Grannynvine, *I. triloba* and *I. x leucantha* – morning glory which are noxious weeds;
82. Jerusalem cross (maltese cross) – *Lychnis chalcidonica*: 70;
83. Job's Tears – *Coix lacrymajobi*: 70;
84. Kochia – *Kochia childsi*: 55;
85. Larkspur, Annual – *Delphinium ajacis*: 60;
86. Lantana – *Lantana camara*, *L. hybrida*: 35;
87. Lilium (regal lily) – *Lilium regale*: 50;
88. Linaria – *Linaria* spp: 65, exception: *Linaria genistifolia* var. *dalmatica* – Dalmation toadflax which is a noxious weed;
89. Lobelia, Annual – *Lobelia erinus*: 65;
90. Lunaria, Annual – *Lunaria annua*: 65;
91. *Lupine – *Lupinus* spp: 65;
92. Marigold – *Tagetes* spp: 65;
93. Marvel of Peru – *Mirabilis jalapa*: 60;
94. Matricaria (feverfew) – *Matricaria* spp: 60;
95. Mignonette – *Reseda odorata*: 55;
96. Myosotis – *Myosotis alpestris*, *M. oblongata*, *M. palustris*: 50;
97. Nasturtium – *Tropaeolum* spp: 60;
98. Nemesis – *Nemesis* spp: 65;
99. Nemophila – *Nemophila insignis*: 70;
100. Nemophila, spotted – *Nemophila maculate*: 60;
101. Nicotiana – *Nicotiana affinis*, *N. sanderae*, *N. sylvestris*: 65;
102. Nierembergia – *Nierembergia* spp: 55;
103. Nigella – *Nigella damascena*: 55;
104. Pansy – *Viola tricolor*: 60;
105. Penstemon – *Penstemon barbatus*, *P. grandiflorus*, *P. laevigatus*, *P. pubescens*: 60;
106. Petunia – *Petunia* spp: 45;
107. Phacelia – *Phacelia campanularia*, *P. minor*, *P. tanacetifolia*: 65;
108. Phlox, Annual – *Phlox drummondi* all types and varieties: 55;
109. Physalis – *Physalis* spp: 60;
110. Platycodon (balloon flower) – *Platycodon grandiflorum*: 60;

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111. Plumbago, cape – *Plumbago capensis*: 50;
 112. Ponytail – *Beaucarnea recurvata*: 40;
 113. Poppy: Shirley Poppy – *Papaver rhoeas*; Iceland Poppy – *P. nudicaule*; Oriental Poppy – *P. orientale*; Tulip Poppy – *P. glaucum*: 60;
 114. Portulaca – *Portulaca grandiflora*: 55;
 115. Primula (primrose) – *Primula* spp: 50;
 116. Pyrethrum (painted daisy) – *Pyrethrum coccineum*: 60;
 117. Salpiglossis – *Salpiglossis gloxinaeflora*, *S. sinuata*: 60;
 118. Salvia – Scarlet Sage – *Salvia splendens*; Mealycup Sage (Blue bedder) – *Salvia farinacea*: 50;
 119. Saponaria – *Saponaria ocymoides*, *S. vaccaria*: 60;
 120. Scabiosa, Annual – *Scabiosa atropurpurea*: 50;
 121. Scabiosa, Perennial – *Scabiosa caucasica*: 40;
 122. Schizanthus – *Schizanthus* spp: 60;
 123. *Sensitive plant (mimosa) – *Mimosa pudica*: 65;
 124. Shasta Daisy – *Chrysanthemum maximum* C. *leucanthemum*: 65;
 125. Silk Oak – *Grevillea robusta*: 25;
 126. Snapdragon – *Antirrhinum* spp: 55;
 127. Solanum – *Solanum* spp: 60, exceptions; *Solanum carolinense* – Carolina horsenettle and *Solanum elaeagnifolium* Silverleaf Nightshade which are prohibited noxious weeds;
 128. Statice – *Statice sinuata*, *S. suworonii* (flower heads): 50;
 129. Stocks: Common – *Mathiola incana*; Evening Scented – *Mathiola bicornis*: 65;
 130. Sunflower – *Helianthus* spp: 70, exception; *Helianthus ciliaris* DC. – Texas blueweed which is a prohibited noxious weed;
 131. Sunrose – *Helianthemum* spp: 30;
 132. *Sweet Pea, Annual and Perennial other than dwarf bush – *Lathyrus odoratus*, *L. latifolius*: 75;
 133. *Sweet Pea, Dwarf Bush – *Lathyrus odoratus*: 65;
 134. Tahoka Daisy – *Machaeanthra tanacetifolia*: 60;
 135. Thunbergia – *Thunbergia alata*: 60;
 136. Torch Flower – *Tithonia speciosa*: 70;
 137. Torenia (Wishbone Flower) – *Torenia fournieri*: 70;
 138. *Tritoma kniphofia* Spp: 65;
 139. Verbena, Annual – *Verbena hybrida*: 35;
 140. Vinca – *Vinca rosea*: 60;
 141. Viola – *Viola cornuta*: 55;
 142. Virginian Stocks – *Malcolmia maritima*: 65;
 143. Wallflower – *Cheiranthus allioni*: 65;
 144. Yucca (Adam's Needle) – *Yucca filamentosa*: 50;
 145. Zinnia (Except Linearis and Creeping) – *Zinnia angustifolia*, *Z. elegans*, *Z. grandiflora*, *Z. gracillima*, *Z. haegeana*, *Z. multiflora*, *Z. pumila*: 65;
 146. Zinnia, Linearis and Creeping – *Zinnia linearis*, *Sanvitalia procumbens*: 50;
 147. All Other Kinds: 50.
- C. The germination labeling provisions of R3-4-402(E) apply to the following tree and shrub species:
1. *Abies amabilis* (Dougl.) Forbes – Pacific Silver Fir;
 2. *Abies balsamea* (L.) Mill. – Balsam Fir;
 3. *Abies concolor* (Gord. Glend.) Lindl. – White Fir;
 4. *Abies fraseri* (Pursh.) Poir – Fraser Fir;
 5. *Abies grandis* (Dougl.) Lindl. – Grand Fir;
 6. *Abies homolepis* Sieb Zucc. – Nikko Fir;
 7. *Abies lasiocarpa* (Hook) Nutt. – Subalpine Fir;
 8. *Abies magnifica* A. Murr. – California Red Fir;
 9. *Abies magnifica* var. *shastensis* Lemm. – Shasta Red Fir;
 10. *Abies procera* Rehd. – Nobel Fir;
 11. *Abies veitchii* (Lindl.) – Veitch Fir;
 12. *Acer ginnala* Maxim. – Amur Maple;
 13. *Acer macrophyllum* Pursh. – Bigleaf Maple;
 14. *Acer negundo* L. – Boxelder;
 15. *Acer pensylvanicum* L. – Striped Maple;
 16. *Acer platanoides* L. – Norway Maple;
 17. *Acer pseudoplatanus* L. – Sycamore Maple;
 18. *Acer rubrum* L. – Red Maple;
 19. *Acer saccharinum* L. – Silver Maple;
 20. *Acer saccharum* Marsh. – Sugar Maple;
 21. *Acer spicatum* Lam. – Mountain Maple;
 22. *Aesculus pavia* L. – Red Buckeye;
 23. *Ailanthus altissima* (Mill.) Swingle – Tree of Heaven, *Ailanthus*;
 24. *Berberis thunbergii* DC. – Japanese Barberry;
 25. *Berberis vulgaris* L. European Barberry;
 26. *Betula lenta* L. – Sweet Birch;
 27. *Betula alleghaniensis* Britton – Yellow Birch;
 28. *Betula nigra* L. – River Birch;
 29. *Betula papyrifera* Marsh. – Paper Birch;
 30. *Betula pendula* Roth. – European White Birch;
 31. *Betula populifolia* Marsh. – Gray Birch;
 32. *Carya illinoensis* (Wang.) K. Koch – Pecan;
 33. *Carya ovata* (Mill) K. Koch – Shagbark Hickory;
 34. *Casuarina* spp. – Beefwood;
 35. *Catalpa bignonioides* Walt. – Southern Catalpa;
 36. *Catalpa speciosa* Warder. – Northern Catalpa;
 37. *Cedrus atlantica* Manetti – Atlas Cedar;
 38. *Cedrus deodara* (Roxb.) Loud. – Deodar Cedar;
 39. *Cedrus libani* (Loud.) – Cedar of Lebanon;
 40. *Celastrus scandens* L. – American Bittersweet;
 41. *Celastrus orbiculata* Thunb. – Oriental Bittersweet;
 42. *Chamaecyparis lawsoniana* (A. Murr.) Parl – Port Oxford Cedar;
 43. *Chamaecyparis nootkatensis* (D. Don.) Spach. – Alaska Cedar;
 44. *Cornus florida* L. – Flowering Dogwood;
 45. *Cornus stolonifera* Michx. – Red-osier Dogwood;
 46. *Crataegus mollis* – Downy Hawthorn;
 47. *Cupressus arizonica* Greene – Arizona Cypress;
 48. *Eucalyptus deglupta*;
 49. *Eucalyptus gradiens*;
 50. *Fraxinus americana* L. – White Ash;
 51. *Fraxinus excelsior* L. – European Ash;
 52. *Fraxinus latifolia* Benth. – Oregon Ash;
 53. *Fraxinus nigra* Marsh. – Black Ash;
 54. *Fraxinus pensylvanica* Marsh. – Green Ash;
 55. *Fraxinus pensylvanica* var. *lanceolata* (Borkh.) Sarg. – Green Ash;
 56. *Gleditsia triacanthos* L. – Honey Locust;
 57. *Grevillea robusta* – Silk-oak;
 58. *Larix decidua* Mill. – European Larch;
 59. *Larix eurolepis* Henry – Dunkfeld Larch;
 60. *Larix leptolepis* (Sieb. Zucc.) Gord. – Japanese Larch;
 61. *Larix occidentalis* Nutt. – Western Larch;
 62. *Larix sibirica* Ledeb. – Siberian Larch;
 63. *Libocedrus decurrens* – Incense-Cedar;
 64. *Liquidambar styraciflua* L. – Sweetgum;
 65. *Liriodendron tulipifera* L. – Yellow-Poplar;
 66. *Magnolia grandiflora* – Southern Magnolia;
 67. *Malus* spp. – Apple;
 68. *Malus* spp. – Crabapple;
 69. *Nyssa aquatica* L. – Water Tupelo;
 70. *Nyssa sylvatica* var. *sylvatica* – Black Tupelo;
 71. *Picea abies* (L.) Karst. – Norway Spruce;

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72. *Picea engelmanni* Parry – Engelmann Spruce;
 73. *Picea glauca* (Moench.) Voss – White Spruce;
 74. *Picea glauca* var. *albertiana* (S. Brown) Sarg. – Western White Spruce, Alberta White Spruce;
 75. *Picea glehnii* (Fr. Schmidt) Mast. – Sakhalin Spruce;
 76. *Picea jezoensis* (Sieb. Zucc.) Carr – Yeddo Spruce;
 77. *Picea koyamai* Shiras. – Koyama Spruce;
 78. *Picea mariana* (Mill.) B.S.P. – Black Spruce;
 79. *Picea omorika* (Pancic.) Purkyne – Serbian Spruce;
 80. *Picea orientalis* (L.) Link. – Oriental Spruce;
 81. *Picea polita* (Sieb. Zucc.) Carr – Tigertail Spruce;
 82. *Picea pungens* Engelm. – Blue Spruce, Colorado Spruce;
 83. *Picea pungens* var. *glauca* Reg. – Colorado Blue Spruce;
 84. *Picea rubens* Sarg. – Red Spruce;
 85. *Picea sitchensis* (Bong.) Carr – Sitka Spruce;
 86. *Pinus albicaulis* Engelm. – Whitebark Pine;
 87. *Pinus aristata* Engelm. – Bristlecone Pine;
 88. *Pinus banksiana* Lamb. – Jack Pine;
 89. *Pinus canariensis* C. Smith – Canary Pine;
 90. *Pinus caribaea* – Caribbean Pine;
 91. *Pinus cembroides* Zucc. – Mexican Pinyon Pine;
 92. *Pinus clausa* – Sand Pine;
 93. *Pinus conorta* Dougl. – Lodgepole Pine;
 94. *Pinus contorta* var. *latifolia* Engelm. – Lodgepole Pine;
 95. *Pinus coulteri* D. Don. – Coulter Pine, Bigcone Pine;
 96. *Pinus densiflora* Sieb. Zucc. – Japanese Red Pine;
 97. *Pinus echinata* Mill. – Shortleaf Pine;
 98. *Pinus elliotii* Engelm. – Slash Pine;
 99. *Pinus flexilis* James – Limber Pine;
 100. *Pinus glabra* Walt. – Spruce Pine;
 101. *Pinus griffithii* McClelland – Himalayan Pine;
 102. *Pinus halepensis* Mill. – Aleppo Pine;
 103. *Pinus jeffreyi* Grev. Balf. – Jeffrey Pine;
 104. *Pinus khasya* Royle – Khasia Pine;
 105. *Pinus lambertiana* Dougl. – Sugar Pine;
 106. *Pinus heldreichii* var. *leucodermis* (Ant.) Markgraf ex Fitschen – Balkan Pine, Bosnian Pine;
 107. *Pinus markusii* DeVriese – Markus Pine;
 108. *Pinus monticola* Dougl. – Western White Pine;
 109. *Pinus mugo* Turra. – Mountain Pine;
 110. *Pinus mugo* var. *mughus* (Scop.) Zenari – Mugo Swiss Mountain Pine;
 111. *Pinus muricata* D. Don. – Bishop pine;
 112. *Pinus nigra* Arnold – Austrian Pine;
 113. *Pinus nigra* poiretiana (Ant.) Aschers Graebn. – Corsican Pine;
 114. *Pinus palustris* Mill. – Longleaf Pine;
 115. *Pinus parviflora* Sieb. Zucc. – Japanese White Pine;
 116. *Pinus patula* Schl. Cham. – Jelecote Pine;
 117. *Pinus pinaster* Sol. – Cluster Pine;
 118. *Pinus pinea* L. – Italian Stone Pine;
 119. *Pinus ponderosa* Laws. – Ponderosa Pine, Western Yellow Pine;
 120. *Pinus radiata* D. Don. – Monterey Pine;
 121. *Pinus resinosa* Ait. – Red Pine, Norway Pine;
 122. *Pinus rigida* Mill. – Pitch Pine;
 123. *Pinus serotina* Michx. – Pond Pine;
 124. *Pinus strobus* L. – Eastern White Pine;
 125. *Pinus sylvestris* L. – Scots Pine;
 126. *Pinus taeda* L. – Loblolly Pine;
 127. *Pinus taiwanensis* Hayata – Formosa Pine;
 128. *Pinus thunbergii* Parl. – Japanese Black Pine;
 129. *Pinus virginiana* Mill. – Virginia Pine, Scrub Pine;
 130. *Platanus occidentalis* L. – American Sycamore;
 131. *Populus* spp. – Poplars;
 132. *Prunus armeriaca* L. – Apricot;
 133. *Prunus avium* L. – Cherry;
 134. *Prunus domestica* L. – Plum, Prune;
 135. *Prunus persica* Batsch. – Peach;
 136. *Pseudotsuga menziesii* var. *glauca* (Beissn.) Franco – Blue Douglas Fir;
 137. *Pseudotsuga menziesii* var. *caesia* (Beissn.) Franco – Gray Douglas Fir;
 138. *Pseudotsuga menziesii* var. *viridis* – Green Douglas Fir;
 139. *Pyrus communis* L. – Pear;
 140. *Quercus* spp. – (Red or Black Oak group);
 141. *Quercus alba* L. – White Oak;
 142. *Quercus muehlenbergii* Engelm. – Chinkapin Oak;
 143. *Quercus virginiana* Mill. – Live Oak;
 144. *Rhododendron* spp. – Rhododendron;
 145. *Robinia pseudoacacia* L. – Black Locust;
 146. *Rosa multiflora* Thunb. – Japanese Rose;
 147. *Sequoia gigantea* (Lindl.) Decne. – Giant Sequoia;
 148. *Sequoia sempervirens* (D. Don.) Engl. – Redwood;
 149. *Syringa vulgaris* L. – Common Lilac;
 150. *Thuja occidentalis* L. – Northern White Cedar, Eastern Arborvitae;
 151. *Thuja orientalis* L. – Oriental Arborvitae, Chinese Arborvitae;
 152. *Thuja plicata* Donn. – Western Red Cedar – Giant Arborvitae;
 153. *Tsuga canadensis* (L.) Carr. – Eastern Hemlock, Canada Hemlock;
 154. *Tsuga heterophylla* (Raf.) Sarg. – Western Hemlock, Pacific Hemlock;
 155. *Ulmus americana* L. – American Elm;
 156. *Ulmus parvifolia* Jacq. – Chinese Elm;
 157. *Ulmus pumila* L. – Siberian Elm; and
 158. *Vitis vulpina* L. – Riverbank Grape.
- D.** A person shall not indicate a quality of seed higher than the actual quality as found through germination test.
- E.** The labeler or the person who sells, offers, or exposes for sale within this state seeds in hermetically-sealed containers more than 36 months after the last day of the month in which the seeds were tested prior to packaging, shall retest the seeds within nine months, excluding of the calendar month in which the retest was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation.
- Historical Note**
- Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-113 renumbered without change as Section R3-4-404 (Supp. 89-1). Section R3-4-404 renumbered from R3-1-404 (Supp. 91-4). Section repealed, new Section R3-4-404 renumbered from R3-4-406 and amended effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 29 A.A.R. 3932 (December 29, 2023), effective February 4, 2024 (Supp. 23-4).
- R3-4-405. Seed-certifying Agencies**
- A.** Any agency seeking to obtain designation as a seed-certifying agency in Arizona shall meet the following requirements.
1. The agency shall be qualified by USDA to certify agricultural or vegetable planting seed as to variety, strain, and genetic purity.

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2. The agency shall have a written seed certification protocol which includes standards, rules, and procedures for the certification of planting seed.
 3. The agency shall have procedures for accepting crops and varieties into a certification program.
 4. The agency shall be a member in good standing of a USDA-recognized association of official seed-certifying agencies such as the Association of Official Seed Certifying Agencies.
- B.** The Director or the Director's designee shall meet each calendar year with the director of the seed-certifying agency to review the agency's standards, rules, and procedures.
- C.** The Director may, after consulting with the Director of the Arizona Agricultural Experiment Station, revoke the agency's designation as the state seed-certifying agency after written 30 days' notice if the organization:
1. Fails to maintain qualifications, protocols, procedures, and membership as set forth in subsection (A); or
 2. Fails to follow federal and state standards, rules, and procedures.

Historical Note

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-114 renumbered without change as Section R3-4-405 (Supp. 89-1). Section R3-4-405 renumbered from R3-1-405 (Supp. 91-4). Section R3-4-405 renumbered to R3-4-403, new Section R3-4-405 renumbered from R3-4-407 and amended effective July 10, 1995 (Supp. 95-3).

R3-4-406. Sampling and Analyzing Seed

- A.** A person shall follow the methods of taking, handling, analyzing, and testing samples of seed and the tolerances and methods of determination as prescribed in the Federal Seed Act Regulations, 7 C.F.R. §§ 201.39 through 201.65 (as amended July 7, 2022, <https://www.ecfr.gov/current/title-7/part-201>), and in the Rules for Testing Seeds, 2017, published by the Association of Official Seed Analysts. This material is incorporated by reference and is on file with the Department. The materials incorporated by reference do not include any later amendments or editions. The Rules for Testing Seeds are also available through the website: <http://www.aosaseed.com>. The CFR may be ordered from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA, 15250-7954 and the Rules for Testing Seeds may be ordered from the AOSA Management Office, Mail Boxes Etc. #285, 601 S. Washington, Stillwater, OK 74074-4539. If there is a conflict between the two documents, the requirements in CFR will prevail.
- B.** A labeler offering a seed for sale shall pay the cost of original germination and purity tests on each lot of seed offered for sale, and a dealer or labeler shall pay the cost of any subsequent germination test required by A.R.S. § 3-237. The Department shall pay the cost of testing seed samples drawn by a seed inspector from lots bearing valid labels. The dealer or labeler shall reimburse the Department for the cost of the test if the dealer or labeler chooses to use the Department's germination and purity results in subsequent re-labeling.

Historical Note

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-115 renumbered without change as Section R3-4-406 (Supp. 89-1). Section R3-4-406 renumbered from R3-1-406 (Supp. 91-4). Section R3-4-406 renumbered to R3-4-404, new Section R3-4-406 renumbered from R3-4-408 and amended effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 9

A.A.R. 1286, effective May 31, 2003 (Supp. 03-2). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2). Amended by final rulemaking at 29 A.A.R. 3932 (December 29, 2023), effective February 4, 2024 (Supp. 23-4).

R3-4-407. Phytosanitary Field Inspection; Fee

- A.** Applicants seeking phytosanitary certification for interstate and international exportation of agriculture, vegetable, and ornamental planting seed shall submit a \$20.00 inspection fee and provide the following information on a form furnished by the Department:
1. The company name and address of the applicant;
 2. The kind, variety, and lot number of the seed;
 3. The number of acres on which the seed will be grown;
 4. The name of the grower;
 5. The county and field location;
 6. The date of the application;
 7. The countries of export;
 8. The seed treatment, if applicable;
 9. The amount of treatment, if applicable;
 10. The approximate planting date;
 11. The approximate harvest date; and
 12. The export requirements.
- B.** The Department may contract with the state-certifying agency for field inspection at 20¢ per acre for any first or single required inspection and 10¢ per acre for each subsequent required inspection which shall be performed in conjunction with the seed certification program.
- C.** Field inspections conducted by the Department shall be based upon the following fee schedule and shall not exceed the maximum fee prescribed by A.R.S. § 3-233(A)(7):
1. Cotton: 80¢ per acre;
 2. Small grain: 20¢ per acre for the first inspection and 80¢ for the second inspection;
 3. Vegetable and all other crops: 20¢ for the first inspection and 80¢ for the second inspection.
- D.** If both the field inspection fee and the application fee exceeds the maximum fee per acre prescribed by A.R.S. § 3-233(A)(7), the application fee shall be voided and the maximum cost per acre shall be assessed.

Historical Note

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-116 renumbered without change as Section R3-4-407 (Supp. 89-1). Section R3-4-407 renumbered from R3-1-407 (Supp. 91-4). Section R3-4-407 renumbered to R3-4-405, new Section adopted effective July 10, 1995 (Supp. 95-3).

R3-4-408. Licenses: Seed Dealer and Seed Labeler; Fees

- A.** An applicant for a seed dealer or seed labeler license shall provide the following to the Department:
1. The year for which the applicant wishes to be licensed;
 2. The applicant's name, company name, telephone number, fax number and e-mail address, as applicable;
 3. Verification of previous seed dealer or labeler license, if applicable;
 4. The mailing and physical address of each business location being licensed;
 5. Company Tax ID number or if not a legally-recognized business entity, the applicant's Social Security number;
 6. The date of the application; and
 7. The signature of the applicant.
- B.** Seed dealer and seed labeler licenses are not transferable, expire on June 30, and are valid for no more than one year, or

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period thereof, unless otherwise revoked, suspended, denied or otherwise acted upon by the Department as provided in A.R.S. § 3-233(A)(6).

- C. An applicant shall submit a completed application to the Department accompanied by the following fee, which is non-refundable unless A.R.S. § 41-1077 applies.
1. Seed dealers, \$50.00 per location; and
 2. Seed labelers, \$100.00.

Historical Note

Adopted effective December 21, 1981 (Supp. 81-6). Former Section R3-4-117 renumbered without change as Section R3-4-408 (Supp. 89-1). Section R3-4-408 renumbered from R3-1-408 (Supp. 91-4). Section R3-4-408 renumbered to R3-4-406, new Section adopted effective July 10, 1995 (Supp. 95-3). Amended by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2). Amended by exempt rulemaking at 16 A.A.R. 2029, effective September 21, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 1763, effective July 20, 2011 (Supp. 11-3). Amended by final rulemaking at 29 A.A.R. 3932 (December 29, 2023), effective February 4, 2024 (Supp. 23-4).

R3-4-409. Violations and Penalties

- A. The Department may assess the following penalties against a dealer or labeler for each customer affected by a violation listed below: \$50 for the first offense, \$150 for the second offense, and \$300 for each subsequent offense within a three-year period:
1. Failure to complete the germination requirements on agricultural, vegetable, or flower seed intended for wholesale or commercial use within nine months prior to sale, exposing for sale, or offering for sale within the state, excluding the month in which the test was completed. This penalty does not apply to a violation under subsections (A)(2), or (3);
 2. Failure to complete the germination requirements for agricultural, ornamental, or vegetable seed intended for retail purchase within the 15 months prior to the sale, exposing for sale, or offering for sale within the state, excluding the month in which the test was completed; and
 3. Failure to obtain any license required by this Article;
- B. The Department may assess the following penalties against any person committing the following acts: up to \$500 for the first offense, up to \$1250 for the second offense, and up to \$2500 for each subsequent offense within a three-year period.
1. To label, advertise, or represent seed subject to this Article to be certified seed or any class of certified seed unless:
 - a. It has been determined by a certifying agency that the seed conforms to standards of purity and identification as to kind, species and subspecies, if appropriate, or variety; and
 - b. The seed bears an official label issued for the seed by a certifying agency certifying that the seed is of a specified class and a specified kind, species and subspecies, if appropriate, and variety;
 2. To disseminate in any manner or by any means, any false or misleading advertisements concerning seeds subject to this Article;
 3. To hinder or obstruct in any way, any authorized agent of the Department in the performance of the person's duties under this Article;

4. To fail to comply with a cease and desist order or to move or otherwise handle or dispose of any lot of seed held under a cease and desist order or tags attached to the order, except with express permission of the enforcing officer, and for a purpose specified by the officer;
5. To label or sell seed that has been treated without proper labeling;
6. To provide false information to any authorized person in the performance of the person's duties under this Article; or
7. To label or sell seed that has false or misleading labeling, including:
 - a. Labeling or selling seed with a label containing the word "trace" or the phrase "contains 01%" as a substitute for any statement that is required by this Article;
 - b. Altering or falsifying any seed label, seed test, laboratory report, record, or other document to create a misleading impression as to kind, variety, history, quality or origin of seed;
 - c. Labeling as hermetically sealed containers of agricultural or vegetable seeds that have not had completed the germination requirements with 36 months prior to sale, excluding the month in which the test was completed;
 - d. Failure to label in accordance with the provisions of this Article;
 - e. If applicable, failing to label as containing prohibited noxious weed seeds, subject to recognized tolerances;
 - f. If applicable, failing to label as containing restricted noxious weed seeds in excess of the number prescribed in R3-4-403 on the label attached to the container of the seed or associated with seed;
 - g. If applicable, failing to label as containing more than two and one-half percent by weight of all weed seeds;
 - h. Detaching, altering, defacing, or destroying any label provided for in this Article, or altering or substituting seed in a manner that may defeat the purpose of this Article;
 - i. Using relabeling stickers without having both the calendar month and year the germination test was completed, the sell by date if appropriate, and the lot number that matches the existing, original lot number; and
 - j. Selling, exposing for sale, or offering for sale within the state vegetable seed intended for retail purchase that has labeling containing germination information that has not been completed within the 12 months prior to selling, exposing for sale, or offering for sale.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 1464, effective June 2, 2007 (Supp. 07-2).

ARTICLE 5. COLORED COTTON**R3-4-501. Colored Cotton Production and Processing**

- A. Definitions. In addition to the definitions provided in A.R.S. § 3-101 and R3-4-101 and R3-4-201, the following terms apply to this Section:
1. "Certified" means having been inspected with a written certificate of inspection issued by an inspector of the Department.

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2. "Colored cotton" means any variety of cotton plants of the Genus *Gossypium* that produces fiber that is naturally any color other than white.
 3. "Cottonseed" means processed seed cotton used for propagation, animal feed, crushed or composted fertilizer, or oil.
 4. "Composting" means a process that creates conditions that facilitate the controlled decomposition of organic matter into a more stable and easily handled soil amendment or fertilizer, usually by piling, aerating and moistening; or the product of such a process.
 5. "Delinting" means the process of using acid, flame, or mechanical means to remove fiber that remains on cottonseed after ginning.
 6. "Planting seed" means seed of a known variety produced for planting subsequent generations.
 7. "Seed cotton" means raw cotton containing seed and lint that has been harvested from a field, but has not been ginned.
 8. "White cotton" means any variety of the Genus *Gossypium* that produces white fiber as established in 7 C.F.R. §§ 28.401 through 28.407; and the U.S. Department of Agriculture, Agriculture Marketing Service: Cotton Classification, revised April, 2005. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
- B. Production requirements.**
1. A producer who intends to grow colored cotton shall register in writing with the Department. The registration form shall be received at least 30 days before the cotton planting date for the applicable cultural cotton zone established in R3-4-204(E). Any colored cotton not registered with the Department shall be abated as established in A.R.S. §§ 3-204 and 3-205, and the producer may be assessed a civil penalty as established in A.R.S. § 3-205.02. The registration shall include:
 - a. The name, address, telephone number, and signature of the producer;
 - b. The name, address, telephone number, and signature of the property owner;
 - c. The name, address, and telephone number of the organization or company contracting for the production of colored cotton or to whom the colored cotton will be sold, if known;
 - d. The total number of acres to be planted;
 - e. The geographical location of the proposed fields by county, section, township and range; and
 - f. The name of the property owners, if known, adjacent to the field where colored cotton will be grown.
 2. Separation of white and colored cotton.
 - a. A colored cotton producer shall ensure that all colored cotton is planted no less than 500 feet from any white cotton field.
 - b. All producers of white cotton saved for planting seed shall comply with the Field Standards in the Arizona Crop Improvement Association's Cotton Seed Certification Standards, revised July 1995. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.
 3. A producer shall not plant white cotton on land on which colored cotton has been grown until one or more irrigated non-cotton crops have been produced on that land. If the non-cotton crop is not grown during a traditional cotton growing season, as established by R3-4-204(E), the field shall be irrigated before planting a white cotton crop.
4. The Department shall notify all cotton producers of the colored cotton plant-back restrictions and of the availability of location and acreage records of colored cotton crops.
 5. The Department shall notify the Arizona Crop Improvement Association of the colored cotton geographical locations at least 25 days before the cotton planting date for each cultural cotton zone established in R3-4-204(E).
- C. Cotton appliances.**
1. No cotton producer, contractor, or ginner shall use a cotton appliance or gin to produce, transport, or handle white cotton after the gin or appliance has been used in the production, transportation, or handling of colored cotton until the Department inspects the cotton appliance or gin and finds it free of colored cottonseed, seed cotton, fiber, and gin trash. A cotton producer, contractor, or ginner shall notify the Department at least 48 hours, excluding Sundays and legal holidays, before an inspection is needed.
 2. Colored seed cotton, cottonseed, fiber, and gin trash cleaned from cotton equipment, shall be composted or disposed of by the producer or ginner:
 - a. On land where gin trash has previously been disposed and the land is managed as specified in subsection (B)(3); or
 - b. In a landfill approved by the Department.
 3. The Department shall legibly mark cotton appliances designated for exclusive use on colored cotton crops.
- D. Transportation.** Except in gin yards, colored cottonseed or colored seed cotton transported over public roads shall be totally enclosed or covered.
- E. Gin requirements.**
1. A gin owner or manager planning to process colored cotton shall notify the Department, in writing, no less than 30 days before processing the colored cotton.
 2. The Department shall notify the Arizona Crop Improvement Association of a gin owner's or manager's intention to process colored cotton within 10 days from the receipt of the notification from the gin.
 3. A gin owner or manager processing colored cotton shall not process white cotton until the gin has been cleaned, and inspected by the Department. The gin shall be free of cottonseed, seed cotton, and loose lint as established in subsection (C)(1).
 4. If a gin processes colored seed cotton and white seed cotton during the same season, and the white cottonseed is not retained by the plant breeder for research purposes, the producer shall market the white cottonseed as:
 - a. Animal feed,
 - b. Crushed or composted fertilizer, or
 - c. Oil.
 5. The ginner shall legibly mark colored seed cotton kept in the gin yard or gin buildings and shall:
 - a. Isolate the seed cotton at least 500 feet from white seed cotton, or
 - b. Enclose it with two foot high chicken wire or chain link fencing.
 6. Gin trash not disposed as established in subsection (C)(2) shall be shipped out-of-state, subject to the requirements of the receiving state and 7 CFR §§ 301.52 et. seq.,

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amended June 7, 2005. This material is incorporated by reference, does not include any later amendments or editions of the incorporated matter, and is on file with the Office of the Secretary of State.

7. The ginner shall bale or bag colored cotton fiber and mark the bale or bag as colored cotton.

F. Seed Requirements.

1. A producer or contracting organization, set forth in subsection (B)(1), saving colored cottonseed for propagative purposes shall legibly label the colored planting seed container and notify the Department of:
 - a. The quantity,
 - b. The variety or color,
 - c. The location where the colored planting seed is held or stored, and
 - d. Whether any seed will be shipped out-of-state.
2. If the cotton seed is being delinted in Arizona, the delinting facility shall follow the requirements in Harvesting, Handling and Tagging that are included in the Cotton Seed Certification Standards and have been incorporated by reference in subsection (B)(2)(b).
3. The producer shall render non-viable non-delinted (fuzzy) colored cottonseed not used for propagative purposes by crushing or composting. Whole or cracked colored cottonseed shall not be used as animal feed in Arizona but may be shipped out-of-state, subject to the requirements of the receiving state and 7 CFR §§ 301.52 et. seq., amended June 7, 2005.
4. Cotton producers shall not transport unbagged white cotton planting seed using vehicles or other equipment previously used to transport whole or cracked colored cottonseed until the Department has certified that these vehicles and equipment are free of colored cottonseed.

- G. Advisory committee.** The Director, as necessary, shall appoint an advisory committee composed of the nominated representatives of the Arizona Cotton Growers Association and the Arizona Cotton Research and Protection Council and such other individuals as may be necessary to make recommendations to the Department on amendments to this Section.

Historical Note

Former Rule, Apiary Regulation 1. Amended effective June 19, 1978 (Supp. 78-3). Former Section R3-4-120 renumbered without change as Section R3-4-501 (Supp. 89-1). Former Section repealed, new Section adopted effective December 22, 1989 (Supp. 89-4). Section R3-4-501 renumbered from R3-1-501 (Supp. 91-4). Former Section R3-4-501 repealed, new Section R3-4-501 adopted effective October 15, 1993 (Supp. 93-4). R3-4-501 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995 now the permanent effective date (Supp. 96-3). New Section R3-4-501 renumbered from R3-4-205 and amended April 9, 1998 (Supp. 98-2). Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

R3-4-502. Repealed

Historical Note

Adopted effective December 22, 1989 (Supp. 89-4) Section R3-4-502 renumbered from R3-1-502 (Supp. 91-4). Former Section R3-4-502 repealed, new Section R3-4-502 adopted effective October 15, 1993 (Supp. 93-4). R3-

4-502 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995, now the permanent effective date (Supp. 96-3).

R3-4-503. Repealed

Historical Note

Adopted as an emergency effective December 31, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-6). Emergency expired. Adopted as a permanent rule effective April 4, 1985 (Supp. 85-2). Former Sections R3-4-121.01, R3-4-121.02, R3-4-121.03, and R3-4-121.04 added to Section R3-4-121 and amended effective October 8, 1987 (Supp. 87-4). Former Section R3-4-121 renumbered without change as Section R3-4-502 (Supp. 89-1). Former Section R3-4-502 renumbered without change as Section R3-4-503 (Supp. 89-4). Repealed effective August 16, 1990 (Supp. 90-3). Section R3-4-503 renumbered from R3-1-503 (Supp. 91-4). New Section R3-4-503 adopted effective October 15, 1993 (Supp. 93-4). R3-4-503 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995, now the permanent effective date (Supp. 96-3).

R3-4-504. Repealed

Historical Note

Adopted as an emergency effective September 27, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-5). Emergency expired. Former Sections R3-4-122.01 through R3-4-122.03, emergency expired. New Section R3-4-122 adopted effective March 6, 1987 (Supp. 87-1). Former Section R3-4-122 renumbered without change as Section R3-4-503 (Supp. 89-1). Former Section R3-4-503 renumbered without change as Section R3-4-504 (Supp. 89-4). Section R3-4-504 renumbered from R3-1-504 (Supp. 91-4). Former Section R3-4-504 repealed, new Section R3-4-504 adopted effective October 15, 1993 (Supp. 93-4). R3-4-504 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995, now the permanent effective date (Supp. 96-3).

R3-4-505. Repealed

Historical Note

Adopted effective October 15, 1993 (Supp. 93-4). R3-4-505 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995, now the permanent effective date (Supp. 96-3).

R3-4-506. Repealed

Historical Note

Adopted effective October 15, 1993 (Supp. 93-4). R3-4-

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501 repealed by summary action with an interim effective date of February 10, 1995; filed in the Office of the Secretary of State January 20, 1995. Adopted summary rules filed in the Office of the Secretary of State May 17, 1995; interim effective date of February 10, 1995, now the permanent effective date (Supp. 96-3).

ARTICLE 6. RECODIFIED

Article 6, consisting of Sections R3-4-601 through R3-4-611 and Appendix A, recodified to 3 A.A.C. 3, Article 11 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

R3-4-601. Recodified**Historical Note**

Former Rule, Native Plant Regulation 1. Amended effective June 19, 1978 (Supp. 78-3). Amended by adding subsection (E) effective January 21, 1981 (Supp. 81-1). Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-130 renumbered without change as Section R3-4-601 (Supp. 89-1). Amended effective December 28, 1990 (Supp. 90-4). Section R3-4-601 renumbered from R3-1-601 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1101 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

R3-4-602. Recodified**Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-131 renumbered without change as Section R3-4-602 (Supp. 89-1). Amended effective December 28, 1990 (Supp. 90-4). Section R3-4-602 renumbered from R3-1-602 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1102 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

R3-4-603. Recodified**Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Amended effective May 15, 1984 (Supp. 84-3). Correction, amendment effective May 15, 1984 deleted samples of forms (Supp. 86-1). Former Section R3-4-132 renumbered without change as Section R3-4-603 (Supp. 89-1). Amended effective December 28, 1990 (Supp. 90-4). Section R3-4-603 renumbered from R3-1-603 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed; new Section R3-4-603 renumbered from R3-4-605 and amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1103 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

R3-4-604. Recodified**Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Amended effective May 15, 1984 (Supp. 84-3). Former Section R3-4-133 renumbered without change as Section R3-4-604 (Supp. 89-1). Amended effective December 28, 1990 (Supp. 90-4). Section R3-4-604 renumbered from R3-1-604 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1104 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

R3-4-605. Recodified**Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-134 renumbered without change as Section R3-4-605 (Supp. 89-1). Amended effective December 28, 1990 (Supp. 90-4). Section R3-4-605 renumbered from R3-1-605 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Former Section R3-4-605 renumbered to R3-4-603; new Section R3-4-605 adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1105 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

R3-4-606. Recodified**Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-135 renumbered without change as Section R3-4-606 (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-606 renumbered from R3-1-606 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective December 20, 1994 (Supp. 94-4). Amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1106 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

R3-4-607. Recodified**Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-137 renumbered without change as Section R3-4-608 (Supp. 89-1). Former Section R3-4-607 repealed, new Section R3-4-607 renumbered from R3-4-608 and amended effective December 28, 1990 (Supp. 90-4). Section R3-4-607 renumbered from R3-1-607 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Former Section R3-4-607 repealed; new Section R3-4-607 renumbered from R3-4-616 and amended at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1107 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

R3-4-608. Recodified**Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982

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(Supp. 82-2). Former Section R3-4-138 renumbered without change as Section R3-4-609 (Supp. 89-1). Former Section R3-4-608 renumbered to R3-4-607, new Section R3-4-608 adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-608 renumbered from R3-1-608 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed; new Section adopted at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1108 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

R3-4-609. Recodified**Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-139 renumbered without change as Section R3-4-610 (Supp. 89-1). Former Section R3-4-609 repealed, new Section R3-4-609 renumbered from R3-4-610 and amended effective December 28, 1990 (Supp. 90-4). Section R3-4-609 renumbered from R3-1-609 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1109 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

R3-4-610. Recodified**Historical Note**

Former Section R3-4-130 amended and renumbered as R3-4-130 through R3-4-140 effective April 30, 1982 (Supp. 82-2). Former Section R3-4-140 renumbered without change as Section R3-4-611 (Supp. 89-1). Former Section R3-4-610 renumbered to R3-4-609, new Section R3-4-610 renumbered from R3-4-611 and amended effective December 28, 1990 (Supp. 90-4). Section R3-4-610 renumbered from R3-1-610 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective December 20, 1994 (Supp. 94-4). Section repealed; new Section adopted by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1110 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

R3-4-611. Recodified**Historical Note**

Renumbered to R3-4-610 effective December 28, 1990 (Supp. 90-4). Section R3-4-611 renumbered from R3-1-611 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Former Section R3-4-611 repealed; new Section R3-4-611 renumbered from R3-4-618 and amended by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3). Section recodified to R3-3-1111 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

R3-4-612. Repealed**Historical Note**

Adopted effective April 30, 1982 (Supp. 82-2). Former Section R3-4-141 renumbered without change as Section R3-4-612 (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-612 renumbered from R3-1-612 (Supp. 91-4). New Section adopted effective

July 6, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

R3-4-613. Repealed**Historical Note**

Adopted effective February 5, 1986 (Supp. 86-1). Former Section R3-4-144 repealed, new Section R3-4-615 adopted effective January 17, 1989 (see also R3-4-616) (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-615 renumbered from R3-1-615 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective September 11, 1997 (Supp. 97-3). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

R3-4-614. Repealed**Historical Note**

Adopted effective February 5, 1986 (Supp. 86-1). Former Section R3-4-144 repealed, new Section R3-4-615 adopted effective January 17, 1989 (see also R3-4-616) (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-615 renumbered from R3-1-615 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective September 11, 1997 (Supp. 97-3). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

R3-4-615. Repealed**Historical Note**

Adopted effective February 5, 1986 (Supp. 86-1). Former Section R3-4-144 repealed, new Section R3-4-615 adopted effective January 17, 1989 (see also R3-4-616) (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-615 renumbered from R3-1-615 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective December 20, 1994 (Supp. 94-4). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

R3-4-616. Renumbered**Historical Note**

Adopted effective February 5, 1986 (Supp. 86-1). Former Section R3-4-144 repealed, new Section R3-4-616 adopted effective January 17, 1989 (see also R3-4-615) (Supp. 89-1). Repealed effective December 28, 1990 (Supp. 90-4). Section R3-4-616 renumbered from R3-1-616 (Supp. 91-4). New Section adopted effective July 6, 1993 (Supp. 93-3). Amended effective December 20, 1994 (Supp. 94-4). Amended effective September 11, 1997 (Supp. 97-3). Section R3-4-616 renumbered to R3-4-607 by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

R3-4-617. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-617 renumbered from R3-1-617 (Supp. 91-4). Section R3-4-617 renumbered from R3-1-617 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

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3).

Section repealed effective July 6, 1993 (Supp. 93-3).

R3-4-618. Renumbered**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-618 renumbered from R3-1-618 (Supp. 91-4). Section repealed, new Section adopted effective July 6, 1993 (Supp. 93-3). Section R3-4-618 renumbered to R3-4-611 by final rulemaking at 5 A.A.R. 2521, effective July 15, 1999 (Supp. 99-3).

R3-4-619. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-619 renumbered from R3-1-619 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

R3-4-620. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-620 renumbered from R3-1-620 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

R3-4-621. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-621 renumbered from R3-1-621 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

R3-4-622. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-622 renumbered from R3-1-622 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

R3-4-623. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-623 renumbered from R3-1-623 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

R3-4-624. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-624 renumbered from R3-1-624 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

R3-4-625. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-625 renumbered from R3-1-625 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

R3-4-626. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-626 renumbered from R3-1-626 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

R3-4-627. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-627 renumbered from R3-1-627 (Supp. 91-4).

R3-4-628. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-628 renumbered from R3-1-628 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

R3-4-629. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-629 renumbered from R3-1-629 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

R3-4-630. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-630 renumbered from R3-1-630 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

R3-4-631. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-631 renumbered from R3-1-631 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

R3-4-632. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-632 renumbered from R3-1-632 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

R3-4-633. Repealed**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-633 renumbered from R3-1-633 (Supp. 91-4). Section repealed effective July 6, 1993 (Supp. 93-3).

Appendix A. Recodified**Historical Note**

Adopted effective December 28, 1990 (Supp. 90-4). Section R3-4-633, Appendix A renumbered from R3-1-633, Appendix A (Supp. 91-4). Appendix A repealed, New Appendix A adopted effective July 6, 1993 (Supp. 93-3). Amended effective December 20, 1994 (Supp. 94-4). Amended effective September 11, 1997 (Supp. 97-3). Appendix recodified to 3 A.A.C. 3, Article 11 at 10 A.A.R. 726, effective February 6, 2004 (Supp. 04-1).

ARTICLE 7. FRUIT AND VEGETABLE STANDARDIZATION**R3-4-701. Expired****Historical Note**

Section R3-4-701 renumbered from R3-7-101 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 9 A.A.R. 4628, effective December 6, 2003 (Supp. 03-4). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-702. Expired**Historical Note**

Former Rule 100. Section R3-4-702 renumbered from R3-7-102 (Supp. 91-4). Section repealed, new Section

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adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-703. Expired**Historical Note**

Former Rule 101. Section R3-4-703 renumbered from R3-7-103 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-703. Expired**Historical Note**

Former Rule 102; Amended paragraph (7) effective June 11, 1986 (Supp. 86-3). Section R3-4-704 renumbered from R3-7-104 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-705. Expired**Historical Note**

Former Rule 103. Section R3-4-705 renumbered from R3-7-105 (Supp. 91-4). Former Section R3-4-705 renumbered to R3-4-736, new Section R3-4-705 adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-706. Expired**Historical Note**

Former Rule 104. Section R3-4-706 renumbered from R3-7-106 (Supp. 91-4). Former Section R3-4-706 renumbered to R3-4-737, new Section R3-4-706 adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-707. Expired**Historical Note**

Former Rule 105; Amended effective March 5, 1982 (Supp. 82-2). Section R3-4-707 renumbered from R3-7-107 (Supp. 91-4). Former Section R3-4-707 repealed, new Section R3-4-707 adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-708. Expired**Historical Note**

Former Section R3-4-708 renumbered to R3-4-740, new Section R3-4-708 adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 5 A.A.R. 569, effective February 3, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 4454, effective October 2, 2002 (Supp. 02-4). Amended by final rulemaking at 10 A.A.R. 677, effective February 3, 2004 (Supp. 04-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-709. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,

effective July 29, 2014 (Supp. 14-4).

R3-4-710. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-711. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-712. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-713. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-714. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-715. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-716. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 6 A.A.R. 4582, effective November 13, 2000 (Supp. 00-4). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-717. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 5 A.A.R. 569, effective February 3, 1999 (Supp. 99-1). Amended by final rulemaking at 10 A.A.R. 677, effective February 3, 2004 (Supp. 04-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-718. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 10 A.A.R. 677, effective February 3, 2004 (Supp. 04-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-719. Expired

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Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).
Amended by final rulemaking at 10 A.A.R. 677, effective
February 3, 2004 (Supp. 04-1). Section expired under
A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29,
2014 (Supp. 14-4).

R3-4-720. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-721. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-722. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-723. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-724. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-725. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-726. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-727. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-728. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-729. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-730. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-731. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-732. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-733. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-734. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-735. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-736. Expired**Historical Note**

Section R3-4-736 renumbered from R3-7-705 and
amended effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-737. Expired**Historical Note**

Section R3-4-737 renumbered from R3-7-706 and
amended effective January 6, 1994 (Supp. 94-1).
Amended by final rulemaking at 5 A.A.R. 569, effective
February 3, 1999 (Supp. 99-1). Amended by final
rulemaking at 6 A.A.R. 143, effective December 8, 1999
(Supp. 99-4). Section expired under A.R.S. § 41-1056(J)
at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-738. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section
expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935,
effective July 29, 2014 (Supp. 14-4).

R3-4-739. Expired

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Historical Note

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-740. Expired**Historical Note**

Section R3-4-740 renumbered from R3-4-708 and amended effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 8 A.A.R. 4454, effective October 2, 2002 (Supp. 02-4). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-741. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-742. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-743. Recordkeeping and Reporting Requirements for Fruit and Vegetable Shippers

- A. Every shipper shall keep a correct record of each shipment of each assessed commodity shipped, showing:
1. The name and address of each producer;
 2. The shipment totals, by producer.
- B. The shipper shall retain the original or a copy of records covering each shipment or transaction with respect to each assessed commodity shipped for a period of two years from the date thereof, which shall at all times be open to the confidential inspection of the supervisor or the authorized representative. The burden of proof shall be upon the shipper to prove the correctness of the shipper's accounting of any transaction which may be questioned.

Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

ARTICLE 8. CITRUS FRUIT STANDARDIZATION**R3-4-801. Expired****Historical Note**

Section R3-4-801 renumbered from R3-7-201 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-802. Expired**Historical Note**

Former Rule 1. Section R3-4-802 renumbered from R3-7-202 (Supp. 91-4). Section R3-4-802 repealed, new Section R3-4-802 renumbered from R3-4-806 and heading amended effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-803. Expired**Historical Note**

Former Rule 2. Amended effective January 10, 1977 (Supp. 77-1). Amended effective November 3, 1983 (Supp. 83-6). Section R3-4-803 renumbered from R3-7-203 (Supp. 91-4). Former Section R3-4-803 renumbered to R3-4-809, new Section R3-4-803 adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-804. Expired**Historical Note**

Former Rule 3. Section R3-4-804 renumbered from R3-7-204 (Supp. 91-4). Former Section R3-4-804 renumbered to R3-4-807, new Section R3-4-804 adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-805. Expired**Historical Note**

Former Rule 4. Section R3-4-805 renumbered from R3-7-205 (Supp. 91-4). Section repealed, new Section adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 7 A.A.R. 5342, effective November 8, 2001 (Supp. 01-4). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-806. Expired**Historical Note**

Former Rule 5. Section R3-4-806 renumbered from R3-7-206 (Supp. 91-4). Former Section R3-4-806 renumbered to R3-4-802, new Section R3-4-806 adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-806. Expired**Historical Note**

Former Rule 6. Section R3-4-807 renumbered from R3-7-207 (Supp. 91-4). Section repealed, new Section R3-4-807 renumbered from R3-4-804 and amended effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-808. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-809. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 8 A.A.R. 3633, effective August 7, 2002 (Supp. 02-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-810. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 8 A.A.R. 3633, effective

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August 7, 2002 (Supp. 02-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-811. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 6 A.A.R. 143, effective December 8, 1999 (Supp. 99-4). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-812. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-813. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-814. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Amended by final rulemaking at 8 A.A.R. 3633, effective August 7, 2002 (Supp. 02-3). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-815. Expired**Historical Note**

Adopted effective January 6, 1994 (Supp. 94-1). Section expired under A.R.S. § 41-1056(J) at 20 A.A.R. 2935, effective July 29, 2014 (Supp. 14-4).

R3-4-816. Recordkeeping and Reporting Requirements for Citrus Fruit Shippers

- A. Every shipper shall keep a correct record of each shipment of each assessed citrus commodity shipped, showing:
 1. The name and address of the producer;
 2. The shipment totals, by producer.
- B. The shipper shall retain the original or a copy of records covering each shipment or transaction with respect to each assessed citrus commodity shipped for a period of two years from the date thereof, which shall at all times be open to the confidential inspection of the supervisor or the authorized representative. The burden of proof shall be upon the shipper to prove the correctness of the shipper's accounting of any transaction which may be questioned.

Historical Note

Adopted effective January 6, 1994 (Supp. 94-1).

ARTICLE 9. BIOTECHNOLOGY**R3-4-901. Genetically Engineered Organisms and Products**

- A. Definitions. In addition to the definitions provided in A.R.S. § 3-101, the following shall apply:
 1. "Associate Director" means the Associate Director of the Plant Services Division of the Arizona Department of Agriculture.
 2. "Genetically engineered" means the genetic modification of organisms by recombinant DNA techniques, including

genetic combinations resulting in novel organisms or genetic combinations that would not naturally occur.

3. "Organisms" means any active, infective, or dormant stage or life form of any entity characterized as living, including vertebrate and invertebrate animals, plants, bacteria, fungi, mycoplasmas, mycoplasma-like organisms, as well as entities such as viroid, viruses, or any entity characterized as living related to the foregoing.
4. "Permit" means an application which has been approved by USDA and the Department.
5. "Permit application" means an application filed with USDA, which may be supplemented with requirements from the Department, for the introduction of genetically engineered organisms and products, as provided by 7 CFR 340, revised June 16, 1987. The material incorporated herein by reference is on file with the Office of the Secretary of State and does not include any later amendments or editions of the incorporated matter.
6. "Product" means plant reproductive parts including pollen, seeds, and fruit, spores, or eggs.
7. "USDA" means the United States Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine (USDA, APHIS, PPQ).
- B. Permit applications. A genetically engineered organism or product shall not be introduced into Arizona, sold, offered for sale, or distributed for release into Arizona's environment unless a permit issued pursuant to the application has been issued by USDA, or the Department has been notified by the USDA that the genetically engineered organisms or product is eligible under the notification procedure, as prescribed by 7 CFR § 340.3, revised August 6, 2007, or it has been determined by the USDA to be of nonregulated status, as prescribed by 7 CFR 340.6, revised May 1997. The material incorporated herein by reference is on file with the Office of the Secretary of State and does not include any later amendments or editions of the incorporated matter.
 1. Applicants for the release or use of genetically engineered organisms or products shall follow all permit application procedures required by USDA.
 2. In addition to USDA's requirements, permit applications shall demonstrate to the Department that:
 - a. Genetically engineered organisms or products shall be handled in such a manner so that no genetically engineered organism or product accidentally escapes into Arizona's environment.
 - b. All permit applicants shall comply with Arizona quarantine rules regulating the plants, pests, or organisms being introduced into Arizona.
 3. The Department may, if it deems necessary to protect agriculture, public health, or the environment from potential adverse effects from the introduction of a specific genetically engineered organism or product:
 - a. Place restrictions on the number and location of organisms or products released, method of release, training of persons involved with the release of organisms or products, disposal of organisms or products, and other conditions of use;
 - b. Require measures to limit dispersal of released organisms or spread of inserted genes or gene products;
 - c. Require monitoring of the abundance and dispersal of the released organism or inserted genes or gene products;

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- d. Request the USDA to deny, suspend, modify, or revoke the permit for failure to comply with this rule.
- e. Request the USDA to suspend the permit if it is determined that an adverse effect is occurring or is likely to occur because of a release authorized by such permit.
4. To the extent possible, the Department shall accept for review and base its decision on the data submitted with the federal application. However, the Department may request additional information from the applicant to assess the risks to animals and plants, including risks of vector transmissions of genetically engineered organisms or products.
5. The Associate Director shall review the application recommendations with the Director who shall, within the time period prescribed on each USDA application, approve, conditionally approve, or deny the permit.
6. The Director shall return the completed application with the resolution to USDA for final action.

Historical Note

Adopted effective November 22, 1993 (Supp. 93-4).

Amended by final rulemaking at 25 A.A.R. 3357, effective January 4, 2020 (Supp. 19-4).

ARTICLE 10. INDUSTRIAL HEMP**R3-4-1001. Definitions**

In addition to the definitions provided in A.R.S. §§ 3-201, 3-311, and R3-4-101, the following terms apply to this Article.

“0.300%” shall have the same meaning as three-tenths percent.

“Applicant” means a key participant who seeks a license or certification as a grower, nursery, harvester, transporter, or processor under this Article.

“Associate Director” means the Associate Director of the Division.

“Authorized sampling agent” means an inspector of the Department or independent party that has been trained by an authorized representative of the Department to collect samples of industrial hemp crops to determine compliance with applicable hemp laws.

“Biomass” means the homogenized pieces and parts, including but not limited to stems, leaves and floral parts of hemp.

“Certified laboratory” means the State Agriculture Laboratory or any laboratory certified by the State Agriculture Laboratory to perform compliance analysis of industrial hemp.

“Corrective action plan” means a plan utilizing the methods outlined in R3-4-1013(D)(2) for correcting a negligent violation or noncompliance with applicable hemp laws, which is either proposed by a licensed hemp producer and approved by the Associate Director, or issued by the Associate Director.

“Decarboxylated” means the completion of the chemical reaction that converts THCA into delta-9 THC, the intoxicating component of *Cannabis*. The decarboxylated value is also calculated using a molecular mass conversion ratio that sums delta-9 THC and 87.7% of THCA ((delta-9 THC) + (0.877 * THCA)).

“Decarboxylation” means the removal or elimination of carboxyl group from a molecule or organic compound.

“Delta-9 tetrahydrocannabinol” means the primary psychoactive component of *Cannabis*. For the purposes of this Article, delta-9 THC and THC are interchangeable.

“Department” means the Arizona Department of Agriculture.

“Director” means the Director of the Department.

“Disposal” means an activity that transitions the non-compliant product into a non-retrievable or non-ingestible form. Such activities include plowing, tilling, or disking plant material into the soil; mulching, composting, chopping, or bush mowing plant material into green manure; burning plant material; or burying plant material into the earth and covering with soil.

“Division” means the Plant Services Division of the Department.

“Entity” means a corporation, joint stock company, association, limited partnership, limited liability partnership, limited liability company, irrevocable trust, estate, charitable organization, or other similar organization, including any such organization participating in the hemp production as a partner in a general partnership, a participant in a joint venture, or a participant in a similar organization.

“Geospatial location” means a location designated through a global system of navigational satellites used to determine the precise ground position of a place or object.

“Harvest Lot” means a contiguous area in a field, greenhouse, or indoor growing structure containing the same variety or strain of *Cannabis* throughout the area.

“Hemp” has the same meaning as industrial hemp.

“Hemp laws” mean, unless otherwise specified herein, A.R.S. Title 3, Chapter 2 and rules adopted thereunder in Article 4.1, A.A.C. R3-4-1001, et seq.; 7 U.S.C. § 5940 (agricultural act of 2014 PL 113-79; 128 Stat. 656, eff. January 5, 2015, <https://www.congress.gov/bill/113th-congress/house-bill/2642/text>); 7 U.S.C. § 1639o et seq. (agricultural improvement act of 2018, PL 115-334; 132 Stat. 4908, eff. December 20, 2018, <https://www.congress.gov/bill/115th-congress/house-bill/2/> text); and 7 C.F.R. part 990, (86 FR 5596, eff. March 22, 2021, https://www.ecfr.gov/cgi-bin/text-idx?node=se7.8.990_11&rgn=div8). The rule does not include any later amendments or editions of the incorporated matter.

“Intentionally” means the state of mind defined in A.R.S. § 13-105(10)(a) or any successor statute.

“Key participant” means a sole proprietor, a partner in partnership, or a person with executive managerial control in a corporation. A person with executive managerial control includes persons such as a chief executive officer, chief operating officer, and chief financial officer. This definition does not include non-executive managers such as farm, field, or shift managers.

“Knowingly” means the state of mind defined in A.R.S. § 13-105(10)(a) or any successor statute.

“Licensing Agreement” means a contract between the Department and an applicant that indicates the terms and conditions required for a license issued pursuant to this Article.

“Lot” means the same as harvest lot.

“Manmade causes” means the influence to an industrial hemp crop created by a person, including but not limited to, irrigation, fertilization, chemical application, or physical interference.

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“Measurement of Uncertainty (MU)” means the parameter, associated with the result of a measurement that characterizes the dispersion of the values that could reasonably be attributed to the particular quantity subject to measurement.

“Natural causes” means the influence to an industrial hemp crop created by elements of nature including, but not limited to, temperature, wind, rain, hail, or flood.

“Performance based sampling” means a sampling method established in substantive policy and posted on the Department’s website that ensures, within a 95% confidence level, a harvest lot is compliant with this Article by not having a total delta-9 THC level above the acceptable limit.

“Program” means the Industrial Hemp Program.

“Propagative material” means any industrial hemp seedlings, explants, transplants, propagules, or other rooted material that is grown in a soilless media.

“Remediation” means the process for achieving compliance of non-compliant *Cannabis*. Remediation can occur by removing and destroying flower material, while retaining stalk, stems, leaf material, and seeds. Remediation can also occur by shredding the entire plant into a biomass like material, then re-testing the shredded biomass material for compliance.

“Responsible party” means an individual that has signing authority of a partnership, limited liability company, association, company or corporation.

“THC” means Tetrahydrocannabinol.

“THCA” means Tetrahydrocannabinolic Acid.

“Total THC or total delta-9 THC” means the value determined after the process of decarboxylation, or the application of a conversion factor if the testing methodology does not include decarboxylation that expresses the potential total delta-9 tetrahydrocannabinol content derived from the sum of the THC and THCA content and reported on a dry weight basis. This post-decarboxylation value of THC can be calculated by using a chromatograph technique using heat, such as gas chromatography, through which THCA is converted from its acid form to its neutral form, THC which calculates the total potential THC in a given sample. The total THC can also be calculated by using a liquid chromatograph technique, which keeps the THCA intact. This technique requires the use of the following conversion: $[\text{Total THC} = (0.877 \times \text{THCA}) + \text{THC}]$ which calculates the potential total THC in a given sample.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2). Amended by final rulemaking at 27 A.A.R. 1570, with an immediate effective date of September 16, 2021 (Supp. 21-3).

R3-4-1002. Program Eligibility

A. Eligibility requirements. Unless otherwise determined to be ineligible under this Article and notwithstanding any other law, a person or responsible party that applies for a program license shall:

1. Possess a valid fingerprint clearance card issued by the Arizona Department of Public Safety pursuant to A.R.S. § 41-1758.07.
 - a. Applicants who have had a felony narcotics conviction within 10 years of the date of application shall not be granted a good cause exception under A.R.S. § 41-1758.07.

- b. Applicants who have had a felony narcotics conviction prior to December 11, 2018; and that participated in an agricultural pilot program for the purpose of research into the growth, cultivation and marketing of industrial hemp as authorized by 7 U.S.C. § 5940 (agricultural act of 2014 PL 113-79; 128 Stat. 656, eff. January 5, 2015, <https://www.congress.gov/bill/113th-congress/house-bill/2642/text>) may petition the state for an exception to the eligibility exclusion in subsection (A)(1)(a). The rule does not include any later amendments or editions of the incorporated matter.

2. Be a citizen of the United States or a legal resident alien. An individual who applies for a program license and is enrolled in an academic program at an accredited college or university, but who does not meet the criteria in this Section may be sponsored by an academic member of that college or university who meets the eligibility criteria in this Section and provides proof of eligibility as required in subsection (B)(2).

3. Be 18 years of age or older at the time of application.

B. Proof of eligibility.

1. Unless otherwise allowed by an exception to the requirements of this Section, the applicant shall provide the Department a legible photo copy, paper or electronic, of the applicant’s fingerprint clearance card described in subsection (A)(1), which the Department will validate to ensure the applicant meets the eligibility requirements of this Section.
2. The Department shall accept the documents listed in A.R.S. § 41-1080(A) as evidence of age and United States Citizenship or legal residency.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2). Amended by final rulemaking at 27 A.A.R. 1570, with an immediate effective date of September 16, 2021 (Supp. 21-3).

R3-4-1003. Licenses; Applications; Renewals; Withdrawal

A. Any person that grows, harvests, transports, or processes industrial hemp in any of the following categories shall obtain the appropriate license from the Department and shall abide by the terms and conditions set forth in the licensing agreement with the Department. Types of licenses include:

1. Grower - An authorized grower license shall allow the licensee to obtain seed or propagative materials pursuant to this Article for planting, possess authorized seed and propagative materials for planting, cultivate the crop, harvest plant parts, possess and store harvested plant parts, and transport plant parts for processing.
2. Nursery - An authorized nursery license shall allow the licensee to propagate eligible seed and propagative materials for planting for a licensed grower. A licensed nursery shall not grow industrial hemp for harvesting purposes, unless also licensed with the Department as a grower.
3. Harvester - An authorized harvester license shall allow the licensee to engage in the activity of harvesting an eligible industrial hemp crop for a licensed grower.
4. Transporter - An authorized transporter license shall allow the licensee to engage in the transport of a harvested industrial hemp crop for a licensed grower.
5. Processor - An authorized processor license shall allow the licensee to engage in the processing, handling, and

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storage of industrial hemp or hemp seed at one or more authorized locations in the state. The licensee may sell, distribute, transfer, or gift any products processed from harvested hemp that is not restricted in R3-4-1012.

- B.** At a minimum, applications for a license shall contain the information required in subsections R3-4-1003(B)(1) through (6), plus any additional information that may be required by the Department. Location information shall be retained by the Department for not less than three years. Licensing fees required under R3-4-1005 are due at the time of application.

1. All applicants must provide:
 - a. Full name, mailing address, telephone number and email address;
 - b. Fingerprint clearance card identification number of the applicant;
 - c. If the applicant represents a business entity, the full name of the business, the principal Arizona business location address, the full name, title, and email address of the of the responsible party;
 - d. Tax ID or Social Security Number; and
 - e. Disclosure and explanation of any instance in which the applicant has been denied, debarred, suspended, revoked, or otherwise prohibited from participating in any public procurement or licensing activity.
2. Applicants for a grower's license must also provide:
 - a. Registered planting site or sites: street address or major crossroads, legal description, and geospatial location for each field, greenhouse, building or site where industrial hemp will be grown, updated annually, or within 30 calendar days following a change;
 - b. Estimated acreage for each outdoor location and square footage for indoor or each greenhouse locations intended for planting;
 - c. Maps or aerial photos depicting each site where industrial hemp will be grown, handled, and stored, with appropriate designations for entrances, field boundaries, and specific locations corresponding to the geospatial location information;
 - d. Geospatial location information of all storage locations for seed or propagative materials, and harvested plants and plant parts; and
 - e. Maps or aerial photos depicting each site where industrial hemp seed and propagative materials will be stored and labeled with the corresponding geospatial location information.
3. Applicants for a nursery license must also provide:
 - a. Geospatial location information of all storage locations for seed or propagative materials;
 - b. Geospatial location information of all propagation areas; and
 - c. Labeled maps or aerial photos depicting storage and propagation areas.
4. Applicants for a harvester license must also provide the legal description and geospatial location information for each location of the harvesting equipment, together with corresponding labeled maps or aerial photos of the location or locations.
5. Applicants for a transporter license must also provide: legal description, and geospatial location information for each location the transporting vehicles and equipment, together with corresponding labeled maps or aerial photos of the location or locations.
6. Applicants for a processor license must also provide:

- a. Identification of the part of a harvested hemp crop or plant to be received for processing, in the following categories:
 - i. Floral and leaf material, or biomass;
 - ii. Seed for oil or grain;
 - iii. Stalks for fiber or hurds; and
 - iv. Seed or propagative materials for planting;
- b. Processing site or sites information that includes: street address or major crossroads, legal description, and geospatial location information for each building or site where hemp will be processed or stored; or where mobile processing equipment will be primarily based, together with labeled maps or aerial photos depicting the processing site information.

- C.** Application submission dates. Applications may be submitted at any time during the year, but the expiration date of the license shall be on December 31 annually, or biennially for a two-year renewal as authorized in subsection (D). An expired license may be reinstated up to three years after the expiration date, provided the applicant's business information has not changed.

- D.** Application for one or two-year renewals. At a licensee's discretion, a person that has been licensed by the Department under the industrial hemp program may apply for a one or two year renewal provided:

1. The person was licensed in the industrial hemp program within the previous calendar year;
2. The license of the person was in good standing at the time of renewal;
3. There is no change in the person or responsible party licensed;
4. There is no change in the physical location of the industrial hemp site;
5. The licensee does not owe any civil penalties, fees, or late charges to the Department; and
6. The person submits the associated fee for a one or two-year renewal.

- E.** Licensing agreements. All approved applicants for a license shall complete a licensing agreement issued by the Department prior to receiving a license. The licensing agreement may include additional terms and conditions as needed to ensure compliance with this Article, applicable state and federal laws, and rules and orders of the Director, but, at a minimum the applicant will agree to:

1. Provide access, for authorized Department inspectors, at any time, to all hemp and hemp seed, planted or stored, and all records to determine compliance with this Article and any state or federal law, rule or order regulating *Cannabis* as an agricultural crop;
2. Maintain all records, as stated in R3-4-1008;
3. Pay all fees required indicated in Table 1;
4. Comply with all pesticide use restrictions;
5. Comply with all seed laws of the state;
6. Defend, indemnify, and hold harmless the Department from liability for the destruction of any crop or harvested plant in violation of this Article;
7. Be solely responsible for all financial or other losses;
8. Be solely responsible for all land use restrictions, applicable city and county zoning, building, and fire codes and ordinances; and
9. Follow all regulatory, notification and reporting requirements.

- F.** Withdrawals.

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1. When a licensee withdraws from the industrial hemp program, any licensing and inspection fees paid or invoiced prior to any notice of withdrawal are not eligible for refund. In order for a licensee to withdraw from the industrial hemp program, the following requirements must be met:
 - a. Unless otherwise authorized by the Associate Director, the licensee shall complete and submit a withdrawal notice at least ten business days prior to the withdrawal of the Program; and
 - b. Any industrial hemp or hemp seed, planted, harvested, or stored must be inspected by the Department prior to transport off of the property, disposal, or transfer to a new or existing licensee.
 2. Withdrawal after submittal of an application but prior to issuance of a license will be prohibited unless the Department determines, in its sole discretion, that such withdrawal is appropriate.
- G.** Site modification. Anytime a licensed grower, processor or nursery modifies the registered site by changing the location of an existing site or by adding additional sites under the license, or removing a registered site from the licensee's record, the licensee shall submit a site modification application and associated site modification fee listed in Table 1. There is no site modification fee for the request to remove a registered site from the licensee's record or when modifying or adding a site during the licensee's renewal process.
- H.** License transfer. The transfer of an industrial hemp license is authorized only if the licensee and eligible program applicant completes and submits a notarized Department issued transfer application and submits any applicable transfer fees listed in Table 1. The receiver of a transferred license shall complete a licensing application, and execute a licensing agreement as required by this Article, and all duties and responsibilities of the licensee shall be transferred to and acknowledged by the receiver in a written agreement between the licensee and receiver. Any license or other fees paid by the licensee shall be credited to the benefit of the receiver.
- I.** Change in business information. Licensees must complete and submit a Change in Business Information form within ten business days if there is any change in business information including business name, address, or other contact information.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2). Amended by final rulemaking at 27 A.A.R. 1570, with an immediate effective date of September 16, 2021 (Supp. 21-3).

R3-4-1004. Industrial Hemp Research

- A.** A person, company, college or university that conducts research into the growth, harvesting techniques, transportation methods, or processing of industrial hemp is required to obtain a license pursuant to this Article.
- B.** A person, company, college or university conducting not-for-profit research may be exempted from the licensing fee or fees provided that:
1. The applicant submits to the Department a request for an exemption of the licensing fee;

2. The applicant provides a summary of the research to be conducted;
 3. The applicant provides a summary of the benefit to the agricultural community that will be gained;
 4. The applicant signs into an agreement with the Department that as a result of the research conducted the applicant will not gain any monetary profit;
 5. The research will be conducted in compliance with this Article or any other law, rule, or order governing the production of industrial hemp; and
 6. The results or summary of the research will be published or made publicly available.
- C.** Intellectual property. The Department holds no rights to any intellectual property resulting from industrial hemp research.
- D.** Restrictions.
1. A licensee shall not change not-for-profit research to for-profit research without notifying the Department and paying the required licensing fee.
 2. Hemp and hemp products produced under a hemp research exemption, excluding hemp seed, are not eligible to enter the commercial stream of commerce.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2). Amended by final rulemaking at 27 A.A.R. 1570, with an immediate effective date of September 16, 2021 (Supp. 21-3).

R3-4-1005. Fees

- A.** All licensing fees are due at the time of application.
- B.** A grower applicant or licensee is not required to pay separate harvester or transporter licensing fees, unless providing harvesting or transport services for other licensed growers.
- C.** Inspection and assessment fees are invoiced by the Department and are due within 30 calendar days of the invoice date.
- D.** Site modification fees. The appropriate fee shall be submitted at the time an applicant submits a site modification application as provided in R3-4-1003(G).
- E.** Processor assessment fees are based on tonnage reports, shipping manifests or scale receipts of unprocessed hemp plants or plant parts received.
- F.** All outstanding inspection and assessment fees invoiced prior to November 15, shall be paid in full prior to the Department's processing of a licensee's renewal application.
- G.** THC sample analysis fees. Beyond the initial pre-harvest sample collected to determine regulatory compliance of a harvest lot of hemp, a licensee will be required to pay for any analytical fees before results are released. These include:
1. Any pre-harvest re-tests for crops that indicated a result above the threshold for compliance;
 2. Post-harvest samples that have been determined to be a regulatory concern by the Department; or
 3. By request from the grower that requires official analysis for commerce.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2). Amended by final rulemaking at 27 A.A.R. 1570, with an immediate effective date of September 16, 2021 (Supp. 21-3).

Table 1. Fee Schedule

License	Licensing Fee	Inspection/Assessment Fee
Grower	\$1,000 per license	\$25 per one or less than one outdoor acre up to 100 acres \$5 acre for each additional acre

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		\$75 per indoor facility up to 3 acres \$25 per acre for facilities over 3 acres \$150 per THC sample analysis (G)
Nursery	\$650 per license	NA
Harvester	\$100 per license	N/A
Transporter	\$100 per license	N/A
Processor	\$2,000 per license	\$5 ton Oil Seed/Grain \$100 ton floral material \$150 per THC sample analysis (G)
All	Site modification fee: \$300	N/A

Historical Note

New Table 1. Fee Schedule made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2). Table 1. Fee Schedule amended by emergency rulemaking at 27 A.A.R. 39, with an immediate effective date of December 17, 2020 (Supp. 20-4). Emergency expired. Table 1. Fee Schedule amended by final rulemaking at 27 A.A.R. 1570, with an immediate effective date of September 16, 2021 (Supp. 21-3).

R3-4-1006. Authorized Seed and Propagative Material

- A.** Authorized seeds and propagative material. Seeds and propagative materials authorized for use by a licensee is not a guarantee a crop will produce a total delta-9 THC concentration of not greater than 0.300%. Seeds and propagative material that are used to produce an industrial hemp crop or plant shall:
1. Be produced from an industrial hemp crop or plant; and
 2. Originate from either:
 - a. A person, business, college or university licensed or certified in a state or federal program authorized to produce industrial hemp; or
 - b. A foreign source that is authorized by the country of origin to export industrial hemp seed or propagative material to produce an industrial hemp crop.
- B.** Each licensed grower or nursery is responsible for the acquisition of seed or propagative materials used for the growth of industrial hemp. The licensee shall keep and maintain the following information:
1. A copy of the seed or propagative material producer's certificate, license or equivalent documentation authorizing the production of industrial hemp;
 2. An official analysis of the crop or plant that produced the seed or propagative material that indicates the crop or plant contained a total delta-9 THC concentration of not greater than 0.300% on a dry weight basis; and
 3. Phytosanitary certificates or nursery certificates issued by a plant regulatory official for any propagative materials to ensure compliance with A.R.S. § 3-211 and Article 2.
- C.** Labeling requirements. All Industrial Hemp seed or propagative material sold within or into Arizona must be labeled as to variety/strain or hybrid name, and origin.
1. For purposes of labeling, the number or other designations of hybrid industrial hemp shall be used as a variety name.
 2. All Industrial Hemp seed for planting purposes sold within or into Arizona is subject to the Arizona seed laws under A.R.S. §§ 3-231 et seq. and Article 4.
- D.** Shipment of hemp plants for planting purposes.
1. Hemp plants for planting purposes produced by a licensed nursery for intrastate or interstate shipment shall:
 - a. Have been produced from authorized hemp material as indicated in R3-4-1006(A);
 - b. Have been produced in compliance with the laws, rules and order of the Director for the production of industrial hemp;
 2. Be transported with a copy of the nursery producer license; a copy of the receiving grower license; and a manifest or bill of lading indicating the amount in the shipment and physical destination of the shipment; and
 3. Only be sold or distributed to an entity or individual licensed to produce hemp.
- E.** Restrictions.
1. A person that receives seed or propagative materials that does not comply with this Article or any other phytosanitary, seed or labeling law of the state shall immediately notify the Department and hold the seed or propagative material until a disposition is provided by the Department.
 2. The Department may direct a licensee to place a shipment of seed or propagative material on hold to ensure compliance with this Article and any other law or regulation that may apply to the shipment of agricultural seed and plants for planting purposes.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2). Amended by final rulemaking at 27 A.A.R. 1570, with an immediate effective date of September 16, 2021 (Supp. 21-3).

R3-4-1007. Location Requirements; Signage

- A.** Location requirements.
1. A Licensed grower or processor shall not grow, process, or store industrial hemp in any residential dwelling.
 2. A Licensee is responsible for maintaining compliance with all applicable city and county land use restrictions, zoning laws, building, and fire codes and ordinances.

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3. A registered location shall be made available for inspection at the request of an inspector during normal business hours.
4. A licensed grower or processor shall not grow, process, or store any forms of *Cannabis* that are not classified as industrial hemp within a single structure at the registered location.
- B. Signage. The use of the Arizona Department of Agriculture logo or likeness is not permitted on signage. A licensed grower or processor shall conspicuously post signage at the perimeter of the registered location that includes the following information:
 1. The statement, "Arizona Department of Agriculture Industrial Hemp Program - No Trespassing Allowed";
 2. Licensee's name or company name and license number; and
 3. The Arizona Department of Agriculture, Industrial Hemp Program phone number.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2). Amended by final rulemaking at 27 A.A.R. 1570, with an immediate effective date of September 16, 2021 (Supp. 21-3).

R3-4-1008. Compliance; Recordkeeping; Audits**A. General compliance requirements.**

1. All licensees are subject to audits to ensure compliance with the recordkeeping requirements in subsection (B);
2. An authorized Department inspector shall be allowed access to all growing, storage, and processing locations of a licensee's industrial hemp crop, hemp seed, propagative material, harvested material, handling and processing equipment to conduct a visual inspection and determine if a violation of this Article may exist.

B. Recordkeeping. All licensees may be audited to ensure compliance with all recordkeeping requirements. A licensee shall comply with the recordkeeping requirements in this subsection at a minimum. Additional recordkeeping requirements may be established as set by policy and updated annually.

1. All records documenting the geospatial location, growth, propagation, harvesting, storage, agronomic data, shipping, receiving, transportation, distribution, processing, sale, purchase, third party analysis or research of all plants, seeds and materials shall be kept within the state of Arizona and made available for inspection on request.
2. An in-state agent must be maintained for receipt and storage of records.
3. All records shall be maintained for not less than five years.

C. Sampling and testing. All licensees are subject to the collection of a representative sample of any *Cannabis* plant, hemp crop or harvested hemp in possession of the licensee or licensee's agent to determine the total concentration of delta-9 THC as reported by a certified laboratory to ensure compliance with this Article and any state or federal law, rule or order regulating *Cannabis* as an agricultural commodity. Unless otherwise specified in an alternative performance-based sampling policy, crops shall be sampled within 30 days prior to the intended date of harvest and samples must be collected from mature flowering plants. All sampling agents must have undergone official sampling training by an authorized representative of the Department for the collection of *Cannabis* samples for determination of compliance with the program. A

licensed grower shall not harvest an industrial hemp crop prior to the collection of an official sample for compliance purposes.

1. Sampling method. The Department shall publish a policy on the procedures used by the Department to sample a *Cannabis* plant or crop; and may publish a policy or policies for alternative, performance-based methods that have the potential to ensure, at a 95% level of confidence, that the *Cannabis* plant or crop will not test above the acceptable hemp total delta-9 THC level, such policy or policies may be updated annually as dictated by changing circumstances.
2. Only an authorized Department inspector, or other authorized sampling agent, may collect an official sample to determine compliance with this Article.
3. When collecting an official sample, an authorized Department inspector, or other authorized sampling agent, shall:
 - a. Ensure the licensee or authorized representative of the licensee is present during the collection of the official sample;
 - b. Collect a representative sample of the crop, plants or harvested crop;
 - c. Split the official sample as follows:
 - i. One-third for retention by the Department or to provide to a certified laboratory for compliance with this Article;
 - ii. One-third for confirmation of analytical results if required; and
 - iii. One-third that is provided to the licensee for retention or to utilize for additional analysis by a third party laboratory. Any results provided to the licensee by a third party laboratory do not supersede official results.
 - d. Label all official samples with an official sample number, sample date, collector name, location ID, and grower license ID number;
 - e. Apply official custody seals to all official samples; and
 - f. Complete an official chain of custody form that is signed and dated by the inspector and licensee or the licensee's representative.
4. Sample transport and submission. The Department shall not be liable for samples that are detained by any federal, state or local law enforcement agency.
 - a. If a certified laboratory receives a sample with a broken custody seal or incomplete or missing chain of custody, that sample shall be null and void;
 - b. All official samples retained by the Department are the property of the Department; and
 - c. The Department is not liable to reimburse the licensee for official samples collected.
5. Laboratory Standards. Certified laboratories conducting testing of hemp must conduct analytical testing for purposes of detecting the total calculable amount of delta-9 THC and shall meet the following standards:
 - a. Laboratory quality assurance must ensure the validity and reliability of test results;
 - b. Analytical method selection, validation, and verification must ensure that the testing method used is appropriate and that the laboratory can successfully perform the testing;
 - c. The demonstration of testing validity must ensure consistent and accurate analytical performance; and
 - d. Method performance specifications must ensure analytical tests are sufficiently sensitive for the pur-

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poses of the detectability requirements of this Article.

- e. At a minimum, analytical testing of samples for total calculable amount of delta-9 THC levels must use post-decarboxylation or other similarly reliable methods approved by the U.S. Secretary of Agriculture. The testing methodology must consider the potential conversion of delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC). The test result must reflect the total calculable amount of delta-9 THC. Testing methodologies meeting these requirements include, but are not limited to, gas chromatography and high-performance liquid chromatography.
- f. The total delta-9 tetrahydrocannabinol concentration level shall be determined and reported on a dry weight basis.
- g. Certified laboratories must report the measurement of uncertainty (MU) of the methodology, in reference to the U.S. Department of Agriculture's Laboratory Testing Guidelines, U.S. Hemp Production Program, published on January 15, 2021, or its successor document in reference to the AOAC International (Association of Official Agricultural Chemists), Standard Method Performance Requirements (SMPRs®) for Quantitation of Cannabinoids in Plant Materials of Hemp (Low THC Varieties *Cannabis* sp.) SMPR 2019.003 found at the website: <https://www.aoc.org/resources/smpr-2019003/>. Certified laboratories must also report the MU as a ± value and report the total delta-9 value in the same unit of measure used to report the MU.
- h. Any sample test result showing with at least 95% confidence that the total delta 9 THC content of the sample is higher than the acceptable hemp THC level shall be conclusive evidence that the lot represented by the sample is not in compliance with this Article.

- 6. DEA Registration. Certified laboratories must also be registered with DEA to handle controlled substances under the Controlled Substances Act (CSA), 21 CFR part 1301.13 no later than December 31, 2022.
- 7. Sample results. A copy of any result produced by a certified laboratory shall be provided to the licensee, but such result is the property of the state.

D. Crop compliance.

- 1. Compliant crops. When a crop is found to be compliant with the regulations governing the production of industrial hemp, a grower will be provided documentation authorizing the movement of the harvest lot. Upon receiving authorization from the Department the licensed grower shall not comingle the harvest lot with any other compliant or non-compliant harvest lot. The grower shall:
 - a. Harvest the compliant harvest lot within 30 business days;
 - b. Notify the Department if there is a delay in the 30 business day harvest window due to inclement weather or other natural causes; and
 - c. Notify the Department prior to shipping or transporting the harvest lot as provided in R3-4-1011(D).
- 2. Non-compliant crops. Non-compliant crops with a total delta-9 THC concentration greater than 0.3% shall not be allowed into the stream of commerce. When a crop is found to be non-compliant with the regulations governing

the production of industrial hemp, a grower will be required, within 15 business days of notification of non-compliance, to either voluntarily dispose of the crop by a method prescribed in R3-4-1013(F) and submit a notice of destruction under R3-4-1011(E), together with supporting evidence of disposal. Alternatively the grower may submit a corrective action plan under R3-4-1013(D) to remediate the crop to achieve compliance with the regulations governing the production of industrial hemp. A corrective action plan may be issued by the Department, or if submitted by the grower, must be approved by the Department. A corrective action plan will only be approved if the total delta-9 THC concentration is greater than 0.3% and less than 1.0%. Failure to dispose of the crop or comply with approved corrective action plan may result in a notice of violation under R3-4-1012. Upon receiving a notification of noncompliance from the Department, the licensed grower shall not move or transport the non-compliant crop from the hemp site, unless otherwise permitted by the Department to remediate the crop. Non-compliant crops shall not be comingled with any other compliant or non-compliant harvest lot. Harvest lots with a total delta-9 THC concentration greater than 1.0% constitutes a violation and must be disposed of by method indicated in R3-4-1013(F).

- E. Volunteer hemp plants. It shall be the responsibility of the licensee to monitor and destroy volunteer hemp plants.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2). Amended by final rulemaking at 27 A.A.R. 1570, with an immediate effective date of September 16, 2021 (Supp. 21-3).

R3-4-1009. Reserved

Historical Note

Section reserved at 25 A.A.R. 1447 (Supp. 19-2).

R3-4-1010. Reserved

Historical Note

Section reserved at 25 A.A.R. 1447 (Supp. 19-2).

R3-4-1011. Notifications; Reports

- A. All notifications and reports for licensees shall be made on forms provided by the Department unless otherwise indicated in this Section or as directed by the Associate Director.
- B. Planting Report. Within five business days after planting a harvest lot of hemp, a grower must complete and submit a planting report that includes, at a minimum the following:
 - 1. The contact information of the licensee, including license number;
 - 2. A unique harvest lot identification number assigned by the grower or nursery;
 - 3. The geospatial location information where a harvest lot was planted (the "site");
 - 4. The variety name of the harvest lot;
 - 5. The actual area planted with each lot; and
 - 6. The estimated date of harvest or transplanting.
- C. Grower Notice of Intent to Harvest. Within 30 calendar days prior to harvest, a grower must complete and submit a Notice of Intent to Harvest form for each harvest lot to be sampled that includes, at a minimum the following:
 - 1. The contact information of the grower, including license number;

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2. The unique harvest lot identification number assigned by the grower as initially indicated on the planting report;
 3. The geospatial location or locations information of the harvest lot to be sampled (the "site");
 4. The variety name of the harvest lot;
 5. The size of the area to be harvested; and
 6. The intended date of harvest.
- D.** Notice of Intent to Transport. Within three business days prior to transporting a lot of harvested hemp for processing, a grower must complete and submit a Notice of Intent to Transport form for each harvest lot transported to a processor that includes, at a minimum the following:
1. The contact information of the grower, including license number;
 2. The unique harvest lot identification number assigned by the grower as initially indicated on the planting report;
 3. The geospatial location or locations information of the harvest lot to be transported;
 4. The variety name of the harvest lot;
 5. The amount of harvested hemp to be transported;
 6. The intended date of transport; and
 7. The contact information of the receiver.
- E.** Notice of Destruction. Within three calendar days after a grower has found a harvest lot significantly damaged, completely destroyed, or has disposed of a harvest lot, a grower must complete and submit a Notice of Destruction form that includes, at a minimum the following:
1. The contact information of the grower, including license number;
 2. The unique harvest lot identification number assigned by the grower as initially indicated on the planting report;
 3. The geospatial location or locations information of the harvest lot subject to damage, destruction, or disposal (the "site");
 4. The variety name of the harvest lot;
 5. The size of the area that was subject to damage, destruction, or disposal; and
 6. The date the damage or destruction was discovered, or date of disposal.
- F.** Grower and nursery annual reports. By December 31 of each year, a grower or nursery shall provide the Department a report of the following:
1. The sale or distribution of any industrial hemp grown under the grower's license;
 2. The name and address of the person or entity receiving the industrial hemp; and
 3. The amount of the industrial hemp sold or distributed.
- G.** Processor notifications. All shipments of industrial hemp received into a processing facility must be reported to the Department.
1. For the importation of hemp material for processing, a licensed processor shall notify the Department of the shipment, within three business days of receipt of the shipment. The notification shall include the following information:
 - a. A copy of the shipping manifest that indicates the name, physical address, and phone number of the shipper, and the total weight of the hemp commodity in the shipment;
 - b. A copy of the documentation issued by a regulatory official that attests the hemp commodity was produced with an acceptable concentration of total delta-9 THC;
 - c. A copy of the industrial hemp grower's certificate, license or equivalent documentation authorizing the production of industrial hemp in that state; and
 - d. A phytosanitary certificate, if required, a certificate of inspection, or certificate of origin issued by a plant regulatory official.
 2. For the invoicing of processor assessment fees listed in Table 1, a notification shall be filed with the Department within 30 calendar days of receipt of the shipment or shipments that contain the following information:
 - a. The grower's license number;
 - b. The harvest lot number issued by the Department or an authorizing state;
 - c. The amount of material in the shipment; and
 - d. The date the shipment was received.
- F.** Other notifications. A licensee shall notify the Department within three business days from receipt of results of any third party analysis that determined a hemp crop or plant sample contained a total delta-9 THC concentration greater than 1.0%.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2). Amended by final rulemaking at 27 A.A.R. 1570, with an immediate effective date of September 16, 2021 (Supp. 21-3).

R3-4-1012. Unauthorized Activity; Violations

- A.** A licensee commits a violation of this Article by:
1. Failing to provide a legal description of land on which a licensee grows, processes, stores or researches industrial hemp or hemp seed;
 2. Failing to obtain the proper license with the Department;
 3. Producing or distributing *Cannabis sativa*, with a total delta-9 THC concentration greater than 1.0% on a dry weight basis, unless otherwise permitted by state or federal law, rule or order;
 4. Violating a term or condition of the signed licensing agreement or corrective action plan; or
 5. Violating any law, rule, or order in the regulation of industrial hemp.
- B.** False Statement. Any person who materially falsifies any information contained in an application to participate in the program established under this Article shall be ineligible to participate in the program.
- C.** No unauthorized person shall:
1. Grow, cultivate, handle, store, harvest, transport, import or process industrial hemp;
 2. Trespass on a property registered as an industrial hemp site;
 3. Disturb, damage or destroy an industrial hemp plant or crop on a registered location; or
 4. Tamper, damage or destroy posted signage as required under R3-4-1007(B).
- D.** No authorized program licensee shall:
1. Offer for sale, trade, transfer possession of, gift, or otherwise relinquish possession of industrial hemp plants, plant parts, or hemp seed that is capable of germination to an unauthorized person;
 2. Destroy an industrial hemp crop, stored industrial hemp or hemp seed without prior notification to the Department; or
 3. Import or export industrial hemp plants or plant parts for processing, or seed or propagative material for planting purposes, without notifying the Department and complying with all import or export regulatory requirements.

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- E. Intentional, Knowing, or Negligent Violations. Any violation of state or federal law rule or order that is determined to be committed intentionally or knowingly (“culpable mental state greater than negligence”) shall be reported to the state Attorney General, the U.S. Attorney General and any relevant state and local law enforcement agencies. Negligent violations are not subject to federal, state, tribal, or local government criminal enforcement action.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2). Amended by final rulemaking at 27 A.A.R. 1570, with an immediate effective date of September 16, 2021 (Supp. 21-3).

R3-4-1013. Corrective Actions

- A. In addition to being subject to possible license suspension, license revocation, and monetary civil penalty procedures under R3-4-1014, a person who is found by the Department to have violated any law, rule or Director’s Order governing that person’s participation in the program may be subject to a corrective action plan.
- B. The Associate Director may request that the licensee submit a corrective action plan, or may impose a written and dated corrective action plan for a negligent violation or non-compliance of any law, rule or Director’s Order governing a person’s participation in the hemp program.
- C. Corrective action plans shall include, at a minimum, the following information:
1. The requirements a person must fulfill to correct a violation or non-compliance of this Article as indicated in subsection (D);
 2. A reasonable date by which the person shall complete violation or non-compliance corrections; and
 3. For violations pursued under A.R.S. § 3-319, a requirement for periodic reports from the violator to the Department about the violator’s compliance with the corrective action plan, laws, rules or Director’s Orders for a period of not less than two years from the date of the violation.
- D. Corrective Action Plan.
1. Hemp crops or harvested hemp shall not be removed from the licensee’s registered hemp site if found non-compliant by having a total delta-9 THC concentration of greater than 0.300%, but less than 1.0% on a dry weight basis, unless granted authorization by the Associate Director to complete the measures in an approved corrective action plan.
 2. In addition to one or more of the components listed in A.R.S. § 3-317, the Department may prescribe one or more of the following actions as part of a corrective action plan:
 - a. Stripping stalks and disposal of floral material;
 - b. Sterilization of seed and disposal of floral material;
 - c. THC remediation of leaf and floral material as prescribed by the Associate Director;
 - d. Blending and milling of the entire plant/crop to a homogenized state, then resampled for compliance;
 - e. Education and training; and
 - f. Other corrective measures prescribed by the Associate Director.
3. Failure to complete the prescribed corrective measure within the timeframe indicated in the corrective action plan or to complete any component of a corrective action plan shall constitute a second violation of this Article.
 4. The cost of implementing a corrective action plan is the burden of the licensee.
- E. Repeat negligent violations. A person that violates this Article, the laws governing the production of industrial hemp, or any order issued by the Associate Director three times in a five-year period shall be ineligible for an industrial hemp license for a period of five years beginning on the date of the third violation. All negligent violations within one year counts as one negligent violation.
- F. Methods of disposal. Disposal of any industrial hemp crop or plant, whether such disposal is pursuant to voluntarily action by the licensee or pursuant to a Department order of disposal, shall be accomplished by one or more of the following methods:
1. Plowing under;
 2. Mulching or composting;
 3. Disking;
 4. Bush Mower or chopper;
 5. Deep burial; and
 6. Burning or incinerating.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2). Amended by final rulemaking at 27 A.A.R. 1570, with an immediate effective date of September 16, 2021 (Supp. 21-3).

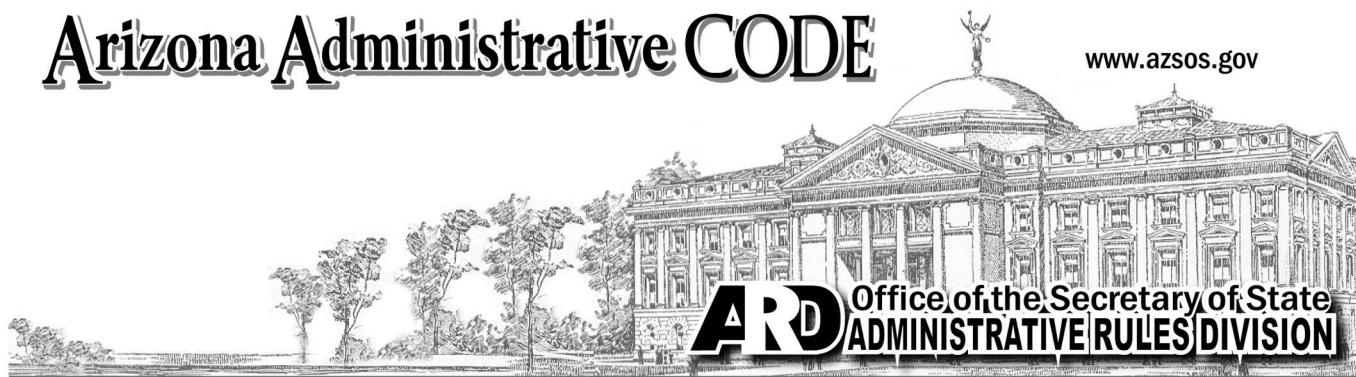
R3-4-1014. Penalties

- A. Civil penalties. Civil penalties shall be imposed under A.R.S. § 3-319.
- B. License suspension. A person that violates this Article, a licensing requirement, a licensing term or condition, or any other rule or order of the Department may have their licensing privileges suspended until completion of any corrective actions prescribed in R3-4-1013.
- C. License revocation. A person that intentionally violates this Article, a licensing requirement, a licensing term or condition, or any other rule or order of the Department, or who commits a third negligent offense within a five year period may be subject to one or more of the following penalties:
1. Revocation of all licenses issued under this Article;
 2. Seizure and destruction of all hemp crops, seed, and harvested industrial hemp of the licensee, at the cost of the licensee; and
 3. Ineligibility for a license under this Article for a period not less than five years.
- D. Intentional or knowing violations committed by unlicensed individuals shall be punished according to A.R.S. §§ 3-319 and 13-3405.

Historical Note

New Section made by exempt rulemaking at 25 A.A.R. 1447, effective May 31, 2019 (Supp. 19-2). Amended by final rulemaking at 27 A.A.R. 1570, with an immediate effective date of September 16, 2021 (Supp. 21-3).

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3 A.A.C. 6

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CHAPTER 6. DEPARTMENT OF AGRICULTURE - OFFICE OF COMMODITY DEVELOPMENT AND PROMOTION

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
July 1, 2024 through September 30, 2024

Editor's note: This Chapter contains Section R3-6-102 amended under an emergency rulemaking as authorized under Laws 2024, Ch. 214, § 11(B). Section B states "The Department of Environmental Quality is exempt from rulemaking requirements of Title 41, Chapter 6, Arizona Revised Statutes, until July 1, 2025 for the purpose of establishing fees pursuant to this section."

On August 26, 2024, the Department of Agriculture Advisory Council voted in favor of continuing the existing certification fees under R3-6-102(A)(1) and (2) in FY 2025. The Attorney General approved the emergency and approved the Department's request that the rule become effective on September 14, 2024, the general effective date of Laws 2024, Ch. 214 from the Fifty-sixth Legislature, Second Regular Session.

Emergency Rulemaking

[R3-6-102.](#) [Phytosanitary Certification](#) 2

Questions about these rules? Contact:

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Title:	Program Manager
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Fax:	(602) 542-1004
Email:	bmcgrew@azda.gov
Website:	https://agriculture.az.gov/

The release of this Chapter in Supp. 24-3 replaces Supp. 23-4, 1-2 pages.

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

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

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

THE ADMINISTRATIVE CODE

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

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

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

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

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

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

RULE HISTORY

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

AUTHENTICATION OF PDF CODE CHAPTERS

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

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

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

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

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

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Administrative Rules Division

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TITLE 3. AGRICULTURE

CHAPTER 6. DEPARTMENT OF AGRICULTURE - OFFICE OF COMMODITY DEVELOPMENT AND PROMOTION

Authority: A.R.S. §§ 3-107(A)(1) and (B)(3)

Supp. 24-3

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Title 3, Chapter 6, consisting of Section R3-6-101, adopted by final rulemaking at 6 A.A.R. 45, effective December 8, 1999 (Supp. 99-4).

Former Title 3, Chapter 6, Article 1, Sections R3-6-101 through R3-6-109, renumbered to Title 3, Chapter 2, Article 9, Sections R3-2-901 through R3-2-909 (Supp. 91-4).

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Article 2, consisting of Sections R3-6-201 through R3-6-204, expired under A.R.S. § 41-1056(E) at 11 A.A.R. 867, effective December 31, 2004 (05-1).

Article 2, consisting of Sections R3-6-201 through R3-6-204, adopted by final rulemaking at 6 A.A.R. 1573, effective April 5, 2000 (Supp. 00-2).

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TITLE 3. AGRICULTURE

CHAPTER 6. DEPARTMENT OF AGRICULTURE - OFFICE OF COMMODITY DEVELOPMENT AND PROMOTION

ARTICLE 1. MARKETING**R3-6-101. Certificate of Free Sale**

- A.** Any person manufacturing or distributing a consumable product in Arizona and who wants to sell it domestically or abroad, may apply to the Department for a Certificate of Free Sale. If an applicant is a subsidiary of a corporation, the application will be accepted only from the parent company. The application shall contain:
1. The name, address, telephone, and facsimile number of the company;
 2. The name of the contact person;
 3. A list of the consumable products manufactured, distributed, or sold in Arizona;
 4. The printed name, signature, and social security number of the responsible party;
 5. The country of export, if applicable;
 6. The fee prescribed in subsection (B);
 7. Copies of 3 different invoices or bills-of-lading from the 3 months preceding the application; and
 8. The purchaser's telephone number cited on each invoice or bill-of-lading.
- B.** Fees.
1. Certificate of Free Sale: \$25 for each 100 products, plus the cost of postage;
 2. Duplicate certificates, if requested within 3 months of the original certificate issue: \$1 per page, plus the cost of postage.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 45, effective December 8, 1999 (Supp. 99-4).

EMERGENCY RULEMAKING**R3-6-102. Phytosanitary Certification**

- A.** During fiscal year 2025, a person who applies to the Department for phytosanitary certification shall pay the following fee:
1. For state certification, \$50 for the first lot plus \$10 for each additional lot per Department site trip.
 2. For federal certification, \$50 plus the federal administrative user fee set out in 7 CFR 354.3(g)(3)(i), revised January 1, 2016, which is incorporated by reference and does not include any later amendments or editions. A copy of the incorporated material is available for inspection at the Department, 1110 W. Washington St., Suite 450, Phoenix, Arizona 85007 or may also be viewed at <http://www.gpo.gov/fdsys/>.
- B.** This Section does not apply to phytosanitary certification under A.A.C. R3-4-301.

Historical Note

Section amended by emergency rulemaking at 30 A.A.R. 2983 (October 4, 2024), effective September 14, 2024, with a legal provision that the emergency expire on July 1, 2025, as specified in Laws 2024, Ch. 214, § 11(B) (Supp. 24-3).

R3-6-102. Phytosanitary Certification

- A.** During fiscal year 2024, a person who applies to the Department for phytosanitary certification shall pay the following fee:
1. For state certification, \$50 for the first lot plus \$10 for each additional lot per Department site trip.
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- B.** This Section does not apply to phytosanitary certification under A.A.C. R3-4-301.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 1339, effective June 29, 2010 (Supp. 10-2). Amended by exempt rulemaking at 17 A.A.R. 1765, effective July 20, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 2066, effective August 2, 2012 (Supp. 12-3). Amended by exempt rulemaking at 19 A.A.R. 3146, effective September 14, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 2457, effective July 24, 2014 (Supp. 14-3). Amended by exempt rulemaking pursuant to Laws 2015, Ch. 10, § 14, at 21 A.A.R. 2412, effective July 3, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 1943, effective August 9, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2226, effective August 3, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 2088, effective August 27, 2019 (Supp. 19-3). Amended by final exempt rulemaking at 26 A.A.R. 1475, effective August 25, 2020 (Supp. 20-3). Amended by final exempt rulemaking at 27 A.A.R. 1269, effective September 29, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 28 A.A.R. 2022 (August 12, 2022), effective September 24, 2022 (Supp. 22-3). Amended by exempt rulemaking at 29 A.A.R. 3488 (November 3, 2023), effective October 30, 2023 (Supp. 23-4).

ARTICLE 2. JOINT-VENTURES**R3-6-201. Expired****Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1573, effective April 5, 2000 (Supp. 00-2). Section expired under A.R.S. 41-1056(E) at 11 A.A.R. 867, effective December 31, 2004 (05-1).

R3-6-202. Expired**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1573, effective April 5, 2000 (Supp. 00-2). Section expired under A.R.S. 41-1056(E) at 11 A.A.R. 867, effective December 31, 2004 (05-1).

R3-6-203. Expired**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1573, effective April 5, 2000 (Supp. 00-2). Section expired under A.R.S. 41-1056(E) at 11 A.A.R. 867, effective December 31, 2004 (05-1).

R3-6-204. Expired**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 1573, effective April 5, 2000 (Supp. 00-2). Section expired under A.R.S. 41-1056(E) at 11 A.A.R. 867, effective December 31, 2004 (05-1).



4 A.A.C. 1

Supp. 24-3

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

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

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

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
July 1, 2024 through September 30, 2024

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Questions about these rules? Contact:

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Address: Board of Accountancy
100 N. 15th Ave., Suite 165
Phoenix, AZ 85007
Telephone: (602) 364-0870
Fax: (602) 364-0903
Email: mpetersen@azaccountancy.gov
Website: www.azaccountancy.gov

The release of this Chapter in Supp. 24-3 replaces Supp. 23-2, 1-17 pages.

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

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

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

THE ADMINISTRATIVE CODE

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

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

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

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

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

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

RULE HISTORY

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

AUTHENTICATION OF PDF CODE CHAPTERS

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

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TITLE 4. PROFESSIONS AND OCCUPATIONS**CHAPTER 1. BOARD OF ACCOUNTANCY**

Authority: A.R.S. § 32-701 et seq.

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

ARTICLE 1. GENERAL

R4-1-101. Definitions

- A.** The definitions in A.R.S. § 32-701 apply to this Chapter.
- B.** In this Chapter, unless the context otherwise requires:
1. "Contested case" means any proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by any agency after an opportunity for hearing.
 2. "CPE" or "continuing professional education" means attending classes, writing articles, conducting or teaching courses, and taking self-study courses if the activities contribute to maintaining and improving of professional competence in accounting.
 3. "Facilitated State Board Access (FSBA)" means the sponsoring organization's process for providing the Board access to peer review results via a secured website.
 4. "Party" means each person or agency named or admitted as a party, or properly seeking and entitled, as of right, to be admitted as a party.
 5. "Peer review" means an assessment, conducted according to R4-1-454(A), of one or more aspects of the professional work of a firm.
 6. "Peer review program" means the sponsoring organization's entire peer review process, including but not limited to the standards for administering, performing and reporting on peer reviews, oversight procedures, training, and related guidance materials.
 7. "Person" may include any individual, and any form of corporation, partnership, or professional limited liability company.
 8. "Principal place of business" means the office designated by the individual as the principal location for the individual's practice of accounting.
 9. "Sponsoring organization" means a Board-approved professional society, or other organization approved by the Board responsible for the facilitation and administration of peer reviews through use of its peer review program and peer review standards.
 10. "Upper level course" means a course taken beyond the basic level, after any required prerequisite or introductory accounting course and does not include principles of accounting or similar introductory accounting courses.

Historical Note

Former Rule 1A; Amended effective February 22, 1978 (Supp. 78-1). Former Section R4-1-01 renumbered as Section R4-1-101 without change effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Amended effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 4352, effective December 4, 2004 (Supp. 04-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 28 A.A.R. 1106 (May 27, 2022), effective July 3, 2022 (Supp. 22-2).

R4-1-102. Powers of the Board: Applicability; Excuse; Extension

- A.** This Chapter applies to all actions and proceedings of the Board and is deemed part of the record in every action or proceeding without formal introduction or reference. All parties

are deemed to have knowledge of this Chapter, which the Board shall make available on the Board's website.

- B.** The Board, when within the Board's jurisdiction, may, in the interest of justice, excuse the failure of any person to comply with any part of this Chapter.
- C.** The Board, or in case of an emergency, the President or Executive Director, when within the Board's jurisdiction, may grant an extension of time to comply with this Chapter.

Historical Note

Former Rules 1B, 1C, 1D, 1E; Former Section R4-1-02 renumbered as Section R4-1-102 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-103. Repealed**Historical Note**

Former Rule 2E; Former Section R4-1-03 renumbered as Section R4-1-103 without change effective July 1, 1983 (Supp. 83-4). Repealed effective August 21, 1986 (Supp. 86-4).

R4-1-104. Board Records; Public Access; Copying Fees

- A.** The Board shall maintain all records, subject to A.R.S. Title 39, Chapter 1, reasonably necessary or appropriate to maintain an accurate knowledge of the Board's official activities including, but not limited to:
1. Applications for CPA certificates and supporting documentation and correspondence;
 2. Applications to take the Uniform Certified Public Accountant Examination;
 3. Registration for registrants;
 4. Documents, transcripts, and pleadings relating to disciplinary proceedings and to hearings on the denial of a certificate; and;
 5. Investigative reports; staff memoranda; and general correspondence between any person and the Board, members of the Board, or staff members.
- B.** Any person desiring to inspect or obtain copies of records of the Board available to the public under this section shall make a request to the Board's Executive Director or the Director's designee. The Executive Director or the director's designee shall, as soon as possible within a reasonable time, advise the person making the request whether the records sought can be made available, or, if the Executive Director or the director's designee is unsure whether a record may be made available for public inspection and copying, the Executive Director or the director's designee shall refer the matter to the Board for final determination.
- C.** A person shall not remove original records of the Board from the office of the Board unless the records are in the custody and control of a board member, a member of the Board's committees or staff, or the Board's attorney. The Executive Director or the director's designee may designate a staff member to observe and monitor any examination of Board records.
- D.** The Board shall provide copies of all records available for public inspection and copying shall be provided according to the procedures described in A.R.S. Title 39, Chapter 1, Article 2.
- E.** Any person aggrieved by a decision of the Executive Director or the director's designee denying access to records of the Board may request a hearing before the Board to review the action of the Executive Director or the director's designee by

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filing a written request for hearing. Within 60 days of receipt of the request, the Board shall conduct a hearing on the matter. If the person requires immediate access to Board records, the person may request and may be granted an earlier hearing, if the person sets forth sufficient grounds for immediate access.

Historical Note

Adopted effective January 3, 1977 (Supp. 77-1). Amended effective February 22, 1978 (Supp. 78-1). Amended effective July 17, 1978 (Supp. 78-4). Former Section R4-1-04 renumbered as Section R4-1-104 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2). Amended by final rulemaking at 28 A.A.R. 1106 (May 27, 2022), effective July 3, 2022 (Supp. 22-2).

R4-1-105. Expired**Historical Note**

Adopted effective January 3, 1977 (Supp. 77-1). Former Section R4-1-05 renumbered as Section R4-1-105 and amended in subsections (C) and (D) effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Section expired under A.R.S. § 41-1056(J) at 25 A.A.R. 3719, effective December 4, 2019 (Supp. 19-4).

R4-1-106. Reserved**R4-1-107. Reserved****R4-1-108. Reserved****R4-1-109. Reserved****R4-1-110. Reserved****R4-1-111. Reserved****R4-1-112. Reserved****R4-1-113. Meetings**

The Board and Board committees shall conduct meetings in accordance with the current edition of Robert's Rules of Order if the rules are compatible with the laws of the state of Arizona or the Board's own resolutions regarding meetings.

1. Regular and special meetings of the Board for the purpose of conducting business shall be called by the President or a majority of the board members.
2. Regular and special meetings of the committees shall be called by the chairperson or a majority of the committee members.

Historical Note

Former Rules 2A, 2B, 2C, 2D; Former Section R4-1-13 renumbered as Section R4-1-113 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-114. Hearing; Rehearing or Review

- A. Hearing: The Board or an Administrative Law Judge (ALJ) employed by the Office of Administrative Hearings (OAH)

shall hear all contested cases and appealable agency actions. The Board shall conduct hearings according to the provisions of A.R.S. Title 41, Chapter 6, Article 10 as supplemented by R4-1-117. The OAH shall conduct hearings according to A.R.S. Title 41, Chapter 6, Article 10 and the rules and procedures established by the OAH. To the extent that there is no conflict with A.R.S. Title 41, Chapter 6, Article 10, the provisions of A.R.S. § 32-743 apply to hearings conducted by the Board and the OAH. The following subsections apply to hearings conducted by the Board and hearings conducted by the OAH where applicable.

1. Power to join any interested party: Any board member or the ALJ may join as a party applicant or as a party defendant, any person, firm or corporation, that appears to have an interest in the matter before the Board.
2. Stipulation at hearing: The parties may stipulate to facts that are not in dispute. The stipulation may be in writing or may be made orally by reading the stipulation into the record at the hearing. The stipulation is binding upon the parties unless the Board or the ALJ grants permission to withdraw from the stipulation. The Board or the ALJ may set aside any stipulation.
3. Settlements and consent orders: At any time before or after formal disciplinary proceedings have been instituted against a registrant, the registrant may submit to the Board an offer of conditional settlement to avoid formal disciplinary proceedings by the Board. In the offer of conditional settlement, the registrant shall agree to take specific remedial steps such as enrolling in CPE courses, limiting the scope of the registrant's practice, accepting limitation on the filing of public reports, and submitting the registrant's work product for peer review. If the Board determines that the proposed conditional settlement will protect the public safety and welfare and is more likely to rehabilitate or educate the registrant than formal disciplinary action under A.R.S. § 32-741, the Board may accept the offer and enter an order that incorporates the registrant's proposed conditional settlement and to which the registrant consents. A consent order issued under this subsection shall provide that, upon successful compliance by the registrant with all provisions of the order, the disciplinary proceedings shall be terminated and any notice of hearing previously issued shall be vacated. The consent order shall further provide that, upon failure of the registrant to comply with all provisions of the order, or upon the discovery of material facts unknown to the Board at the time the Board issued the order, formal disciplinary proceedings against the registrant may be instituted or resumed. The consent order additionally may provide that, upon failure of the registrant to comply with all provisions of the order, the Board may immediately and summarily suspend the registrant's certificate for not more than one year. Within 30 days after the summary suspension, the registrant may request a hearing solely concerning the issue of compliance with the consent order.
4. Decisions and orders: The Board shall make all decisions and orders by a majority vote of the members considering the case. The Board shall issue a final written decision in a contested case or state the decision on the record. The decision shall state separately the findings of fact and conclusions of law on which the decision is based, and the Board's order to implement the decision. All written decisions and orders of the Board shall be signed by the

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President or Secretary of the Board. When the Board suspends or revokes the certificate of a registrant, the Board may order the registrant to return the registrant's certificate within 30 days after receipt of the order. The Board shall serve each party, each attorney of record, and the Attorney General with a copy of each decision or order of the Board, as provided in R4-1-117.

- B.** ALJ: In hearings conducted by the OAH, the ALJ shall provide the Board with written findings of fact, conclusions of law, and a recommended order within 20 days after the conclusion of the hearing or as otherwise provided by A.R.S. Title 41, Chapter 6, Article 10. The Board's decision approving or modifying the ALJ's recommendations is the final decision of the Board, subject to the filing of a motion for rehearing or review as provided in subsection (C).
- C.** Rehearing or Review: Any party aggrieved by a decision of the Board may file with the Board a written motion for rehearing or review within 30 days after service of the decision specifying the particular grounds for the motion. The Attorney General may file a response to the motion for rehearing within 15 days after service of the motion. The Board may require the filing of written briefs upon issues raised in the motion for rehearing or review and provide for oral argument. Upon review of the documents submitted, the Board may modify the decision or vacate it and grant a rehearing for any of the following causes materially affecting a party's rights:
1. Irregularity in the administrative proceedings or any order or abuse of discretion, that deprived a party of a fair hearing;
 2. Misconduct of the Board or the ALJ;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence, that could not with reasonable diligence have been discovered and produced at the original hearing;
 5. Excessive or insufficient penalties;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing, or during the progress of the proceeding; or
 7. That the findings of fact or decision is not justified by the evidence or is contrary to law.

Historical Note

Former Rules 5A, 5B, 5C; Amended effective January 3, 1977 (Supp. 77-1). Amended effective February 22, 1978 (Supp. 78-1). Former Section R4-1-14 renumbered as Section R4-1-114 without change effective July 1, 1983 (Supp. 83-4). Amended effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-115. Accounting and Auditing and Tax Advisory Committees

- A.** The Board may appoint advisory committees concerning accounting reports, taxation and other areas of public accounting as the Board deems appropriate. The committees shall evaluate investigation files referred by the Board, hold voluntary informal interviews and make advisory recommendations to the Board concerning settlement, dismissal or other disposition of the reviewed matter.
- B.** The Board, in its discretion, may accept, reject, or modify the recommendation of the advisory committee.

Historical Note

Adopted effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-115.01. Law Review Advisory Committee

- A.** The Board may appoint an advisory committee to assist in the evaluation of statutory and regulatory provisions. The committee shall make advisory recommendations to the Board.
- B.** The Board, in its discretion, may accept, reject, or modify the recommendations of the advisory committee.

Historical Note

Adopted effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-115.02. Continuing Professional Education Advisory Committee

- A.** The Board may appoint an advisory committee to assist in the evaluation of CPE. The committee shall make advisory recommendations to the Board concerning the following:
1. CPE programs;
 2. A registrant's satisfaction of CPE requirements; and
 3. A registrant's compliance with disciplinary orders requiring CPE.
- B.** The Board, in its discretion, may accept, reject, or modify the recommendations of the advisory committee.

Historical Note

Adopted effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-115.03. Peer Review Oversight Advisory Committee

- A.** The Board may appoint an advisory committee to:
1. Make advisory recommendations to the Board concerning peer review, and
 2. Monitor the peer review program and report to the Board on its effectiveness.
- B.** The Board may accept, reject, or modify recommendations of the Peer Review Oversight Advisory Committee.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 4352, effective December 4, 2004 (04-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 28 A.A.R. 1106 (May 27, 2022), effective July 3, 2022 (Supp. 22-2).

R4-1-115.04. Certification Advisory Committee

- A.** The Board may appoint an advisory committee to assist in the evaluation of applicants for the Uniform Certified Public Accountant Examination and for certified public accountant. The committee shall review applications, transcripts, and related materials, and make advisory recommendations to the Board concerning the qualifications of applicants for the Uniform Certified Public Accountant Examination and for certification of certified public accountants.
- B.** The Board, in its discretion, may accept, reject, or modify the advisory recommendation in determining the qualifications of applicants.

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Historical Note

New Section R4-1-115.04 renumbered from R4-1-116 and amended by final rulemaking, effective February 4, 2014 (Supp. 14-1).

R4-1-116. Renumbered**Historical Note**

Adopted effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Section R4-1-116 renumbered to R4-1-115.04 by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-117. Procedure: Witnesses; Service

- A.** Pleadings; depositions; briefs; and related documents. A party shall print or type all pleadings, depositions, briefs, and related documents and use only one side of the paper.
- B.** Witness' depositions. If a party wants to take the oral deposition of a witness residing outside the state, the party shall file with the Board a petition for permission to take the deposition stating the name and address of the witness and describing in detail the nature and substance of the testimony expected to be given by the witness. The petition may be denied if the testimony of the witness is not relevant and material. If the petition is granted, the party may proceed to take the deposition of the witness by complying with the Arizona Rules of Civil Procedure. The party applying to the Board for permission to take a deposition shall bear the expense of the deposition.
- C.** Witness' interrogatories. A party desiring to take the testimony of a witness residing outside the state by means of interrogatories may do so by serving the adverse party as in civil matters and by filing with the Board a copy of the interrogatories and a statement showing the name and address of the witness. The adverse party may file in duplicate cross-interrogatories with a copy of the statement within 10 days following service on the adverse party. A party that objects to the form of an interrogatory or cross-interrogatory may file a statement of the objection with the Board within five days after service of the interrogatories or cross-interrogatories and may suggest to the Board any amendment to an interrogatory or cross-interrogatory. The Board may amend, add, or strike out an interrogatory or cross-interrogatory when the Board determines it is proper to do so.
 1. Notwithstanding the fact that a party may petition for permission to take the oral deposition of a witness, the Board may require that the information be provided through written interrogatories and vice versa.
 2. A party shall provide a copy of answers to the interrogatories to the Board within 45 days after the interrogatories are answered.
- D.** Subpoenas. The Board officer presiding at a hearing may authorize subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence, and shall administer oaths. A party desiring the Board to issue a subpoena for the production of evidence, documents or to compel the appearance of a witness at a hearing shall apply for the subpoena in writing stating the substance of the witness's testimony. If the testimony appears to be relevant and material, the Board shall issue the subpoena. Affixing the seal of the Board and the signature of a Board officer is sufficient to show that the subpoena is genuine. The party applying for the subpoena shall bear the expense of service.
- E.** Service.
 1. Service of any decision, order, subpoena, notice, or other document may be made personally in the same manner as a summons served in a civil action. If a document is

served personally, service is deemed complete at the time of delivery.

2. Except as provided in subsection (E)(3), service of any document may also be made by:
 - a. Personal service.
 - b. By enclosing a copy of the document in a sealed envelope and depositing the envelope in the United States mail, with first-class postage prepaid, addressed to the party, at the address last provided to the Board.
 - i. Service by mail is deemed complete when the document to be served is deposited in the United States mail. If the distance between the place of mailing and the place of address is more than 100 miles, service is deemed complete one day after the deposit of the document for each 100 miles to a maximum of six days after the date of mailing.
 - ii. In computing time, the date of mailing is not counted. All intermediate Sundays and holidays are counted. If the last day falls on a Sunday or holiday, that day is not counted and service is considered completed on the next business day.
 - c. By attaching the document to an email and sending it to the email address last provided to the Board.
3. The Board shall mail each notice of hearing and final decision by certified mail to the last known address reflected in the records of the Board.
4. Service on attorney. Service on an attorney who has appeared for a party constitutes service on the party.
5. Proof of service. A party shall demonstrate proof of service by filing an affidavit, as provided by law, proof of mailing by certified mail, or an affidavit of first-class mailing.

Historical Note

Former Rules 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D; Amended effective January 3, 1977 (Supp. 77-1). Former Section R4-1-15 renumbered as Section R4-1-117 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2).

R4-1-118. Repealed**Historical Note**

Former Rule 8; Amended effective January 3, 1977 (Supp. 77-1). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-16 renumbered as Section R4-1-118 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 1, 1995 (Supp. 95-4). Repealed by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

ARTICLE 2. CPA EXAMINATION

- R4-1-201. Reserved**
- R4-1-202. Reserved**
- R4-1-203. Reserved**
- R4-1-204. Reserved**
- R4-1-205. Reserved**

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R4-1-206.	Reserved
R4-1-207.	Reserved
R4-1-208.	Reserved
R4-1-209.	Reserved
R4-1-210.	Reserved
R4-1-211.	Reserved
R4-1-212.	Reserved
R4-1-213.	Reserved
R4-1-214.	Reserved
R4-1-215.	Reserved
R4-1-216.	Reserved
R4-1-217.	Reserved
R4-1-218.	Reserved
R4-1-219.	Reserved
R4-1-220.	Reserved
R4-1-221.	Reserved
R4-1-222.	Reserved
R4-1-223.	Reserved
R4-1-224.	Reserved
R4-1-225.	Reserved
R4-1-226.	Expired

Historical Note

Former Rules 6A, 6B, 6C; Amended effective January 15, 1976 (Supp. 76-1). Amended effective December 1, 1976 (Supp. 76-5). Amended effective July 17, 1978 (Supp. 78-4). Amended effective November 5, 1980 (Supp. 80-5). Former Section R4-1-26 renumbered as Section R4-1-226 and amended in subsections (B) and (C) effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Amended subsection (C) effective May 25, 1989 (Supp. 89-2). Amended effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 5 A.A.R. 4575, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4815, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Section expired under A.R.S. § 41-1056(E) at 15 A.A.R. 372, effective December 31, 2008 (Supp. 09-1).

R4-1-226.01. Applications; Examination - Computer-based

A. A person desiring to take the Uniform Certified Public Accountant Examination who is qualified under A.R.S. § 32-723 may apply by submitting an initial application. A person whose initial application has already been approved by the Board to sit for the Uniform CPA Examination may apply by submitting an application for re-examination.

1. The requirements for initial application for examination are:
 - a. A completed application for initial examination,

- b. A \$100 initial application fee if:
 - i. The applicant has not previously filed an application for initial examination in Arizona, or
 - ii. The Board administratively closed a previously submitted application, or
 - iii. The applicant has been previously denied by the Board.
 - c. University or college transcripts to verify that the applicant meets the educational requirements and if necessary for education taken outside the United States an additional course-by-course evaluation from the National Association of State Boards of Accountancy International Evaluation Services (NIES).
 - d. Other information or documents requested by the Board to determine compliance with eligibility requirements.
 2. The requirements for application for re-examination are:
 - a. A completed application for re-examination, and
 - b. A \$50 re-examination application fee.
- B. Within 30 days of receiving an initial application, the Board shall provide written notice to the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall specify what information is missing. The applicant has 30 days from the date of the Board's letter to respond to the Board's request for additional information or the Board or its designee may administratively close the file. An applicant whose file is administratively closed and who later wishes to apply shall reapply under subsection (A)(1).
- C. The Board's certification advisory committee (CAC) shall evaluate the applicant's file and make a recommendation to the Board to approve or deny the application. The CAC may defer a decision on the applicant's file to a subsequent CAC meeting to provide the applicant opportunity to submit any information requested by written notice by the CAC that the CAC believes is relevant to make a recommendation to the Board. The applicant has 30 days from the date of the Board's letter to respond to the CAC's request for additional information or the Board or its designee may administratively close the file.
- D. If the Board approves the application, the Board shall notify the applicant in writing and send an authorization to test (ATT) to the National Association of State Boards of Accountancy (NASBA) to permit the applicant to take the specified section or sections of the examination for which the applicant applied. If the Board denies the application, the Board shall send the applicant written notice explaining:
 1. The reason for denial, with citations to supporting statutes or rules;
 2. The applicant's right to seek a fair hearing to challenge the denial; and
 3. The time periods for appealing the denial.
- E. If the applicant does not timely pay to the NASBA the fees owed for the examination section or sections for which the applicant applied, the ATT expires. An applicant that still wishes to take a section or sections of the Uniform CPA Examination shall submit an application for re-examination under subsection (A)(2).
- F. After an applicant has paid NASBA, NASBA shall issue a notice to schedule (NTS) to the applicant. A NTS enables an applicant to schedule testing at an approved examination center. The NTS is effective on the date of issuance and expires when the applicant sits for all sections listed on the NTS or six months from the date of issuance, whichever occurs first.

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Upon written request to the Board and showing good cause that prevents the applicant from appearing for the examination, an applicant may be granted by the Board a 90-day extension to a current NTS.

- G. The Board shall send the applicant any written notice required by this Section in accordance with R4-1-117(E)(1) or (2).

Historical Note

New Section made by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 24 A.A.R. 3413, effective February 4, 2019 (Supp. 18-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2).

R4-1-227. Repealed**Historical Note**

Former Rule 6D; Amended effective July 17, 1978 (Supp. 78-4). Former Section R4-1-27 renumbered and amended as Section R4-1-227 effective July 1, 1983 (Supp. 83-4). Section R4-1-227 repealed effective November 20, 1998 (Supp. 98-4).

R4-1-228. Denial of Examination

An applicant whose application for examination is denied by the Board is entitled to a hearing before the Board or an ALJ.

1. Written application. The applicant shall file a notice of appeal under A.R.S. § 41-1092.03 within 30 days after receipt of the notice of denial.
2. Hearing notice. The Board shall provide the applicant with notice of the hearing in the manner prescribed by A.R.S. § 41-1092.05.
3. Conduct of hearing. The Board or the ALJ shall conduct the hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10 and applicable rules governing hearings.
4. Burden of persuasion. At the hearing, the applicant is the moving party and has the burden of persuasion.
5. Matters limited. At the hearing, the Board or ALJ shall limit the issues to those originally presented to the Board.

Historical Note

Former Rules 6E, 6F; Former Section R4-1-28 renumbered as Section R4-1-228 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Section repealed; new Section made by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

R4-1-229. Conditioned Credit

- A. An applicant is allowed to sit for each section individually and in any order. An applicant is given conditioned credit for each section of the examination passed. Effective retroactively from and after January 1, 2024, a conditioned credit is valid for 30 months from the score release date of the examination. Upon written request to the Board and showing good cause, an applicant may be granted by the Board a 90-day extension to a conditioned credit.
- B. Transfer of conditioned credit. The Board shall give an applicant credit for all sections of an examination passed in another jurisdiction if the credit has been conditioned. If an applicant transfers conditioned credit from another jurisdiction, the applicant shall pass the remaining sections of the examination within the 30-month period from the score release date that the

first section was passed. An applicant who fails to pass all sections of the Uniform CPA Examination within 30 months shall retake previously passed sections of the Uniform CPA Examination to ensure passage of all sections within an 30-month period.

- C. Any candidate who had exam credit expire between January 30, 2020, and May 11, 2023, during the National Public Health Emergency declared by the United States Department of Health and Human Services which have not been subsequently replaced by new credits for the same sections and any candidate with Uniform CPA Examination credit or credits on January 1, 2024 will have such credit or credits extended to June 30, 2025.

Historical Note

Former Rules 6G, 6H; Former Section R4-1-29 renumbered as Section R4-1-229 without change effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Section repealed, new Section adopted effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Section repealed; new Section made by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2). Amended by final rulemaking at 29 A.A.R. 1184 (May 26, 2023), effective July 3, 2023 (Supp. 23-2). Amended by final expedited rulemaking at 30 A.A.R. 2417 (July 26, 2024), with an immediate effective date of July 3, 2024 (Supp. 24-3).

R4-1-230. Expired**Historical Note**

Former Rule 6I; Former Section R4-1-30 renumbered as Section R4-1-230 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Section expired under A.R.S. § 41-1056(E) at 15 A.A.R. 372, effective December 31, 2008 (Supp. 09-1).

R4-1-231. Expired**Historical Note**

Former Rule 6J; Former Section R4-1-31 renumbered as Section R4-1-231 without change effective July 1, 1983 (Supp. 83-4). Section repealed, new Section adopted effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3). Section expired under A.R.S. § 41-1056(E) at 10 A.A.R. 419, effective December 31, 2003 (Supp. 04-1).

ARTICLE 3. CERTIFICATION AND REGISTRATION**R4-1-301. Reserved****R4-1-302. Reserved****R4-1-303. Reserved****R4-1-304. Reserved****R4-1-305. Reserved****R4-1-306. Reserved**

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| R4-1-307. | Reserved | |
| R4-1-308. | Reserved | |
| R4-1-309. | Reserved | |
| R4-1-310. | Reserved | |
| R4-1-311. | Reserved | |
| R4-1-312. | Reserved | |
| R4-1-313. | Reserved | |
| R4-1-314. | Reserved | |
| R4-1-315. | Reserved | |
| R4-1-316. | Reserved | |
| R4-1-317. | Reserved | |
| R4-1-318. | Reserved | |
| R4-1-319. | Reserved | |
| R4-1-320. | Reserved | |
| R4-1-321. | Reserved | |
| R4-1-322. | Reserved | |
| R4-1-323. | Reserved | |
| R4-1-324. | Reserved | |
| R4-1-325. | Reserved | |
| R4-1-326. | Reserved | |
| R4-1-327. | Reserved | |
| R4-1-328. | Reserved | |
| R4-1-329. | Reserved | |
| R4-1-330. | Reserved | |
| R4-1-331. | Reserved | |
| R4-1-332. | Reserved | |
| R4-1-333. | Reserved | |
| R4-1-334. | Reserved | |
| R4-1-335. | Reserved | |
| R4-1-336. | Reserved | |
| R4-1-337. | Reserved | |
| R4-1-338. | Reserved | |
| R4-1-339. | Reserved | |
| R4-1-340. | Reserved | |
| R4-1-341. | CPA Certificates; Firm Registration; Reinstatement | |
| A. | An applicant may apply for a certificate of certified public accountant or for reinstatement of a certificate by submitting: | |
| 1. | An application fee of \$100; and | |
| 2. | For an applicant applying for certification under A.R.S. § 32-721(A) and (B), a completed application including: | |
| a. | Verification that the applicant passed the Uniform CPA Examination, | |
| b. | Verification that the applicant meets the education and experience requirements specified in R4-1-343, | |
| c. | Proof of a score of at least 90% on the American Institute of Certified Public Accountants (AICPA) examination in professional ethics taken within the two years immediately before the application is submitted, | |
| d. | Evidence of lawful presence in the United States, and | |
| e. | Other information or documents requested by the Board to determine compliance with eligibility requirements. | |
| 3. | For an applicant applying for certification under A.R.S. § 32-721(A) and (C), a completed application including: | |
| a. | Verification that the applicant has passed the International Qualification Examination (IQEX), | |
| b. | License verification from each jurisdiction in which the applicant has ever been issued a certificate as a certified public accountant of which at least one must be an active certification from a jurisdiction with requirements determined by the Board to be substantially equivalent to the requirements in A.R.S. § 32-721(B) or verification that the applicant meets the education and experience requirements specified in R4-1-343, | |
| c. | Evidence of lawful presence in the United States, and | |
| d. | Other information or documents requested by the Board to determine compliance with eligibility requirements. | |
| 4. | For an applicant applying for certification under A.R.S. § 32-721(A) and (D) for mutual recognition agreements adopted by the Board a completed application including: | |
| a. | Verification that the applicant has passed the International Qualification Examination (IQEX), | |
| b. | License verification from the applicant's country which has a mutual recognition agreement with the National Association of State Boards of Accountancy that has been adopted by the Board, | |
| c. | Evidence of lawful presence in the United States, and | |
| d. | Other information or documents requested by the Board to determine compliance with eligibility requirements. | |
| 5. | For an applicant applying for certification under A.R.S. § 32-4302, a completed application including: | |
| a. | License verification from each jurisdiction in which the applicant holds a license; | |
| b. | Evidence of lawful presence in the United States; | |
| c. | Proof of residency; | |
| d. | Disciplinary history, if applicable; | |
| e. | Other information or documents requested by the Board to determine compliance with eligibility requirements. | |
| 6. | For an applicant applying for reinstatement from cancelled status under A.R.S. § 32-732(B) a completed application including: | |
| a. | CPE that meets the requirements of R4-1-453(C)(7) and (E), and | |
| b. | Evidence of lawful presence in the United States. | |
| 7. | For an applicant applying for reinstatement from expired, relinquished, or revoked status under A.R.S. § 32-732(C), a completed application including: | |
| a. | CPE that meets the requirements of R4-1-453(C)(7) and (E), | |
| b. | Evidence of lawful presence in the United States, | |

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- c. If prescribed by a board relinquishment or revocation order, evidence from an accredited institution or a college or university that maintains standards comparable to those of an accredited institution that the individual has completed at least one hundred fifty semester hours of education as follows:
 - i. At least 36 semester hours are accounting courses of which at least 30 semester hours are upper level courses.
 - ii. At least 30 semester hours are related courses.
 - d. If prescribed by a board relinquishment or revocation order, evidence that the individual has retaken and passed the Uniform Certified Public Accountant Examination.
- B.** An applicant may apply for a certified public accountant firm registration or for reinstatement of a registration by submitting:
1. For an applicant applying for a new firm under A.R.S. § 32-731, a completed application including:
 - a. Approved Articles of Incorporation for professional corporations, approved Articles of Organization for limited liability companies or professional limited liability companies, confirmation of business name on the Secretary of State's website for partnerships, limited liability partnerships, or an individual or sole proprietorship with a trademark name;
 - b. If applicable, peer review results as prescribed by R4-1-454(B); and
 - c. Other information or documents requested by the Board to determine compliance with eligibility requirements.
 2. For an applicant applying for reinstatement from cancelled under A.R.S. § 32-732(E) a completed application including:
 - a. Approved Articles of Incorporation for professional corporations, approved Articles of Organization for limited liability companies or professional limited liability companies, confirmation of business name on the Secretary of State's website for partnerships, limited liability partnerships, or an individual or sole proprietorship with a trademark name;
 - b. If applicable, peer review results as prescribed by R4-1-454(B); and
 - c. Other information or documents requested by the Board to determine compliance with eligibility requirements.
 3. For an applicant applying for reinstatement from expired, relinquished, or revoked status under A.R.S. § 32-732(F) a completed application including:
 - a. Approved Articles of Incorporation for professional corporations, approved Articles of Organization for limited liability companies or professional limited liability companies, confirmation of business name on the Secretary of State's website for partnerships, limited liability partnerships, or an individual or sole proprietorship with a trademark name;
 - b. If applicable, peer review results as prescribed by R4-1-454(B);
 - c. If applicable, substantial evidence that the applicant has been completely rehabilitated with respect to the conduct that was the basis of the expiration, relinquishment or revocation of the firm's registration; and
- d. Other information or documents requested by the Board to determine compliance with eligibility requirements.
- C.** Pursuant to Title 41, Chapter 6, Article 7.1, the Board's licensing time frames are as follows:
1. Certification/Reinstatement/Reactivation
 - a. Administrative Completeness Review Time Frame. The Board shall notify the applicant within 30 days from the receipt of the application that the application is complete.
 - i. If the application is incomplete, an incomplete notice shall specify what information is missing. If the Board issues an incomplete notice, the administrative completeness review time frame and the overall time frame are suspended from the date the notice is issued until the date the Board receives the missing information from the applicant.
 - ii. The applicant has 30 days from the date of the incomplete notice to respond in writing and provide all the missing information or the Board may administratively close the file. An applicant whose file is administratively closed shall reapply under subsection (A).
 - b. Substantive Review Time Frame. The Board has 60 days to complete its substantive review.
 - i. If the Board finds deficiencies during the substantive review of the application, the Board may issue one comprehensive written request to the applicant for additional information. If the Board issues a comprehensive written request, or a supplemental request by mutual agreement, the substantive review time frame and the overall time frame are suspended from the date the request is issued until the date the Board receives the additional information from the applicant.
 - ii. The applicant has 30 days from the date of the written request to respond in writing and provide all the additional information or the Board may administratively close the file. An applicant whose file is administratively closed shall reapply under subsection (A).
 - c. Overall Time Frame. The Board has 150 days to issue a written notice to an applicant approving or denying an application.
 2. Firm Registration
 - a. Administrative Completeness Review Time Frame. The Board shall notify the applicant within 10 days from the receipt of the application that the application is complete.
 - i. If the application is incomplete, an incomplete notice shall specify what information is missing. If the Board issues an incomplete notice, the administrative completeness time frame and the overall time frame are suspended from the date the notice issued until the date the Board receives the missing information from the applicant.
 - ii. The applicant has 30 days from the date of the incomplete notice to respond in writing and provide all the missing information or the Board may administratively close the file. An

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applicant whose file is administratively closed shall reapply under subsection (B).

- b. Substantive Review Time Frame. The Board has 60 days to complete its substantive review.
 - i. If the Board finds deficiencies during the substantive review of the application, the Board may issue one comprehensive written request to the applicant for additional information. If the Board issues a comprehensive written request, or a supplemental request by mutual agreement, the substantive time frame and the overall time frame are suspended from the date the request is issued until the date the Board receives the additional information from the applicant.
 - ii. The applicant has 30 days from the date of the written request to respond in writing and provide all the additional information or the Board may administratively close the file. An applicant whose file is administratively closed shall reapply under subsection (B).
 - c. Overall Time Frame. The Board has 90 days to issue a written notice to an applicant approving or denying an application.
- D. If the Board denies an applicant's request under this Section, the Board shall send the applicant written notice explaining:
1. The reason for denial, with citations to supporting statutes or rules;
 2. The applicant's right to seek a fair hearing to challenge the denial; and
 3. The time periods for appealing the denial.
- E. The Board shall send the applicant any written notice required by this Section in accordance with R4-1-117(E)(1) or (2).

Historical Note

Former Rule 7A; Amended effective December 1, 1976 (Supp. 76-5). Amended effective November 5, 1980 (Supp. 80-5). Former Section R4-1-41 renumbered as Section R4-1-341 without change effective July 1, 1983 (Supp. 83-4). Amended effective August 21, 1986 (Supp. 86-4). Amended effective September 24, 1997 (Supp. 97-3). Amended by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 13 A.A.R. 2151, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2). Amended by final rulemaking at 29 A.A.R. 1184 (May 26, 2023), effective July 3, 2023 (Supp. 23-2). Amended by final expedited rulemaking at 30 A.A.R. 2417 (July 26, 2024), with an immediate effective date of July 3, 2024 (Supp. 24-3).

R4-1-341.01. Repealed**Historical Note**

Adopted effective November 1, 1995 (Supp. 95-4). Amended effective September 24, 1997 (Supp. 97-3). Amended by final rulemaking at 9 A.A.R. 5022, effective January 3, 2004 (Supp. 03-4). Section repealed by final rulemaking at 13 A.A.R. 2151, effective August 4, 2007 (Supp. 07-2).

R4-1-342. Repealed**Historical Note**

Former Rule 7B; Amended effective December 1, 1976 (Supp. 76-5). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-42 renumbered as Section R4-1-342 without change effective July 1, 1983 (Supp. 83-4). Amended effective March 26, 1987 (Supp. 87-1). Amended effective September 24, 1997 (Supp. 97-3). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 13 A.A.R. 2151, effective August 4, 2007 (Supp. 07-2). Repealed by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1).

R4-1-343. Education and Accounting Experience

- A. To demonstrate compliance with the experience requirements of A.R.S. § 32-721(B), an applicant for certification by examination or grade transfer shall submit to the Board:
1. One or more certificates of experience, completed, signed and dated by an individual who:
 - a. Possesses personal knowledge of the applicant's work, and
 - b. Is able to confirm the applicant's accounting experience, and
 - c. Is a certified public accountant; or
 - d. Has accounting education and experience similar to that of a certified public accountant; and
 2. Other information requested by the Board for explanation or clarification of experience.
- B. To demonstrate compliance with the experience requirements of A.R.S. § 32-721(C), an applicant for certification by reciprocity shall submit to the Board:
1. One or more certificates of experience, completed, signed and dated by an individual who:
 - a. Possesses personal knowledge of the applicant's work, and
 - b. Is able to confirm the applicant's accounting experience, and
 - c. Is a certified public accountant; or
 - d. Has accounting education and experience similar to that of a certified public accountant; or
 2. If the applicant is self-employed, the applicant shall provide a signed and dated statement indicating self-employment and three signed and dated client letters, confirming years of work experience, and
 3. Other information requested by the Board for explanation or clarification of experience.
- C. To demonstrate compliance with the education requirements of Title 32, Chapter 6, an applicant for certification or reinstatement shall submit to the Board:
1. University or college transcripts verifying that the applicant meets the educational requirements and if necessary for education taken outside the United States, an additional course-by-course evaluation from the National Association of State Boards of Accountancy International Evaluation Services (NIES), and
 2. Other information requested by the Board for explanation or clarification of education.

Historical Note

Former Rule 7C; Former Section R4-1-43 repealed, new Section R4-1-43 adopted effective February 22, 1978 (Supp. 78-1). Former Section R4-1-43 renumbered as Section R4-1-343 without change effective July 1, 1983 (Supp. 83-4). Amended effective May 31, 1991 (Supp.

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91-2). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 13 A.A.R. 2151, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 24 A.A.R. 3413, effective February 4, 2019 (Supp. 18-4).

R4-1-344. Denial of Certification, Firm Registration, or Reinstatement

An applicant whose application for certification, firm registration, or reinstatement of a certificate or registration is denied by the Board is entitled to a hearing before the Board or an ALJ.

1. Written application. The applicant shall file a notice of appeal under A.R.S. § 41-1092.03 within 30 days after receipt of the notice of denial.
2. Hearing notice. The Board shall provide the applicant with notice of the hearing in the manner prescribed by A.R.S. § 41-1092.05.
3. Conduct of hearing. The Board or the ALJ shall conduct the hearing in accordance with A.R.S. Title 41, Chapter 6, Article 10 and applicable rules governing hearings.
4. Burden of persuasion. At the hearing, the applicant is the moving party and has the burden of persuasion.
5. Matters limited. At the hearing, the Board or ALJ shall limit the issues to those originally presented to the Board.

Historical Note

Former Rule 7D; Former Section R4-1-44 renumbered as Section R4-1-344 without change effective July 1, 1983 (Supp. 83-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

R4-1-345. Registration; Fees

- A. Initial registration: After the Board approves an applicant's request for certification or firm registration, the registrant shall file a registration in a format prescribed by the Board and pay a registration fee under subsection (C).
- B. Renewal registration: A registrant shall file an application for renewal registration in a format prescribed by the Board no later than 5:00 p.m. on the last business day of the month. A renewal registration is deemed filed on the date and time received in the Board office. The Board shall record the date and time either by electronic date stamp in Arizona time or on physical receipt in the board's office. The Board shall not accept a postmark as evidence of timely filing. It is the sole responsibility of the registrant to complete the renewal registration requirements at the following times:
 1. Individual registrant: An individual registrant shall renew registration at the following times:
 - a. A registrant born in an even-numbered year shall renew registration during the month of birth in each even-numbered year.
 - b. A registrant born in an odd-numbered year shall renew registration during the month of birth in each odd-numbered year.
 2. Firm registrant: A firm shall renew registration at the following times:
 - a. A business organization firm that initially registered with the Board in an even-numbered year shall renew registration during the board-approved month of the initial registration in each even-numbered year.

- b. A business organization firm that initially registered with the Board in an odd-numbered year shall renew registration during the board-approved month of the initial registration in each odd-numbered year.
- c. An individual or a sole proprietorship firm shall renew its registration pursuant to subsection (B)(1).

C. Registration fees:

1. Initial Registration Fee –
 - a. Certification – \$300 and, if applicable, a late fee of \$50.
 - b. The registration fee shall be prorated by month for an initial registration period of less than two years.
2. Biennial Registration Fee –
 - a. Certification – \$300 and, if applicable, a late fee of \$50.
 - i. For registrations due during the period from July 1, 2020 to June 30, 2024, the biennial registration fee will be reduced temporarily to \$275.
 - ii. For registrations due beginning July 1, 2024, the biennial registration fee will revert to \$300.
- b. Firm Registration – \$300 and, if applicable, a late fee of \$50. Under A.R.S. § 32-729, the Board shall not charge a fee for the registration of additional offices of the same firm or for the registration of a sole practitioner.

Historical Note

Former Rule 7E; Amended effective December 1, 1976 (Supp. 76-5). Amended effective February 22, 1978 (Supp. 78-1). Amended effective July 17, 1978 (Supp. 78-4). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-54 renumbered and amended as Section R4-1-345 effective July 1, 1983 (Supp. 83-4). Amended effective March 26, 1987 (Supp. 87-1). Amended effective July 1, 1991; filed May 2, 1991 (Supp. 91-2). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 5 A.A.R. 4575, effective January 1, 2000 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 4815, effective January 1, 2001 (Supp. 00-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 28 A.A.R. 1106 (May 27, 2022), effective July 3, 2022 (Supp. 22-2).

R4-1-346. Notice of Change of Address

Within 30 days of any email, business, mailing, or residential change of address, a registrant shall notify the Board of the new address by filling out the change of address form prescribed by the Board.

Historical Note

Former Rule 7F; Amended effective January 3, 1977 (Supp. 77-1). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-55 renumbered and amended as Section R4-1-346 effective July 1, 1983 (Supp. 83-4). Amended effective January 1, 1994; filed in the Office of the Secretary of State September 21, 1993 (Supp. 93-3). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 13 A.A.R. 2151, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

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Amended by final rulemaking at 27 A.A.R. 921, effective
August 1, 2021 (Supp. 21-2).

ARTICLE 4. REGULATION

R4-1-401.	Reserved	R4-1-439.	Reserved
R4-1-402.	Reserved	R4-1-440.	Reserved
R4-1-403.	Reserved	R4-1-441.	Reserved
R4-1-404.	Reserved	R4-1-442.	Reserved
R4-1-405.	Reserved	R4-1-443.	Reserved
R4-1-406.	Reserved	R4-1-444.	Reserved
R4-1-407.	Reserved	R4-1-445.	Reserved
R4-1-408.	Reserved	R4-1-446.	Reserved
R4-1-409.	Reserved	R4-1-447.	Reserved
R4-1-410.	Reserved	R4-1-448.	Reserved
R4-1-411.	Reserved	R4-1-449.	Reserved
R4-1-412.	Reserved	R4-1-450.	Reserved
R4-1-413.	Reserved	R4-1-451.	Reserved
R4-1-414.	Reserved	R4-1-452.	Reserved
R4-1-415.	Reserved	R4-1-452.	Reserved
R4-1-416.	Reserved	R4-1-453.	Continuing Professional Education
R4-1-417.	Reserved	A.	Measurement Standards. The Board shall use the following standards to measure the hours of credit given for CPE programs completed by an individual registrant.
R4-1-418.	Reserved	1.	CPE credit shall be given in one-fifth or one-half increments for periods of not less than one class hour except as noted in subsection (A)(8). The computation of CPE credit shall be measured as follows:
R4-1-419.	Reserved	a.	A class hour shall consist of a minimum of 50 continuous minutes of instruction,
R4-1-420.	Reserved	b.	A half-class hour shall consist of a minimum of 25 continuous minutes of instruction, and
R4-1-421.	Reserved	c.	A one-fifth class hour shall consist of a minimum of 10 continuous minutes of instruction.
R4-1-422.	Reserved	2.	Courses taken at colleges and universities apply toward the CPE requirement as follows:
R4-1-423.	Reserved	a.	Each semester - system credit hour is worth 15 CPE credit hours,
R4-1-424.	Reserved	b.	Each quarter - system credit hour is worth 10 CPE credit hours, and
R4-1-425.	Reserved	c.	Each noncredit class hour is worth one CPE credit hour.
R4-1-426.	Reserved	3.	Each self-study program hour is worth one CPE credit hour.
R4-1-427.	Reserved	4.	Acting as a lecturer or discussion leader in a CPE program, including college courses, may be counted as CPE credit. The Board shall determine the amount of credit on the basis of actual presentation hours, and shall allow CPE credit for preparation time that is less than or equal to the presentation hours. A registrant may only claim as much preparation time as is actually spent for a presentation. Total credit earned under this subsection for service as a lecturer or discussion leader, including preparation time may not exceed 40 credit hours of the renewal period's requirement. Credit is limited to only one presentation of any seminar or course with no credit for repeat teaching of that course.
R4-1-428.	Reserved	5.	The following may be counted for a maximum of 20 hours of CPE credit during each renewal period.
R4-1-429.	Reserved		
R4-1-430.	Reserved		
R4-1-431.	Reserved		
R4-1-432.	Reserved		
R4-1-433.	Reserved		
R4-1-434.	Reserved		
R4-1-435.	Reserved		
R4-1-436.	Reserved		
R4-1-437.	Reserved		
R4-1-438.	Reserved		

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- a. Credit may be earned for writing and publishing articles or books that contribute to the accounting profession and is published by a recognized third-party publisher of accounting material or a sponsor as long as it is not used in conjunction with a seminar.
 - b. Credit may be earned for the writing or development of online course curriculum for undergraduate, graduate, or doctoral education that contribute to the accounting profession.
 - c. Two credit hours will be given for each 3,000 words of original material written or developed into curriculum. Materials must be at least 3,000 words in length. Multiple authors may share credit for material written or developed into curriculum.
6. A registrant may earn a combined maximum of 40 hours of CPE credit under subsections (A)(4) and (5) during each renewal period.
 7. A registrant may earn a maximum of 20 hours of CPE during each renewal period by completing introductory computer-related courses. Computer-related courses may qualify as consulting services pursuant to subsection (C).
 8. A registrant may earn a maximum of 4 hours of CPE during each renewal period by completing nano-learning courses. A nano-learning program is a tutorial program designed to permit a participant to learn a given subject in a ten-minute time-frame through the use of electronic media and without interaction with a real time instructor.
 9. CPE credit shall be given in one-fifth or one-half hour increments if the CPE is a segment of a continuing series related to a specific subject as long as the segments are connected by an overarching course that is a minimum of one hour and taken within the same CPE reporting period.
 10. Credit shall not be allowed for repeat participation in any seminar or course during the registration period.
- B. Programs that Qualify.** CPE credit may be given for a program that provides a formal course of learning at a professional level and contributes directly to the professional competence of participants.
1. The Board shall accept a CPE course as qualified if it:
 - a. Is developed by persons knowledgeable and experienced in the subject matter,
 - b. Provides written outlines or full text,
 - c. Is administered by an instructor or organization knowledgeable in the program, and
 - d. Uses teaching methods consistent with the study program.
 2. The Board shall accept a self-study program which includes online or computer based programs if the sponsors maintain written records of each student's participation and records of the program outline for three years following the conclusion of the program.
 3. An ethics program taught or developed by an employer or co-worker of a registrant does not qualify for the ethics requirements of subsection (C)(4).
- C. Hour Requirement.** As a prerequisite to registration pursuant to A.R.S. § 32-730(C) or to reactivate from inactive status pursuant to A.R.S. § 32-732(A), a registrant shall complete the CPE requirements during the two-year period immediately before registration or application respectively as specified under subsections (C)(1) through (C)(5). For registration periods of less than two years CPE may be prorated by quarter, with the exception of ethics.
1. A registrant whose last registration period was for two years shall complete 80 hours of CPE.
 2. A registrant shall complete a minimum of 40 hours in the subject areas of accounting, auditing, taxation, business law, or consulting services with a minimum of 16 hours in the subject areas of accounting, auditing, or taxation.
 3. A registrant shall complete a minimum of 16 of the required hours:
 - a. In a classroom setting,
 - b. Through an interactive live webinar, or
 - c. By acting as a lecturer or discussion leader in a CPE program, including college courses
 4. A registrant shall complete four hours of CPE in the subject area of ethics. The four hours required by this subsection shall include a minimum of one hour of each of the following subjects:
 - a. Ethics related to the practice of accounting including the Code of Professional Conduct of the American Institute of Certified Public Accountants, and
 - b. Board statutes and administrative rules.
 5. A registrant shall report, at a minimum, the CPE hours required for the registration period.
 6. CPE hours completed for a registration period may not be used for a subsequent registration period in any of the following instances:
 - a. To vacate a suspension for nonregistration,
 - b. To vacate a suspension for noncompliance with CPE requirements, or
 - c. To comply with a granted CPE extension.
 7. As a prerequisite to reactivate from retired status or reinstate from cancelled, expired, relinquished or revoked status, a registrant or an applicant shall complete up to 160 hours of CPE during the four-year period immediately before application to reactivate or reinstate. For periods of less than four years CPE may be prorated by quarter, with the exception of ethics.
 - a. A registrant or an applicant shall complete a minimum of 80 hours in the subject areas of accounting, auditing, taxation, business law, or consulting services with a minimum of 32 hours in the subject areas of accounting, auditing or taxation.
 - b. A registrant or an applicant shall complete a minimum of 32 hours of the required hours:
 - i. In a classroom setting,
 - ii. Through an interactive live webinar, or
 - iii. By acting as a lecturer or discussion leader in a CPE program, including college courses.
 - c. A registrant or an applicant shall complete CPE in the subject area of ethics. Four hours of ethics CPE shall be required if 1 – 24 months have passed since the last registration due date for which CPE was completed. Eight hours of ethics CPE shall be required if 25 – 48 months have passed since the last registration due date for which CPE was completed. The hours required by this subsection shall include a minimum of one hour of each of the following subjects. The following subjects shall be completed during the two-year period immediately preceding application for reactivation or reinstatement:
 - i. Ethics related to the practice of accounting including the Code of Professional Conduct of the American Institute of Certified Public Accountants; and
 - ii. Board statutes and administrative rules.

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D. Reporting: A registrant or an applicant for reactivation or reinstatement, a registrant who is subject to an audit, or a registrant completing their registration must report the following details about their completed CPE:

1. Sponsoring organization,
2. Number of CPE credit hours,
3. Title of program or description of content,
4. Dates attended,
5. Subject, and
6. Method.

E. In addition to the information required under subsection (D), a registrant or an applicant for reactivation or reinstatement from cancelled, expired, relinquished or revoked status, or a registrant subject to a CPE audit pursuant to subsection (G) shall provide the Board the following CPE records at its request: copies of transcripts, course outlines, and certificates of completion that include registrant's name, course provider or sponsor, course title, credit hours, and date of completion.

F. CPE Record Retention: A registrant shall maintain CPE records for three years from the date the registration was dated as received by the Board the following documents for all CPE completed for the registration period, even if not reported on the registration: transcripts, course outlines, and certificates of completion that include registrant's name, course provider or sponsor, course title, credit hours, and date of completion.

G. CPE audits: The Board, at its discretion, may conduct audits of a registrant's CPE and require that the registrant provide the CPE records that the registrant is required to maintain under subsection (F) to verify compliance with CPE requirements.

H. The Board may grant a full or partial exemption from CPE requirements on demonstration of good cause for a disability for only one registration period.

I. A non-resident registrant seeking renewal of a certificate in this state shall be determined to have met the CPE requirements of this Section by meeting the CPE requirements for renewal of a certificate in the jurisdiction in which the registrant's principal place of business is located.

1. Non-resident applicants for renewal shall demonstrate compliance with the CPE renewal requirements of the jurisdiction in which the registrant's principal place of business is located by signing a statement to that effect on the renewal application of this state.
2. If a non-resident registrant's principal place of business jurisdiction has no CPE requirements for renewal of a certificate or license, the non-resident registrant must comply with all CPE requirements for renewal of a certificate in this state.

Historical Note

Adopted effective December 19, 1979 (Supp. 79-6). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-53 renumbered as Section R4-1-453 and amended in subsections (A) and (B) effective July 1, 1983 (Supp. 83-4). Former Section R4-1-453 repealed, new Section R4-1-453 adopted effective July 15, 1988 (Supp. 88-3). Correction, Historical Note for Supp. 88-3 should read "Former Section R4-1-453 repealed, new Section R4-1-453 adopted effective January 1, 1990, filed July 15, 1988" (Supp. 89-1). Section repealed, new Section adopted effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 1886, effective January 1, 2005 (Supp. 04-2). Amended by final rulemaking at 14 A.A.R. 2927, effective January 1, 2009 (Supp. 08-3). Amended by final rulemaking at 20 A.A.R.

520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 24 A.A.R. 3413, effective February 4, 2019 (Supp. 18-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2). Amended by final rulemaking at 28 A.A.R. 1106 (May 27, 2022), effective July 3, 2022 (Supp. 22-2). Amended by final rulemaking at 29 A.A.R. 1184 (May 26, 2023), effective July 3, 2023 (Supp. 23-2).

R4-1-454. Peer Review

A. Each firm, review team, and member of a review team shall comply with the Standards for Performing and Reporting on Peer Reviews, issued April 2019 and published June 1, 2023 in the AICPA Professional Standards by the American Institute of Certified Public Accountants, 220 Leigh Farm Road, Durham, North Carolina 27707-8110 (www.aicpa.org), which is incorporated by reference. This incorporation by reference does not include any later amendments or editions. The incorporated material is available for inspection and copying at the Board's office.

B. A firm must allow the sponsoring organization to make the following documents accessible to the Board via the FSBA process:

1. Peer review report which has been accepted by the sponsoring organization,
2. Firm's letter of response accepted by the sponsoring organization, if applicable,
3. Completion letter from the sponsoring organization,
4. Letter or letters accepting the documents signed by the firm with the understanding that the firm agrees to take any actions required by the sponsoring organization, if applicable, and
5. Letter signed by the sponsoring organization notifying the firm that required actions have been appropriately completed, if applicable.

C. Information discovered solely as a result of a peer review is not grounds for suspension or revocation of a certificate.

D. Firms that reorganize a current firm, rename a firm, or create a new firm, within which at least one of the prior CPA owners remains an owner or employee, shall remain subject to the provisions of this Section. If a firm is merged, combined, dissolved, or separated, the sponsoring organization shall determine which resultant firm shall be considered the succeeding firm. The succeeding firm shall retain its peer review status and the review due date.

Historical Note

Adopted effective July 1, 1983 (Supp. 83-4). Repealed effective November 20, 1998 (Supp. 98-4). New Section made by final rulemaking at 10 A.A.R. 4352, effective December 4, 2004. Amended by final rulemaking at 12 A.A.R. 2823, effective September 9, 2006 (Supp. 06-3). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2). Amended by final rulemaking at 28 A.A.R. 1106 (May 27, 2022), effective July 3, 2022

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

(Supp. 22-2). Amended by final rulemaking at 29 A.A.R. 1184 (May 26, 2023), effective July 3, 2023 (Supp. 23-2).

Amended by final expedited rulemaking at 30 A.A.R. 2417 (July 26, 2024), with an immediate effective date of July 3, 2024 (Supp. 24-3).

R4-1-455. Professional Conduct and Standards

- A.** It is the Board's policy that the rules governing registrants be consistent with the rules governing the accounting profession generally. Except as otherwise set forth in these regulations, registrants shall conform their conduct to the Code of Professional Conduct, published June 1, 2023 in the AICPA Professional Standards by the American Institute of Certified Public Accountants, 220 Leigh Farm Road, Durham, North Carolina 27707-8110 (www.aicpa.org), available from the AICPA.
- B.** The AICPA Code of Professional Conduct, and any interpretations and ethical rulings by the issuing body, shall apply to all registrants, including those who are not members of the AICPA. The version specified above, including any interpretations and ethical rulings in effect shall apply. Any later amendments, additions, interpretations, or ethical rulings shall not apply.

Historical Note

Former Rule 9; Amended effective January 15, 1976 (Supp. 76-1). Amended effective January 3, 1977 (Supp. 77-1). Amended effective February 22, 1978 (Supp. 78-1). Amended effective November 5, 1980 (Supp. 80-6). Former Section R4-1-56 renumbered as Section R4-1-455 and amended in subsections (B) and (D) effective July 1, 1983 (Supp. 83-4). Section R4-1-455 amended and divided into R4-1-455 and R4-1-455.01 thru R4-1-455.04 effective April 22, 1992 (Supp. 92-2). Amended effective December 6, 1995 (Supp. 95-4). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1). Amended by final rulemaking at 27 A.A.R. 921, effective August 1, 2021 (Supp. 21-2). Amended by final rulemaking at 28 A.A.R. 1106 (May 27, 2022), effective July 3, 2022 (Supp. 22-2). Amended by final rulemaking at 29 A.A.R. 1184 (May 26, 2023), effective July 3, 2023 (Supp. 23-2). Amended by final expedited rulemaking at 30 A.A.R. 2417 (July 26, 2024), with an immediate effective date of July 3, 2024 (Supp. 24-3).

R4-1-455.01. Professional Conduct: Definitions; Interpretations

Interpretation of definitions: All terms defined in A.R.S. § 32-701 et seq. shall be construed, to the extent possible, to be consistent with corresponding definitions in the professional standards adopted in R4-1-455. The foregoing notwithstanding, for purposes of R4-1-455 and the professional standards adopted therein references to "member" shall be to "registrant" as defined in A.R.S. § 32-701.

Historical Note

Section R4-1-455.01 renumbered from R4-1-455(B) and amended effective April 22, 1992 (Supp. 92-2). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4).

Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

R4-1-455.02. Professional Conduct: Competence and Technical Standards

- A.** In reporting on financial statements for which a registrant has performed attest services (as defined in A.R.S. § 32-701) any of the following will constitute a violation of A.R.S. § 32-741(A)(4):
1. In an audit engagement, failing to:
 - a. Prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand:
 - i. The nature, timing, and extent of the audit procedures performed;
 - ii. The results of the audit procedures performed, and the audit evidence obtained; and
 - iii. Significant findings or issues arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions;
 - b. Obtain sufficient appropriate evidence to conclude that the financial statements taken as a whole are free from material misstatement; or
 - c. Modify the opinion in the auditor's report when:
 - i. The financial statements as a whole are materially misstated; or
 - ii. Sufficient appropriate audit evidence to conclude that the financial statements as a whole are free from material misstatement has not been obtained.
 2. In a review engagement, failing to:
 - a. Accumulate sufficient review evidence to provide a reasonable basis for obtaining limited assurance that there are no material modifications that should be made to the financial statements in order to be in conformity with the applicable financial reporting framework; or
 - b. Modify the accountant's review report for a departure from the applicable financial reporting framework, including inadequate disclosure, that is material to the financial statements.
 3. In an examination of prospective financial statements engagement, failing to:
 - a. Obtain sufficient evidence to provide a reasonable basis for the conclusion that is expressed in the report; or
 - b. Modify the report when:
 - i. One or more significant assumptions do not provide a reasonable basis for the prospective financial statements; or
 - ii. The examination is affected by conditions that preclude application of one or more procedures considered necessary in the circumstances.
- B.** The provisions of this subsection are not intended to be all inclusive or to limit the application of A.R.S. § 32-741(A)(4).

Historical Note

Section R4-1-455.02 renumbered from R4-1-455(C) and amended effective April 22, 1992 (Supp. 92-2). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4).

R4-1-455.03. Professional Conduct: Specific Responsibilities

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

and Practices

- A.** Discreditable acts: In addition to any other acts prohibited by any standards incorporated in these rules, a registrant shall not commit an act that reflects adversely on the registrant's fitness to engage in the practice of public accounting, including and without limitation:
1. Violating a provision of R4-1-455, R4-1-455.01, R4-1-455.02, R4-1-455.03 or R4-1-455.04;
 2. Violating a fiduciary duty or trust relationship with respect to any person; or
 3. Violating a provision of A.R.S. Title 32, Chapter 6, Article 3, or this Chapter.
- B.** Advertising practices and solicitation practices: A registrant has violated A.R.S. § 32-741(A)(4) and engaged in dishonest or fraudulent conduct in the practice of public accounting in connection with the communication or advertising or solicitation of accounting services through any media, if the registrant willfully engages in any of the following conduct:
1. Violates A.R.S. § 44-1522 and a court finds the violation willful;
 2. Engages in fraudulent or misleading practices in the advertising of accounting services that leads to a conviction pursuant to A.R.S. § 44-1481; or
 3. Engages in fraudulent practices in the advertising of accounting services that leads to a conviction for a violation of any other state or federal law.
- C.** Form of practice and name: A registrant shall not use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers, or shareholders of the firm, or about any other matter. A firm name or designation shall not include words such as "& Company," "& Associates," or "& Consultants" unless the terms refer to additional full-time CPAs that are not otherwise mentioned in the firm name.
- D.** Communications: When requested, a registrant shall file a written response to a communication from the Board within 30 days of the date of the mailing of such communication by certified mail. A written response is deemed filed on the date and time received in the Board office. The Board shall record the date and time either by electronic date stamp in Arizona time or on physical receipt in the Board's office. The Board shall not accept a postmark as evidence of timely filing.
- E.** The provisions of R4-1-455.03(A) through (C) are not intended to be all inclusive or to limit the application of any standards incorporated by R4-1-455.

Historical Note

Section R4-1-455.03 renumbered from R4-1-455(D) and amended effective April 22, 1992 (Supp. 92-2). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 12 A.A.R. 2823, effective September 9, 2006 (Supp. 06-3). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 1807, effective June 15, 2017 (Supp. 17-2). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4).

R4-1-455.04. Professional Conduct: Records Disposition

Document retention policies. Except as set forth in A.R.S. § 32-744(D), a registrant may retain and dispose of documents prescribed in A.R.S. § 32-744(C) in compliance with a reasonable document retention policy.

Historical Note

Section R4-1-455.04 renumbered from R4-1-455(E) and amended effective April 22, 1992 (Supp. 92-2). Section number corrected (Supp. 97-3). Amended effective November 20, 1998 (Supp. 98-4). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 23 A.A.R. 3246, effective January 1, 2018 (Supp. 17-4).

R4-1-456. Reporting Practice Suspensions and Violations

- A.** A registrant shall report to the Board:
1. Any suspension or revocation of the right to practice accounting before the federal Securities and Exchange Commission, the Internal Revenue Service, or any other state or federal agency;
 2. Any final judgment in a civil action or administrative proceeding in which the court or public agency makes findings of violations, by the registrant, of any fraud provisions of the laws of this state or of federal securities laws;
 3. Any final judgment in a civil action in which the court makes findings of accounting violations, dishonesty, fraud, misrepresentation, or breach of fiduciary duty by the registrant;
 4. Any final judgment in a civil action involving negligence in the practice of public accounting by the registrant; and
 5. All convictions of the registrant of any felony, or any crime involving accounting or tax violations, dishonesty, fraud, misrepresentation, embezzlement, theft, forgery, perjury, or breach of fiduciary duty.
- B.** A registrant required to report under subsection (A) shall make the report in the form of a written letter and ensure that the report is received by the Board within 30 days after the entry of any judgment or suspension or revocation of the registrant's right to practice before any agency. The registrant shall ensure that the letter contains the following information:
1. Description of the registrant's activities that resulted in a suspension or revocation;
 2. Final judgment or conviction;
 3. Name of the state or federal agency that restricted the registrant's right to practice;
 4. Effective date and length of any practice restriction;
 5. Case file number of any court action, civil or criminal;
 6. Name and location of the court rendering the final judgment or conviction; and
 7. Entry date of the final judgment or conviction.

Historical Note

Adopted effective November 5, 1980 (Supp. 80-6). Former Section R4-1-57 renumbered as Section R4-1-456 without change effective July 1, 1983 (Supp. 83-4). Amended effective February 23, 1993 (Supp. 93-1). Amended by final rulemaking at 20 A.A.R. 520, effective February 4, 2014 (Supp. 14-1). Amended by final rulemaking at 26 A.A.R. 339, effective April 5, 2020 (Supp. 20-1).

Appendix A. Repealed**Historical Note**

Adopted effective February 22, 1978 (Supp. 78-1). Amended effective December 19, 1979 (Supp. 79-6). Editorial correction, Footnote**, Rules reference corrected (Supp. 83-4). Repealed effective May 31, 1991 (Supp. 91-2).

Appendix B. Repealed

TITLE 4. PROFESSIONS AND OCCUPATIONS

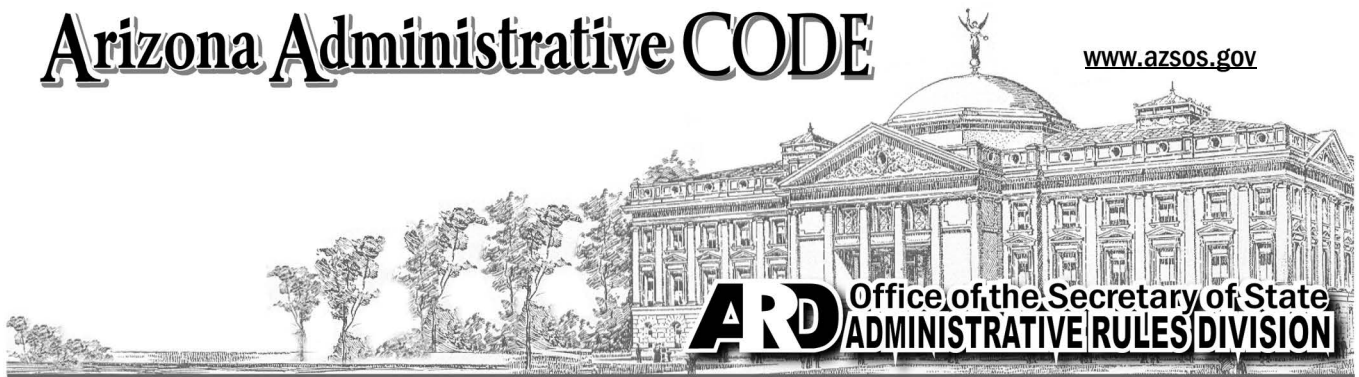
CHAPTER 1. BOARD OF ACCOUNTANCY

Historical Note

Adopted effective February 22, 1978 (Supp. 78-1).
Repealed effective April 22, 1992 (Supp. 92-2).

Arizona Administrative CODE

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7 A.A.C. 2

Supp. 24-3

TITLE 7. EDUCATION CHAPTER 2. STATE BOARD OF EDUCATION

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
July 1, 2024 through September 30, 2024

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Questions about these rules? Contact:

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Telephone: (602) 542-5057
Fax: (602) 542-3046
Email: inbox@azsbe.az.gov

The release of this Chapter in Supp. 24-3 replaces Supp. 23-3, 1-182 pages.

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

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

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

THE ADMINISTRATIVE CODE

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

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

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

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

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

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

RULE HISTORY

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

AUTHENTICATION OF PDF CODE CHAPTERS

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

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

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

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

EXEMPTIONS FROM THE APA

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

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

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

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

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

PERSONAL USE/COMMERCIAL USE

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

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Administrative Rules Division

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TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

Authority: A.R.S. § 15-203(A)(1)

Supp. 24-3

Editor's Note: Under A.R.S. 41-1011(C) changes were made to headings and rule language for consistency in style and format. Part headings in this Chapter were assigned numbers. These changes did not alter the sense, meaning or effect of any rule in this Chapter. The Board reviewed and approved these clerical changes. Section R7-2-604.01 was inadvertently removed when Supp. 19-4 was published. It has been reinstated as last amended in Supp. 15-3 (Supp. 21-2).

Editor's Note: This Chapter contains rules in Articles 10 and 11 that were filed in 2015 but were adopted in 2014. The Office has corrected all Supp. 15-3 historical notes in these Articles to reflect the true effective year of the rules to July 1, 2014 (Supp. 18-2).

Editor's Note: This Chapter contains rules that were filed out of sequence by adoption date. The Office has made every effort to codify the previous filings with the current Chapter and update the historical references where necessary. Refer to the historical notes for more information (Supp. 16-2).

Editor's Note: Supp. 16-1 contains rules that were submitted as final exempt rules and approved by the Board February 25, 2008. Although approved by the Board in 2008, the rulemaking was not filed in the Secretary of State's Office for publication in this Chapter until 2016. The final exempt rulemaking was filed by the Board on January 6, 2016 (Supp. 16-1).

Editor's Note: Supp. 15-3 contains rules that were submitted as final exempt rules. Pursuant to the Board's rulemaking procedures a public hearing was held on the rules after they were proposed at a Board meeting. Even though the proposed rules were not published in the Register, the Office of the Secretary of State makes a distinction between exempt rulemakings and final exempt rulemakings. Final exempt rulemakings are those filed with conditional exemptions to the Arizona Administrative Procedures Act such as requirements to conduct a public hearing or accept public comments on a proposed exempt rulemaking. Although approved by the Board, these final exempt rulemakings were not filed with the Secretary of State's Office at the time of approval. Therefore these rules were in effect prior to the release of Supp. 15-3. Refer to the historical notes for effective dates.

Editor's Note: This Chapter contains rules made, amended, repealed, renumbered and approved by the State Board of Education that were exempt from the rulemaking process. Although approved by the Board, certain rulemakings were not filed with the Secretary of State's Office at the time of approval. These rulemakings were filed in 2009 and 2010 and printed as Exempt Rulemakings in the Arizona Administrative Register. The Office has expedited the publishing of these Sections in the Arizona Administrative Code because these rules were in effect prior to Supp. 09-1, Supp. 09-2, Supp. 09-3, Supp. 09-4, Supp. 10-1, Supp. 10-2, Supp. 10-3, Supp. 10-4, Supp. 11-1, and Supp. 12-2 releases. Refer to the historical notes for more information.

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Article 12, consisting of Section R7-2-1201, repealed effective February 20, 1997 (Supp. 97-1).

ARTICLE 13. CONDUCT

Article 13, consisting of Sections R7-2-1301 through R7-2-1307, adopted effective December 3, 1998 (Supp. 98-4).

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ARTICLE 1. STATE BOARD OF EDUCATION MEETINGS**R7-2-101. Governance****A. Officers**

1. The elective officers of the State Board of Education (Board) shall be a President and a Vice President.
2. The State Superintendent of Public Instruction shall serve as the Secretary and as the Executive Officer of the Board.
3. The President shall preside over all meetings of the Board, call meetings as herein provided and perform such other special duties as may be vested in him or her by the Board.
4. In the absence of the President, the Vice President shall preside over all meetings and shall perform such other special duties as may be vested in him or her by the Board.
5. The President shall appoint a nominating committee that will prepare a slate of candidates for presentation to the Board at the first regular meeting following January 1 of each year. Other candidates may be nominated from the floor. The two elected officers shall be elected by written ballot and shall serve for one year, or until their successors are elected.
6. If a vacancy occurs in the office of President, the Vice President shall immediately become the President. As soon as practicable, the Board shall elect a new Vice President.

B. Regular and special meetings

1. Unless otherwise agreed upon by a majority of the Board, meetings shall be held on the fourth Monday of each month.
2. The place of the meeting shall be designated by the President. In the absence of the President, the place of meeting shall be designated by the Vice President.

C. Public input to the Board

1. Requests for matters to be placed on the agenda.
 - a. When any person wishes to have a matter placed on the agenda, that person shall submit a written request to the President of the Board not less than 21 days prior to the Board meeting.
 - b. The President of the Board may choose not to place an item submitted by a person other than a Board member on the agenda.
2. Public comment on agenda items.
 - a. Any member of the public who wishes to address the Board regarding a matter on the agenda for Board action may submit a written request to be heard on forms provided by the Board.
 - b. The President of the Board or a majority of the Board may allot a reasonable time for members of the public to address the Board with respect to agenda items.

Historical Note

Former Section R7-2-101 repealed, new Section R7-2-101 adopted effective December 4, 1978 (Supp. 78-6). Amended effective February 27, 1980 (Supp. 80-1). Former Section R7-2-101 repealed, new Section R7-2-101 adopted effective June 17, 1985 (Supp. 85-3).

R7-2-102. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-103. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

ARTICLE 2. STATE BOARD OF EDUCATION COMMITTEES**R7-2-201. Advisory Committees**

- A.** The State Board of Education (Board) may create an advisory committee for the purpose of providing advice and recommendations as assigned by the Board. In this Section, unless the context otherwise requires, the following definitions shall apply:
1. "Ad Hoc Advisory Committee" means a committee, established by the Board, for a limited time and scope, for the purpose of providing advice and recommendations to the Board.
 2. "Executive Committee" means a committee, whose members consist of the President and Vice-President of the Board, established for the purpose of appointing ad hoc advisory committee members.
 3. "Standing Advisory Committee" means the Certification Advisory Committee, the Professional Practices Advisory Committee, or any other designated permanent committee, established by the Board, for the specific purpose of providing ongoing advice and recommendations as assigned by the Board.
- B.** Any advisory committee or similar body that has been created by either the Board or statute shall be appointed and conduct its business in accordance with this Section except as otherwise required by law.
- C.** The Board shall determine the structure, membership, and tasks of any standing advisory committee the Board has created.
- D.** The Board's Appointments Subcommittee, whose members are appointed by the President of the Board, shall review nominations submitted by the Board members for appointment to a standing advisory committee and shall provide a recommendation to the Board for consideration. A vacancy on a standing advisory committee shall be filled in the manner described in this Section.
- E.** The Board shall determine the structure and task of an ad hoc advisory committee it has created and may make suggestions as to members. The Executive Committee shall appoint the members of an ad hoc advisory committee. An ad hoc advisory committee shall exist for the time necessary to accomplish its assigned task or for one year from the date it is created, whichever is less. An ad hoc advisory committee may continue to function beyond a one-year period only with the express approval of the Executive Committee. A vacancy on an ad hoc advisory committee shall be filled in the manner prescribed by the Executive Committee.
- F.** The Board may in its discretion remove any member from and dissolve any standing advisory committee that the Board has created. The Executive Committee may in its discretion remove any member from and dissolve any ad hoc advisory committee that the Executive Committee has created.
- G.** An advisory committee shall not conduct a meeting of its members without prior acknowledgment from the Executive Director of the Board that the notice and agenda for the meeting have been approved by the President of the Board and posted and that there are sufficient funds to meet all expenses that would be incurred in connection with such meeting. An advisory committee member shall not obligate the payment of Board funds.

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- H. The meetings of a committee shall be held at the offices of the Board or any other facility for which no charges would be incurred for use of the facility.
- I. Activities of an advisory committee are limited to preparation of advice and recommendations to be presented to the Board for issues which relate directly to the task assigned by the Board.
- J. Advisory committees are not authorized the use of Board letterhead stationery without the express approval of the President of the Board and are not authorized the use of Department of Education letterhead stationery without the express approval of the Superintendent of Public Instruction.
- K. An advisory committee shall:
 1. Annually select from its members a chair and vice chair;
 2. Request information, assistance, or opinions from the Department of Education necessary to accomplish its task. An advisory committee shall convey any such request through the Department liaison designated pursuant to this Section.
- L. A quorum of an advisory committee shall be a majority of the voting members of the advisory committee. Voting members shall be only those members specifically appointed by the Board or Executive Committee. A quorum of an advisory committee is necessary to conduct its business. An affirmative vote of the majority of voting members present is necessary for an advisory committee to take action.
- M. The Superintendent shall designate an employee of the Department of Education to serve as a liaison to each advisory committee. The President of the Board may appoint a member of the Board to serve as an additional liaison to each advisory committee as the President deems appropriate.

Historical Note

Amended effective July 1, 1977 (Supp. 77-4). Former Section R7-2-201 repealed, new Section R7-2-201 adopted effective December 4, 1978 (Supp. 78-6). Amended effective February 25, 1987 (Supp. 87-1). Section repealed, new Section adopted effective March 18, 1994 (Supp. 94-1). Amended by final exempt rulemaking at 22 A.A.R. 2239, effective August 1, 2016 (Supp. 16-3). Amended by final exempt rulemaking at 25 A.A.R. 98, effective December 17, 2018 (Supp. 18-4). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-202. Repealed**Historical Note**

Former Section R7-2-202 repealed, new Section R7-2-202 adopted effective December 4, 1978 (Supp. 78-6). Former Section R7-2-202 repealed, new Section R7-2-202 adopted effective June 21, 1979 (Supp. 79-3). Amended effective June 12, 1989 (Supp. 89-2). Amended effective December 12, 1990 (90-4). Amended effective August 28, 1992 (Supp. 92-3). Repealed effective March 18, 1994 (Supp. 94-1).

R7-2-203. Repealed**Historical Note**

Former Section R7-2-203 repealed, new Section R7-2-203 adopted effective April 9, 1984 (Supp. 84-2). Amended subsections (A) and (B) effective December 30, 1988 (Supp. 88-4). Repealed effective February 20, 1997 (Supp. 97-1).

R7-2-204. Repealed**Historical Note**

Adopted effective December 4, 1978 (Supp. 78-6). Former Section R7-2-204 repealed, new Section R7-2-204 adopted effective December 31, 1984 (Supp. 84-6). Amended effective August 28, 1992 (Supp. 92-3). Repealed effective February 20, 1997 (Supp. 97-1).

R7-2-205. Professional Practices Advisory Committee

- A. Professional Practices Advisory Committees (Committees) shall act in an advisory capacity to the State Board of Education (Board) in regard to certification or recertification matters related to immoral conduct, unprofessional conduct, unfitness to teach, revocation, suspension, censure, or surrender of certificates, and matters related to immoral or unprofessional conduct, unfitness to teach and the discipline of noncertificated individuals.
- B. Committees shall each consist of nine members comprised of the following:
 1. One elementary classroom teacher,
 2. One secondary classroom teacher,
 3. One principal,
 4. One superintendent or assistant/associate superintendent,
 5. Three lay members, one lay member who shall be a parent of a student currently attending public school in Arizona,
 6. One local governing board member, and
 7. One charter school teacher, principal, or administrator.
- C. Members appointed under subsections (B)(1) through (4) shall meet at least the following requirements:
 1. Certified to teach in Arizona.
 2. Currently employed in or retired from the education profession in the specific category of their appointment.
- D. Terms of the members
 1. All regular terms shall be for four years except as set forth in subsection (E).
 2. A member may be reappointed with Board approval.
- E. The Board may remove any member from the Committee. All vacancies shall be filled as prescribed in subsections (C)(1) and (2), and those persons appointed to fill vacancies shall serve to complete the term of the person replaced.
- F. The Committee shall:
 1. Select from its members a Chairman and Vice-Chairman,
 2. A quorum shall be a majority of members of the Committee. A quorum is necessary to conduct business. An affirmative vote of the majority of the members present is needed to take action.
 3. Hold meetings as needed to conduct hearings or other Committee business by call of the Chairman of the Committee. If the Chairman neglects or declines to call a meeting, then a majority of the Committee may call a meeting. The Board may call a meeting as required to conduct necessary business. Notice of any meeting shall be given to Committee members seven days prior to the meeting.
 4. Recommend the removal of any member who is absent from three consecutive meetings.
 5. Refer to R7-2-1308 to assist in determining whether the acts complained of constitute unprofessional conduct.
 6. Conduct its business pursuant to R7-2-1301 et seq. and hearings pursuant to R7-2-701 et seq.

Historical Note

Adopted effective December 4, 1978 (Supp. 78-6). Former Section R7-2-205 repealed, new Section R7-2-205 adopted effective February 24, 1982 (Supp. 82-1). For-

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mer Section R7-2-205 repealed, new Section R7-2-205 adopted effective August 30, 1984 (Supp. 84-4).

Amended effective February 21, 1986 (Supp. 86-1). Amended subsections (H), (I), and (J) effective February 3, 1987 (Supp. 87-1). Amended effective December 15, 1989 (Supp. 89-4). Amended effective May 31, 1991 (Supp. 91-2). Amended effective April 9, 1993 (Supp. 93-2). Amended effective December 3, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 21 A.A.R. 1775, effective May 20, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). The word “rule” has been changed to “Section,” the words “above” and “below” have been removed to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-206. Certification Denial Appeals Process for Applications for Certification that Do Not Involve Allegations of Immoral or Unprofessional Conduct

A. Request for hearing. A person who has had an application for certification denied by the Department of Education pursuant to A.R.S. § 15-534.01(B) may file a written request for a hearing with the Board within 15 days after being served notice of the denial pursuant to subsection (C). Intermediate Saturdays, Sundays and legal holidays shall be included in the computation of the 15 days. If the final day of the 15 day deadline falls on a Saturday, Sunday or legal holiday, the next business day is the final day of the deadline. Applications for certification that involve allegations of immoral or unprofessional conduct shall be reviewed by the Professional Practices Advisory Committee pursuant to R7-2-205.

B. Notice of hearing

1. If an applicant requests a hearing to appeal the denial of an application for certification, a notice of hearing shall be given at least 20 days prior to the date set for the hearing.
2. The notice shall include:
 - a. A statement of the time, place and nature of the hearing.
 - b. A statement of the legal authority and jurisdiction under which the hearing is to be held.
 - c. A reference to the particular sections of the statutes and rules involved.
 - d. A short and plain statement of the matters asserted. If a party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.

C. Service of documents; change of address notice requirement

1. Every notice or decision issued by the Board or the Department pertaining to the denial of an application for initial certification or renewal of a certificate shall be served by personal delivery, first class mail or certified mail, return receipt requested, to the applicant or certificated person's last address of record with the Department of Education or by any other method that is reasonably calculated to give actual notice to the applicant or the certificated person. A document is filed with the Board on the date it is received by the Board, as established by the

Board's date stamp on the face of the document. A document issued by the Board or the Department pursuant to this Section is served on a party as follows:

- a. On the date it is personally served.
- b. Five days after it is mailed by first class mail.
- c. On the date of the return receipt if it is mailed by certified mail.

2. Each applicant or certificated person shall inform the Department of Education and the Board of any change of address within 30 days of the change of address.

D. Hearing process

1. All hearings shall be conducted before the Board or a hearing officer pursuant to A.R.S. Title 41, Chapter 6, Article 6 and this Section.
2. Parties may participate in the hearing in person or through an attorney.
3. Upon request of either party, the hearing officer may schedule a prehearing conference. The purpose of a prehearing conference shall be to narrow issues, attempt settlement, address evidentiary issues or for any other purpose deemed necessary by the hearing officer.
4. Opportunity shall be afforded all parties to respond and present evidence and argument on the issues involved.
5. The Board may dispose of any certification appeal by decision or approved stipulation, agreed settlement, consent agreement or by default.
6. A hearing shall be recorded manually or by a recording device and shall be transcribed on request of any party, unless otherwise provided by law. The cost of such transcript shall be paid by the party making the request, unless otherwise provided by law or unless assessment of the cost is waived by the Board.
7. The hearing may be rescheduled, maintaining due regard for the interests of justice and the orderly and prompt conduct of the proceedings.
8. The record in an appeal of a certification denial shall include:
 - a. All pleadings, motions and interlocutory rulings;
 - b. Evidence received or considered;
 - c. A statement of matters officially noticed;
 - d. Objections and offers of proof and rulings thereon;
 - e. Proposed findings of fact and conclusions of law and exceptions thereto;
 - f. Any decision, opinion, recommendation or report of the hearing officer;
 - g. All staff memoranda, other than privileged communications, or data submitted to the hearing officer in connection with its consideration of the case.
9. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.
10. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings shall be grounds for reversing any administrative decision or order, providing the evidence supporting such decision or order is substantial, reliable, and probative. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. Every person who is a party to such proceedings shall have the right to be represented by counsel, to submit evidence in open hearing and shall have the right of cross-examination. Unless otherwise provided by law, hearings may be held at any place determined by the Board. At such hear-

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ing such applicant shall be the moving party and have the burden of proof.

11. Copies of documentary evidence may be received in the discretion of the hearing officer. Upon request, the parties shall be given an opportunity to compare the copy with the original.
12. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the specialized knowledge of the hearing officer. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The hearing officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

E. Subpoenas

1. The hearing officer may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence on the hearing officer's own volition or at the request of a party.
2. A request for a hearing subpoena shall be in writing and served on each party at least seven days prior to the date set for hearing and shall state:
 - a. The name of the case, the case number, and the date, time and place where the witness is expected to appear and testify;
 - b. The name and address of the witness subpoenaed;
 - c. The documents, if any, sought to be provided; and
 - d. A brief statement of the relevance of the testimony or documents.
3. On application of a party or the agency and for use as evidence, the hearing officer may permit a deposition to be taken, in the manner and upon the terms designated by the hearing officer, of a witness who cannot be subpoenaed or is unable to attend the hearing.
4. The individual to whom a subpoena is directed shall comply with its provisions unless, prior to the date set for appearance, the hearing officer grants a written request to quash or modify the subpoena. The request shall state the reasons why it should be granted. The hearing officer shall grant or deny such request by order.
5. The hearing officer shall quash or modify the subpoena if:
 - a. It is unreasonable or oppressive; or
 - b. The desired testimony or evidence may be obtained by an alternative method.
6. The party requesting the subpoena shall prepare it and cause it to be served upon the individual to whom it is directed in the same manner as provided for service of subpoenas in civil matters before the superior court. The return of service shall be filed with the Board.

F. Conduct of hearing

1. The hearing officer may conduct all or part of the hearing by telephone or other electronic means, as long as each party has an opportunity to participate in the entire proceeding as it takes place.
2. Except for those hearings which may involve presentation of evidence protected by law as confidential, or which are otherwise closed pursuant to an express provision of law, all hearings are open to public observation.

3. Conduct at any hearing that is disruptive or shows contempt for the proceedings shall be grounds for exclusion from further participation or observation.

G. Evidence

1. All witnesses shall testify under oath or affirmation.
2. The hearing officer shall have the power to administer oaths and affirmations.
3. All parties shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and fair disclosure of the facts.
4. The hearing officer shall receive evidence, rule upon offers of proof, and exclude evidence the hearing officer has determined to be irrelevant, immaterial, or unduly repetitious.
5. Unless otherwise ordered by the hearing officer, documentary evidence shall be limited in size when folded to 8 1/2 by 11 inches. The submitting party shall identify documentary exhibits by number or letter and party and furnish a copy of each exhibit to each party present. One additional copy shall be furnished to the hearing officer unless the hearing officer otherwise directs. When evidence offered by any party appears in a larger work, containing other information, the party shall plainly designate the portion offered. If the evidence offered is so voluminous as would unnecessarily encumber the record, the book, paper, or document shall not be received in evidence but may be marked for identification and, if properly authenticated, the designated portion may be read into or photocopied for the record. All documentary evidence offered shall be subject to appropriate and timely objection.

- H. Stipulations.** Parties to an appeal of a certification denial may stipulate, in writing, agreement upon any matter involved in the proceeding. If approved by the hearing officer, agreement on matters of procedure shall be binding upon the parties to the stipulation. The hearing officer may require presentation of evidence for proof of stipulated facts for the hearing officer's consideration. No substantive matter agreed to by the parties shall be binding upon the Board unless incorporated into the decision of the Board.

I. Recommendations

1. A recommended decision shall be prepared for the Board by the hearing officer and shall include findings of fact and conclusions of law, separately stated.
2. Parties shall be notified either personally or by mail to their last known address of any decision or order.
3. A recommended decision shall be delivered to the Board within 30 days after the close of the hearing unless the Board extends the period for good cause.

J. Decisions and orders

1. Any final decision or order adverse to a party shall be in writing or stated in the record.
2. When the Board is the hearing body, the decision shall be rendered within 60 days following the final day of the hearing.
3. Within 30 days after receipt of any recommended decision from the hearing officer, the Board shall render a decision to affirm, reverse, adopt, modify, supplement, amend or reject the recommendation and may remand the matter to the hearing officer with instructions, or may convene itself as the hearing body.

K. Rehearing and review of decisions

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1. After a hearing is held, a party in an appeal of a certification denial who is aggrieved by a decision rendered by the Board may file with the Board, not later than 30 days after such decision has been made, a written motion for rehearing specifying the particular grounds therefor. A motion for rehearing under this Section may be amended at any time before it is ruled upon by the Board. A response may be filed within 15 days after service of such motion by any other party. The Board may require the filing of written briefs on the issues raised in the motion or response and may provide for oral argument.
2. A rehearing of a decision by the Board may be granted for any of the following causes materially affecting the moving party's rights:
 - a. Irregularity in the administrative proceedings of the hearing body, or abuse of discretion, whereby the moving party was deprived of a fair hearing.
 - b. Misconduct of the hearing body or the prevailing party.
 - c. Accident or surprise which could not have been prevented by ordinary prudence.
 - d. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the hearing.
 - e. Excessive or insufficient penalties.
 - f. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing.
 - g. That the decision is not justified by the evidence or is contrary to the law.
3. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties, on all or part of the issues, for any of the reasons set forth in subsection (K)(2). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
4. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. The order granting such a rehearing shall specify the grounds therefor.
5. Not later than 20 days after a decision is rendered, the Board may, on its own initiative, order a rehearing of its decision for any reasons for which it might have granted a rehearing on motion of a party. The order granting such a rehearing shall specify the grounds therefor.
6. When a motion for rehearing is based upon affidavits they shall be served with the motion. An opposing party may, within 10 days after service of such motion, serve opposing affidavits and this period may be extended for an additional period not exceeding 20 days, by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
7. After a hearing has been held and a final administrative decision has been entered, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.
8. Any party in an appeal of a certification denial who is aggrieved by a decision rendered by the Board may file with the Board, not later than 20 days after such decision has been made, a written request for review of the decision. If a review of the decision is granted, the Board may affirm or modify the previous decision.

Historical Note

Former Section R7-2-206 adopted effective December 4, 1978 (Supp. 78-6). Repealed effective February 24, 1982. See R7-2-205 adopted effective February 24, 1982 (Supp. 82-1). New Section R7-2-206 adopted effective August 9, 1989 (Supp. 89-3). Repealed effective March 18, 1994 (Supp. 94-1). New Section made by exempt rulemaking at 16 A.A.R. 156, effective December 7, 2009 (Supp. 09-4). Amended by final exempt rulemaking at 25 A.A.R. 98, effective December 17, 2018 (Supp. 18-4).

R7-2-207. Repealed**Historical Note**

Adopted effective August 9, 1989 (Supp. 89-3). Repealed effective March 18, 1994 (Supp. 94-1).

ARTICLE 3. CURRICULUM REQUIREMENTS AND SPECIAL PROGRAMS**R7-2-300. Adoption of Assessments**

As required in A.R.S. § 15-741, the Board shall adopt statewide assessments in order to measure pupil achievement of the state board adopted academic standards as follows:

1. In English language arts and mathematics, annually in grades three through eight and at least once in high school.
2. In science, once in grades three through five and grades six through eight and at least once in high school.
3. In other subjects and for other students, at the direction of the Board.

Historical Note

New Section made by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2). Amended by final exempt rulemaking at 27 A.A.R. 2342 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-301. Minimum Course of Study and Competency Goals for Students in the Common Schools

- A. Students shall demonstrate competency as defined by the State Board-adopted academic standards, at the grade levels specified, in the following required subject areas. District and charter school instructional programs shall include an ongoing assessment of student progress toward meeting the competency requirements. These shall include the successful completion of the academic standards in at least reading, writing, mathematics, science and social studies, as determined by district and/or statewide assessments.
 1. English language arts;
 2. Mathematics;
 3. Science;
 4. Social Studies; including:
 - a. Civics; and
 - b. Instruction on the Holocaust and other genocides at least once in either grade seven or grade eight;
 5. The Arts, which may consist of two or more of the following: visual arts, dance, theatre, music or media arts;
 6. Health/Physical Education, including mental health. Mental health instruction may be included as part of other subject areas and shall comply with A.R.S. § 15-701.02.
- B. The local governing board or charter school may prescribe course of study and competency requirements for promotion that are in addition to or higher than the course of study and competency requirements the State Board of Education prescribes. Additional subjects may be offered by the local gov-

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erning board or charter school as options and may include, but are not limited to:

1. Career and Technical Education,
 2. Computer Science,
 3. Educational Technology,
 4. World and Native Languages.
- C. Prior to the issuance of a standard certificate of promotion from the eighth grade, each student shall demonstrate competency, as defined by the local governing board, of the State Board of Education adopted academic standards for grade eight in the subject areas listed in subsections (A)(1) through (6).
- D. Special education and promotion from the eighth grade.
1. The charter school or local governing board of each school district shall be responsible for developing a course of study and graduation requirements for all students placed in special education programs in accordance with R7-2-401 et seq.
 2. Students placed in special education classes in grades K through eight are eligible to receive the standard certificate of promotion without meeting State Board of Education competency requirements.
- E. Online and distance education courses may be offered by the local governing board or charter school if the course is provided through an Arizona Online Instruction Program established pursuant to A.R.S. § 15-808.
- F. Alternative Demonstration of Competency. Upon request of the student, the local school district governing board or charter school shall provide the opportunity for a student in grades seven and eight to demonstrate competency in the subject areas listed in subsections (A)(1) through (6) in lieu of classroom time.

Historical Note

Former Section R7-2-301 repealed, new Section R7-2-301 adopted effective December 4, 1978 (Supp. 78-6). Amended subsections (A) and (B) effective May 4, 1982 (Supp. 82-3). Amended subsection (B) by adding subsection (10) effective July 26, 1982 (Supp. 82-4). Section repealed, new Section adopted effective April 12, 1993 (Supp. 93-2). Amended effective May 3, 1993 (Supp. 93-2). Amended by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013 (the making of subsection (F)); filed in the Office January 15, 2016, with historical note added for clarification as the Board adopted the same amendment June 23, 2014 (Supp. 16-2). Amended by final exempt rulemaking at 21 A.A.R. 1778, effective June 23, 2014; filed in the Office August 4, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2). Amended by final rulemaking at 24 A.A.R. 691, effective February 26, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 26 A.A.R. 2897, effective October 26, 2020 (Supp. 20-4). The hyphen between “K-8” has been changed to the word “through,” the numeral “8” has been changed to “eight,” the ordinal “8th” was corrected to “eighth” for consistency in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2694 (November 19, 2021), effective October 25, 2021 (Supp. 21-4).

R7-2-301.01. Repealed**Historical Note**

R7-2-301(A), (B), and (C) repeated and numbered as R7-2-301.01(A), (B), and (C); R7-2-301(D) and (E) repeated

and numbered as R7-2-301.01(D) and (E) and amended; the text of R7-2-301.01 as amended is effective January 1, 1989 (Supp. 86-2). Complete text printed and historical note added (Supp. 89-3). Repealed effective April 12, 1993 (Supp. 93-2).

R7-2-301.02. Repealed**Historical Note**

Adopted effective March 26, 1990 (Supp. 90-1). Amended effective December 18, 1991; amended effective December 20, 1991 (Supp. 91-4). Repealed effective March 18, 1994 (Supp. 94-1).

R7-2-302. Minimum Course of Study and Competency Requirements for Graduation from High School

The Board prescribes the minimum course of study and competency requirements as outlined in subsections (1) through (5) and, through the graduating class of 2025, receipt of a passing score of 60 correct answers out of one hundred questions on a civics test identical to the civics portion of the naturalization test used by the United States Citizenship and Immigration Services as prescribed in A.R.S. § 15-701.01. Beginning with the graduating class of 2026, students shall obtain a passing score of at least 70 correct answers out of one hundred questions on a civics test identical to the civics portion of the naturalization test used by the United States Citizenship and Immigration Services prescribed in A.R.S. § 15-701.01.

1. Subject area course requirements. The Board establishes 22 credits as the minimum number of credits necessary for high school graduation. Students shall obtain credits for required subject areas as specified in subsections (1)(a) through (e) based on completion of subject area course requirements or competency requirements. At the discretion of the local school district governing board or charter school, credits may be awarded for completion of elective subjects specified in subsection (1)(f) based on completion of subject area course requirements or competency requirements. The awarding of a credit toward the completion of high school graduation requirements shall be based on successful completion of the subject area requirements prescribed by the State Board and local school district governing board or charter school as follows:
 - a. Four credits of English or English as a Second Language, which shall include but not be limited to the following: reading American and other world literature, reading informational text, writing, research methods, speaking and listening skills, grammar, and vocabulary.
 - b. Three credits in social studies to minimally include the following:
 - i. One credit of American history, including Arizona history;
 - ii. One credit of world history/geography, to include instruction on the Holocaust and other genocides;
 - iii. One-half credit of American government, including civics and Arizona government; and
 - iv. One-half credit in economics.
 - c. Four credits of mathematics to minimally include:
 - i. Three credits containing course content in preparation for proficiency at the high school level on the statewide assessment and aligned to the Arizona Mathematics Standards for Algebra I, Geometry, and Algebra II. These three credits shall be taken beginning with the

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- ninth grade unless a student meets these requirements prior to the ninth grade pursuant to subsection (1)(c)(iii). The requirement for the third credit covering Algebra II, may be met by, but is not limited to the following: a math course comparable to Algebra II course content; computer science, career and technical education and vocational education, economics, science and arts courses as determined by the local school district governing board or charter school.
- ii. A fourth credit that includes significant mathematics content as determined by the local school district governing board or charter school.
 - iii. Courses successfully completed prior to the ninth grade that meet the high school mathematics credit requirements may be applied toward satisfying those requirements.
 - iv. The mathematics requirements may be modified for students using a Personal Curriculum pursuant to R7-2-302.03.
- d. Three credits of science in preparation for proficiency at the high school level on the statewide assessment.
 - e. One credit of the Arts or career and technical education and vocational education.
 - f. Seven credits of additional courses prescribed by the local school district governing board or charter school.
 - i. Health instruction, regardless of the course it is provided in, shall include instruction on mental health;
 - ii. Mental health instruction may be included in other courses; and
 - iii. All mental health instruction shall comply with A.R.S. § 15-701.03.
 - g. A credit or partial credit may apply toward more than one subject area but shall count only as one credit or partial credit toward satisfying the 22 required credits.
2. Credits earned through correspondence courses to meet graduation requirements shall be taken from an accredited institution as defined in R7-2-601. Credits earned thereby shall be limited to four, and only one credit may be earned in each of the following subject areas:
 - a. English as described in subsection (1)(a) of this Section,
 - b. Social Studies,
 - c. Mathematics, and
 - d. Science.
 3. Online and distance education courses may be offered by the local governing board or charter school if the course is provided through an Arizona Online Instruction Program established pursuant to A.R.S. § 15-808.
 4. Local school district governing boards or charter schools may grant to career and technical education and vocational education program completers a maximum of 5 1/2 credits to be used toward the Board English, mathematics, science, and economics credit requirements for graduation, subject to the following restrictions:
 - a. The Board has approved the career and technical education and vocational education program for equivalent credit to be used toward the Board English, mathematics, science, and economics credit requirements for graduation.
 - b. A credit or partial credit may apply toward more than one subject area but shall count only as one credit or partial credit toward satisfying the 22 required credits.
 - c. A student who satisfies any part of the Board English, mathematics, science, and economics requirements through the completion of a career and technical education and vocational education program shall still be required to earn 22 total credits to meet the graduation requirements prescribed in this Section.
 5. Competency requirements.
 - a. The awarding of a credit toward the completion of high school graduation requirements shall be based on the requirements outlined in A.R.S. § 15-701.01 and the successful completion of State Board-adopted academic standards for subject areas listed in subsections (1)(a) through (1)(e) and the successful completion of the competency requirements for the elective subjects specified in subsection (1)(f). Competency requirements for elective subjects as specified in subsection (1)(f) shall be the academic standards adopted by the State Board. If there are no adopted academic standards for an elective subject, the local school district governing board or charter school shall be responsible for developing and adopting competency requirements for the successful completion of the elective subject. The school district governing board or charter school shall be responsible for developing and adopting the method and manner in which to administer a test that is identical to the civics portion of the naturalization test used by the United States Citizenship and Immigration Services. School districts and charter schools shall document and report student outcome data on the test pursuant to A.R.S. § 15-701.01 and based on procedures adopted by the Arizona Department of Education. Schools may administer the test to students beginning in the seventh grade and any pupil who does not obtain a passing score on the test may retake the test until the pupil obtains a passing score.
 - b. The determination and verification of student accomplishment and performance shall be the responsibility of the subject area teacher.
 - c. Upon request of the student, the local school district governing board or charter school shall provide the opportunity for the student to demonstrate competency in the subject areas listed in subsections (1)(a) through (1)(f) in lieu of classroom time. In appropriate courses, a school district governing board or charter school shall include as a mechanism to demonstrate competency a score determined by the State Board as college and career ready on the appropriate assessment adopted by the State Board pursuant to A.R.S. §§ 15-741 or 15-741.01.
 6. The local school district governing board or charter school shall be responsible for developing a course of study and graduation requirements for all students placed in special education programs in accordance with A.R.S. Title 15, Chapter 7, Article 4 and R7-2-401 et seq. Students placed in special education classes, through 12, are

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eligible to receive a high school diploma upon completion of graduation requirements.

Historical Note

Former Section R7-2-302 repealed, new Section R7-2-302 adopted effective December 4, 1978 (Supp. 78-6). Amended effective July 8, 1983 (Supp. 83-4). Amended subsections (1) and (5) effective January 1, 1987 (Supp. 84-3). See R7-2-302.01 and R7-2-302.02 for minimum credits for graduating classes of 1987 forward (Supp. 86-5). Repealed effective August 28, 1992; Inadvertently omitted from Supp. 92-3; corrected Supp. 93-4. Amended effective November 17, 1994 (Supp. 94-4). Repealed effective February 20, 1997 (Supp. 97-1). New Section adopted by final rulemaking at 7 A.A.R. 1255, effective February 20, 2001 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 3893, effective August 21, 2002 (Supp. 02-3). Amended by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; since the Board did not file the amendments until January 15, 2016, subsection (3)(a) through (b) was already repealed at the time of publishing the Section in Supp. 15-3; therefore, there is no record of the amendments in the Administrative Code; these amendments can be viewed at 21 A.A.R. 1778 (Supp. 16-2). Amended by final exempt rulemaking at 21 A.A.R. 1778, effective June 23, 2014; filed in the Office August 4, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 22 A.A.R. 197, effective October 26, 2015; filed in the Office January 15, 2016 (Supp. 16-3). Amended by final rulemaking at 24 A.A.R. 691, effective February 26, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 26 A.A.R. 2897, effective October 26, 2020 (Supp. 20-4). The word “sixty” has been changed to the numeral “60,” the hyphen between “9-12” was replaced with the word “through” and the numeral “9” has been changed to “nine,” the phrase “of this Section” was removed, and “one hundred” was changed to the numeral “100” to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2694 (November 19, 2021), effective October 25, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-302.01. Repealed**Historical Note**

Section R7-2-302 repeated and amended effective January 1, 1987, filed September 24, 1986 (Supp. 86-5). Amended as an emergency by adding a new subsection (B) effective May 3, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Filing date for January 1, 1987, amendments corrected to September 24, 1986 (Supp. 89-3). Emergency expired. Adopted as a permanent rule effective February 7, 1990 (Supp. 90-1). Repealed effective August 28, 1992; Inadvertently omitted from Supp. 92-3; corrected Supp. 93-4. New Section made by exempt rulemaking at 14 A.A.R. 195, effective December 10, 2007 (Supp. 08-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

R7-2-302.02. Repealed**Historical Note**

Adopted effective January 1, 1991, filed September 24, 1986 (Supp. 86-5). Amended effective May 9, 1988 (Supp. 88-2). Amended effective June 12, 1989 (Supp. 89-2). Amended effective March 26, 1990 (Supp. 90-1). Repealed effective March 18, 1994 (Supp. 94-1). New Section made by exempt rulemaking at 14 A.A.R. 195, effective December 10, 2007 (Supp. 08-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

R7-2-302.03. Personal Curriculum**A. Definitions.**

1. “Personal Curriculum” means a documented process that may be used to modify the high school graduation requirements for mathematics delineated in R7-2-302.02(1)(c). A student may use a personal curriculum to modify the Algebra II requirement delineated in R7-2-302.02(1)(c)(ii) and reduce the credit requirements for mathematics from four to three credits. A student who successfully completes the student’s personal curriculum meets the requirements for high school graduation.
2. “Development Team” means a team that develops a personal curriculum for a student and consists of the student, the parent or legal guardian of the student, and a school counselor or principal or their designee. A school principal may add additional members to the development team as the principal deems appropriate.

B. A student is eligible for a personal curriculum if the student meets the following criteria:

1. The student has successfully completed the mathematics requirements delineated in R7-2-302.02(1)(c)(i); and
2. Despite the student’s successful completion of the mathematics requirements delineated in R7-2-302.02(1)(c)(i), the development team determines that the student demonstrates a need to modify the requirement delineated in R7-2-302.02(1)(c)(ii) for Algebra II or its equivalent course content.

C. The requirements for a personal curriculum are as follows:

1. An eligible student may only modify the mathematics requirement delineated in R7-2-302.02(1)(c)(ii) for Algebra II or its equivalent course content;
2. In lieu of successfully completing Algebra II or its equivalent course content, an eligible student shall successfully complete at least one credit in mathematics that shall include significant mathematics content as determined by the local school district governing board or charter school; and
3. An eligible student shall successfully complete a course in mathematics in the student’s senior year.

D. The procedures for developing and implementing a personal curriculum are as follows:

1. The parent or legal guardian of a student, an emancipated student, or a student with permission from the student’s parent or legal guardian may request a personal curriculum in a manner prescribed by the local school district governing board or charter school.
2. Upon receipt of a request for a personal curriculum made pursuant to subsection (D)(1), the local school district or charter school shall verify that the student successfully completed the mathematics requirements delineated in R7-2-302.02(1)(c)(i) and, upon verification, shall convene a development team.
3. The development team shall:

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- a. Verify that the student demonstrates a need to modify the requirement delineated in R7-2-302.02(1)(c)(ii) for Algebra II or its equivalent course content,
 - b. Identify an appropriate alternative mathematics course or courses to modify the requirement for Algebra II or its equivalent course content,
 - c. Develop a written personal curriculum plan that includes the alternative mathematics course or courses identified in subsection (D)(3)(b) and a plan for monitoring student progress toward successfully completing the alternative mathematics course or courses. In developing the personal curriculum plan the development team shall consider how the proposed modifications maintain the integrity of the high school diploma and enable the student to achieve the student's post-secondary education and career goals.
4. The development team may modify the personal curriculum plan based upon the development team's evaluation of the student's progress.
- E. The Superintendent of Public Instruction shall monitor a school district or charter school if there is reason to believe that the school district or charter school is allowing modifications inconsistent with the requirements delineated in this Section.

Historical Note

Adopted effective November 1, 1989 (Supp. 89-4).
 Amended effective December 12, 1990 (Supp. 90-4).
 Repealed effective February 20, 1997 (Supp. 97-1). New
 Section made by exempt rulemaking at 14 A.A.R. 195,
 effective December 10, 2007 (Supp. 08-1).

R7-2-302.04. Repealed**Historical Note**

Adopted effective July 10, 1992 (Supp. 92-3). Amended
 effective May 3, 1993 (Supp. 93-2). Amended effective
 December 17, 1998 (Supp. 98-4). Section repealed by
 final exempt rulemaking at 22 A.A.R. 143, effective
 August 26, 2013; filed in the Office on January 15, 2016
 (Supp. 16-2).

R7-2-302.05. Arizona Education and Career Action Plan for Students in Grades nine through 12

- A. Effective for the graduation class of 2013, schools shall complete for every student in grades nine through 12 an Arizona Education and Career Action Plan ("ECAP") prior to graduation. Schools shall develop an Education and Career Action Plan in consultation with the student, the student's parent or guardian and the appropriate school personnel as designated by the school principal or chief administrative officer. Schools shall monitor, review and update each Education and Career Action Plan at least annually. Completion of an Education and Career Action Plan shall be verified by appropriate school personnel.
- B. An Arizona Education and Career Action Plan shall at a minimum allow students to enter, track and update the following information:
1. Academic Goals that include identifying and planning the coursework necessary to achieve the high school graduation requirements and pursue postsecondary education and career options; analyzing assessment results to determine progress and identify needs for intervention and advisement; and documenting academic achievement;

2. Career Goals that include identifying career plans, options, interests and skills; exploring entry level opportunities; and evaluating educational requirements;
3. Postsecondary Education Goals that include identifying progress toward meeting admission requirements, completing application forms and creating financial assistance plans; and
4. Extracurricular Activity Goals that include documenting participation in clubs, organizations, athletics, fine arts, community service, recreational activities, volunteer activities, work-related activities, leadership opportunities, and other activities.

Historical Note

New Section made by exempt rulemaking at 12 A.A.R. 876, effective August 22, 2005 (Supp. 06-1). Section R7-2-302.05 renumbered to R7-2-302.06; new Section R7-2-302.05 made by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). The hyphen between "9-12" has been changed to the word "through" and the numeral 9 has been changed to "nine," to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-302.06. Repealed**Historical Note**

New Section made by exempt rulemaking at 12 A.A.R. 876, effective August 22, 2005 (Supp. 06-1). Amended by exempt rulemaking at 15 A.A.R. 1570, effective September 25, 2006 (Supp. 09-1). Amended by exempt rulemaking at 16 A.A.R. 2031, effective August 25, 2008 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1602, effective August 24, 2009 (Supp. 09-3). Section R7-2-302.06 renumbered to R7-2-302.07; new Section R7-2-302.06 renumbered from Section R7-2-302.05 by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

R7-2-302.07. Repealed**Historical Note**

New Section made by exempt rulemaking at 15 A.A.R. 1602, effective August 24, 2009 (Supp. 09-3). Section R7-2-302.07 renumbered to R7-2-302.08; new Section R7-2-302.07 renumbered from Section R7-2-302.06 by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

R7-2-302.08 Repealed**Historical Note**

New Section made by exempt rulemaking at 15 A.A.R. 1602, effective August 24, 2009 (Supp. 09-3). Section R7-2-302.08 renumbered to R7-2-302.09; new Section R7-2-302.08 renumbered from Section R7-2-302.07 by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). Section repealed by final exempt rulemaking at 22

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A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

R7-2-302.09 Repealed**Historical Note**

New Section made by exempt rulemaking at 15 A.A.R. 1602, effective August 24, 2009 (Supp. 09-3). R7-2-302.09 renumbered to R7-2-302.10; new Section R7-2-302.09 renumbered from Section R7-2-302.08 by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). Section repealed by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2).

R7-2-302.10. Repealed**Historical Note**

New Section R7-2-302.10 renumbered from Section R7-2-302.09 by final exempt rulemaking at 22 A.A.R. 111, effective February 25, 2008; filed in the Office January 6, 2016 (Supp. 16-1). Section amended by final exempt rulemaking at 22 A.A.R. 143, effective August 26, 2013; filed in the Office on January 15, 2016 (Supp. 16-2). Repealed by final exempt rulemaking at 22 A.A.R. 197, effective October 26, 2015; filed in the Office January 15, 2016 (Supp. 16-3).

R7-2-302.11. Minimum Course of Study and Competency Requirements During Public Health Emergency in the 2019-2020 School Year

- A. Notwithstanding any other rule, local education agencies shall not refuse to withhold academic credit or a diploma from a student solely because the student missed instructional time due to a school closure issued by the governor.
- B. Local education agencies may issue academic credit and a diploma to a student if the student meets competency requirements pursuant to Article 3. When determining if a student meets competency requirements in a school year during which the governor issues a school closure, local education agencies may consider the educational opportunities provided to the student during the school closure. Educational opportunities, as determined by the local education agency, may include, but are not limited to the following:
 - 1. Independent study provided online or through printed materials; and
 - 2. Online instruction.
- C. If a local education agency is unable to consider or unable to provide the educational opportunities pursuant to subsection (B), the local education agency may award academic credit or a diploma if the student was on track to earn the academic credit or diploma prior to the school closure. Evidence that a student was on track to earn academic credit or a diploma, as determined by the local education agency, may include, but is not limited to, passing grades issued by the student's teacher or passing scores on locally or nationally administered assessments. It is the intent of the Board that all schools attempt, to the extent possible, to provide educational opportunities to students during a school closure issued by the governor.
- D. Local education agencies that issue academic credit and a diploma to a student pursuant to subsections (B) and (C) shall issue transcripts and diplomas to students in the same manner as the local education agency would for students that did not miss instructional time due to a school closure caused issued by the governor.

- E. This Section applies only to the 2019-2020 school year and the graduating class of 2020.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 966, effective March 31, 2020 (Supp. 19-2).

R7-2-303. Sex Education

- A. Instruction in sex education in the public schools of Arizona, including instruction provided after hours, shall be offered only in conformity with the following requirements. Nothing in this Section shall be construed to require a school district or charter school provide sex education instruction to pupils.
 - 1. Common schools: Nature of instruction; approval; format.
 - a. Supplemental/elective nature of instruction. The common schools of Arizona may provide a specific elective lesson or lessons concerning sex education as a supplement to the health course of study.
 - i. This supplement may only be taken by the student at the written request of the student's parent or guardian. When the school district or charter school seeks consent pursuant to this subsection, the school district or charter school shall inform the parent or guardian of their right to review the instructional materials and activities.
 - ii. Alternative elective lessons from the state-adopted optional subjects shall be provided for students who do not enroll in elective sex education.
 - iii. School districts and charter schools may not provide sex education lessons or instruction before grade five.
 - iv. Elective sex education lessons shall not exceed the equivalent of one class period per day for 1/4 of the school year for grades five through eight.
 - b. Local governing board approval. All elective sex education lessons to be offered shall first be approved by the local governing board.
 - i. Each local governing board contemplating the offering of elective sex education shall establish an advisory committee with membership representative of district size and the racial and ethnic composition of the community to assist in the development of lessons and advise the local governing board on an ongoing basis. All meetings of committees that are authorized for the purposes of reviewing and selecting the sex education course of study shall be publicly noticed at least two weeks before occurring and be open to the public according to A.R.S. Title 38, Chapter 3, Article 3.1.
 - ii. The local governing board shall review the total instructional materials and approve all lessons and curricula in the course of study to be offered in sex education.
 - iii. The local governing board shall make any proposed sex education course of study available and accessible for review and public comment for at least 60 days before the governing board or governing body decides whether to approve that course of study. The local governing board shall publicize and hold at least two public

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- hearings within the 60-day period for the purpose of receiving public input at least one week prior to the local governing board meeting at which the elective sex education lessons will be considered for approval. Public input may include written comments, oral comments and comments submitted electronically.
- iv. The local governing board shall maintain for viewing by the public, both online and in-person according to A.R.S. § 15-102(A)(2), the total instructional materials to be used in approved elective sex education lessons within the school district or charter school at least two weeks before any instruction is offered.
 - c. Format of instruction.
 - i. Lessons shall be taught to boys and girls separately.
 - ii. Lessons shall be ungraded, require no homework, and any evaluation administered for the purpose of self-analysis shall not be retained or recorded by the school or the teacher in any form.
 - iii. Lessons shall not include tests, psychological inventories, surveys, or examinations containing any questions about the student's or the student's parents' personal beliefs or practices in sex, family life, morality, values or religion.
 2. High schools: Course offering; approval; format.
 - a. A course in sex education may be provided in the high schools of Arizona.
 - b. This course may only be taken by the student at the written request of the student's parent or guardian.
 - c. Alternative elective lessons from the state-adopted optional subjects shall be provided for students who do not enroll in elective sex education.
 - d. All meetings of committees that are authorized for the purposes of reviewing and selecting the sex education course of study shall be publicly noticed at least two weeks before occurring and be open to the public according to A.R.S. Title 38, Chapter 3, Article 3.1.
 - e. The local governing board shall review the total instructional materials and approve all lessons and curricula in the course of study to be offered in sex education.
 - f. The local governing board shall make any proposed sex education course of study available and accessible for review and public comment for at least sixty days before the governing board or governing body decides whether to approve that course of study. The local governing board shall publicize and hold at least two public hearings within the sixty-day period for the purpose of receiving public input at least one week prior to the local governing board meeting at which the elective sex education lessons will be considered for approval. Public input may include written comments, oral comments and comments submitted electronically.
 - g. Lessons shall not include tests, psychological inventories, surveys, or examinations containing any questions about the student's or the student's parents' personal beliefs or practices in sex, family life, morality, values or religion.
 - h. Local governing boards shall maintain for viewing by the public, both online and in-person according to A.R.S. § 15-102(A)(2), the total instructional materials to be used in all sex education courses to be offered in high schools within the school district or charter school at least two weeks before any instruction is offered.
 3. Content of instruction: Common schools and high schools.
 - a. All sex education materials and instruction shall be age appropriate, recognize the needs of exceptional students, meet the needs of the district, recognize local community standards and sensitivities, shall not include the teaching of abnormal, deviate, or unusual sexual acts and practices, and shall include the following:
 - i. Emphasis upon the power of individuals to control their own personal behavior. Pupils shall be encouraged to base their actions on reasoning, self-discipline, sense of responsibility, self-control and ethical considerations such as respect for self and others; and
 - ii. Instruction on how to say "no" to unwanted sexual advances and to resist negative peer pressure. Pupils shall be taught that it is wrong to take advantage of, or to exploit, another person.
 - b. All sex education materials and instruction which discuss sexual intercourse shall:
 - i. Stress that pupils should abstain from sexual intercourse until they are mature adults;
 - ii. Emphasize that abstinence from sexual intercourse is the only method for avoiding pregnancy that is 100 percent effective;
 - iii. Stress that sexually transmitted diseases have severe consequences and constitute a serious and widespread public health problem;
 - iv. Include a discussion of the possible emotional and psychological consequences of preadolescent and adolescent sexual intercourse and the consequences of preadolescent and adolescent pregnancy;
 - v. Advise pupils of Arizona law pertaining to the financial responsibilities of parenting, and legal liabilities related to sexual intercourse with a minor.
 - B. Certification of compliance. All districts and charter schools offering a local governing board-approved sex education course or lesson shall certify, under the notarized signature of both the president of the local governing board and the chief administrator of the school district or charter school, compliance with this Section except as specified in subsection (C). Acknowledgment of receipt of the compliance certification from the State Board of Education is required as a prerequisite to the initiation of instruction. Certification of compliance shall be in a format and with such particulars as shall be specified by the Department of Education.
 - C. School districts and charter schools shall make any existing sex education course of study available and accessible for review both online and in person by June 30, 2021.

Historical Note

Former Section R7-2-303 repealed, new Section R7-2-303 adopted effective December 4, 1978 (Supp. 78-6).
 Former Section R7-2-303 repealed, new Section R7-2-

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303 adopted effective June 12, 1989 (Supp. 89-2). Amended by final exempt rulemaking at 25 A.A.R. 1551, effective May 20, 2019 (Supp. 19-2). The hyphens between grades in this Section have been replaced with the word “through,” the word “rule” was corrected to “Section,” the numeral “4” was corrected to “four,” the numeral “5” was corrected to “five,” and the numeral “8” was corrected to “eight” to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 1107, effective June 28, 2021 (Supp. 21-3). Amended by final exempt rulemaking at 27 A.A.R. 2340 (October 22, 2021) effective September 27, 2021 (Supp. 21-4).

R7-2-304. Extended School Year

The governing board of a common high school considering the adoption of an extended school year shall:

1. Prepare a comparative cost analysis of the extended school year program versus the cost of new facilities and sites.
2. Hold at least one public hearing, publicized a week in advance, to present the alternatives, including the results of the comparative cost analysis.
3. Determine faculty, community, and parental support prior to making a final determination.

Historical Note

Former Section R7-2-304 repealed, new Section R7-2-304 adopted effective December 4, 1978 (Supp. 78-6). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-305. Declaration of Independence

The governing board of each common school district shall adopt policies that:

1. Require pupils to recite the following passage from the Declaration of Independence for pupils in grades four through six at the commencement of the first class of the day in the schools: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.”; and
2. Enable the pupil or the parent or legal guardian of the pupil to object to reciting the passage of the Declaration of Independence, and that specify that a pupil shall not be required to participate if the pupil or the pupil’s parent or guardian objects.

Historical Note

Repealed effective December 4, 1978 (Supp. 78-6). Adopted effective February 15, 1979 (Supp. 79-1). Repealed effective February 20, 1997 (Supp. 97-1). New Section made by final rulemaking at 7 A.A.R. 5363, effective November 7, 2001 (Supp. 01-4). The numeral “4” was corrected to “four,” the numeral “6” was corrected to “six” to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-306. English Language Learner Programs

A. Definitions. All terms defined in A.R.S. § 15-751 are applicable, with the following additions:

1. “Statewide assessment” means the test prescribed by A.R.S. § 15-741 or an assessment approved by the Board

pursuant to A.R.S. § 15-741.02 to administer to students instead of the statewide assessment.

2. “Arizona Academic Standards” means the standards adopted by the State Board of Education pursuant to A.R.S. §§ 15-203, 15-701, and 15-701.01.
3. “Board” means the State Board of Education.
4. “Compensatory instruction” means instruction given in addition to regular classroom instruction, such as individual or small group instruction, extended day classes, summer school or intersession school.
5. “Department” means the Department of Education.
6. “EL” means English learner.
7. “FEP” means fluent English language proficient, a student who has met the requirements for exit from an English language learner program.
8. “Federal EL grant monies” means federal grants or funds awarded to an LEA to educate ELs or to improve the LEA’s capacity to educate ELs, including but not limited to grants awarded under Title III of the Every Student Succeeds Act of 2015.
9. “IEP” means individualized education program, a written statement specifying special education services to be provided to a child with a disability.
10. “LEA” means local education agency, the school district or charter school that provides educational services.
11. “PHLOTE” means primary or home language other than English.
12. “Reassessment for reclassification” means the process of determining whether an English language learner may be reclassified as fluent English proficient (FEP).
13. “Superintendent” means the State Superintendent of Public Instruction.
14. “WICP” means written individualized compensatory plan that documents the scope and type of services provided to an EL to overcome the identified language and academic deficiencies.

B. Identification of students to be assessed.

1. The primary or home language of all students shall be identified by the students’ parent or legal guardian on the home language survey. These documents shall inform parents that the responses to these questions will determine whether their student will be assessed for English language proficiency.
2. A student shall be considered as a PHLOTE student if the home language survey indicates that one or more of the following are true:
 - a. The primary language used in the home is a language other than English, regardless of the language spoken by the student.
 - b. The language most often spoken by the student is a language other than English.
 - c. The student’s first acquired language is a language other than English.
3. The English language proficiency of all PHLOTE students shall be assessed as provided in subsection (C).

C. English language proficiency assessment.

1. PHLOTE students in kindergarten shall be administered an English language proficiency test. Students in grades one through 12 shall be administered an English language proficiency test. Students who score below the designated score for fluent English language proficiency, adopted by the Department and based on the test publishers’ designated scores, shall be classified as ELs.

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2. English language proficiency assessments shall be conducted by individuals who are proficient in English and trained in language proficiency testing to administer and, when applicable, score the tests.
 3. The LEA shall assess the English language proficiency of all new PHLOTE students as prescribed above within 60 days of the beginning of the school year or within 30 school days of a student's enrollment in school, whichever is later, unless the LEA receives funds under Title III of the Every Student Succeeds Act of 2015 or another federal grant that requires assessment and parental notification within 30 calendar days from the start of the school year or within two calendar weeks of a student enrolling at a school.
- D.** Screening and assessment of students in gifted education. ELs who meet the qualifications for placement in a gifted educational program shall receive programmatic services designed to develop their specific areas of potential and academic ability and may be concurrently enrolled in gifted programs and English language learner programs.
- E.** English language learner programs.
1. All ELs shall be provided daily instruction in English language development appropriate to their level of English language proficiency and consistent with A.R.S. §§ 15-751, 15-752, and, as applicable, § 15-753. The English language instruction shall include listening and speaking skills, reading and writing skills, and cognitive and academic development in English.
 2. ELs shall be provided daily instruction in subject areas required under the minimum course of study adopted by the Board pursuant to R7-2-301 and R7-2-302 that is understandable and appropriate to the level of academic achievement of the EL and is in conformity with accepted strategies for teaching ELs. This subsection does not require an LEA to provide daily instruction in every subject area required pursuant to R7-2-301 and R7-2-302 if those subject areas are not provided daily to English proficient students.
 3. The curriculum of all English language learner programs shall incorporate the Academic Standards adopted by the Board and shall be comparable in amount, scope and quality to that provided to English language proficient students.
 4. ELs who are not progressing toward achieving proficiency of the Arizona Academic Standards adopted by the Board, as evidenced by the failure to improve scores on the statewide assessment, shall be provided compensatory instruction to assist them in achieving those Arizona Academic Standards. A WICP describing the compensatory instruction provided shall be kept in the student's academic file.
 5. On request of a parent or legal guardian of an EL the principal of the EL's school shall require a meeting with the principal or principal's designee, the parent or legal guardian and the classroom teacher to review the student's progress in achieving proficiency in the English language or in making progress toward the Arizona Academic Standards adopted by the Board, to identify any problems, to determine appropriate solutions and to identify the person or persons responsible for implementing the changes and determining their effectiveness.
- F.** Reassessment for reclassification.
1. The purpose of reassessment is to determine if an EL has developed the English language skills necessary to succeed in the English language curricula.
 2. An EL in grades one through 12 may be reassessed for reclassification during test windows established by the Department if the mid-year test requirements are met, but shall be reassessed for reclassification at least once per year. ELs that score at or above the designated score for fluent English language proficiency, adopted by the Department and based on the test publishers' designated scores, shall be reclassified as FEP.
 3. LEAs shall notify the parents or legal guardians in writing that their child has been reclassified as FEP when the student meets the criteria for such reclassification.
- G.** Evaluation of FEP students after exit from EL programs.
1. The LEA shall monitor exited students based on the criteria provided in this Section during each of the two years after being reclassified as FEP to determine whether these students are performing satisfactorily in achieving the Arizona Academic Standards adopted by the Board. Such students will be monitored in reading, writing and mathematics skills and mastery of academic content areas, including science and social studies. The criteria shall be grade-appropriate and uniform throughout the LEA, and upon request, is subject to Board review. Students who are not making satisfactory progress shall, with parent consent, be provided compensatory instruction or shall be re-enrolled in an EL program. A WICP describing the compensatory instruction provided shall be maintained in the students' EL files.
 2. The LEA shall use statewide assessment scores to determine progress toward achieving the Arizona Academic Standards in monitoring FEP students after exit from an EL program unless no score is available. Performing satisfactorily will be measured by whether a student meets or exceeds the state standards in reading, writing, and mathematics as measured by the statewide assessment.
 3. If a statewide assessment score is not available because the test is not administered in the students' grade or to assess progress in academic subjects not assessed by the statewide assessment, the LEA shall use one or more of the following criteria in its evaluation to determine progress toward achieving the Arizona Academic Standards in monitoring FEP students after exit from an EL program:
 - a. LEA-developed criterion-referenced tests of academic achievement that demonstrate alignment to the Arizona Academic Standards; or
 - b. Standardized tests measuring academic achievement that demonstrate alignment to the Arizona Academic Standards; or
 - c. Nationally norm-referenced test scores; or
 - d. Teacher recommendations based on classroom assessments that demonstrate alignment to the Arizona Academic Standards.
- H.** Monitoring of EL programs.
1. Each year the Department shall monitor at least 32 LEAs, as follows:
 - a. At least 12 of the 50 LEAs with the highest EL enrollment;
 - b. At least 10 LEAs with ELs that are not included in the 50 described above;
 - c. At least 10 LEAs that have reported that they have 25 or fewer EL students in their schools; and

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- d. Other LEAs upon receipt of a documented written complaint from any Arizona resident, the U.S. Department of Education, or the U.S. Office for Civil Rights, alleging that the LEA is not complying with state or federal law regarding ELs.
 2. All of the 50 LEAs in subsection (H)(1)(a) shall be monitored by the Department at least once every four years.
 3. The monitoring shall be on-site monitoring and shall include classroom observations, curriculum reviews, faculty interviews, student records reviews, and review of EL programs. The Department may use personnel from other schools to assist in the monitoring.
 4. The Department shall issue a report on the results of its monitoring within 45 days after completing the monitoring. If the Department determines that an LEA is not complying with state or federal laws applicable to EL students, the LEA shall prepare and submit to the Department, within 60 days of the Department's determination, a corrective action plan that sets forth steps that the LEA will take to correct the deficiencies noted in the report.
 5. The Department shall review and return such corrective action plan to the LEA within 30 days, noting any required changes. No later than 30 days after receiving its corrective action plan back from the Department, the LEA shall begin implementing the measures set forth in the plan, including any revisions required by the Department.
 6. The Department shall conduct a follow-up evaluation of the LEA within one year after returning the corrective action plan to the LEA.
 7. If the Department finds continued non-compliance during the follow-up evaluation, the LEA shall be referred to the Board for a determination of non-compliance. If the Board determines the LEA to be out of compliance with state or federal laws applicable to EL students, it may take one or more of the following actions:
 - a. Temporarily withhold cash payments of federal EL grant monies;
 - b. Disallow (that is deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;
 - c. Wholly or partly suspend or terminate the current award of federal EL grant monies;
 - d. Withhold further awards of federal EL grant monies for the program.
 8. The Department shall monitor all LEAs that the Board has determined to be non-compliant and which have had federal EL grant monies withheld or terminated to ensure that such LEAs do not reduce the amount of funds spent on their EL programs as the result of its loss of funds.
- A. For the purposes of this Section, the following definitions shall apply:
 1. "DANTES" means the Defense Activity for Non-Traditional Education Support.
 2. "Department" means the Adult Education Services Division of the Arizona Department of Education.
 3. "Equivalency Test" means a High School Equivalency Test approved by the State Board of Education.
 4. "High School Equivalency Testing Center" means a testing center established by the Department for the purpose of administering High School Equivalency tests and providing High School Equivalency testing services pursuant to the requirements established by a State Board approved testing provider and state jurisdictional rules.
 5. "USAFI" means the United States Armed Forces Institute.
 - B. Eligibility requirements. Any individual who is 16 years of age or older and who has officially been withdrawn from school may take a High School Equivalency Test.
 1. Individuals shall be required to provide the High School Equivalency Testing Center with positive identification and proof of age, and
 2. Individuals who are at least 16 years of age and under 18 years of age shall also be required to provide:
 - a. A signed and notarized statement of consent from a parent or legal guardian, and
 - b. A letter from the last school attended verifying that the individual has officially withdrawn from the school.
 - C. Issuance of a diploma. The Department shall issue a high school equivalency diploma to any individual who has not received a high school diploma or high school equivalency certificate or diploma if the individual:
 1. Meets the eligibility requirements specified in subsection (B) and has received passing scores on a High School Equivalency Test; or
 2. Is a member of the U.S. Armed Forces and has received passing scores on a High School Equivalency Test through USAFI or DANTES provided that the individual's last high school enrollment was in an Arizona high school. Individuals who have taken a High School Equivalency Test through USAFI or DANTES shall send their military permanent record and application card to DANTES with a request that the official High School Equivalency Test scores and application card be forwarded to the Department; or
 3. Has received passing scores on a High School Equivalency Test taken at an approved testing provider's site, provided that the Department receives an official transcript directly from the approved testing provider.
 - D. The Department shall keep a record of test scores for each individual who has taken a High School Equivalency Test.
 - E. The Arizona Department of Education may collect fees for the issuance of High School Equivalency Diplomas and Transcripts. Fees established pursuant to this Section shall not exceed \$20.
 1. The State Board of Education will deposit, pursuant to A.R.S. §§ 35-146 and 35-147, fees collected under this Section in the High School Equivalency Testing Revenue Account within the Arizona Department of Education budget, to be used to offset costs of providing these services.

Historical Note

Repealed effective December 4, 1978 (Supp. 78-6). New Section R7-2-306 adopted effective July 10, 1979 (Supp. 79-4). Amended effective August 20, 1981 (Supp. 81-4). Former Section R7-2-306 repealed, new Section R7-2-306 adopted effective November 14, 1984 (Supp. 84-6). Amended by final rulemaking at 10 A.A.R. 353, effective March 8, 2004 (Supp. 04-1). Amended by final exempt rulemaking at 26 A.A.R. 66, effective December 13, 2019 (Supp. 19-4). The word "twelve" was changed to the numeral "12" for consistency in Chapter style and format (Supp. 21-2).

R7-2-307. High School Equivalency Diplomas

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2. If the state fee for General High School Equivalency Diplomas and/or Transcripts presents a financial hardship for the examinee, the examinee may request a fee waiver.
3. A fee waiver shall be granted if all of the following apply:
 - a. Applicant presents documented proof of Arizona residency.
 - b. Applicant submits a completed Fee Waiver Request Form, available from the State High School Equivalency Testing Office or from any official High School Equivalency Testing Center.
 - c. Applicant demonstrates sufficient need for a fee waiver. This may include, but is not limited to the following:
 - i. Proof of eligibility for public assistance and/or federally subsidized housing,
 - ii. Residence in a foster home,
 - iii. Enrollment in a program for the economically disadvantaged such as Upward Bound, or
 - iv. Participation in a free or reduced lunch program.
3. Applications shall include budgets and be submitted according to the standard procurement and grants management policies of the Department of Education for the awarding of competitive grants.
- C. Board priorities and criteria for application approval
 1. Priority shall be given to projects funded during the previous fiscal year which:
 - a. Adhered to all applicable state and federal rules and regulations.
 - b. Operated in an efficient and effective manner demonstrating high levels of student educational gains as measured by standardized assessments and student retention as compared with the state average for these projects.
 - c. Completed and submitted all required state and federal reports.
 - d. Utilized volunteers where possible.
 2. Equal opportunity for project application approval will be given to eligible applicants who demonstrate previous comparable experience and performance in another adult literacy program.
 3. Criteria for approval shall include a determination by the project review committee that the application meets state and federal rules and regulations and the policies and procedures contained in the Arizona State Plan for Adult Education.

Historical Note

Adopted effective August 20, 1981 (Supp. 81-4). Amended subsections (A), (C), and (G) effective October 2, 1984 (Supp. 84-5). Amended effective December 22, 1997 (Supp. 97-4). Amended effective December 31, 1998 (Supp. 98-4). Amended by exempt rulemaking at 18 A.A.R. 1023, effective October 24, 2011 (Supp. 12-2). Amended by final exempt rulemaking at 21 A.A.R. 1781, effective September 23, 2013 (Supp. 15-3). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-308. Adult Education

- A. For the purposes of this Section the following definitions apply:
 1. "Adult Basic Education" (ABE) means instruction in reading, writing and math equivalent to grades one through eight, speaking and citizenship skills.
 2. "Adult Secondary Education" (ASE) means instruction in reading, writing, math, science and social studies equivalent to the completion of high school.
 3. "Eligible applicants" may include local educational agencies, community based organizations, volunteer literacy organizations, institutions of higher education, public or private nonprofit organizations, institutions of higher education, public or private nonprofit agencies, libraries, public housing authorities, and consortiums of any of the aforementioned entities.
 4. "English Language Acquisition for Adults" (ELAA) means a program of instruction designed to help individuals of limited English proficiency achieve competency in the English language, including reading, writing, listening and speaking.
 5. "Literacy" means an individual's ability to read, write and speak in English, compute and solve problems at levels of proficiency necessary to function on the job, in the family and in society.
 6. "Project" means the approved and funded application which is administered by the eligible applicant.
- B. Application for funding
 1. Only eligible applicants may apply for funding.
 2. Contracts shall be awarded through a competitive funding process.
- D. Use of funds and student reporting
 1. Federal and state funds shall not be co-mingled.
 2. Projects shall not assess students a tuition charge for instruction or fees for books, instructional supplies, or materials used in the program.
 3. Student attendance hours reported to the Adult Education Division shall not be used in securing financing from any other source. Classes taught by volunteers are not to be reported unless they are administered and supervised by the local project.
- E. An adult education certificate issued by the Board shall be required to teach in the Adult Education Program.
- F. Students enrolled in adult education classes must be at least 16 years of age and officially withdrawn from school.
- G. Course of study
 1. Adult Basic Education (A.B.E.) students shall be functioning academically below the eighth grade level. The sequential course of study shall:
 - a. Develop and improve communication and computational skills of students.
 - b. Raise the general educational level of students.
 - c. Improve the student's ability to benefit from occupational training.
 - d. Increase opportunities for more productive and profitable employment.
 - e. Assist students to be better able to meet their adult responsibilities as parents, citizens and as co-workers.
 2. Adult Secondary Education (A.S.E.) students shall be functioning below the 12th grade level. The course of study shall:
 - a. Give the students a foundation in the areas of English, social studies, literature, science and math.
 - b. Enable students, through the development of critical thinking, to utilize new learning experiences in recognizing, evaluating and solving problems of daily life.

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- c. Attempt to motivate students to continue their education through more advanced study and to become more proficient in observing and adopting new skills in a changing society.
 - d. Equip students with the knowledge prerequisite for satisfactory achievement on a High School Equivalency Test approved by the State Board of Education.
3. English Language Acquisition for Adults (ELAA) and citizenship students shall be resident aliens. The course of study shall:
- a. Develop an increasing ability to speak, understand, read, and write English.
 - b. Encourage the student to become a participating citizen and give insight into the values of such participation.
 - c. Help the student prepare for the Naturalization Test for U.S. Citizenship by developing a background in American history and government.
 - d. Create a desire for continued learning and self-realization.

H. Reports

- 1. Each project shall maintain bookkeeping records and must be able to substantiate expenditures.
- 2. A financial report shall be filed quarterly for each project with the Adult Education Division within 30 days after the close of the quarter.
- 3. Projects shall be completed by June 30. A fiscal completion report which has been reconciled with the County School Superintendent's Office, or if another agency, that agency's comparable administrative office, shall be filed with the Adult Education Division within 60 days after the project ending date.
- 4. Participation in the project reporting system designed to collect student and staff attendance, demographic information and student performance data is required. These reports shall be filed with the Adult Education Division monthly.
- 5. An annual written report on the year's activities, including internal written monitoring reports, shall be submitted to the Adult Education Division, no later than August 15.

- I.** If changes in the approved program or budget are desired, an amendment shall be submitted to the Adult Education Division for review and approval prior to expending any funds for the proposed changes.

Historical Note

Adopted effective December 14, 1984 (Supp. 84-6).
Amended by exempt rulemaking at 15 A.A.R. 1292, effective June 26, 2006 (Supp. 09-1). Amended by final exempt rulemaking at 21 A.A.R. 1781, effective September 23, 2013 (Supp. 15-3). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-309. Completion of Grade 10

Completion of grade 10 is accomplished when a student has earned 10 credits which shall include:

- 1. Two credits of English.
- 2. One credit of mathematics.
- 3. One credit of science.
- 4. Six credits of additional courses prescribed by the local Governing Board.

Historical Note

Adopted effective March 13, 1986 (Supp. 86-2). The Section heading has been updated to title case, governing board has been changed to lowercase to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-310. Pupil Achievement Testing

- A.** The statewide assessments adopted by the Board shall be administered annually during the testing windows established by the Department. By June 1 of each year, the Department shall designate the window for testing for the next school year and all school districts and charter schools shall administer the test during the windows designated.
- B.** The superintendent or head of the local education agency shall be responsible for:
- 1. Reviewing, and attesting to have reviewed, the policies, procedures and guidance provided by the Department regarding administration of statewide assessments.
 - 2. Providing school district enrollment data to the Department annually for purposes of test material distribution.
 - 3. Verifying the count of test materials received and distributing the test materials to each public school in the local education agency.
 - 4. Securing the test materials prior to distribution to pupils or persons administering the tests at the time of testing, as well as after the time of testing. Test materials shall be kept in locked storage.
 - 5. Advising all district and school employees that the test materials are not to be reproduced in any manner.
 - 6. Familiarizing each person who will administer the test with the test publishers' directions for administering the tests, the timing of the tests and the testing schedule. This is to be accomplished through meetings which shall be held near the window for testing.
 - 7. Distributing actual test materials to persons administering the tests on the day of testing and collecting test materials at the end of the day of testing.
 - 8. Training persons administering the tests on how to properly complete the identification information and how to code the information required on the variables being collected according to A.R.S. § 15-741, et seq.
 - 9. Properly packaging all scorable and nonscorable materials which are to be returned to the scoring contractor. Packaging shall comply with instructions furnished by the scoring contractor or the Department.
 - 10. Forwarding all scorable and nonscorable materials which are to be returned to the scoring contractor per instructions. Materials for the entire local education agency should be forwarded in one shipment.
 - 11. Retaining all unused and reusable test materials, reporting them in the school's inventory, storing them in a safe and secure manner and returning the test materials at the end of the testing window per instructions.
 - 12. Immediately reporting to the Department any losses of test materials or other irregularities.
 - 13. The superintendent or head of the local education agency may designate a testing coordinator to act on their behalf.
- C.** Persons designated by the superintendent or head of the local education agency to administer the test shall:
- 1. Keep all test materials in locked storage.
 - 2. Not reproduce any test materials in any manner.
 - 3. Not disclose any actual test items to pupils prior to testing.
 - 4. Not provide answers of any test items to any pupils.

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5. Administer only sample tests which are provided by the test publishers. Previous editions of the test series being used in the statewide testing program may not be used as sample tests.
 6. Strictly observe all timed statewide assessments, if the assessments are timed. The test publishers' suggested time limits for untimed subtests shall be followed as closely as possible in order to maintain uniformity in test administration.
 7. Follow directions for administering the test explicitly. No test item may be repeated unless otherwise indicated in the directions.
 8. Not change a pupil's answer.
 9. Return all test materials to the superintendent or head of the local education agency immediately upon completion of testing.
- D.** Local education agencies shall administer the statewide assessment to all students in the grades designated by the Board. Failure to administer a statewide assessment to at least 95 percent of all students will be factored into the statewide accountability system.
- E.** All violations of this Section shall be referred by the superintendent or head of the local education agency to the State Superintendent of Public Instruction, for appropriate action.

Historical Note

Adopted effective March 13, 1986 (Supp. 86-2). Amended subsections (A) and (B) effective February 25, 1987 (Supp. 87-1). Amended effective October 22, 1991; amended effective December 20, 1991 (Supp. 91-4). The Section heading has been updated to title case, the numeral "3" has been changed to "three," the numeral "7" has been changed to "seven," the numeral "8" has been changed to "eight," and the word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2342 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-311. Pupil Testing Variable Information

Persons designated by the superintendent or head of the local education agency to administer the State Board approved statewide assessments shall assure that information requested by the Department is properly completed for each pupil that is administered a statewide assessment.

Historical Note

Adopted effective June 25, 1986 (Supp. 86-3). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-1). Amended by final exempt rulemaking at 27 A.A.R. 2342 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-312. Honorary High School Diploma

- A.** An honorary high school diploma shall be provided to an individual who has never obtained a high school diploma and who meets both of the following requirements:
1. Currently resides in Arizona; and
 2. Provides documented evidence from the Arizona Department of Veterans' Services that the individual enlisted in the armed forces of the United States and served in World War I, World War II, the Korean conflict or the Vietnam conflict.
- B.** All high schools shall provide for the presentation of an honorary high school diploma to an individual eligible pursuant to

subsection (A). The individual shall not be required to reside within the school boundaries. The Arizona Department of Education may issue an honorary high school diploma to an individual eligible pursuant to subsection (A).

Historical Note

Adopted effective December 15, 1989 (Supp. 89-4). Repealed effective February 20, 1997 (Supp. 97-1). New Section made by final rulemaking at 9 A.A.R. 1125, effective May 10, 2003 (Supp. 03-1). Amended by final exempt rulemaking at 27 A.A.R. 241, effective January 25, 2021 (Supp. 21-1).

R7-2-313. Academic Contests Fund

The State Board of Education establishes an academic contests fund consisting of monies appropriated by the legislature or received as gifts or grants for deposit in the academic contests fund pursuant to A.R.S. § 15-1241.

1. The Superintendent of Public Instruction shall, at least annually, compile a list of national contests to be presented to the State Board of Education for approval. Contest requirements are:
 - a. Shall be sponsored by a recognized national organization.
 - b. Shall be academic in nature, motivate pupils to be creative and demonstrate excellence.
 - c. Shall be open to all pupils, regardless of race, creed, sex or national origin. Contests may separate pupils by age or grade level.
2. School districts shall submit an application for academic contest funds to the Superintendent of Public Instruction for student and chaperone expenses. Requirements are:
 - a. No other sponsoring agency is assuming the total costs.
 - b. The participation of the students shall be the result of successfully competing at the local or state level, or both, of that contest.
 - c. The governing board of the school district in which the students attend shall approve the participation and travel of the students.
 - d. The fiscal agent applying for academic contest funds shall be an authorized district representative and responsible for the disbursement of travel funds.
 - e. A school district receiving academic contest funds shall submit a completion report and return any unused portion within 90 days after completion of travel to the Department of Education.
3. Application review and approval; funding limitations.
 - a. The State Board of Education shall annually set expenditure limitations for expenses of students and chaperones. These limitations shall be based on the number of applicants, monies available and current state travel regulations.
 - b. The Superintendent of Public Instruction shall review applications for academic contest funds and shall approve applications based upon the criteria set forth in this Section and the availability of funds.

Historical Note

Adopted effective December 15, 1989 (Supp. 89-4). The Section heading has been updated to title case, the word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-314. Definitions

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The following definitions apply to Sections R7-2-315 and R7-2-315.01:

1. "Board examination system" means a complete instructional system that includes all of the following components:
 - a. A coherent group of courses that collectively constitutes a core curriculum at the high school level,
 - b. A comprehensive syllabus for each course,
 - c. Appropriate instructional and teaching materials for each course,
 - d. High quality examinations that are closely aligned with the course syllabus,
 - e. Professional scoring of examinations, and
 - f. Teacher education that is designed to train teachers to properly teach those courses.
2. "Grand Canyon Diploma" means a high school diploma that is offered to any student who demonstrates readiness for college level mathematics and English according to standards prescribed by an interstate compact on board examination systems, who has passing grades on an additional set of required approved board examinations in core academic courses as determined by the State Board of Education.
3. "Readiness for college level mathematics and English" means that a student has the mathematics and English skills and knowledge needed to succeed in college level courses that count toward a degree or certificate without taking remedial or developmental coursework.

Historical Note

Adopted effective August 14, 1991 (Supp. 91-4).
 Repealed effective February 20, 1997 (Supp. 97-1). New
 Section made by exempt rulemaking at 18 A.A.R. 1025,
 effective January 24, 2011 (Supp. 12-2).

R7-2-315. Board Examination Systems; Offerings; Procedures

- A. The State Board of Education shall select board examination systems that may be used by traditional public schools and charter schools in accordance with the requirements of this Section. Board examination systems selected by the State Board of Education shall:
 1. Be approved by an interstate compact on board examination systems,
 2. Be periodically modified to reflect core standards selected by an interstate compact on board examination systems,
 3. Be aligned to State Board of Education approved academic standards,
 4. Have common passing scores that are prescribed by an interstate compact on board examination systems that are set to the level of literacy required to succeed in college-level courses offered by community colleges in this state that count toward a degree or certificate without taking remedial or developmental coursework.
- B. The State Board of Education shall contract with a private organization to act as primary administrator of approved board examination systems. The private organization shall:
 1. Identify, select and contract with a national organization that is devoted to issues concerning education and the economy and that is selected by the State Board of Education to provide technical services to develop and maintain an interstate system of approved board examination systems.
 2. Provide data and other information to a national organization that is devoted to issues concerning education and the economy and that is selected by the State Board of Education to provide technical services the national organization deems necessary to set appropriate performance standards for students in this state. The Department of Education shall provide data and other information to the private organization, as necessary.
 3. Conduct technical studies required by the State Board of Education to compare the scores on approved board examinations by the students in this state to scores on the Arizona Instrument to Measure Standards Test and other measures deemed necessary to ensure the efficacy of the approved board examinations. The private organization may contract with other entities that are selected by the State Board of Education for the purpose of conducting technical studies.
 4. In cooperation with the Superintendent of Public Instruction and the State Board of Education, solicit monies from all lawful private and public sources, including federal monies, to offset the costs of instruction provided to students pursuant to this Section.
 5. Exercise general supervision over the implementation of the approved board examination systems in this state.
 6. Prepare an annual report for the State Board of Education, which shall forward it to the legislature and the governor, on the progress made toward the goals established in A.R.S. Title 15, Chapter 7, Article 6. Participating schools and the Department of Education shall provide data to the private organization as needed in order to complete the annual report.
 7. Identify, select and represent this state on the national governing body of an interstate compact on board examination systems, as approved by the State Board of Education.
 8. Select this state's representatives in an interstate compact on board examination systems in accordance with the policies prescribed by that interstate compact.
 9. Develop the Grand Canyon Diploma to be approved and adopted by the State Board of Education.
- C. The Department of Education shall develop a system, subject to State Board of Education approval, to track the academic progress of pupils who participate in board examination systems.
- D. School districts or charter schools wishing to implement an approved board examination in one or more schools shall:
 1. Send written notice to the private organization described in this Section indicating that school district's or charter school's interest in implementing an approved board examination system,
 2. Submit an implementation plan to the private organization described in this Section that includes at least the following elements:
 - a. The specific approved board examination system the school district wishes to implement;
 - b. A proposed timeline for the implementation of an approved board examination system;
 - c. A description of the funding model that will be employed to ensure the sustainability of the approved board examination system offering;
 - d. A communication plan for students and parents that provides an overview of the selected approved board examination system, potential course offerings, a description of student support systems, and contact

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information for students and parents to obtain more detailed information regarding board examination systems and the Grand Canyon Diploma option, as defined in R7-2-315.01.

- E. Upon receipt of an implementation plan described in this Section the private organization shall work cooperatively with the applicable school district or charter school to ensure that the plan is feasible and to modify any elements of the plan deemed necessary for successful implementation of the approved board examination system.

Historical Note

Adopted effective November 17, 1994 (Supp. 94-4).
Repealed effective February 20, 1997 (Supp. 97-1). New
Section made by exempt rulemaking at 18 A.A.R. 1025,
effective January 24, 2011 (Supp. 12-2).

R7-2-315.01. Grand Canyon Diploma

- A. School districts and charter schools in this state may choose to offer a Grand Canyon Diploma beginning in the 2012 – 2013 school year. A high school student who is enrolled in a school district or charter school that offers a Grand Canyon Diploma may choose to pursue a Grand Canyon Diploma.
- B. A student may be awarded a Grand Canyon Diploma at the end of grade 10 or during or at the end of grade 11 or 12 provided that the student has passed both the mathematics and English assessments for the applicable approved board examination system, and the student has successfully completed the following subject area requirements within board examination system curriculum:
1. Two credits of English;
 2. Two credits of mathematics;
 3. Two credits of science, including lab-based science, engineering or information technologies;
 4. One credit of American History;
 5. One credit of World History;
 6. One credit of fine arts or career and technical education and vocational education; and
 7. One-half credit of economics.
- C. A student that satisfies all the criteria for issuance of a Grand Canyon Diploma is exempt from the minimum course of study requirements delineated in R7-2-302.02.
- D. Students who earn a Grand Canyon Diploma shall have multiple pathways available to them and may:
1. Enroll the following semester in a community college under the jurisdiction of a community college in this state. Students who take community college courses on high school campuses pursuant to this subsection shall be eligible to participate in extracurricular activities, including interscholastic sports, through the end of grade 12.
 2. Remain in high school and enroll in additional advanced preparation board examination programs that are designed to prepare students for admission to high quality postsecondary institutions that offer baccalaureate degree programs. These board examination programs shall be selected from a list provided by an interstate compact for board examination systems and approved by the State Board of Education. Students who elect to remain in high school pursuant to this subsection shall be eligible to participate in extracurricular activities, including interscholastic sports, through the end of grade 12.
 3. Enroll in a full-time career and technical education program offered on a community college campus, a high school campus or a joint technical education district campus, or any combination of these campuses. Students who

elect to remain in high school pursuant to this subsection shall be eligible to participate in extracurricular activities, including interscholastic sports, through the end of grade 12.

4. Return to a traditional academic program without completing the next level of board examination systems curriculum through the end of grade 12. Students who elect to remain in high school pursuant to this subsection shall be eligible to participate in extracurricular activities, including interscholastic sports, through the end of grade 12.
- E. Students who pursue but do not earn a Grand Canyon Diploma at the end of grade 10 or 11 shall receive a customized program of assistance during the next school year that addresses the areas in which the student demonstrated deficiencies in the approved board examinations. These students may retake the board examinations at the next available examination administration. Students may choose to return to a traditional academic program without completing the board examination system curriculum.
- F. A student who remains in a board examination system curriculum through grade 12 and does not pass the board examination may graduate with a standard diploma provided that the student meets the following requirements:
1. The student has passed the Arizona Instrument to Measure Standards assessments in mathematics and English or received a sufficient score as determined by the State Board of Education on the ACT, SAT, or an approved board examination in mathematics and English.
 2. The student has earned at least 22 credits and has passed a State Board of Education approved sequence of courses within the board examination system curriculum. For the purpose of this requirement the private organization and the Department of Education shall recommend for State Board of Education approval a sequence of courses for each approved board examination system. The sequence of courses for each board examination system shall ensure that students receive instruction in all State Board of Education approved academic standards encompassed in R7-2-302.02(1)(a) through (e).
- G. A student who is enrolled in a school district or charter school that does not offer a board examination system curriculum may earn a Grand Canyon Diploma by:
1. Obtaining a passing score on the assessments of an approved board examination system in each of the subject areas delineated in R7-2-315.01(B)(1) through (6), and
 2. Completing a high school course in economics.

Historical Note

New Section made by exempt rulemaking at 18 A.A.R.
1025, effective January 24, 2011 (Supp. 12-2).

Appendix A. Repealed**Historical Note**

Adopted effective November 17, 1994 (Supp. 94-4).
Repealed effective February 20, 1997 (Supp. 97-1).

R7-2-316. Charter Schools Stimulus Fund

- A. "Start-up costs" mean those costs associated with developing or implementing the following essential components of a charter school:
1. The hiring of teachers and other essential staff members;
 2. The hiring of a chief administrative officer and other costs associated with instituting the administrative structure of the school;

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3. Curriculum development and implementation;
 4. The leasing of physical facilities or equipment and costs associated with establishment of utility services and accounts;
 5. Operational expenses incurred prior to the date on which the charter school begins operations;
 6. The development and implementation of an accounting system which complies with the uniform system of financial records requirements;
 7. Obtaining insurance, including prepayment of premiums which will effectuate insurance coverage during the first year of operation;
 8. Costs associated with licensing and compliance with other health, safety and civil rights requirements.
- B.** "Costs associated with renovating or remodeling existing buildings and structures" means those costs associated with the following essential components:
1. Modifications affecting the structural integrity of the building, including those changes needed to meet building code and zoning standards.
 2. Modifications needed to meet non-structural building code requirements, such as those related to plumbing, electrical wiring and fire safety.
 3. Modifications needed to meet state health standards, such as those related to rest rooms and food preparation and service.
 4. Adjusting the size of rooms to accommodate the number of students to be served.
 5. Construction-related finish work, such as exterior and interior replastering and painting, carpeting, flooring, baseboards and door hanging.
 6. Roofing and air conditioning/heating installation or repair required prior to operation of the school.
 7. Access requirements for persons with disabilities.
- C.** The State Board of Education shall, subject to legislative appropriation, provide an initial grant or an additional grant from the charter schools stimulus fund to applicants who have a charter or application that has been approved by a sponsor pursuant to A.R.S. § 15-183 and who meet the requirements of A.R.S. § 15-188 and this Section. The grant may be in any amount up to \$100,000 per charter school applicant or charter school.
- D.** The application for an initial grant shall include:
1. A copy of the applicant's charter;
 2. The identity of the sponsor which approved the charter;
 3. The total amount of funding requested;
 4. An itemization of the specific start-up costs and costs associated with renovating or remodeling existing building and structures for which the funds will be used. Itemization shall include the amount of funds requested for each essential component and a detailed explanation of the basis for calculating the amount requested;
 5. The number of students to be served at the school;
 6. The dimensions of the facility in which the school is to be operated;
 7. A description of the extent to which the facility must be remodeled or renovated in order to meet applicable health and safety standards, unless this information is included in the applicant's charter.
- E.** The application for an additional grant shall be in a format approved by the State Board of Education and shall include:
1. The date and amount of the initial grant award.
 2. A copy of any amendments or other modifications to the charter or application which formed the basis for the initial grant.
 3. The identity of the current sponsor of the charter school.
 4. An itemized accounting of the expenditures made with the initial grant monies.
 5. The total amount of additional funding requested.
 6. An itemization of the specific start-up costs associated with renovating or remodeling existing buildings and structures for which the additional funds will be used. Itemization shall include the amount of funds requested for each essential component and a detailed explanation of the basis for calculating the amount requested.
- F.** In its review of an application for a stimulus fund grant, the State Board of Education may receive information concerning the application from the Department of Education, an advisory committee, and any other source. The State Board may award a grant in an amount different from that requested by the applicant. No grant shall be awarded pursuant to this Section unless the State Board determines that:
1. Every amount requested in the applicant's itemization of costs is for the essential component with which the amount is associated; and
 2. Based on all of the information before the State Board concerning the application, there is a rational basis for the award of funds.
- G.** No applicant or charter school shall be eligible for more than one initial grant and one additional grant, regardless of the amount awarded.
- H.** An applicant who receives an initial grant and fails to begin operating a charter school within the 18 months following the date of the award shall reimburse the Department of Education for the amount of the initial grant plus interest calculated at a rate of 10% per year. Such reimbursement is immediately due and payable at the end of the initial 18-month period.
- I.** An applicant who receives an additional grant and fails to begin operating a charter school within the 18 months following the date of the award shall reimburse the Department of Education for the amount of the initial grant plus interest calculated at a rate of 10% per year. Such reimbursement is immediately due and payable at the end of the applicable 18-month period and is in addition to any amounts required by subsection (H).
- J.** An applicant for a grant pursuant to this Section shall be notified of the date at which the State Board of Education shall consider the application no less than 10 days in advance thereof. Written notification of the Board's decision concerning an application for a grant shall be mailed to the applicant within 10 days following such decision.

Historical Note

Adopted effective April 20, 1995 (Supp. 95-2). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-317. State Seal of Biliteracy Program

- A.** Definitions. For purposes of this Section, "foreign language" means any language other than English.
- B.** School districts and charter schools in this state may choose to participate in the State Seal of Biliteracy Program (Program) which recognizes students who have attained a high level of proficiency in one or more foreign languages, in addition to English. School districts and charter schools participating in the Program may award the State Seal of Biliteracy to any high school student who graduates from a school operated by the

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school district or charter school and who meets the requirements of subsections (B)(1) or (2), and subsection (B)(3).

1. **Assessment Method.** To demonstrate language proficiency through the assessment method, the student must attain the required score on a language assessment as adopted by the State Board of Education, upon recommendation by the Arizona Department of Education, for purposes of demonstrating language proficiency for the Program in the four domains of speaking, writing, listening, and reading.
2. **Alternative evidence model.** A school district or charter school may choose to award the State Seal of Biliteracy through an alternative evidence method.
 - a. An alternative evidence method may be used in any of the following circumstances:
 - i. No standardized assessment exists for the targeted foreign language;
 - ii. Evaluating the language proficiency of a student with disabilities for whom the standardized assessment is inappropriate as determined by the student's Individualized Education Program team or a student on a 504 plan as determined by the student's 504 plan committee; or
 - iii. The standardized assessment for the targeted foreign language does not assess one or more of the four domains of speaking, writing, listening and reading.
 - b. Any alternative evidence method used shall consist of a student portfolio that contains evidence of experience in the targeted foreign language, as well as work samples, test results and other accomplishments that demonstrate proficiency, as established in the guidelines developed by the Arizona Department of Education, in the targeted foreign language in the four domains of speaking, writing, listening and reading. Student portfolios shall comply with guidelines adopted by the Department.
 - c. A school district or charter school that uses an alternative evidence model must notify the Arizona Department of Education.
3. To be eligible to be awarded the State Seal of Biliteracy, each student shall also demonstrate proficiency in English by meeting the following requirements:
 - a. The student must successfully complete all English Language Arts requirements for graduation, pursuant to R7-2-302, with an overall grade point average in those classes of 2.0 or higher on a 4.0 scale, or the equivalent; and
 - b. The student receives a passing score in English Language Arts on one of the following:
 - i. The statewide assessment adopted pursuant to A.R.S. § 15-741, an assessment approved by the Board pursuant to A.R.S. § 15-741.02, or another state's statewide assessment;
 - ii. A nationally recognized college entrance exam;
 - iii. An exam that is accepted for credit or admission by at least one university under the jurisdiction of the Arizona Board of Regents; or
 - iv. An end of course exam administered as part of a dual enrollment or concurrent enrollment course.
 - c. If the student has a primary home language other than English, the student shall obtain a score of pro-

ficient based on the English language proficiency standards pursuant to A.R.S. § 15-756.

- C. By October 1 of each year, the Arizona Department of Education shall make an electronic facsimile of the State Seal of Biliteracy available to each school district or charter school participating in the Program. Each participating school district or charter school shall identify each student who has met the requirements of the Program, affix the State Seal of Biliteracy to the student's diploma upon graduation, and shall note the receipt of the State Seal of Biliteracy on the transcript of the student.
- D. The Arizona Department of Education shall post on its website by July 1 of each year, the list of acceptable language assessments and the score to be achieved on each, as approved by the Board, which qualifies the student as proficient in a foreign language. The Arizona Department of Education shall ensure that all approved assessments are aligned to the Arizona world and native languages standards adopted by the Board.
- E. Each school district and charter school that chooses to participate in the Program shall meet the following requirements:
 1. Notify the Arizona Department of Education of its intent to participate in the Program at least 30 days prior to issuing the seal by filling out the form provided on the Arizona Department of Education's website.
 2. Designate at least one individual to serve as coordinator of the Program and provide that individual's name and contact information to the Arizona Department of Education.
 3. Using a format prescribed by the Arizona Department of Education, submit a report no later than 90 days after the end of the school year with the total number of students awarded the State Seal of Biliteracy, the number of seals for each targeted foreign language and the method used to determine proficiency in the foreign language.
 4. Make available to parents and students information regarding the Program and the name and contact information for the coordinator of the Program.
- F. The Arizona Department of Education shall establish guidelines and procedures to assist school districts and charter schools in the administration of the Program.

Historical Note

New Section made by final exempt rulemaking at 22 A.A.R. 3367, effective October 24, 2016 (Supp. 16-4). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 1529, effective August 27, 2021 (Supp. 21-3).

R7-2-318. K through Three Reading Program

- A. In this Section, unless the context otherwise requires:
 1. "Intensive reading instruction" is a proactive instructional approach used to reduce the likelihood of future reading problems by addressing severe and persistent difficulties with learning to read through the use of evidence-based instruction in smaller-group settings, increased instructional time, and increased intensity that is aligned to individual student needs or deficiencies and is driven by ongoing student performance data from a valid assessment tool.
 2. "Interventions" are instructional supports provided to students with the purpose of preventing and remediating reading difficulties. These supports are organized in tiers which provide increasing instructional intensity and support with each level.

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3. "Motivational assessments" are measures of motivation or attitudes toward reading and produce information to monitor student progress.
 4. "Prevention" is instructional support provided to students before students have experienced failure in learning to read.
 5. "Remediation" is instructional support provided to students after a student has experienced significant and persistent difficulties in learning to read.
 6. "Universal screeners" are very brief measures based on established standardized benchmarks or performance targets developed through extensive research designed to improve accuracy of identifying students who will likely need additional support for meeting grade level reading standards.
- B.** Prior to the release of monies generated by the K through three reading support level weight, each school district or charter school shall submit to the Department on or before October 1, a comprehensive local education agency K through three reading program plan, using the format prescribed by the Department.
- C.** Pursuant to A.R.S. §§ 15-211, 15-701 and 15-704, the K through three reading program plan submission shall contain the following components for pupils in half-day and full-day kindergarten programs and grades one through three:
1. School literacy contacts, literacy team members and master K through three school schedules, to include all subject areas, with a clear emphasis on literacy instruction and displaying all levels of reading support;
 2. A list of the staff who reviewed and approved the individual school K through three reading program plan, including special education directors/staff and staff directly involved with reading instruction;
 3. Program expenditures for the prior school year and a budget for the current school year regarding the monies used only on instructional purposes intended to improve reading proficiency from the K through three support level weight and the K through three reading support level weight;
 4. An analysis of the effectiveness of the local education agency's K through three reading program for the previous school year and plans for improvement for the current school year, including the specific strategies being employed to support populations currently eligible for exemption from retention, such as struggling readers, English language learners, and students with disabilities;
 5. Core reading programs which teach the essential components of reading instruction including explicit and systematic phonics pursuant to A.R.S. § 15-704(H)(1), with a description of the frequency and duration of the instruction;
 6. Date of last K through three reading curriculum review for standards alignment;
 7. Tier II and Tier III intensive reading intervention programs including reading programs used for students with disabilities (separate from specially designed instruction outlined within a child with a disability's individualized education program), including frequency and duration;
 8. A sample template of a parental notification letter;
 9. Evidence-based intervention and remedial services provided to students,
 10. Evidence of ongoing teacher training based on evidence-based reading research; and
 11. Assurance that all parts of the assessment system are accessible to all students as required by federal law.
- D.** The local education agency shall submit universal screening data by October 1, winter data by February 1 and spring data by June 1 for pupils in kindergarten programs and grades one through three. Beginning with school year 2025-2026, reported data to the Arizona Department of Education will include third grade statewide ELA exam data disaggregated by subgroups.
1. Student counts of subgroups that are less than 11 are to be reviewed by the LEA, but are to be redacted for reporting purposes by the Arizona Department of Education.
 2. Subgroups:
 - a. All,
 - b. English Learners,
 - c. American Indian or Alaska Native,
 - d. Asian,
 - e. African American/Black,
 - f. Hispanic or Latino,
 - g. Multiple Races,
 - h. Native Hawaiian or Pacific Islander,
 - i. White,
 - j. Income Eligibility 1 and 2, and
 - k. Students with Disabilities.
- E.** Each school district or charter school governing body shall submit data for the prior school year on the total number of pupils that were subject to retention, the total number that were promoted, the total number actually retained and the interventions administered pursuant to A.R.S. § 15-701 to the Department no later than October 1 and prior to the release of monies generated by the K through three reading support level weight.
- F.** The State Board prescribes competency requirements for the promotion of pupils from the eighth grade and competency requirements for the promotion of pupils from the third grade incorporating the academic standards in at least the areas of reading, writing, mathematics, science and social studies. The competency requirements for the promotion of pupils from the third grade include the following:
1. A pupil shall not be promoted from the third grade if the pupil obtains a score on the reading portion of the statewide assessment that does not demonstrate sufficient reading skills as established by the state board. A pupil may not be retained pursuant to this subsection if data regarding the pupil's performance on the statewide assessment is not available before the end of the current academic year and may not be retained due to Move On When Reading more than once. A pupil who is not retained due to the unavailability of test data must receive evidence-based intervention and remedial strategies pursuant to A.R.S. § 15-701(A)(2)(c) if the third-grade assessment data subsequently does not demonstrate sufficient reading skills.
 - a. Each school district shall continue to provide targeted reading interventions and supports for students who are promoted to fourth grade due to one of the good-cause exemptions. As an example, implementing the following evidence-based practices:
 - i. Placement with a highly-effective teacher, as determined by teacher evaluations;
 - ii. Use of a valid literacy assessment to determine specific areas of struggle with reading;
 - iii. High-dose tutoring targeted to the specific areas of struggle, including:

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- (1) Continued development of phonological awareness skills;
 - (2) Continued development of decoding skills;
 - (3) Continued development of fluency skills;
 - iv. Use of a valid and reliable literacy assessment for regular progress monitoring;
 - v. Regular communication with the parents/guardians of students receiving supports to detail the reports received at school and specific strategies that parents can use to support students in the home.
 - b. Each school district or charter school governing body shall use a valid and reliable literacy assessment to collect and provide updated data on the progress of students who are promoted to fourth grade due to one of the good-cause exemptions.
 2. A school district governing board or the governing body of a charter school may promote a pupil from the third grade who does not demonstrate sufficient reading skills pursuant to subsection (F)(1) if the pupil:
 - a. Is an English learner or a limited English proficient student as defined in A.R.S. § 15-751 and has had fewer than three years of English language instruction.
 - b. Is in the process of a special education referral or evaluation for placement in special education, has been diagnosed as having a significant reading impairment, including dyslexia, or is a child with a disability as defined in A.R.S. § 15-761 if the pupil's individualized education program team and the pupil's parent or guardian agree that promotion is appropriate based on the pupil's individualized education program.
 - c. Has demonstrated or subsequently demonstrates sufficient reading skills or adequate progress toward sufficient reading skills of the third grade reading standards as evidenced through a collection of valid and reliable reading assessments approved by the State Board of Education, which includes an alternative standardized reading assessment approved by the state board. The approved alternative standardized reading assessment shall be a re-administration of the statewide third-grade English language arts exam, which shall be administered by the Arizona Department of Education, and shall use the same State Board approved K through three reading program (Move On When Reading) cut score.
 - d. Receives intervention and remedial services during the summer or a subsequent school year pursuant to A.R.S. § 15-701(A)(2)(c) and demonstrates sufficient progress based on guidelines issued in A.R.S. § 15-701(B)(7). Sufficient progress toward reading may be demonstrated by meeting the State Board of Education approved cut score for the K through three reading program (Move On When Reading) on a readministration of the statewide third-grade English language arts exam as administered by the Arizona Department of Education.
- G.** On or before December 15, the Department of Education shall submit an annual report on the K through three reading program to the governor, the president of the Senate and the speaker of the House of Representatives and shall provide a copy of this annual report to the secretary of state, the State Board of Education and the chairpersons of the education committees of the Senate and the House of Representatives. The report shall contain all of the following:
1. Information on the improvement of K through three reading in this state, including achievement data statewide and achievement data at the school district and charter school level. The information pursuant to this paragraph shall include data and information on continued proficiency on the statewide assessment in subsequent grades.
 2. A description of the activities of the department to support school districts and charter schools in improving K through three reading.
 3. Specific findings on methods by which the department may continue to improve support and assistance for school districts and charter schools in the administration of K through three reading program plans.
 4. Information and data on K through three reading program plans throughout this state and the expenditure of K through three reading monies by school districts and charter schools.
 5. Information on the progress towards reading at grade level of students who were promoted in the previous year due to a good cause exemption, including strategies used to support these students and the progress they have made towards grade-level reading.
 - a. Example Strategies:
 - i. Placement with a highly-effective teacher, as determined by teacher evaluations;
 - ii. Use of a valid literacy assessment to determine specific areas of struggle with reading;
 - iii. High-dose tutoring targeted to the specific areas of struggle, including:
 - (1) Continued development of phonological awareness skills;
 - (2) Continued development of decoding skills;
 - (3) Continued development of fluency skills;
 - iv. Use of a valid literacy assessment for regular progress monitoring;
 - v. Regular communication with the parents/guardians of students receiving supports to detail the reports received at school and specific strategies that parents can use to support students in the home.
 6. Data reported pursuant to A.R.S. § 15-701(A)(2)(d).
 1. Beginning with school year 2025/2026, the Arizona Department of Education shall disaggregate and report the data submitted by local education agencies by subgroup by grade level for each of the three data submission windows. Student counts of subgroups that are less than 11 are to be redacted for reporting purposes.
 2. Subgroups:
 - i. All,
 - ii. English Learners,
 - iii. American Indian or Alaska Native,
 - iv. Asian,
 - v. African American/Black,
 - vi. Hispanic or Latino,
 - vii. Multiple Races,
 - viii. Native Hawaiian or Pacific Islander,
 - ix. White,
 - x. Income Eligibility 1 and 2,
 - xi. Students with Disabilities;

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- (1) Autism,
- (2) Developmental delay,
- (3) Emotional disability,
- (4) Hearing impairment,
- (5) Other health impairment,
- (6) Specific learning disability,
- (7) Mild, moderate, or severe intellectual disability,
- (8) Multiple disabilities,
- (9) Multiple disabilities with severe sensory impairment,
- (10) Orthopedic impairment,
- (11) Preschool severe delay,
- (12) Speech/language impairment,
- (13) Traumatic brain injury,
- (14) Visual impairment.

Historical Note

New Section made by final exempt rulemaking at 23 A.A.R. 1637, effective May 22, 2017 (Supp. 17-2). The hyphen between “K-3” and the numeral “3” have been corrected to the words “through three” for consistency in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 29 A.A.R. 2532 (October 10, 2023), effective September 25, 2023 (Supp. 23-3).

R7-2-319. State Seal of Personal Finance Proficiency

A. School districts and charter schools may participate in the State Seal of Personal Finance Proficiency Program (Program), which recognizes students who have attained a high level of proficiency in personal finance. School districts and charter schools participating in the Program may award the State Seal of Personal Finance Proficiency to any high school student who graduates from a school operated by the school district or charter school and who meets the requirements of the Program outlined in subsections (A)(1) and (A)(2) of this subsection. To be eligible to be awarded the State Seal of Personal Finance Proficiency, each student shall do each of the following:

1. Complete all Social Studies requirements for graduation with GPA of 3.0 or higher on a 4.0 scale, or the equivalent; and
2. Complete all of the following activities:
 - a. Passage of an assessment. The student shall attain the required score on one personal finance assessment as adopted by the State Board of Education, defined by the Arizona Department of Education, for purposes of demonstrating personal finance proficiency;
 - b. Completion of an approved Personal Finance Program. The student shall complete one of the personal finance programs as adopted by the State Board of Education, defined by the Arizona Department of Education, for purposes of demonstrating personal finance proficiency;
 - c. Participation in a curricular or extracurricular program. The student shall complete one personal finance curricular or extracurricular program as adopted by the State Board of Education, defined by the Arizona Department of Education, for purposes of demonstrating personal finance proficiency; and
 - d. Demonstrated college and/or career readiness plan. The student shall complete one college and career readiness plan as adopted by the State Board of Education, defined by the Arizona Department of Edu-

cation, for purposes of demonstrating personal finance proficiency.

- B. By October 1 of each year, the Arizona Department of Education shall make an electronic facsimile of the State Seal of Personal Finance Proficiency available to each school district or charter school participating in the Program. Each participating school district or charter school shall identify each student who has met the requirements of the Program, affix the State Seal of Personal Finance Proficiency to the student’s diploma upon graduation, and shall note the receipt of the State Seal of Personal Finance Proficiency on the transcript of the student.
- C. The Arizona Department of Education shall post on its website by July 1 of each year:
 1. The list of acceptable personal finance assessments and the score to be achieved on each, as approved by the Board, which meet the requirements of R7-2-319(A)(2)(a);
 2. The list of acceptable personal finance programs, as approved by the Board, which meet the requirements of R7-2-319(A)(2)(b);
 3. The list of acceptable personal finance curricular or extra-curricular programs, as approved by the Board, which meet the requirements of R7-2-319(A)(2)(c); and
 4. The list of acceptable college and/or career readiness plans, as approved by the Board, which meet the requirements of R7-2-319(A)(2)(d).
- D. Each school district and charter school that participates in the Program shall meet the following requirements:
 1. Notify the Arizona Department of Education of its intent to participate in the Program at least 30 days prior to issuing the seal by filling out the form provided on the Arizona Department of Education’s website;
 2. Designate at least one individual to serve as coordinator of the Program and provide that individual’s name and contact information to the Arizona Department of Education;
 3. Using a format prescribed by the Arizona Department of Education, submit a report no later than 90 days after the end of the school year with the total number of students awarded the State Seal of Personal Finance Proficiency; and
 4. Make available to parents and students information regarding the Program and the name and contact information for the coordinator of the Program.
- E. The Arizona Department of Education shall establish guidelines and procedures to assist school districts and charter schools in the administration of the Program.

Historical Note

New Section made by final exempt rulemaking at 25 A.A.R. 962, effective March 25, 2019 (Supp. 19-1).

R7-2-320. State Seal of Civics Literacy

- A. School districts and charter schools may participate in the State Seal of Civics Literacy Program (Program), which recognizes students who have attained a high level of proficiency in Civics. School districts and charter schools participating in the Program may award the State Seal of Civics Literacy to any high school student who graduates from a school operated by the school district or charter school and who meets the requirements of the Program outlined in (A)(1), (2) and (3) of this subsection. To be eligible, each student shall do all of the following:

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1. Complete all Social Studies requirements for graduation with GPA of 3.0 or higher on a 4.0 scale, or the equivalent;
2. Pass the Civics test prescribed in R7-2-302; and
3. Complete all of the following activities:
 - a. Civic Learning Programs. The student shall complete the required number of civic learning programs for purposes of demonstrating civic literacy.
 - i. Students graduating in school year 2019-2020 shall complete at least two approved civic learning programs.
 - ii. Students graduating in school year 2020-2021 and thereafter shall complete at least three approved civic learning programs.
 - b. Civic Engagement Activities. The student shall complete the required number of civic engagement activities as for purposes of demonstrating civic literacy.
 - i. Students graduating in school year 2019-2020 shall complete at least one approved civic engagement activity.
 - ii. Students graduating in school year 2020-2021 and thereafter shall complete at least two approved civic engagement activities.
 - iii. Students graduating in school year 2024-25 and thereafter shall complete at least 30 hours engaged in civic engagement activities.
 - (1) At least 10 hours shall be satisfied through approved civic engagement activities.
 - (2) Remaining hours may be satisfied through community service if the students are focused on solving a public problem. Community service hours shall be satisfied through unpaid work with a public agency or charitable organization that serves the public good.
 - c. Written Reflection. The student shall complete a writing assignment as adopted by the State Board of Education for purposes of demonstrating civic literacy proficiency.
- B. By October 1 of each year, the Arizona Department of Education shall make an electronic facsimile of the State Seal of Civics Literacy available to each school district or charter school participating in the Program. Each participating school district or charter school shall identify each student who has met the requirements of the Program, affix the State Seal of Civics Literacy to the student's diploma upon graduation, and shall note the receipt of the State Seal of Civics Literacy on the transcript of the student.
- C. The Arizona Department of Education shall post on its website by July 1 of each year:
 1. The list of acceptable civic learning programs, as approved by the Board, which meet the requirements of R7-2-320(A)(3)(a);
 2. The list of acceptable civic engagement activities, as approved by the Board, which meet the requirements of R7-2-320(A)(3)(b);
 3. The defined number of hours of community service for a public agency or charitable organization that serves the public good, as approved by the Board, which meet the requirements of R7-2-320(A)(3)(b); and
 4. The list of written assignments, as approved by the Board, which meet the requirements of R7-2-320(A)(3)(c).
- D. Each school district and charter school that chooses to participate in the Program shall meet the following requirements:
 1. Notify the Arizona Department of Education of its intent to participate in the Program at least 30 days prior to issuing the seal by filling out the form provided on the Arizona Department of Education's website;
 2. Designate at least one individual to serve as coordinator of the Program and provide that individual's name and contact information to the Arizona Department of Education;
 3. Using a format prescribed by the Arizona Department of Education, submit a report no later than 90 days after the end of the school year with the total number of students awarded the State Seal of Civics Literacy; and
 4. Make available to parents and students information regarding the Program and the name and contact information for the coordinator of the Program.
- E. The Arizona Department of Education shall establish guidelines and procedures to assist school districts and charter schools in the administration of the Program.

Historical Note

New Section made by final exempt rulemaking at 25 A.A.R. 962, effective March 25, 2019 (Supp. 19-1). Section amended by final exempt rulemaking at 30 A.A.R. 2547 (August 9, 2024), effective July 24, 2024 (Supp. 24-3).

R7-2-321. State Seal of Arts Proficiency

- A. School districts and charter schools in this state may choose to participate in the State Seal of Arts Proficiency Program, which recognizes students who have attained a high level of proficiency in the Arts. School districts and charter schools participating in the Program may award the State Seal of Arts Proficiency to any high school student who graduates from a school operated by the school district or charter school and who meets the requirements of the Program outlined in subsections (A)(1) and (2). To be eligible, a student shall do both of the following:
 1. Complete all qualifying Arts and Career and Technical Education (CTE) courses with GPA of 3.0 or better on a 4.0 scale, or the equivalent.
 2. Complete the required activities from each of the following three categories:
 - a. Minimum Credit Requirements. The student shall complete one of the following credit pathways of Arts and CTE classes as follows:
 - i. A minimum of 4 credits in one artistic discipline; or
 - ii. 3 credits in one artistic discipline, and 1 qualifying creative industries CTE credit or separate artistic discipline; or
 - iii. 2 credits in one artistic discipline, and 2 credits in a qualifying creative industries CTE credits or separate artistic discipline.
 - b. Arts related extracurricular activities. The student shall complete the required number of hours engaged in arts related extracurricular activity for purposes of demonstrating arts proficiency as follows:
 - i. Students graduating in school year 2019-2020 must complete at least 30 hours engaged in arts related extracurricular activities as identified by the school district or charter school.

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- ii. Students graduating in school year 2020-2021 must complete at least 45 hours engaged in arts related extracurricular activities as identified by the school district or charter school.
 - iii. Students graduating in school year 2021-2022 must complete at least 60 hours engaged in arts related extracurricular activities as identified by the school district or charter school.
 - iv. Students graduating in school year 2022-2023 and beyond must complete at least 80 hours engaged in arts related extracurricular activities as identified by the school district or charter school.
 - c. Student Capstone Project. The student shall complete a Capstone Project, as defined by the Arizona Department of Education, for purposes of demonstrating arts proficiency.
 - B. By October 1 of each year, the Arizona Department of Education shall make the State Seal of Arts Proficiency available to each school district or charter school participating in the Program. Each participating school district or charter school shall identify each student who has met the requirements of the Program, affix the State Seal of Arts Proficiency to the student's diploma upon graduation, and shall note the receipt of the State Seal of Arts Proficiency on the transcript of the student.
 - C. The Arizona Department of Education shall post on its website by July 1 of each year:
 1. A list of arts and CTE classes which meet the requirements of R7-2-321(A)(2)(a);
 2. A list of extracurricular arts activities which meet the requirements of R7-2-321(A)(2)(b);
 3. A list of student capstone examples which meet the requirements of R7-2-321(A)(2)(c).
 - D. Each school district and charter school that chooses to participate in the Program shall meet the following requirements:
 1. Notify the Arizona Department of Education of its intent to participate in the Program by September 15 by filling out the form provided on the Arizona Department of Education's website.
 2. Designate at least one individual to serve as coordinator of the Program and provide that individual's name and contact information to the Arizona Department of Education.
 3. Using a format prescribed by the Arizona Department of Education, submit a list of qualifying students who have met graduation and Arts Seal pathway requirements to the Arizona Department of Education by April 15 of each year.
 4. Make information available to parents and students regarding the Program and the name and contact information for the coordinator of the Program.
 - E. The Arizona Department of Education shall establish guidelines and procedures to assist school districts and charter schools in the administration of the Program.
- Historical Note**
 New Section made by final exempt rulemaking at 25
 A.A.R. 3399, effective October 28, 2019 (Supp. 19-4).
- ARTICLE 4. SPECIAL EDUCATION**
 Authority: Laws 2017, Ch. 337
- R7-2-401. Special Education Standards for Public Agencies Providing Educational Services**
- A. For the purposes of this Article, the Individuals with Disabilities Education Improvement Act (IDEA), 20 U.S.C. 1400 et seq. and its implementing regulations, 34 CFR 300.1 et seq., are incorporated herein by reference. Copies of the incorporated material can be obtained from the U.S. Government Printing Office, <https://bookstore.gpo.gov/catalog/law-regulations> or the Arizona Department of Education, Exceptional Student Services, 1535 West Jefferson Street, Phoenix, Arizona 85007.
 - B. Definitions. All terms defined in the IDEA, its implementing regulations and A.R.S. § 15-761 are applicable, with the following additions:
 1. "Accommodations" means the provisions made to allow a student to access the general education curriculum and demonstrate learning. Accommodations do not substantially change the instructional level, content or performance criteria, but are made in order to provide a student equal access to learning and equal opportunity to demonstrate what is known. Accommodations shall not alter the content of the curriculum or a test, or provide inappropriate assistance to the student within the context of the test.
 2. "Administrator" means the chief administrative official or designee authorized to act on behalf of a public education agency.
 3. "Boundaries of responsibility" means for:
 - a. A school district, the geographical area within its legally designated boundaries.
 - b. A charter school, the population of students enrolled in the charter school.
 - c. A public education agency other than a school district or charter school, the population of students receiving educational services from a public education agency.
 4. "Child with a disability," has the same meaning prescribed in A.R.S. § 15-761.
 5. "Department" means the Arizona Department of Education.
 6. "Exceptional Student Services" means the Exceptional Student Services Division of the Arizona Department of Education.
 7. "Evaluator" means a person trained and knowledgeable in a field relevant to the child's disability who administers specific and individualized assessment for the purpose of special education evaluation and placement.
 8. "Full and individual evaluation" means procedures used in accordance with the IDEA to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs. This evaluation includes:
 - a. A review of existing information about the child;
 - b. A decision regarding the need for additional information;
 - c. If necessary, the collection of additional information; and
 - d. A review of all information about the child and a determination of eligibility for special education services and needs of the child.
 9. "Independent educational evaluation" means an evaluation conducted by an evaluator who is not employed by the public education agency responsible for the education of the child in question.
 10. "Informed written consent" means a person has been fully informed of all information relevant to the activity for which consent is sought, in the person's native lan-

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guage or through another mode of communication; the person understands and agrees in writing to the carrying out of the activity for which consent is sought; and the person understands that the granting of consent is voluntary and may be revoked at any time.

11. "Interpreter" means a person trained to translate orally or in sign language in matters pertaining to special education identification, evaluation, placement, the provision of free appropriate public education (FAPE), or assurance of procedural safeguards for parents and students who converse in a language other than spoken English. Each student's IEP team determines the level of interpreter skill necessary for the provision of FAPE.
 12. "Multidisciplinary Evaluation Team" has the same meaning prescribed in A.R.S. § 15-761.
 13. "Modifications" means substantial changes in what a student is expected to learn and to demonstrate. Changes may be made in the instructional level, the content or the performance criteria. Such changes are made to provide a student with meaningful and productive learning experiences, environments, and assessments based on individual needs and abilities.
 14. "Private school" means any nonpublic educational institution where academic instruction is provided, including nonsectarian and parochial schools, that are not under the jurisdiction of the state or a public education agency.
 15. "Private special education school" means a nonpublic educational institution where instruction is provided primarily to students with disabilities. The school may also serve students without disabilities.
 16. "Public education agency" or "PEA" means a school district, charter school, accommodation school, state supported institution, or other political subdivision of the state that is responsible for providing education to children with disabilities.
 17. "Qualified professionals" means individuals who have met state approved or recognized degree, certification, licensure, registration or other requirements that apply in the areas in which the individuals are providing services such as screening, identification, evaluation, general education, special education or related services, including supplemental aids and services.
 18. "Specially designed instruction" has the same meaning prescribed in A.R.S. § 15-761.
 19. "Special education teacher" means a teacher holding a special education certificate from the Arizona Department of Education.
 20. "Suspension" has the same meaning prescribed in A.R.S. § 15-840.
- C. Public Awareness.**
1. Each public education agency shall inform the general public and all parents, within the public education agency's boundaries of responsibility, of the availability of special education services for students aged 3 through 21 years and how to access those services. This includes information regarding early intervention services for children aged birth through 2 years.
 2. School districts are responsible for public awareness in private schools located within their boundaries of responsibility.
- D. Child Identification and Referral.**
1. Each public education agency shall establish, implement, and make available, either in writing or electronically, to its school-based personnel and all parents, within the public education agency boundaries of responsibility, written procedures for the identification and referral of all children with disabilities, aged birth through 21, including children with disabilities attending private schools and home schools, regardless of the severity of their disability.
 2. Each public education agency shall require appropriate school-based personnel to review the written procedures related to child identification and referral on an annual basis. The public education agency shall maintain documentation of school-based personnel review.
 3. Procedures for child identification and referral shall meet the requirements of the IDEA and regulations, A.R.S. Title 15, Chapter 7, Article 4 and these rules.
 4. The public education agency responsible for child identification activities is the school district in which the parents reside unless:
 - a. The student is enrolled in a charter school or public education agency that is not a school district. In that event, the charter school or public education agency is responsible for child identification activities;
 - b. The student is enrolled in a non-profit private school. In that event, the school district within whose boundaries the private school is located is responsible for child identification activities.
 5. Identification (screening for possible disabilities) shall be completed within 45 calendar days after:
 - a. Entry of each preschool or kindergarten student and any student enrolling without appropriate records of screening, evaluation, and progress in school; or
 - b. Notification to the public education agency by parents of concerns regarding developmental or educational progress by their child aged 3 years through 21 years.
 6. Screening procedures shall include vision and hearing status and consideration of the following areas: cognitive or academic, communication, motor, social or behavioral, and adaptive development. Screening does not include detailed individualized comprehensive evaluation procedures.
 7. For a student transferring into a school; the public education agency shall review enrollment data and educational performance in the prior school. If there is a history of special education for a student not currently eligible for special education, or poor progress, the name of the student shall be submitted to the administrator for consideration of the need for a referral for a full and individual evaluation or other services.
 8. If a concern about a student is identified through screening procedures or through review of records, the public education agency shall notify the parents of the student of the concern within 10 school days and inform them of the public education agency procedures to follow-up on the student's needs.
 9. Each public education agency shall maintain documentation of the identification procedures utilized, the dates of entry into school or notification by parents made pursuant to subsection (D)(5), and the dates of screening. The results shall be maintained in the student's permanent records in a location designated by the administrator. In the case of a student not enrolled, the results shall be maintained in a location designated by the administrator.
 10. If the identification process indicates a possible disability, the name of the student shall be submitted to the adminis-

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trator for consideration of the need for a referral for a full and individual evaluation or other services. A parent or a student may request an evaluation of the student. For parentally-placed private school students the school district within whose boundaries the non-profit private school is located is responsible for such evaluation.

11. If, after consultation with the parent, the responsible public education agency determines that a full and individual evaluation is not warranted, the public education agency shall provide prior written notice and procedural safeguards notice to the parent in a timely manner.

E. Evaluation/re-evaluation.

1. Each public education agency shall establish, implement, and make available to school-based personnel and parents within its boundaries of responsibility written procedures for the initial full and individual evaluation of students suspected of having a disability, and for the re-evaluation of students previously identified as being eligible for special education.
2. Procedures for the initial full and individual evaluation of children suspected of having a disability and for the re-evaluation of students with disabilities shall meet the requirements of IDEA and its regulations, state statutes and State Board of Education rules.
3. The initial evaluation of a child being considered for special education, or the re-evaluation per a parental request of a student already receiving special education services, shall be conducted within 60 calendar days from the public education agency's receipt of the parent's informed written consent and shall conclude with the date of the Multidisciplinary Evaluation Team (MET) determination of eligibility.
4. If the parent requests the evaluation the PEA must, within a reasonable amount of time not to exceed 15 school days from the date it receives a parent's written request for an evaluation, either begin the evaluation by reviewing existing data, or provide prior written notice refusing to conduct the requested evaluation. The 60-day evaluation period shall commence upon the PEA's receipt of the parent's informed written consent.
5. The 60-day evaluation period may be extended for an additional 30 days, provided it is in the best interest of the child, and the parent and PEA agree in writing to such an extension. Neither the 60-day evaluation period nor any extension shall cause a re-evaluation to exceed the timelines for a re-evaluation within three years of the previous evaluation.
6. The public education agency may accept current information about the student from another state, public agency, public education agency, or through an independent educational evaluation. In such instances, the Multidisciplinary Evaluation Team shall be responsible for reviewing and approving or supplementing an evaluation to meet the requirements identified in subsections (E)(1) through (7).
7. For the following disabilities, the full and individual initial evaluation shall include:
 - a. Emotional disability: verification of a disorder by a qualified professional.
 - b. Hearing impairment:
 - i. An audiological evaluation by a qualified professional, and
 - ii. An evaluation of communication/language proficiency.

- c. Other health impairment: verification of a health impairment by a qualified professional.
 - d. Specific learning disability: a determination of whether the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development that meets the public education agency criteria through one of the following methods:
 - i. A discrepancy between achievement and ability;
 - ii. The child's response to scientific, research-based interventions; or
 - iii. Other alternative research-based procedures.
 - e. Orthopedic impairment: verification of the physical disability by a qualified professional.
 - f. Speech/language impairment: an evaluation by a qualified professional.
 - g. For students whose speech impairments appear to be limited to articulation, voice, or fluency problems, the written evaluation may be limited to:
 - i. An audiometric screening within the past calendar year,
 - ii. A review of academic history and classroom functioning,
 - iii. An assessment of the speech problem by a speech therapist, or
 - iv. An assessment of the student's functional communication skills.
 - h. Traumatic brain injury: verification of the injury by a qualified professional.
 - i. Visual impairment: verification of a visual impairment by a qualified professional.
8. The Department shall develop a list, subject to review and approval of the State Board of Education, of qualified professionals eligible to conduct the appropriate evaluations prescribed in subsection (E)(7).
 9. The Multidisciplinary Evaluation Team shall determine, in accordance with the IDEA and regulations, whether the requirements of subsections (E)(7)(a) through (i) are required for a student's re-evaluation.

F. Parental Consent.

1. A public education agency shall obtain informed written consent from the parent of the child with a disability before the initial provision of special education and related services to the child.
2. If the parent of a child fails to respond to a request for, or refuses to consent to, the initial provision of special education and related services, the public education agency may not use mediation or due process procedures in order to obtain agreement or a ruling that the services may be provided to the child.
3. If the parent of the child refuses to consent to the initial provision of special education and related services, or the parent fails to respond to a request to provide consent for the initial provision of special education and related services, the public education agency:
 - a. Will not be considered to be in violation of the requirement to make available FAPE to the child because of the failure to provide the child with the special education and related services for which the parent refuses to or fails to provide consent, and
 - b. Is not required to convene an IEP Team meeting or develop an IEP in accordance with these rules.

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4. If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent in writing for the continued provision of special education and related services, the public education agency:
 - a. May not continue to provide special education and related services to the child, but shall provide prior written notice before ceasing the provision of special education and related services;
 - b. May not use the mediation procedures or the due process procedures in order to obtain agreement or a ruling that the services may be provided to the child;
 - c. Will not be considered to be in violation of the requirement to make FAPE available to the child because of the failure to provide the child with further special education and related services; and
 - d. Is not required to convene an IEP Team meeting or develop an IEP for the child for further provision of special education and related services.
 5. If a parent revokes consent in writing for their child's receipt of special education services after the child is initially provided special education and related services, the public agency is not required to amend the child's education records to remove any references to the child's receipt of special education and related services because of the revocation of consent.
- G. Individualized Education Program (IEP).**
1. Each public education agency shall establish, implement, and make available to its school-based personnel and parents written procedures for the development, implementation, review, and revision of IEPs.
 2. Procedures for IEPs shall meet the requirements of the IDEA and its regulations, state statutes and State Board of Education rules.
 3. Procedures shall include the incorporation of Arizona academic standards as adopted by the State Board of Education into the development of each IEP and address grade-level expectations and grade-level content instruction.
 4. Each IEP of a student with a disability shall be developed in accordance with IDEA and its regulations, state statutes and State Board of Education rules. If appropriate to meet the needs of a student and to ensure access to the general curriculum, an IEP team may include specially designed instruction in the IEP that may be delivered in a variety of educational settings by a general education teacher or other certificated personnel provided that certificated special education personnel are involved in the planning, progress monitoring and when appropriate, the delivery of the specially designed instruction.
 5. Each student with a disability who has an IEP shall participate in the state assessment system. Students with disabilities can test with or without accommodations or modifications as indicated in the student's IEP. Students who are determined to have a significant cognitive disability based on the established eligibility criteria will be assessed with the state's alternate assessment as determined by the IEP team.
 6. A meeting of the IEP team shall be conducted to review and revise each student's IEP at least annually, or more frequently if the student's progress substantially deviates from what was anticipated. The public education agency shall provide written notice of the meeting to the parents of the student to ensure that parents have the opportunity to participate in the meeting. After the annual review, the public education agency and parent may agree not to convene an IEP team meeting for the purposes of making changes, and instead may develop a written document to amend or modify the student's current IEP.
 7. A parent or public education agency may request in writing a review of the IEP, and shall identify the basis for requesting review. Such review shall take place within 45 school days of the receipt of the request at a mutually agreed upon date and time.
- H. Least Restrictive Environment.**
1. Each public education agency shall establish, implement, and make available to its school-based personnel and parents, written procedures to ensure the delivery of special education services in the least restrictive environment as identified by IDEA and its regulations, state statutes and State Board of Education rules.
 2. A continuum of services and supports for students with disabilities shall be available through each public education agency.
- I. Procedural Safeguards.**
1. Each public education agency shall establish, implement, and make available to school-based personnel and parents of students with disabilities written procedures to ensure children with disabilities and their parents are afforded the procedural safeguards required by federal statute and regulation and state statute. These procedures shall include dissemination to parents information about the public education agency's and state's dispute resolution options.
 2. In accordance with the requirements of IDEA, prior written notice shall be provided to the parents of a child within a reasonable time after the PEA proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, educational placement or the provision of FAPE to the child, but before the decision is implemented.
- J. Confidentiality.**
1. Each public education agency shall establish, implement, and make available to its personnel and parents written policies and procedures to ensure the confidentiality of records and information in accordance with the IDEA and its regulations, the Family Educational Rights and Privacy Act (FERPA) and its regulations, and state statutes.
 2. Parents shall be fully informed about the requirements of the IDEA and regulations, including an annual notice of the policies and procedures that the PEA shall follow regarding storage, disclosure to a third party, retention, and destruction of personally identifiable information.
 3. The rights of parents regarding education records are transferred to the student at age 18, unless the student has been adjudicated incapacitated, or the student has executed a delegation of rights to make educational decisions pursuant to A.R.S. § 15-773.
 4. Upon receiving a written request, each public education agency shall forward special education records to any other public education agency in which a student has enrolled or is seeking to enroll. Records shall be forwarded within the time-frame specified in A.R.S. § 15-828(F). The public education agency shall also forward records to any other person or agency for which the parents have given signed consent.
- K. Preschool Programs.** Each public education agency responsible for serving preschool children with disabilities shall establish

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lish, implement, and make available to its personnel and parents, written procedures for:

1. The operation of the preschool program, in accordance with federal statute and regulation, and state statute, that provides a continuum of placements to students;
 2. The smooth and effective transition from the Arizona Early Intervention Program to a public school preschool program in accordance with the agreement between the Department of Economic Security and the Department; and
 3. The provision of a minimum of 360 minutes per week of instruction in a program that meets at least 216 hours over the minimum number of days.
- L. Children in Private Schools.** Each education agency shall establish, implement, and make available to its personnel and parents written procedures regarding the access to special education services to students enrolled in private schools by their parents as identified by the IDEA and its regulations, state statutes and State Board of Education rules.
- M. Department Responsible for General Supervision and Obligations Related to and Methods of Ensuring Services.**
1. The Department is responsible for the general supervision of services to children with disabilities aged 3 through 21 served through a public education agency.
 2. The Department shall ensure through fund allocation, monitoring, dispute resolution, and technical assistance that all eligible students receive FAPE in conformance with the IDEA and its regulations, A.R.S. Title 15, Chapter 7, Article 4, and these rules.
 3. In exercising its general supervision responsibilities, the Department shall ensure that when it identifies noncompliance with the requirements of the IDEA Part B, the noncompliance is corrected as soon as possible, and in no case later than one year after the Department's written notification to the PEA of its identification of the noncompliance.
- N. Procedural Requirements Relating to Public Education Agency Eligibility.**
1. Each public education agency shall establish eligibility for funding with the Department in accordance with the IDEA and its regulations, state statutes and with schedules and methods prescribed by the Department.
 2. In the event the Department determines that a public education agency does not meet eligibility for funding requirements, the public education agency has a right to a hearing before such funding is withheld.
 3. The Department may suspend payments during any time period when a public education agency has not corrected deficiencies in eligibility for federal funds as a result of fiscal requirements of monitoring, auditing, complaint and due process findings.
 4. Each public education agency shall, on an annual basis, determine the number of children within each disability category who have been identified, located, evaluated, and/or receiving special education services. This includes children residing within the boundaries of responsibility of the public education agency who have been placed by their parents in private schools or who are home schooled.
- O. Public Participation.**
1. Each public education agency shall establish, implement, and make available to personnel and parents written procedures to ensure that, prior to the adoption of any poli-

cies and procedures needed to comply with federal and state statutes and regulations, there are:

- a. Public hearings;
 - b. Notice of the hearings; and
 - c. An opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.
2. This requirement does not pertain to day-to-day operating procedures.
- P. Suspension and Expulsion.**
1. Each public education agency shall establish, implement, and make available to personnel and parents written procedures for the suspension and expulsion of students with disabilities.
 2. Each public education agency shall require all school-based staff involved in the disciplinary process to review the policies and procedures related to suspension and expulsion on an annual basis. The public education agency shall maintain documentation of staff review.
 3. Procedures for such suspensions and expulsions shall meet the requirements of the IDEA and its regulations, and state statutes.

Historical Note

Amended effective December 11, 1974. Amended effective July 14, 1975 (Supp. 75-1). Amended effective July 1, 1977 (Supp. 77-4). Amended effective April 26, 1978 (Supp. 78-2). Former Section R7-2-401 repealed, new Section R7-2-401 adopted effective December 4, 1978 (Supp. 78-6). Amended by adding subsection (H) as an emergency effective July 20, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Amended (D)(11), (E)(5)(b) and added (H) effective December 14, 1984 (Supp. 84-6). Amended as an emergency effective June 18, 1985, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-3). Emergency expired. Amended subsection (D) by adding subsection (12) effective March 13, 1986 (Supp. 86-2). Amended subsection (G) effective July 8, 1986 (Supp. 86-4). Amended subsections (D) and (H) and added subsection (I) effective June 22, 1987 (Supp. 87-2). Amended effective August 2, 1988 (Supp. 88-3). Amended effective December 6, 1995 (Supp. 95-4). Amended by final rulemaking at 7 A.A.R. 1541, effective March 19, 2001 (Supp. 01-1). Amended to correct a manifest typographical error in subsection (D)(1) (Supp. 01-3). Subsections (D)(9), (E)(4), and (E)(6) amended under A.R.S. § 41-1011 to correct subsection cross-references (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 4633, effective December 8, 2003 (Supp. 03-4). Amended by exempt rulemaking at 15 A.A.R. 1838, effective August 29, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1849, effective May 19, 2008 (Supp. 09-2). Amended by exempt rulemaking at 16 A.A.R. 201, effective December 7, 2009 (Supp. 10-1). Amended by final exempt rulemaking at 24 A.A.R. 140, effective October 23, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

R7-2-402. Standards for Approval of Special Education Programs in Private Schools

- A. Definitions.** All terms defined in the regulations for the Individuals with Disabilities Education Improvement Act (IDEA) Amendments, A.R.S. § 15-761, and State Board of Education Section R7-2-401 are applicable.

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- B. No student may be placed by a public education agency in a private special education school program unless the facility has been approved as meeting the standards as outlined in this Section, and the public education agency is unable to provide satisfactory education and services through its own facilities and personnel.
- C. In order for a private special education school to be approved by the Department for the purpose of contracting with a public education agency, the private facility shall:
 1. Provide special education instructional programs for students with disabilities that are at least comparable to those provided by the public schools of Arizona and meet the requirements of IDEA.
 2. Provide the following documentation:
 - a. Policies and procedures based on IDEA and state statutes;
 - b. Curriculum that is aligned with the Arizona Academic Standards;
 - c. A completed application;
 - d. Copies of all teacher and related service personnel certifications and licenses; and
 - e. If applicable, a copy of North Central Accreditation.
 3. Provide certificated special education teachers in each classroom to implement the IEPs of those students assigned to that classroom.
 4. Provide related services to meet the needs of the students as indicated on their IEPs.
 5. Provide administration personnel such as head teacher, principal, or other administrator certificated in an administrative area or experienced and certificated in the appropriate area of special education.
 6. Provide an education that meets the standards that apply to education provided by the public education agency.
 7. Maintain student records in accordance with the statutory requirements.
 8. Accept all responsibilities concerning instructional programs to the disabled student and parent or guardian that are required of the public schools of Arizona. Ultimate responsibility for any student under contract in a private special education school rests with the public education agency contracting for the students' education.
 9. Administer all required statewide assessments to those students placed in the private facility by a PEA or through the educational voucher system.
 10. Maintain adequate liability insurance.
 11. Maintain an accounting system and budget which includes the costs of operation, maintenance, transportation, and capital outlay, and which is open to review upon request.
 12. Maintain an attendance reporting system that provides public education agencies and the Department with required information.
 13. Provide notification to contracting public education agencies and the Department of any changes in staff or deletion of programs within 10 school days of the change or deletion.
 14. Provide notification to the contracting PEA of any intent to discontinue, suspend, or terminate services to a student for longer than 10 days. Services to the student must be continued by the private school until an IEP meeting with the PEA is convened to determine an appropriate alternative placement. The PEA must be given up to 10 school days to arrange for the transition of the student after the IEP determination.

15. Permit onsite evaluation of the program by the Department or its designees, and the representatives of the public education agencies.
16. Request approval to contract with public education agencies from the Department in accordance with the prescribed procedures.

Historical Note

Former Section R7-2-402 repealed, new Section R7-2-402 adopted effective December 4, 1978 (Supp. 78-6). Amended by final rulemaking at 7 A.A.R. 1541, effective March 19, 2001 (Supp. 01-1). Amended by final rulemaking at 9 A.A.R. 4633, effective December 8, 2003 (Supp. 03-4). Amended by exempt rulemaking at 15 A.A.R. 1849, effective May 19, 2008 (Supp. 09-2). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-403. Repealed**Historical Note**

Adopted effective December 4, 1978 (Supp. 78-6). Amended as an emergency effective September 26, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-5). Former emergency adoption now adopted effective December 4, 1979 (Supp. 79-6). Section repealed by final rulemaking at 9 A.A.R. 4633, effective December 8, 2003 (Supp. 03-4).

R7-2-404. Special Education Voucher Program Policies and Procedures

- A. Institutional vouchers. Students residing and attending special education programs at the Arizona Schools for the Deaf and the Blind (ASDB) or the Arizona State Hospital (ASH) or students attending special education day programs provided by ASDB may be eligible for special education institutional voucher funding.
 1. Eligibility criteria.
 - a. Student shall be between the ages of 3 and 22 years.
 - b. Student shall have a recognized disability as documented by a current educational evaluation. Evaluations shall be completed by the institution or the student's home school district (HSD), as determined by a multidisciplinary evaluation team (MET).
 - c. Student shall have a current individualized education program (IEP) identifying the placement as the most appropriate and least restrictive educational environment.
 2. Institutional voucher application/approval.
 - a. Applications for special education institutional vouchers shall be completed by the institution and submitted to the Exceptional Student Services Division of the Department of Education. The institution shall provide all student information requested on the institutional voucher application.
 - b. Institutions shall sign a Statement of Assurance guaranteeing their maintenance of and ability to produce all supporting documentation for each application.
 - c. Institutional voucher applications shall be reviewed and approved or disapproved by the voucher unit manager. Applications that are disapproved may be corrected and resubmitted. Institutional voucher payments will not be made for student attendance prior to voucher approval date.

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- d. Voucher identification numbers shall be assigned for each new student approval, and shall be used by the institution to complete claims for payment and the special education census form.
- e. Institutional vouchers are approved for the current year only; therefore the application process shall be repeated each school year for each student.
- f. Institutions shall report any changes in student status, including withdrawals, transfers, current evaluation dates and changes in disability categories to the Exceptional Student Services Division of the Department of Education. Changes shall be submitted within ten days of the occurrence.
- 3. Institutional voucher claim for payment.
 - a. The special education institutional voucher claim for payment form shall be completed by the institution at the end of each calendar month. The claim shall be submitted in accordance with procedures established by the School Finance Division of the Department of Education.
 - b. Claims for payment shall be submitted to the School Finance Division of the Department of Education.
- 4. Special education census.
All institutional voucher students shall be reported on the special education census in accordance with procedures established by the School Finance Division of the Department of Education.
- 5. Review of placement.
 - a. It is the responsibility of the HSD to review student progress at least once a semester.
 - b. The IEP may be completed by the institution but is ultimately the responsibility of the student's HSD to ensure that it is reviewed and revised annually.
 - c. It is the responsibility of the HSD to ensure that re-evaluations are conducted on a tri-annual basis or more frequently as needed.
- B. Residential vouchers: Students placed in private residential treatment facilities (PRF) may be eligible for residential voucher funding for the educational portion of the placement.
 - 1. Eligibility Criteria.
 - a. Students shall be enrolled in and eligible for educational services from a Public Education Agency (PEA).
 - b. Placement shall be made by one of the State Placing Agencies. They are the Department of Economic Security (DES), the Department of Health Services (DHS), the Administrative Office of the Courts (AOC), or the Department of Juvenile Corrections (ADJC).
 - c. Residential facilities shall be licensed by the Department of Health Services or Department of Economic Security and approved by the Department of Education for the specific educational needs of each student placed there.
 - d. The following conditions invalidate eligibility.
 - i. Placement by any agency other than those noted in subsection (B)(1)(b).
 - ii. Placement in facilities not appropriately licensed by DHS or DES or approved by the Department of Education.
 - iii. Student attendance at a PEA while residing in a residential facility.
 - e. Eligible students are divided into three categories.
 - i. Non-special education (NSE): Students not eligible for special education services who are placed by a State Placing Agency for their care, safety, or treatment.
 - ii. Care special education (CSE): Students eligible for special education services who are placed by a State Placing Agency for their care, safety, or treatment.
 - iii. Residential special education (RSE): Students requiring residential placement to benefit from educational programming who are placed by an IEP team.
 - 2. Voucher application/approval process. The process differs depending on category.
 - a. NSE and CSE options:
 - i. When a placement decision is reached, the State Placing Agency (SPA) shall complete a SPA Application for Voucher Funding, and forward a copy to the student's Home School District (HSD) for appropriate signatures within five days of placement.
 - ii. Upon placement, copies of the completed voucher shall be provided to the PRF and the Exceptional Student Services of the Department of Education (ESS).
 - iii. Upon receipt and review of the application and verification of facility approval, the SPA application will be approved for the initial 60 days of placement. An approval memo is sent to the PRF and the HSD. The Exceptional Student Services shall assign a student identification number to each approved voucher student. This number shall be used by the private facility when completing the special education census form and the claim for payment form.
 - iv. The HSD shall submit the HSD Application for Education Voucher Funding packet and submit it to the Exceptional Student Services of the Department of Education. Appropriate documentation of eligibility for special education and provision of services, if applicable, shall be included.
 - v. The HSD voucher application packet shall be reviewed and approved or disapproved by the voucher unit manager. Applications that are disapproved may be corrected and resubmitted. Approvals are granted from the date of receipt through the end of the school year. An approval memo is sent to the PRF and the HSD.
 - vi. If the HSD cannot complete the requirements for the HSD application packet within the initial 60-day approval period, they shall submit an Application For Extension Of Education Voucher Funding.
 - b. RSE option.
The HSD shall follow statutory requirements and procedures agreed upon by the ADE, DHS, and DES when considering placement in a PRF for educational reasons. If a need for such a placement is determined, the HSD shall complete and submit the HSD Application for Education Voucher Funding packet to the ESS. Documentation of the necessity for PRF placement, measurable exit criteria, and a reintegration plan shall be required.

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3. Changes in placement/Discharge.
 - a. If a student is discharged or is absent without leave for more than ten days from the PRF, the facility shall notify the State Placing Agency, Home School District and the Exceptional Student Services Division of the Department of Education in writing within five days.
 - b. Students returning to a facility after a discharge or students transferred from one facility to another require a new SPA voucher application.
 - c. Students placed under the RSE option shall not be discharged without the consent of the IEP team.
 4. Voucher claim for payment.
 - a. A special education voucher claim for payment shall be submitted in accordance with procedures established by the School Finance Division of the Department of Education.
 - b. Claim for payment shall be submitted to the School Finance Division of the Department of Education.
 5. Special education census.

A special education census form shall be completed for all voucher students in accordance with procedures established by the School Finance Division of the Department of Education.
 6. Review and continuation of placement.
 - a. The Home School District (HSD) shall regularly monitor the progress of students, ensure the annual review and revision of IEPs, and complete three-year re-evaluations as applicable.
 - b. Voucher approval is for one school year only. Students remaining in an PRF from the end of one school year to the beginning of the next year require new voucher applications. Prior to the beginning of the new school year, the PRF shall submit an Application for Continuing Voucher funding, signed by both the SPA and the HSD. For a student who is eligible for special education services, a current IEP shall accompany the continuing application if the IEP has been reviewed or revised after the original voucher was approved.
- edgeable in the laws governing special education and administrative hearings.
3. "Public agency" ("PEA") has the same definition as provided in R7-2-401.
 4. "State Education Agency" ("SEA") means the Department of Education, Exceptional Student Services Section.
- B.** The due process procedures specified in this Section apply to all public agencies dealing with the identification, evaluation, special education placement of, and the provision of a free appropriate public education ("FAPE") for children with disabilities.
 - C.** The SEA shall establish procedures concerning:
 1. Impartial due process hearings, and
 2. Confidentiality and access to student records.
 - D.** An impartial hearing officer shall be:
 1. Unbiased - not prejudiced for or against any party in the hearing;
 2. Disinterested - not having any personal or professional interest that would conflict with objectivity in the hearing;
 3. Independent - may not be an officer, employee, or agent of a public agency involved in the education or care of the child or the SEA. A person who otherwise qualifies to conduct a hearing is not an employee of the public agency or the SEA solely because the person is paid by the public agency to serve as a hearing officer;
 4. Trained by the SEA as to the state and federal laws pertaining to the identification, evaluation, placement of, and the provision of FAPE for children with disabilities.
 - E.** Hearing officer qualifications and training.
 1. All hearing officers shall participate in all required training conducted by the SEA as to the state and federal laws pertaining to the identification, evaluation, educational placement, and the provision of FAPE for children with disabilities.
 2. A hearing officer shall meet the requirements set forth by OAH regarding ALJs. A hearing officer shall not have represented a parent in a special education matter during the preceding 12 months, and shall not have represented a school district in any matter during the preceding 12 months.
 - F.** Selection of hearing officers.
 1. The SEA shall prepare and maintain a list of individuals who meet the qualifications specified in subsection (E) to serve as hearing officers. This list shall also include the qualifications of each hearing officer.
 2. A hearing officer shall be assigned in accordance with the procedures of the Office of Administrative Hearings.
 - G.** Request for due process hearing.
 1. The due process complaint must allege a violation that occurred not more than two years before the date the parent or public education agency knew or should have known about the alleged action that forms the basis of the due process complaint.
 2. A parent shall submit a written request for a due process hearing to the public education agency and the SEA. The SEA shall provide a model form that a parent may use in requesting a due process hearing. Upon receipt of a written request, there shall be no change in the educational placement of the child except under the applicable provisions of IDEA, unless the PEA and parents agree. If a parent requests a due process hearing, the public education agency shall advise the parents of any free or low-cost legal services available, and provide a copy of the

Historical Note

Adopted effective December 4, 1978 (Supp. 78-6).
 Amended by final rulemaking at 9 A.A.R. 4633, effective
 December 8, 2003 (Supp. 03-4).

Editor's Note: The following Section was erroneously published in Supp. 04-2 with amendments that were not approved by the Attorney General's Office. It is republished with the text in effect before Supp. 04-2. The correct notice was published at 10 A.A.R. 3274 (Supp. 04-3).

R7-2-405. Special Education Dispute Resolution; Due Process

- A.** Definitions. The following definitions are applicable to this Section:
 1. "Due process hearing" means a fair and impartial administrative hearing conducted by the State Education Agency by an impartial hearing officer through the Arizona Office of Administrative Hearings in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) and its implementing regulations (34 CFR 300).
 2. "Impartial hearing officer" or "hearing officer" means an Administrative Law Judge ("ALJ") of the Arizona Office of Administrative Hearings ("OAH") and who is knowl-

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procedural safeguards notice. All correspondence to the parent shall be provided in English and the primary language of the home. If the written request involves an application for initial admission, the child, with the consent of the parent, shall be placed in the public school until the completion of all proceedings.

3. If the public education agency requests a due process hearing, such request may be made on a model form, as noted in subsection (G)(2), and a copy shall be provided to the parent and the SEA. Upon receipt of a written request, there shall be no change in the educational placement of the child except under the applicable provisions of IDEA, unless the PEA and the parents agree. In conjunction with its request for due process hearing, the public education agency shall advise the parents of any free or low-cost legal services available and provide a copy of the procedural safeguards notice. All correspondence to the parent, including the due process request, shall be provided in English and the primary language of the home. If the written request involves an application for initial admission, the child, with the consent of the parent, shall be placed in the public school until the completion of all proceedings.

H. An impartial due process hearing shall be conducted in accordance with the following procedures:

1. The hearing officer shall hold a pre-hearing conference, either telephonically or at a location that is reasonably convenient to the parents and the child involved, to determine if the complaint is a legitimate due process complaint, to ensure that all matters are clearly defined, to establish the proceedings that will be used for the hearing, to determine who will represent and/or advise each party, and to set the time and dates for the hearing.
2. The hearing officer shall conduct the hearing at a location that is reasonably convenient to the parents and the child involved.
3. The hearing officer shall preside at the hearing and shall conduct the proceedings in a fair and impartial manner, and shall ensure that all parties involved have an opportunity to:
 - a. Present their evidence and confront, cross-examine, and compel the attendance of witnesses;
 - b. Object to the introduction of any evidence at the hearing that has not been disclosed to all parties at least five business days before the hearing;
 - c. Produce outside expert witnesses;
 - d. Be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities.
4. The parent involved in the hearing shall be given the right to:
 - a. Have the child who is the subject of the hearing present,
 - b. Have the hearing conducted in public,
 - c. Have an interpreter provided by the public agency.
5. The hearing officer shall review all relevant facts concerning the identification, evaluation, the educational placement, and the provision of FAPE. This shall include any Independent Education Evaluation secured by the parent.
 - a. The hearing officer shall determine whether the public agency has met all requirements of federal and state law, rules, and regulations.

- b. The hearing officer shall render findings of fact and a decision, which shall be binding on all parties unless appealed pursuant to this Section.

6. The hearing officer's findings of fact and decision shall be in writing and shall be provided to the parent, the public education agency, the SEA, and their respective representatives. The parent may choose to receive an electronic verbatim record of the hearing and electronic findings of fact and decision relative to the hearing in addition to the written findings of fact and decision. The hearing officer's findings of fact and decision shall be delivered by certified mail or by hand within 45 calendar days after notification to the hearing officer that the parties have been unable to resolve the matter in accordance with 20 U.S.C. 1415(f)(1)(B). A hearing officer may grant specific extensions of time beyond the 45 calendar days for good cause shown at the request of either party.
7. The findings of fact and decision of the hearing officer shall be final at the administrative level. The notification of the findings of fact and decision shall contain notice to the parties that they have a right to judicial review.
8. Any party to the proceeding has the right to appeal a final administrative decision to a court of competent jurisdiction within 35 calendar days after receipt of the decision.
9. The SEA, after deleting any personally identifiable information, shall make such written findings of fact and decision available to the public.

I. Expedited hearing.

1. An expedited hearing regarding disciplinary matters may be requested in accordance with federal law as set forth in 20 U.S.C. 1415(k).
2. Hearing officers for an expedited hearing shall be assigned by the Office of Administrative Hearings.
3. The expedited hearing shall be conducted within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

Historical Note

Adopted effective December 4, 1978 (Supp. 78-6). Amended subsection (V) effective May 1, 1987 (Supp. 87-2). Amended effective July 20, 1990 (Supp. 90-3). Emergency amendment adopted effective November 21, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency amendment readopted effective March 21, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Amended effective May 2, 1991 (Supp. 91-2). Amended effective November 17, 1994 (Supp. 94-4). Amended effective December 6, 1995 (Supp. 95-4). Amended by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 2399, effective July 23, 2004 (Supp. 04-2). Supp. 04-2 Historical Note entry is in error. R7-2-405 was erroneously included in Supp. 04-2 with amendments that were not approved by the Attorney General's Office. It is republished with the text in effect before Supp. 04-2. The correct notice was published at 10 A.A.R. 3274 (Supp. 04-3). Amended by exempt rulemaking at 15 A.A.R. 1732, effective January 26, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1849, effective May 19, 2008 (Supp. 09-2). Amended by exempt rulemaking at 16 A.A.R. 201, effective December 7, 2009 (Supp. 10-1). The word "rule" has been replaced with "Section" to

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reflect current standards in Chapter style and format
(Supp. 21-1).

R7-2-405.01. Special Education Dispute Resolution; State Administrative Complaints

- A.** Notwithstanding any other provision of law, a state administrative complaint filed with the Department regarding any alleged violations of Part B of the federal Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1400 et seq.) or its implementing regulations (34 CFR 300) shall be investigated in accordance with the Code of Federal Regulations Title 34.
1. The party filing the complaint shall forward a copy of the state administrative complaint to the public education agency serving the child at the same time the party files the complaint with the Department.
 2. A written decision shall be issued to the complainant and the public education agency that is the subject of the state administrative complaint in accordance with the 60-day time limit specified in the Code of Federal Regulations Title 34.
- B.** The Department shall accept and investigate state administrative complaints that allege a violation that occurred not more than one year prior to the date that the complaint is received by the Department.
- C.** The state administrative complaint shall include all of the following:
1. A statement that a public education agency has violated a requirement of Part B of the IDEA or its implementing regulations.
 2. The facts on which the statement is based.
 3. The signature and contact information for the complainant.
 4. If alleging violations with respect to a specific child, all of the following:
 - a. The name and address of the child.
 - b. The name of the school the child is attending.
 - c. In the case of a homeless child or youth (within the meaning of Section 725(2) of the McKinney-Vento Homeless Assistance Act (20 U.S.C. 11434a(2))), available contact information for the child, and the name of the school the child is attending.
 - d. A description of the nature of the problem of the child, including facts relating to the problem.
 - e. A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
 5. The Department shall develop a model form to assist parents and public agencies in filing a state administrative complaint under this Section.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R.
201, effective December 7, 2009 (Supp. 10-1).

R7-2-405.02. Special Education Dispute Resolution; Mediation

In accordance with the Individuals with Disabilities Education Act, the Department shall provide parents of students with disabilities and public education agencies the opportunity to resolve disputes involving any matter under IDEA, including matters arising prior to the filing of a request for due process, through a mediation process.

1. The mediation process shall:
 - a. Be voluntary on the part of both parties,
 - b. Not be used to deny or delay a parent's right to a due process hearing or any other rights afforded under Part B of the IDEA,

- c. Be conducted by a qualified and impartial mediator who is trained in effective mediation techniques.
2. The Department shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.
3. The Department shall select mediators on a random or rotational basis.
4. The Department shall bear the cost of the mediation process.
5. Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to both the parent and the public education agency.
6. If the parties resolve a dispute through the mediation process, the parties shall execute a legally binding agreement that:
 - a. States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings,
 - b. Is signed by both the parent and a representative of the public education agency who has the authority to bind the agency, and
 - c. Is enforceable in any state court of competent jurisdiction or in a district court of the United States.
7. Whether or not the dispute is resolved through mediation, discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings of any federal court or state court.
8. Impartiality of the Mediator. An individual who serves as a mediator:
 - a. May not be an employee of the Department or of the public education agency that is involved in the education or care of the student.
 - b. Shall not have a personal or professional interest that conflicts with the person's objectivity.
 - c. Is not an employee of the Department or of a public education agency solely because the mediator is paid by the Department of Education to serve as a mediator.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R.
201, effective December 7, 2009 (Supp. 10-1).

R7-2-406. Gifted Education Programs and Services

- A.** Governing boards shall adopt policies for the education of gifted students which shall include:
1. Procedures for identification and placement of students to be placed in gifted programs.
 - a. Students shall be served who score at or above the 97th percentile on national norms in any one of three areas - verbal, nonverbal, or quantitative reasoning - on any test from the State Board-approved list. Students who score below the 97th percentile also may be served.
 - b. Local educational agencies (LEAs) shall accept, as valid for placement, scores at or above the 97th percentile on any State Board-approved test submitted by other LEAs or by qualified professionals.
 - c. LEAs shall place transfer students as soon as they have verified eligibility.

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2. Curriculum, differentiated instruction, and supplemental services for gifted students.
 - a. Expanded academic course offerings may include, for example, one or more of the following: acceleration, enrichment, flexible pacing, interdisciplinary curriculum, and seminars.
 - b. Differentiated instruction, which emphasizes the development of higher order thinking, may include critical thinking, creative thinking, and problem solving skills.
 - c. Supplemental services, which may be offered to meet the individual needs of each gifted student, may include, for example, guidance and counseling, mentorships, independent study, correspondence courses, and concurrent enrollment.
3. Parent involvement.
 - a. Each LEA shall provide the following information to all parents or legal guardians:
 - i. Definition of a gifted child;
 - ii. Services mandated for gifted students by the state of Arizona;
 - iii. Services available from the LEA;
 - iv. Written criteria of the LEA for referral, screening, selection and placement.
 - b. Each LEA shall develop policies and procedures which ensure that parents or legal guardians are:
 - i. Given the opportunity to have their children tested;
 - ii. Given advance notice of the week that their children are to be tested;
 - iii. Given the opportunity to withhold permission for testing;
 - c. Each LEA shall:
 - i. Make testing available for students K through 12 on a periodic basis but not less than three times per year;
 - ii. Inform parents or legal guardians of the results of the district-administered test within 30 school days of determining the test results;
 - iii. Upon request, explain test results to parents or legal guardians.
4. The scope and sequence shall be a written program description which demonstrates articulation across all grades and schools to ensure opportunities for continuous progress and shall include:
 - a. Statement of purpose;
 - b. General population description;
 - c. Identification process and placement criteria including provisions for special populations;
 - d. Goals and objectives;
 - e. Curriculum, differentiated instruction, and supplemental services;
 - f. Program models;
 - g. Time allocations for services;
 - h. Procedures and criteria for evaluation of student and program outcomes.

- B. The Arizona Department of Education shall develop and make available model policies for the development, implementation, and evaluation of services for gifted students.

Historical Note

Adopted effective December 12, 1990 (Supp. 90-4). The hyphen between "K-12" has been changed to the word

"through" for consistency in Chapter style and format (Supp. 21-2).

R7-2-407. Special Education Standards and Assistance for Providing Educational Services and Materials for Visually Impaired Students

- A. All requirements in this Section are in addition to the general special education standards in R7-2-401 for public education agencies providing special education.
- B. For the purposes of this Section, the following definitions apply:
 1. "Accessible Electronic File" means, until the effective date of a nationally adopted file format, a digital file in a mutually agreed upon electronic file format that has been prepared using a markup language that maintains the structural integrity of the information and can be processed by Braille conversion software. Upon the effective date of a nationally adopted file format, such as the Instructional Materials Accessibility Standard (IMAS), "Accessible Electronic File" shall mean an electronic file conforming to the specifications of the nationally adopted file format, including future technical revisions and versions of this nationally adopted file format.
 2. "Individualized Braille literacy assessment" means the Learning Media Assessment or other standardized or individualized assessments that pertain to the child's reading medium.
 3. "Non-printed instructional materials" means non-printed textbooks and related core materials, including those that require the availability of electronic equipment in order to be used as a learning resource, that are written and published primarily for use in elementary school and secondary school instruction and are required by a state educational agency or a local educational agency for use by pupils in the classroom. These materials shall be available to the extent technologically available, and may include software programs, CD-ROMs and internet-based materials.
 4. "Printed instructional materials" means textbooks and related printed core materials, that are written and published primarily for use in elementary school and secondary school instruction and are required by a state educational agency or a local educational agency for use by pupils in the classroom. This may include workbooks, practice tests, and tests.
 5. "Publisher" means an individual, firm, partnership or corporation that publishes or manufactures printed instructional materials for students attending public schools in Arizona, including an on-line service, a software developer, or a distributor of an electronic textbook.
 6. "Specialized format" means Braille, audio or digital text which is exclusively for use by blind or other persons with disabilities.
 7. "Structural integrity" means the structure of all parts of the printed instructional material will be kept intact to the extent feasible and as mutually agreed upon by the publisher and the local educational agency. This may include appropriate representation of graphic illustrations.
- C. Upon determination of a student having a visual impairment as assessed by a full and initial evaluation defined in R7-2-401(E)(6)(i), a visually impaired student who is determined to be blind as defined by A.R.S. § 15-214(B) shall receive an individualized Braille literacy assessment.
- D. Individualized Education Programs (IEP) for blind students. In addition to the requirements for establishing and implementing

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an IEP consistent with R7-2-401(F) for a student determined to have a disability, each IEP for a student determined to be “blind” as assessed by R7-2-401(E)(6)(i) and defined by A.R.S. § 15-214(B), shall presume that proficiency in Braille is essential in achieving academic success unless otherwise determined by the IEP team established consistent with the regulations for the most recent reauthorization of the Individuals with Disabilities Education Act (IDEA) and in the manner provided by the most recent reauthorization of the IDEA Act for developing an IEP. An IEP developed under this Section for a student determined to be blind shall include all required provisions of A.R.S. § 15-214(A)(3), including the following:

1. The results of the individualized Braille literacy assessment.
2. The date on which Braille instruction will begin, the methods to be used and the frequency and duration of the Braille instruction.
3. The level of competency expected to be achieved within specified time-frames and the objective measures to be used for evaluation.
4. The Braille materials and equipment necessary to achieve the stated expected competency gains, including ordering instructional materials to achieve the IEP-stated goals.
5. The rationale for not providing Braille instruction if Braille is not determined to be an appropriate medium by the IEP team and is not included in the IEP.

E. The Arizona Department of Education shall designate a central repository for publishers to, upon request, provide accessible electronic files for instructional materials used by public schools in Arizona as defined in subsection (B)(1). The central repository shall be responsible for maintaining a complete list of available accessible electronic files for instructional materials and instructional materials in specialized formats, processing requests from PEAs for instructional materials in specialized formats and providing access to these materials in specialized formats to schools throughout Arizona that are providing services to blind or other students with disabilities.

1. Upon receipt of a written request certifying to the requirements set forth in subsections (E)(1)(a) through (c) publishers shall deliver to the repository, at no additional cost and consistent with the time-frame for providing materials for students without disabilities, accessible electronic files for printed instructional materials and non-printed instructional materials. Certification shall include all of the following:
 - a. The PEA purchased a copy of the printed instructional material or non-printed instructional material for use by a student who is blind or has a visual impairment in a course that the student is attending or registered to attend;
 - b. The student who will utilize the instructional materials in a specialized format has an IEP stating that such materials and/or equipment are necessary for the student to achieve stated expected competency gains; and
 - c. The instructional materials are for use by the student in connection with a course in which he or she is enrolled, as verified by the person overseeing the education of students who are blind or visually impaired.
2. A PEA may access the materials maintained by the central repository, upon written request, for instructional use with a student with a visual impairment, as identified by R7-2-401(E)(6)(i), who requires the use of instructional

materials in a specialized format pursuant to the student’s IEP.

3. Nothing in this Section shall be construed to prohibit the central repository from assisting a student with a disability by using the electronic format version of instructional material provided pursuant to this Section solely to transcribe or arrange for the transcription of the printed instructional material into Braille or large print. In the event a Braille transcription is made, the central repository has the right to share the Braille copy of the printed instructional material with other eligible students with disabilities. The PEA will be required to return the specialized format version of the instructional material to the central repository when the student no longer needs the instructional material. The central repository may share the copies of the specialized format of the instructional material with other PEAs who have met the requirements of subsections (B) and (D) to provide services to students who require such services pursuant to R7-2-401(F)(5).

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2399, effective July 23, 2004 (Supp. 04-2). The word “rule” has been changed to “Section,” and “of this Section” was removed to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-408. Extended School Year Programs for Children with Disabilities

- A. “Extended school year” (ESY) shall be as defined in A.R.S. § 15-881.
- B. Eligibility. Eligibility shall be determined by the Individualized Education Program (IEP) Team. Criteria for determining eligibility in an extended school year program shall be as defined in A.R.S. § 15-881.
- C. For a student with a disability currently enrolled in special education, eligibility for ESY services shall be determined no later than 45 calendar days prior to the last day of the school year.
- D. The availability of an extended school year program is required for all students for whom the IEP team has determined that it is necessary in order to ensure a free appropriate public education. Student participation in an ESY program is not compulsory. ESY services are not required for all students with a disability.
- E. Factors that are inappropriate for consideration. Eligibility for participation shall not be based on need or desire for any of the following:
 1. A day care or respite care service for students with a disability;
 2. A program to maximize the academic potential of a student with a disability; and
 3. A summer recreation program for students with a disability.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4). Amended by final rulemaking at 9 A.A.R. 4633, effective December 8, 2003 (Supp. 03-4).

ARTICLE 5. CAREER AND VOCATIONAL EDUCATION**R7-2-501. Repealed**

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Historical Note

Not in original publication, correction, Section R7-2-501.
 Adopted effective July 2, 1974. Amended effective
 November 8, 1974. Amended effective August 11, 1975
 (Supp. 75-1). Former Section R7-2-501 repealed, new
 Section R7-2-501 adopted effective December 4, 1978
 (Supp. 78-6). Repealed effective February 20, 1997
 (Supp. 97-1).

R7-2-502. Vocational Education Provisions and Standards

All eligible recipients receiving federal or state monies or services
 in support of vocational and technical education programs, courses,
 or classes shall comply with the applicable provisions and standards
 of the following plans, which are filed with the Secretary of State,
 which plans are incorporated herein by reference.

1. 1986-1988 Arizona State Plan for Vocational Education
 for Federal Funding as required by A.R.S. § 15-784; and
2. Arizona State Plan for Vocational Education for State
 Funding approved April 22, 1985, as required by A.R.S.
 § 15-787(C).

Historical Note

Adopted (FY 76) effective July 14, 1975 (Supp. 75-1).
 Adopted (FY 77) effective June 25, 1976 (Supp. 76-3).
 Former Section R7-2-502 repealed, new Section R7-2-
 502 adopted effective December 4, 1978 (Supp. 78-6).
 Former Section R7-2-502 repealed, new Section R7-2-
 502 adopted effective March 13, 1986 (Supp. 86-2). The
 Section heading has been updated to title case to reflect
 current standards in Chapter style and format
 (Supp. 21-2)

R7-2-503. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-504. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-505. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-506. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-507. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-508. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-509. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-510. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-511. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-512. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-513. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-514. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-515. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-516. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-517. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-518. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-519. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

R7-2-520. Repealed**Historical Note**

Repealed effective December 4, 1978 (Supp. 78-6).

ARTICLE 6. CERTIFICATION**R7-2-601. Definitions**

In this Article, the following definitions apply unless the context
 otherwise requires:

1. "Accredited institution" means a postsecondary institu-
 tion that has accreditation that is recognized by the U.S.
 Department of Education. An institution based outside
 the United States shall be considered accredited if a
 Department-approved foreign document evaluation firm
 verifies that it has accreditation in the foreign country that
 is comparable to accreditation that is recognized by the
 U.S. Department of Education.
2. "Accredited training" means training provided by an
 organization that has accreditation from an association
 approved by the Board.
3. "Appropriately certified" means holding the certificate,
 endorsement and approved area that is required for a
 teaching assignment.
4. "Approved area" means a subject area denoted on a
 teaching certificate that is taught in Arizona public
 schools.
5. "Board" means the State Board of Education.
6. "Capstone experience" means a culminating professional
 experience in a PreK through 12 setting that may include

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student teaching or internships in administration, counseling, or school psychology, or alternative path PreK through 12 teaching.

7. "CTE" means Career and Technical Education.
8. "Department" means the Arizona Department of Education.
9. "Practicum" means a period of structured observation and practice of the skills being learned, supervised by an individual trained in that area. The commonly used terms "student teaching," "internship," "residency," or "observation course" are included in this definition.
10. "Professional development" means training to increase skills related to the occupation of education.
11. "Self-contained classroom" means a classroom in which the teacher teaches multiple subjects to one class of students.
12. "Single subject classroom" means a classroom in which the teacher teaches one subject to one class of students.
13. "Teaching experience" means full-time employment which included full responsibility for the planning and delivery of instruction and evaluation of student learning. Except for meeting the capstone experience requirement when applying for a standard teaching certificate, substitute teaching is not considered full-time teaching experience.

Historical Note

Former Section R7-2-601 repealed, new Section R7-2-601 adopted effective December 4, 1978 (Supp. 78-6). Amended subsection (C) effective May 31, 1983 (Supp. 83-3). Amended subsection (I) effective September 12, 1989 (Supp. 89-3). Amended effective August 14, 1991 (Supp. 91-3). Amended effective July 30, 1992 (Supp. 92-3). Section repealed, new Section adopted effective March 10, 1994 (Supp. 94-1). Amended effective July 25, 1994 (Supp. 94-3). Amended effective September 20, 1996 (Supp. 96-3). Amended effective March 6, 1997 (Supp. 97-1). Typographical error corrected in subsection (A) (Supp. 97-3). Section repealed; new Section adopted effective December 3, 1998 (Supp. 98-4). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-602. Professional Teaching Standards

- A. The standards presented in this Section shall be the basis for approved teacher preparation programs, described in R7-2-604, and the Arizona Teacher Proficiency Assessment, described in R7-2-606.
- B. Standard 1. Learner Development: The teacher understands how learners grow and develop, recognizing that patterns of learning and development vary individually within and across the cognitive, linguistic, social, emotional, and physical areas, and designs and implements developmentally appropriate and challenging learning experiences. The teacher:
 1. Regularly assesses individual and group performance in order to design and modify instruction to meet learners' needs in each area of development (cognitive, linguistic, social, emotional, and physical) and scaffolds the next level of development.
 2. Creates developmentally appropriate instruction that takes into account individual learners' strengths, interests, and needs and that enables each learner to advance and accelerate his/her learning.

3. Collaborates with families, communities, colleagues, and other professionals to promote learner growth and development.
 4. Understands how learning occurs – how learners construct knowledge, acquire skills, and develop disciplined thinking processes – and knows how to use instructional strategies that promote student learning.
 5. Understands that each learner's cognitive, linguistic, social, emotional, and physical development influences learning and knows how to make instructional decisions that build on learners' strengths and needs.
 6. Identifies readiness for learning, and understands how development in any one area may affect performance in others.
 7. Understands the role of language and culture in learning and, consistent with Arizona law, knows how to modify instruction to make language comprehensible and instruction relevant, accessible, and challenging.
 8. Respects learners' differing strengths and needs and is committed to using this information to further each learner's development.
 9. Is committed to using learners' strengths as a basis for growth, and their misconceptions as opportunities for learning.
 10. Takes responsibility for promoting learners' growth and development.
- C. Standard 2. Learning Differences: The teacher uses understanding of individual differences and diverse cultures and communities to ensure inclusive learning environments that enable each learner to meet high standards. The teacher:
1. Designs, adapts, and delivers instruction to address each student's diverse learning strengths and needs and creates opportunities for students to demonstrate their learning in different ways.
 2. Makes appropriate and timely provisions (e.g., pacing for individual rates of growth, task demands, communication, assessment, and response modes) for individual students with particular learning differences or needs.
 3. Designs instruction to build on learners' prior knowledge and experiences, allowing learners to accelerate as they demonstrate their understandings.
 4. Brings multiple perspectives to the discussion of content, including attention to learners' personal, family, and community experiences and cultural norms.
 5. Incorporates tools of language development into planning and instruction, including strategies for making content accessible to English language learners and for evaluating and supporting their development of English proficiency.
 6. Accesses resources, supports, and specialized assistance and services to meet particular learning differences or needs.
 7. Understands and identifies differences in approaches to learning and performance and knows how to design instruction that uses each learner's strengths to promote growth.
 8. Understands students with exceptional needs, including those associated with disabilities and giftedness, and knows how to use strategies and resources to address these needs.
 9. Knows about second language acquisition processes and knows how to incorporate instructional strategies and resources to support language acquisition.
 10. Understands that learners bring assets for learning based on their individual experiences, abilities, talents, prior

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- learning, and peer and social group interactions, as well as language, culture, family, and community values.
11. Knows how to access information about the values of diverse cultures and communities and how to incorporate learners' experiences, cultures, and community resources into instruction.
 12. Believes that all learners can achieve at high levels and persists in helping each learner reach his/her full potential.
 13. Respects learners as individuals with differing personal and family backgrounds and various skills, abilities, perspectives, talents, and interests.
 14. Makes learners feel valued and helps them learn to value each other.
 15. Values diverse languages and dialects and seeks to integrate them into his/her instructional practice to engage students in learning.
- D. Standard 3. Learning Environments:** The teacher works with others to create environments that support individual and collaborative learning, and that encourage positive social interaction, active engagement in learning, and self motivation. The teacher:
1. Collaborates with learners, families, and colleagues to build a safe, positive learning climate of openness, mutual respect, support, and inquiry.
 2. Develops learning experiences that engage learners in collaborative and self-directed learning and that extend learner interaction with ideas and people locally and globally.
 3. Collaborates with learners and colleagues to develop shared values and expectations for respectful interactions, rigorous academic discussions, and individual and group responsibility for quality work.
 4. Manages the learning environment to actively and equitably engage learners by organizing, allocating, and coordinating the resources of time, space, and learners' attention.
 5. Uses a variety of methods to engage learners in evaluating the learning environment and collaborates with learners to make appropriate adjustments.
 6. Communicates verbally and nonverbally in ways that demonstrate respect for and responsiveness to the cultural backgrounds and differing perspectives learners bring to the learning environment.
 7. Promotes responsible learner use of interactive technologies to extend the possibilities for learning locally and globally.
 8. Intentionally builds learner capacity to collaborate in face-to-face and virtual environments through applying effective interpersonal communication skills.
 9. Understands the relationship between motivation and engagement and knows how to design learning experiences using strategies that build learner self-direction and ownership of learning.
 10. Knows how to help learners work productively and cooperatively with each other to achieve learning goals.
 11. Knows how to collaborate with learners to establish and monitor elements of a safe and productive learning environment including norms, expectations, routines, and organizational structures.
 12. Understands how learner diversity can affect communication and knows how to communicate effectively in differing environments.
 13. Knows how to use technologies and how to guide learners to apply them in appropriate, safe, and effective ways.
 14. Is committed to working with learners, colleagues, families, and communities to establish positive and supportive learning environments.
 15. Values the role of learners in promoting each other's learning and recognizes the importance of peer relationships in establishing a climate of learning.
 16. Is committed to supporting learners as they participate in decision making, engage in exploration and invention, work collaboratively and independently, and engage in purposeful learning.
 17. Seeks to foster respectful communication among all members of the learning community.
 18. Is a thoughtful and responsive listener and observer.
- E. Standard 4. Content Knowledge:** The teacher understands the central concepts, tools of inquiry, and structures of the discipline(s) he or she teaches and creates learning experiences that make these aspects of the discipline accessible and meaningful for learners to assure mastery of the content. The teacher:
1. Effectively uses multiple representations and explanations that capture key ideas in the discipline, guide learners through learning progressions, and promote each learner's achievement of content standards.
 2. Engages students in learning experiences in the discipline(s) that encourage learners to understand, question, and analyze ideas from diverse perspectives so that they master the content.
 3. Engages learners in applying methods of inquiry and standards of evidence used in the discipline.
 4. Stimulates learner reflection on prior content knowledge, links new concepts to familiar concepts, and makes connections to learners' experiences.
 5. Recognizes learner misconceptions in a discipline that interfere with learning, and creates experiences to build accurate conceptual understanding.
 6. Evaluates and modifies instructional resources and curriculum materials for their comprehensiveness, accuracy for representing particular concepts in the discipline, and appropriateness for his or her learners.
 7. Uses supplementary resources and technologies effectively to ensure accessibility and relevance for all learners.
 8. Creates opportunities for students to learn, practice, and master academic language in their content.
 9. Accesses school and/or district-based resources to evaluate the learner's content knowledge in his or her primary language.
 10. Understands major concepts, assumptions, debates, processes of inquiry, and ways of knowing that are central to the discipline(s) he or she teaches.
 11. Understands common misconceptions in learning the discipline and how to guide learners to accurate conceptual understanding.
 12. Knows and uses the academic language of the discipline and knows how to make it accessible to learners.
 13. Knows how to integrate culturally relevant content to build on learners' background knowledge.
 14. Has a deep knowledge of student content standards and learning progressions in the discipline(s) he or she teaches.
 15. Realizes that content knowledge is not a fixed body of facts but is complex, culturally situated, and ever evolving. The teacher keeps abreast of new ideas and under-

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standings in the field, and ensures instruction is consistent with Arizona's adopted academic standards.

16. Appreciates multiple perspectives within the discipline and facilitates learners' critical analysis of these perspectives.
 17. Recognizes the potential of bias in his or her representation of the discipline and seeks to appropriately address problems of bias.
 18. Commits to work toward each learner's mastery of disciplinary content and skills.
- F. Standard 5. Application of Content:** The teacher understands how to connect concepts and use differing perspectives to engage learners in critical thinking, creativity, and collaborative problem solving related to authentic local and global issues. The teacher:
1. Develops and implements projects that guide learners in analyzing the complexities of an issue or question using perspectives from varied disciplines and cross-disciplinary skills (e.g., a water quality study that draws upon biology and chemistry to look at factual information and social studies to examine policy implications).
 2. Engages learners in applying content knowledge to real world problems through the lens of interdisciplinary themes (e.g., financial literacy, environmental literacy).
 3. Facilitates learners' use of current tools and resources to maximize content learning in varied contexts.
 4. Engages learners in questioning and challenging assumptions and approaches in order to foster innovation and problem solving in local and global contexts.
 5. Develops learners' communication skills in disciplinary and interdisciplinary contexts by creating meaningful opportunities to employ a variety of forms of communication that address varied audiences and purposes.
 6. Engages learners in generating and evaluating new ideas and novel approaches, seeking inventive solutions to problems, and developing original work.
 7. Facilitates learners' ability to develop diverse social and cultural perspectives that expand their understanding of local and global issues and create novel approaches to solving problems.
 8. Develops and implements supports for learner literacy development across content areas.
 9. Understands the ways of knowing in his/her discipline, how it relates to other disciplinary approaches to inquiry, and the strengths and limitations of each approach in addressing problems, issues, and concerns.
 10. Understands how current interdisciplinary themes (e.g., civic literacy, health literacy, global awareness) connect to the core subjects and knows how to weave those themes into meaningful learning experiences.
 11. Understands the demands of accessing and managing information as well as how to evaluate issues of ethics and quality related to information and its use.
 12. Understands how to use digital and interactive technologies for efficiently and effectively achieving specific learning goals.
 13. Understands critical thinking processes and knows how to help learners develop high level questioning skills to promote their independent learning.
 14. Understands communication modes and skills as vehicles for learning (e.g., information gathering and processing) across disciplines as well as vehicles for expressing learning.
 15. Understands creative thinking processes and how to engage learners in producing original work.
 16. Knows where and how to access resources to build global awareness and understanding, and how to integrate them into the curriculum.
 17. Is constantly exploring how to use disciplinary knowledge as a lens to address local and global issues.
 18. Values knowledge outside his/her own content area and how such knowledge enhances student learning.
 19. Values flexible learning environments that encourage learner exploration, discovery, and expression across content areas.
- G. Standard 6. Assessment:** The teacher understands and uses multiple methods of assessment to engage learners in their own growth, to monitor learner progress, and to guide the teacher's and learner's decision making. The teacher:
1. Balances the use of formative and summative assessment as appropriate to support, verify, and document learning.
 2. Designs assessments that match learning objectives with assessment methods and minimizes sources of bias that can distort assessment results.
 3. Works independently and collaboratively to examine test and other performance data to understand each learner's progress and to guide planning.
 4. Engages learners in understanding and identifying quality work and provides them with effective descriptive feedback to guide their progress toward that work.
 5. Engages learners in multiple ways of demonstrating knowledge and skill as part of the assessment process.
 6. Models and structures processes that guide learners in examining their own thinking and learning as well as the performance of others.
 7. Effectively uses multiple and appropriate types of assessment data to identify each student's learning needs and to develop differentiated learning experiences.
 8. Prepares all learners for the demands of particular assessment formats and makes appropriate accommodations in assessments or testing conditions, especially for learners with disabilities and language learning needs.
 9. Continually seeks appropriate ways to employ technology to support assessment practice both to engage learners more fully and to assess and address learner needs.
 10. Understands the differences between formative and summative applications of assessment and knows how and when to use each.
 11. Understands the range of types and multiple purposes of assessment and how to design, adapt, or select appropriate assessments to address specific learning goals and individual differences, and to minimize sources of bias.
 12. Knows how to analyze assessment data to understand patterns and gaps in learning, to guide planning and instruction, and to provide meaningful feedback to all learners.
 13. Knows when and how to engage learners in analyzing their own assessment results and in helping to set goals for their own learning.
 14. Understands the positive impact of effective descriptive feedback for learners and knows a variety of strategies for communicating this feedback.
 15. Knows when and how to evaluate and report learner progress against standards.
 16. Understands how to prepare learners for assessments and how to make accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs.

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17. Is committed to engaging learners actively in assessment processes and to developing each learner's capacity to review and communicate about their own progress and learning.
 18. Takes responsibility for aligning instruction and assessment with learning goals.
 19. Is committed to providing timely and effective descriptive feedback to learners on their progress.
 20. Is committed to using multiple types of assessment processes to support, verify, and document learning.
 21. Is committed to making accommodations in assessments and testing conditions, especially for learners with disabilities and language learning needs.
 22. Is committed to the ethical use of various assessments and assessment data to identify learner strengths and needs to promote learner growth.
- H. Standard 7. Planning for Instruction:** The teacher plans instruction that supports every student in meeting rigorous learning goals by drawing upon knowledge of content areas, curriculum, cross-disciplinary skills, and pedagogy, as well as knowledge of learners and the community context. The teacher:
1. Individually and collaboratively selects and creates learning experiences that are appropriate for curriculum goals and content standards, and are relevant to learners.
 2. Plans how to achieve each student's learning goals, choosing appropriate strategies and accommodations, resources, and materials to differentiate instruction for individuals and groups of learners.
 3. Develops appropriate sequencing of learning experiences and provides multiple ways to demonstrate knowledge and skill.
 4. Plans for instruction based on formative and summative assessment data, prior learner knowledge, and learner interest.
 5. Plans collaboratively with professionals who have specialized expertise (e.g., special educators, related service providers, language learning specialists, librarians, media specialists) to design and jointly deliver as appropriate learning experiences to meet unique learning needs.
 6. Evaluates plans in relation to short- and long-range goals and systematically adjusts plans to meet each student's learning needs and enhance learning.
 7. Understands content and content standards and how these are organized in the curriculum.
 8. Understands how integrating cross-disciplinary skills in instruction engages learners purposefully in applying content knowledge.
 9. Understands learning theory, human development, cultural diversity, and individual differences and how these impact ongoing planning.
 10. Understands the strengths and needs of individual learners and how to plan instruction that is responsive to these strengths and needs.
 11. Knows a range of evidence-based instructional strategies, resources, and technological tools and how to use them effectively to plan instruction that meets diverse learning needs.
 12. Knows when and how to adjust plans based on assessment information and learner responses.
 13. Knows when and how to access resources and collaborate with others to support student learning (e.g., special educators, related service providers, language learner specialists, librarians, media specialists, community organizations).
 14. Respects learners' diverse strengths and needs and is committed to using this information to plan effective instruction.
 15. Values planning as a collegial activity that takes into consideration the input of learners, colleagues, families, and the larger community.
 16. Takes professional responsibility to use short- and long-term planning as a means of assuring student learning.
 17. Believes that plans must always be open to adjustment and revision based on learner needs and changing circumstances.
- I. Standard 8. Instructional Strategies:** The teacher understands and uses a variety of instructional strategies to encourage learners to develop deep understanding of content areas and their connections, and to build skills to apply knowledge in meaningful ways. The teacher:
1. Uses appropriate strategies and resources to adapt instruction to the needs of individuals and groups of learners.
 2. Continuously monitors student learning, engages learners in assessing their progress, and adjusts instruction in response to student learning needs.
 3. Collaborates with learners to design and implement relevant learning experiences, identify their strengths, and access family and community resources to develop their areas of interest.
 4. Varies his/her role in the instructional process (e.g., instructor, facilitator, coach, audience) in relation to the content and purposes of instruction and the needs of learners.
 5. Provides multiple models and representations of concepts and skills with opportunities for learners to demonstrate their knowledge through a variety of products and performances.
 6. Engages all learners in developing higher order questioning skills and metacognitive processes.
 7. Engages learners in using a range of learning skills and technology tools to access, interpret, evaluate, and apply information.
 8. Uses a variety of instructional strategies to support and expand learners' communication through speaking, listening, reading, writing, and other modes.
 9. Asks questions to stimulate discussion that serves different purposes (e.g., probing for learner understanding, helping learners articulate their ideas and thinking processes, stimulating curiosity, and helping learners to question).
 10. Understands the cognitive processes associated with various kinds of learning (e.g., critical and creative thinking, problem framing and problem solving, invention, memorization and recall) and how these processes can be stimulated.
 11. Knows how to apply a range of developmentally, culturally, and linguistically appropriate instructional strategies to achieve learning goals.
 12. Knows when and how to use appropriate strategies to differentiate instruction and engage all learners in complex thinking and meaningful tasks.
 13. Understands how multiple forms of communication (oral, written, nonverbal, digital, visual) convey ideas, foster self expression, and build relationships.
 14. Knows how to use a wide variety of resources, including human and technological, to engage students in learning.

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15. Understands how content and skill development can be supported by media and technology and knows how to evaluate these resources for quality, accuracy, and effectiveness.
 16. Is committed to deepening awareness and understanding the strengths and needs of diverse learners when planning and adjusting instruction.
 17. Values the variety of ways people communicate and encourages learners to develop and use multiple forms of communication.
 18. Is committed to exploring how the use of new and emerging technologies can support and promote student learning.
 19. Values flexibility and reciprocity in the teaching process as necessary for adapting instruction to learner responses, ideas, and needs.
- J. Standard 9. Professional Learning and Ethical Practice:** The teacher engages in ongoing professional learning and uses evidence to continually evaluate his/her practice, particularly the effects of his/her choices and actions on others (learners, families, other professionals, and the community), and adapts practice to meet the needs of each learner. The teacher:
1. Engages in ongoing learning opportunities to develop knowledge and skills in order to provide all learners with engaging curriculum and learning experiences based on local and state standards.
 2. Engages in meaningful and appropriate professional learning experiences aligned with his/her own needs and the needs of the learners, school, and system.
 3. Independently and in collaboration with colleagues, uses a variety of data (e.g., systematic observation, information about learners, research) to evaluate the outcomes of teaching and learning and to adapt planning and practice.
 4. Actively seeks professional, community, and technological resources, within and outside the school, as supports for analysis, reflection, and problem-solving.
 5. Reflects on his/her personal biases and accesses resources to deepen his/her own understanding of cultural, ethnic, gender, and learning differences to build stronger relationships and create more relevant learning experiences.
 6. Advocates, models, and teaches safe, legal, and ethical use of information and technology including appropriate documentation of sources and respect for others in the use of social media.
 7. Understands and knows how to use a variety of self-assessment and problem-solving strategies to analyze and reflect on his/her practice and to plan for adaptations/adjustments.
 8. Knows how to use learner data to analyze practice and differentiate instruction accordingly.
 9. Understands how personal identity, worldview, and prior experience affect perceptions and expectations, and recognizes how they may bias behaviors and interactions with others.
 10. Understands and adheres to laws related to learners' rights and teacher responsibilities (e.g., for educational equity, appropriate education for learners with disabilities, confidentiality, privacy, appropriate treatment of learners, reporting in situations related to possible child abuse).
 11. Knows how to build and implement a plan for professional growth directly aligned with his/her needs as a growing professional using feedback from teacher evaluations and observations, data on learner performance, and school- and system-wide priorities.
- K. Standard 10. Leadership and Collaboration:** The teacher seeks appropriate leadership roles and opportunities to take responsibility for student learning, to collaborate with learners, families, colleagues, other school professionals, and community members to ensure learner growth, and to advance the profession. The teacher:
1. Takes an active role on the instructional team, giving and receiving feedback on practice, examining learner work, analyzing data from multiple sources, and sharing responsibility for decision making and accountability for each student's learning.
 2. Works with other school professionals to plan and jointly facilitate learning on how to meet diverse needs of learners.
 3. Engages collaboratively in the schoolwide effort to build a shared vision and supportive culture, identify common goals, and monitor and evaluate progress toward those goals.
 4. Works collaboratively with learners and their families to establish mutual expectations and ongoing communication to support learner development and achievement.
 5. Working with school colleagues, builds ongoing connections with community resources to enhance student learning and well being.
 6. Engages in professional learning, contributes to the knowledge and skill of others, and works collaboratively to advance professional practice.
 7. Uses technological tools and a variety of communication strategies to build local and global learning communities that engage learners, families, and colleagues.
 8. Uses and generates meaningful research on education issues and policies.
 9. Seeks appropriate opportunities to model effective practice for colleagues, to lead professional learning activities, and to serve in other leadership roles.
 10. Strives to meet the needs of learners and to strengthen the learning environment.
 11. Takes on leadership roles at the school, district, state, and/or national levels.
 12. Understands schools as organizations within a historical, cultural, political, and social context and knows how to work with others across the system to support learners.
 13. Understands that alignment of family, school, and community spheres of influence enhances student learning and that discontinuity in these spheres of influence interferes with learning.

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14. Knows how to work with other adults and has developed skills in collaborative interaction appropriate for both face-to-face and virtual contexts.
15. Knows how to contribute to a common culture that supports high expectations for student learning.
16. Actively shares responsibility for shaping and supporting the mission of his/her school as one of advocacy for learners and accountability for their success.
17. Respects families' beliefs, norms, and expectations and seeks to work collaboratively with learners and families in setting and meeting challenging goals.
18. Takes initiative to grow and develop with colleagues through interactions that enhance practice and support student learning.
19. Takes responsibility for contributing to and advancing the profession.
20. Embraces the challenge of continuous improvement and change.

Historical Note

Former Section R7-2-602 repealed, new Section R7-2-602 adopted effective December 4, 1978 (Supp. 78-6). Amended by adding a new subsection (B) effective August 29, 1988 (Supp. 88-3). Amended effective December 15, 1989 (Supp. 89-4). Amended effective July 10, 1992 (Supp. 92-3). Amended effective March 6, 1997 (Supp. 97-1). Section repealed; new Section adopted effective December 3, 1998 (Supp. 98-4). Amended by exempt rulemaking at 18 A.A.R. 1029, effective December 5, 2011 (Supp. 12-2).

R7-2-602.01. Induction Program Standards for New Teachers

- A. For the purposes of this Section, the following definitions apply:
 1. "Induction" and "mentoring and retention programming" means a program of regular, job-embedded, in-person, one-on-one feedback that is focused on instruction and ensuring new classroom teacher quality, success and retention.
 2. "New classroom teacher" means a classroom teacher who is in the first, second, or third year of teaching.
- B. The Arizona Teacher Induction Standards, and substantially similar programs developed by local education agencies, shall serve as the form and format of mentoring and retention programming for school districts, charter schools, the State Education System for Committed Youth, and the Arizona State Schools for the Deaf and the Blind who receive grant funds established pursuant to A.R.S. § 15-1281(D)(3). The standards and programs developed by local education agencies shall require that the equivalent of one full-time mentor may be assigned to not more than 15 new classroom teachers employed by the school district or charter school.
- C. The Department shall:
 1. Develop the induction program standards in consultation with state educators and experts in instruction and educator quality, success, and retention.
 2. Present the induction program standards and the development process to the Board for review and approval.
- D. The Board shall adopt the Arizona Teacher Induction Standards in a meeting following the presentation of the standards to the Board.

Historical Note

New Section made by final exempt rulemaking at 27 A.A.R. 743, effective April 26, 2021 (Supp. 21-2).

R7-2-602.02. Teacher Leader Professional Standards

- A. For the purposes of this Section, the following definition applies: "Teacher leadership" means practices and professional capacities in which teachers act or fulfill duties and roles that support school-system faculty, staff, and administrators to improve instruction and teaching practices to improve educator and student development and performance.
- B. The Arizona Teacher Leader Professional Standards are established. Teacher leader professional roles and professional learning programs developed by Arizona school districts, charter schools, the State Education System for Committed Youth, and the Arizona State Schools for the Deaf and the Blind who receive grant funds pursuant to A.R.S. § 15-1281(D)(3) may use the Arizona Teacher Leader Professional Standards to establish and align professional duties, plans, pathways, and development programs.
- C. The Board shall adopt Arizona Teacher Leader Professional Standards as follows:
 1. The Department shall develop teacher leader professional standards and guidance and resources in consultation with state educators and experts in instruction, educator quality, educator workforce development, success, leadership and retention;
 2. The Department shall present the teacher leader standards and the development process to the Board at a regularly scheduled Board meeting; and
 3. The Board shall adopt the Arizona Teacher Leader Professional Standards at a subsequent meeting.

Historical Note

New Section made by final exempt rulemaking at 29 A.A.R. 1401 (June 23, 2023), effective May 22, 2023 (Supp. 23-2).

R7-2-603. Professional Administrative Standards

- A. The standards presented in this Section shall be the basis for approved administrative preparation programs, described in R7-2-604. The Arizona Administrator Proficiency Assessment shall assess proficiency in the standards as a requirement for certification of supervisors, principals, and superintendents, as set forth in R7-2-616.
- B. Standard 1: Effective educational leaders develop, advocate, and enact a shared mission, vision, and core values of high-quality education and academic success and well-being of each student. Effective leaders:
 1. Develop an educational mission for the school to promote the academic success and well-being of each student.
 2. In collaboration with members of the school and the community and using relevant data, develop and promote a vision for the school on the successful learning and development of each child and on instructional and organizational practices that promote such success.
 3. Articulate, advocate, and cultivate core values that define the school's culture and stress the imperative of child-centered education; high expectations and student support; equity, inclusiveness, and social justice; openness, caring, and trust; and continuous improvement.
 4. Strategically develop, implement, and evaluate actions to achieve the vision for the school.
 5. Review the school's mission and vision and adjust them to changing expectations and opportunities for the school, and changing needs and situations of students.

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6. Develop shared understanding of and commitment to mission, vision, and core values within the school and the community.
7. Model and pursue the school's mission, vision, and core values in all aspects of leadership.
- C. Standard 2: Effective educational leaders act ethically and according to professional norms to promote each student's academic success and well-being. Effective leaders:
 1. Act ethically and professionally in personal conduct, relationships with others, decision-making, stewardship of the school's resources, and all aspects of school leadership.
 2. Act according to and promote the professional norms of integrity, fairness, transparency, trust, collaboration, perseverance, learning, and continuous improvement.
 3. Place children at the center of education and accept responsibility for each student's academic success and well-being.
 4. Safeguard and promote the values of democracy, individual freedom and responsibility, equity, social justice, community, and diversity.
 5. Lead with interpersonal and communication skill, social-emotional insight, and understanding of all students' and staff members' backgrounds and cultures.
 6. Provide moral direction for the school and promote ethical and professional behavior among faculty and staff.
- D. Standard 3: Effective educational leaders strive for equity of educational opportunity and culturally responsive practices to promote each student's academic success and well-being. Effective leaders:
 1. Ensure that each student is treated fairly, respectfully, and with an understanding of each student's culture and context.
 2. Recognize, respect, and employ each student's strengths, diversity, and culture as assets for teaching and learning.
 3. Ensure that each student has equitable access to effective teachers, learning opportunities, academic and social support, and other resources necessary for success.
 4. Develop student policies and address student misconduct in a positive, fair, and unbiased manner.
 5. Confront and alter institutional biases of student marginalization, deficit-based schooling, and low expectations associated with race, class, culture and language, gender and sexual orientation, and disability or special status.
 6. Promote the preparation of students to live productively in and contribute to the diverse cultural contexts of a global society.
 7. Act with cultural competence and responsiveness in their interactions, decision making, and practice.
 8. Address matters of equity and cultural responsiveness in all aspects of leadership.
- E. Standard 4: Effective educational leaders develop and support intellectually rigorous and coherent systems of curriculum, instruction, and assessment to promote each student's academic success and well-being. Effective leaders:
 1. Implement coherent systems of curriculum, instruction, and assessment that promote the mission, vision, and core values of the school, embody high expectations for student learning, align with academic standards, and are culturally responsive.
 2. Align and focus systems of curriculum, instruction, and assessment within and across grade levels to promote student academic success, love of learning, the identities and habits of learners, and healthy sense of self.
3. Promote instructional practice that is consistent with knowledge of child learning and development, effective pedagogy, and the needs of each student.
4. Ensure instructional practice that is intellectually challenging, authentic to student experiences, recognizes student strengths, and is differentiated and personalized.
5. Promote the effective use of technology in the service of teaching and learning.
6. Employ valid assessments that are consistent with knowledge of child learning and development and technical standards of measurement.
7. Use assessment data appropriately and within technical limitations to monitor student progress and improve instruction.
- F. Standard 5: Effective educational leaders cultivate an inclusive, caring, and supportive school community that promotes the academic success and well-being of each student. Effective leaders:
 1. Build and maintain a safe, caring, and healthy school environment that meets that the academic, social, emotional, and physical needs of each student.
 2. Create and sustain a school environment in which each student is known, accepted and valued, trusted and respected, cared for, and encouraged to be an active and responsible member of the school community.
 3. Provide coherent systems of academic and social supports, services, extracurricular activities, and accommodations to meet the range of learning needs of each student.
 4. Promote adult-student, student-peer, and school-community relationships that value and support academic learning and positive social and emotional development.
 5. Cultivate and reinforce student engagement in school and positive student conduct.
 6. Infuse the school's learning environment with the cultures and languages of the school's community.
- G. Standard 6: Effective educational leaders develop the professional capacity and practice of school personnel to promote each student's academic success and well-being. Effective leaders:
 1. Recruit, hire, support, develop, and retain effective and caring teachers and other professional staff and form them into an educationally effective faculty.
 2. Plan for and manage staff turnover and succession, providing opportunities for effective induction and mentoring of new personnel.
 3. Develop teachers' and staff members' professional knowledge, skills, and practice through differentiated opportunities for learning and growth, guided by understanding of professional and adult learning and development.
 4. Foster continuous improvement of individual and collective instructional capacity to achieve outcomes envisioned for each student.
 5. Deliver actionable feedback about instruction and other professional practice through valid, research-anchored systems of supervision and evaluation to support the development of teachers' and staff members' knowledge, skills, and practice.
 6. Empower and motivate teachers and staff to the highest levels of professional practice and to continuous learning and improvement.

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7. Develop the capacity, opportunities, and support for teacher leadership and leadership from other members of the school community.
 8. Promote the personal and professional health, well-being, and work-life balance of faculty and staff.
 9. Tend to their own learning and effectiveness through reflection, study, and improvement, maintaining a healthy work-life balance.
- H. Standard 7: Effective educational leaders foster a professional community of teachers and other professional staff to promote each student's academic success and well-being. Effective leaders:**
1. Develop workplace conditions for teachers and other professional staff that promote effective professional development, practice, and student learning.
 2. Empower and entrust teachers and staff with collective responsibility for meeting the academic, social, emotional, and physical needs of each student, pursuant to the mission, vision, and core values of the school.
 3. Establish and sustain a professional culture of engagement and commitment to shared vision, goals, and objectives pertaining to the education of the whole child; high expectations for professional work; ethical and equitable practice; trust and open communication; collaboration, collective efficacy, and continuous individual and organizational learning and improvement.
 4. Promote mutual accountability among teachers and other professional staff for each student's success and the effectiveness of the school as a whole.
 5. Develop and support open, productive, caring, and trusting working relationships among leaders, faculty, and staff to promote professional capacity and the improvement of practice.
 6. Design and implement job-embedded and other opportunities for professional learning collaboratively with faculty and staff.
 7. Provide opportunities for collaborative examination of practice, collegial feedback, and collective learning.
 8. Encourage faculty-initiated improvement of programs and practices.
- I. Standard 8: Effective educational leaders engage families and the community in meaningful, reciprocal, and mutually beneficial ways to promote each student's academic success and well-being. Effective leaders:**
1. Are approachable, accessible, and welcoming to families and members of the community.
 2. Create and sustain positive, collaborative, and productive relationships with families and the community for the benefit of students.
 3. Engage in regular and open two-way communication with families and the community about the school, students, needs, problems, and accomplishments.
 4. Maintain a presence in the community to understand its strengths and needs, develop productive relationships, and engage its resources for the school.
 5. Create means for the school community to partner with families to support student learning in and out of school.
 6. Understand, value, and employ the community's cultural, social, intellectual, and political resources to promote student learning and school improvement.
 7. Develop and provide the school as a resource for families and the community.
8. Advocate for the school and district, and for the importance of education and student needs and priorities to families and the community.
 9. Advocate publicly for the needs and priorities of students, families, and the community.
 10. Build and sustain productive partnerships with public and private sectors to promote school improvement and student learning.
- J. Standard 9: Effective educational leaders manage school operations and resources to promote each student's academic success and well-being. Effective leaders:**
1. Institute, manage, and monitor operations and administrative systems that promote the mission and vision of the school.
 2. Strategically manage staff resources, assigning and scheduling teachers and staff to roles and responsibilities that optimize their professional capacity to address each student's learning needs.
 3. Seek, acquire, and manage fiscal, physical, and other resources to support curriculum, instruction, and assessment; student learning community; professional capacity and community; and family and community engagement.
 4. Are responsible, ethical, and accountable stewards of the school's monetary and non-monetary resources, engaging in effective budgeting and accounting practices.
 5. Protect teachers' and other staff members' work and learning from disruption.
 6. Employ technology to improve the quality and efficiency of operations and management.
 7. Develop and maintain data and communication systems to deliver actionable information for classroom and school improvement.
 8. Know, comply with, and help the school community understand local, state, and federal laws, rights, policies, and regulations so as to promote student success.
 9. Develop and manage relationships with feeder and connecting schools for enrollment management and curricular and instructional articulation.
 10. Develop and manage productive relationships with the central office and school board.
 11. Develop and administer systems for fair and equitable management of conflict among students, faculty and staff, leaders, families, and community.
 12. Manage governance processes and internal and external politics toward achieving the school's mission and vision.
- K. Standard 10: Effective educational leaders act as agents of continuous improvement to promote each student's academic success and well-being. Effective leaders:**
1. Seek to make school more effective for each student, teachers and staff, families, and the community.
 2. Use methods of continuous improvement to achieve the vision, fulfill the mission, and promote the core values of the school.
 3. Prepare the school and the community for improvement, promoting readiness, an imperative for improvement, instilling mutual commitment and accountability, and developing the knowledge, skills, and motivation to succeed in improvement.
 4. Engage others in an ongoing process of evidence-based inquiry, learning, strategic goal setting, planning, implementation, and evaluation for continuous school and classroom improvement.
 5. Employ situationally-appropriate strategies for improvement, including transformational and incremental, adap-

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- tive approaches and attention to different phases of implementation.
6. Assess and develop the capacity of staff to assess the value and applicability of emerging educational trends and the findings of research for the school and its improvement.
 7. Develop technically appropriate systems of data collection, management, analysis, and use, connecting as needed to the district office and external partners for support in planning, implementation, monitoring, feedback, and evaluation.
 8. Adopt a systems perspective and promote coherence among improvement efforts and all aspects of school organization, programs, and services.
 9. Manage uncertainty, risk, competing initiatives, and politics of change with courage and perseverance, providing support and encouragement, and openly communicating the need for, process for, and outcomes of improvement efforts.
 10. Develop and promote leadership among teachers and staff for inquiry, experimentation and innovation, and initiating and implementing improvement.

Historical Note

Former Section R7-2-603 repealed, new Section R7-2-603 adopted effective December 4, 1978 (Supp. 78-6). Amended effective July 21, 1980 (Supp. 80-4). Amended subsection (J) effective August 20, 1981 (Supp. 81-4). Amended subsections (D) and (E) effective April 10, 1984 (Supp. 84-2). Amended subsection (J)(8) and (9) effective October 10, 1984 (Supp. 84-5). Amended subsection (G) effective December 13, 1985. Amended subsection (J)(6), (7), (8) and (9) effective December 18, 1985 (Supp. 85-6). Editorial correction, amendment to subsections (D) and (E) shown effective April 10, 1984 should read Amended subsections (D) and (E) effective October 1, 1985. Amended by adding subsection (G)(9) and (10) effective January 31, 1986 (Supp. 86-1). Amended by adding subsection (R) effective April 24, 1986 (Supp. 86-2). Amended subsection (G), filed May 5, 1986, effective July 1, 1987 (Supp. 86-3). Amended by adding subsection (J)(10) and (11) effective July 2, 1986; amended by adding subsection (J)(12), (13) and (14), filed August 7, 1986, effective July 1, 1987 (Supp. 86-4). Amended subsection (H) effective September 16, 1987 (Supp. 87-3). Correction: subsection (G)(3), "Provisional" is corrected to read: "Principal" as certified effective December 3, 1985; amended subsection (B) effective July 13, 1988; amended subsection (J)(2) effective August 10, 1988; amended subsection (R)(2)(b) effective August 15, 1988 (Supp. 88-3). Amended effective August 9, 1989, and amended effective September 12, 1989 (Supp. 89-3). Amended effective December 15, 1989 (Supp. 89-4). Amended effective November 6, 1990; Amended effective December 12, 1990 (Supp. 90-4). Amended effective March 21, 1991 (Supp. 91-1). Amended effective May 2, 1991 (Supp. 91-2). Amended effective October 22, 1991 (Supp. 91-4). Section repealed, new Section adopted effective March 10, 1994 (Supp. 94-1). Amended effective December 19, 1996 (Supp. 96-4). Amended effective March 6, 1997 (Supp. 97-1). Typographical error corrected in subsection (J) (Supp. 97-4). Section repealed; new Section adopted effective December 4, 1998 (Supp. 98-4). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24,

2010 (Supp. 10-4). Amended by exempt rulemaking at 18 A.A.R. 1029, effective December 5, 2011 (Supp. 12-2). Amended by final exempt rulemaking at 22 A.A.R. 3369, effective October 24, 2016 (Supp. 16-4).

R7-2-604. Definitions

In R7-2-604 through R7-2-604.05, unless the context otherwise requires:

1. "Accreditation" means a professional preparation institution's recognition by a national or regional agency or organization acknowledged for meeting identified standards or criteria.
2. "Alternative educator preparation program" means a program designed for individuals who are working as a PreK through 12 teacher or administrator while certified under an alternative teaching certificate or interim administrative certificate. Alternative educator preparation programs may have substantially different program sequences, designs, and/or formats than that of a traditional education preparation program.
3. "Biennial report" means a report submitted every two years to the Department by all Arizona State Board approved professional preparation institutions for each approved educator preparation program.
4. "Biennial status letter" means correspondence issued by the Department to the professional preparation institution within 30 days upon completion of the review of the biennial report, indicating the status of the educator preparation program(s).
5. "Board approved program" means a course of study that is approved by the Board and meets all relevant standards for teachers, administrators, school guidance counselors, or school psychologists.
6. "Capstone experience" means a culminating professional experience in a PreK through 12 setting. This experience may include student teaching or internships in administration, counseling, or school psychology, or alternative path PreK through 12 teaching.
7. "Classroom-based educator preparation program" means a program administered through a school district or charter school that is approved pursuant to R7-2-604.05.
8. "Educator preparation program" means a traditional or alternative educator preparation program that prepares PreK through 12 teachers, administrators, school counselors, and school psychologists for an institutional recommendation for an Arizona certificate.
9. "Field experience" means scheduled, directed, structured, supervised, frequent experiences in a PreK through 12 setting that occurs prior to the capstone experience. Field experiences must assist educator candidates in developing the knowledge, skills, and dispositions necessary to ensure all students learn, and provide evidence in meeting standards described in the Board approved professional teaching standards or professional administrative standards, and relevant Board approved academic standards.
10. "Institutional recommendation" means a form developed by the Department and issued by a professional preparation institution, that indicates an individual has completed a Board approved educator preparation program.
11. "Internship" means significant opportunities for candidates to practice and develop the skills identified in relevant state and national standards as measured by substantial and sustained work in real settings, appropriate for the certificate the candidate is seeking, performed

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- under the direction of a supervising practitioner and a program supervisor.
12. “Locally based school leadership preparation program” means a program administered through a school district or charter school that is approved pursuant to R7-2-604.06.
 13. “National standards” means written expectations for meeting a specified level of performance that are established by, but not limited to, the following organizations: Council for Accreditation of Counseling and Related Education Program (CACREP), Council for the Accreditation of Educator Preparation (CAEP), Council for Exceptional Children (CEC), The National Educational Leadership Preparation (NELP), Interstate New Teacher Assessment and Support Consortium (InTASC), Professional Standards for Educational Leadership (PSEL), International Society for Technology in Education (ISTE), National Association for the Education of Young Children (NAEYC), National Association of School Psychologists (NASP), National Council for Accreditation of Teacher Education (NCATE) or Teacher Education Accreditation Council (TEAC).
 14. “Probationary educator preparation program” means a program with at least one deficiency identified in the biennial status letter issued by the Department, as a result of a Department review of the biennial report. Programs with the same deficiency(s) in two consecutive biennial status letters are subject to revocation of Board approval. A deficiency may include, but is not limited to, stakeholder surveys, completer data and student achievement data.
 15. “Professional preparation institutions” means organizations that include, but are not limited to, universities and colleges, school districts, not for profit organizations, professional organizations, private businesses, charter schools, and regional training centers that oversee one or more educator preparation programs.
 16. “Program completer” means a student who has met all the professional program institution’s requirements of a Board approved educator preparation program necessary to obtain an institutional recommendation.
 17. “Program supervisor” means an educator from the professional preparation institution under whose supervision the candidate for licensure practices during a capstone experience. The program supervisor’s professional work experiences must be relevant to the license the candidate is seeking. Program supervisors must also have adequate training from the professional preparation institution.
 18. “Review Team” means a committee that reviews educator preparation programs seeking Board approval that consists of representatives from the Department and at least three of the following entities: institutions under the jurisdiction of the Arizona Board of Regents, Arizona private institutions of higher education, Arizona community colleges, other organizations with a Board approved educator preparation program, professional educator associations, PreK through 12 administrators from local education agencies, National Board Certified Teachers, and a graduate or representative from an Arizona educator preparation program. For alternative educator preparation program applications, the review team shall include at least one graduate or representative from an Arizona alternative educator preparation program.
 19. “Student teaching” means a minimum of 12 weeks of rigorous field-based experiences, appropriate for the certificate the candidate is seeking, performed under the direction of a supervising practitioner and a program supervisor. The student teaching placement must be appropriate for the certification that the applicant is seeking.
 20. “Supervising practitioner” means a standard certified educator, currently employed by a local education agency, private agency or other PreK through 12 setting who supervises the candidate during a capstone experience. Supervising practitioners must have:
 - a. A minimum of three full years of experience relevant to the license the candidate is seeking.
 - b. A current classification of highly effective or effective pursuant to A.R.S. §§ 15-341(A)(41), 15-189.06, when applicable.
 - c. Adequate training from the professional preparation institution.
 21. “Traditional educator preparation program” means a program that includes courses, field experiences, and a capstone experience that is designed to prepare preservice PreK through 12 teachers, administrators, school counselors, and school psychologists.”

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 318, effective August 29, 2006 (Supp. 09-1). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2047, effective October 27, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 26 A.A.R. 66, effective December 13, 2019 (Supp. 19-4). Amended by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2). The word “twelve” has been changed to the numeral “12,” the hyphen between “PreK-12” has been changed to the word “through” for consistency in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-604.01. Educator Preparation Programs

- A. Professional preparation institutions shall include evidence that the educator preparation program is aligned to standards described in the Board approved professional teaching standards or professional administrative standards and relevant national standards, and provides field experiences, and a capstone experience.
- B. Educator preparation programs of professional preparation institutions requesting Board approval shall be reviewed by the Department, and the Department shall recommend Board action. Upon the recommendation of the Department, the Board shall evaluate and may approve an educator preparation program. The Board may grant program approval for a period not to exceed six years.
- C. All educator preparation programs that lead to an Arizona certification must be approved by the Board pursuant to these rules. Board approval of educator preparation programs may be granted following the successful evaluation of the program. Board rules in effect at the time of the submission of a program for evaluation shall be the rules upon which the educator preparation program is evaluated.

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Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 318, effective August 29, 2006 (Supp. 09-1). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2047, effective October 27, 2014 (Supp. 15-3). This Section was inadvertently removed when Supp. 19-4 was published. It has been reinstated as last amended in Supp. 15-3 (Supp. 21-2).

R7-2-604.02. Educator Preparation Program Approval Procedures

- A.** Professional preparation institutions with no Board approved educator preparation programs, seeking initial approval for an educator preparation program shall submit to the Department the information necessary to conduct a readiness review of the professional preparation institution. The Department shall prescribe forms to assist professional preparation institutions with providing all information required as part of the readiness review process. The required information, includes the following:
1. An institutional profile demonstrating program and financial stability, a description of the educator preparation program seeking approval, a listing of national or regional accreditations the institution's governance and administrative structures and student demographic data.
 2. A description of the professional preparation institution's vision, mission, philosophy and goals, and a description of how this information is shared with students, relevant staff and other relevant stakeholders.
 3. Data regarding the professional preparation institution's relevant staff, including the following:
 - a. Demographic data relating to the relevant staff for each educator preparation program seeking approval, including, at a minimum, educational degrees, staff to student ratio, experience teaching in a PreK through 12 setting, and, if available, ethnicity and gender data.
 - b. Definitions of titles and clarification of roles of individuals responsible for courses, seminars, or modules of study; field experiences; capstone experiences; and administration.
 - c. A description of the professional preparation institution's employment policies, including procedures for determining staff assignments, evaluation procedures and professional development opportunities and requirements.
- B.** The Department shall provide professional preparation institutions written notification, within 60 days of receiving readiness review materials, either indicating readiness to submit educator preparation programs for review or specifying any deficiencies. The institution has 30 days from receipt of the notice to supply the Department with all required information regarding identified deficiencies.
- C.** The Department shall initiate a review of the specific educator preparation programs being considered for Board approval. The Department shall prescribe forms to assist institutions with providing all information required as part of the educator preparation programs review. Professional Preparation Institutions with accreditation may submit accreditation documentation to be considered as part of the review process. To facilitate this review, institutions shall provide the Department with the following:
1. A description of the educator preparation programs being considered for Board approval. This shall include, at a minimum, the criteria for student entry into the program; a summary of the program courses, seminars, or modules of study; field experiences; and capstone experiences. The professional preparation institution must verify that it requires courses, seminars, or modules of study necessary to obtain a full Structured English Immersion endorsement if required for the certificate the candidate is seeking.
 2. A description of the field experience and capstone experience policies for the educator preparation programs being considered for Board approval. The review team shall verify that the field experience and capstone experience includes evidence of engagement in the application of relevant standards as articulated in the Board approved professional teaching standards or professional administrative standards and relevant national standards. Educator preparation programs applying for approval in school psychology and guidance counseling shall only be required to demonstrate compliance with applicable national standards.
 3. Evidence that candidates are provided instruction and practice in how to gather, evaluate, and synthesize multiple data sources and how to effectively use data in educational and classroom instructional decisions.
 4. Provide the Department with evidence that candidates are provided instruction and practice in how to appropriately integrate technology when working with students.
 5. A description of the assessment plan for measuring each candidate's competencies as they progress through courses, seminars, or modules of study and field experiences to ensure readiness for a capstone experience. The plan shall require, at a minimum, that candidates demonstrate competencies as articulated in the Board approved professional teaching standards or professional administrative standards, relevant Board approved academic standards, and relevant national standards. The plan shall also describe processes for utilizing performance-based assessments and for providing candidates with necessary remediation. Programs applying for approval in school psychology and guidance counseling shall only be required to demonstrate compliance with relevant national standards.
 6. A description of the procedures used to monitor and evaluate the operation, scope and quality of the educator preparation program being considered for approval. This shall include the use of internal and external evaluations, and may include stakeholder surveys, program completion employment information, and PreK through 12 student achievement data.
 7. An educator preparation program matrices demonstrating that program course, seminar, or module assessments, field experiences and capstone experiences measure candidates' success in meeting the Board approved professional teaching standards or professional administrative standards, and relevant national standards. Educator preparation programs applying for approval in school psychology and guidance counseling shall only be required to demonstrate compliance with relevant national standards.
 8. A plan for how the education preparation program will notify and assist program participants and partner schools if the educator preparation program closes.
- D.** The Department may schedule and conduct an onsite visit upon completion of the educator preparation programs review

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for professional preparation institutions seeking initial approval. The onsite visit may include a tour of the professional preparation institution; a review of documentation and related evidence; and interviews of relevant staff, educator candidates, and local education agency, private agency or other PreK through 12 administrators who employ program completers.

- E. Upon completion of the review, and onsite review if applicable, the Department shall, within 90 days, provide the professional preparation institution with a program report of the Department's findings. This report shall cite any evidence showing deviation from each relevant standard Board approved professional teaching standard, professional administrative standard, and relevant national standard that applies to the educator preparation program. The professional preparation institution shall have 30 days from receipt of the Department's program report to submit a response addressing any identified deficiencies.
- F. Based upon the Department's program report, the Department shall recommend to the Board that the educator preparation program be approved or denied.
- G. The Board may grant educator preparation program approval for a period not to exceed six years or deny program approval.
- H. Within 60 days of the Board's action, a professional preparation institution may request reconsideration of the Board's decision to deny an educator preparation program.
- I. Professional preparation institutions with Board approval shall make available to the public a statement indicating the valid period for which the educator preparation program has been approved.
- J. Professional preparation institutions with Board approved educator preparation programs shall comply with the reporting requirements established by Title II of the Higher Education Act (P.L. 110-315).
- K. Each approved professional preparation institution shall submit a biennial report with the Department documenting educator preparation program activities for the previous two years. The biennial report shall include the following:
 - 1. A description of any substantive changes in courses, seminars, modules, assessments, field experiences or capstone experiences in Board approved educator preparation programs;
 - 2. Electronic access to relevant educator preparation program information;
 - 3. The name, title and original signature of the certification officer for the professional preparation institution;
 - 4. Relevant data on the educator preparation program, relevant staff, and candidates, which may include, but is not limited to, stakeholder surveys, completer data, and student achievement data required as a condition of initial or continuing program approval.
- L. The Department shall provide annual updates to the Board and make publicly available information summarizing the biennial reports to include, but not limited to, program status, deficiencies, and commendations.
- M. Board approved educator preparation programs shall provide their program completers with an institutional recommendation for issuance of the appropriate Arizona certification within 45 days.
- N. To maintain Board educator preparation program approval, the professional preparation institution shall be in continuous operation and training candidates in accordance with its mission and program objectives, fulfill all reporting requirements,

and maintain compliance with all applicable local, state, tribal and federal requirements.

- O. The Department shall provide a timeline for professional preparation institutions to submit educator preparation programs for approval.
- P. Professional preparation Institutions seeking renewal of educator preparation program approval shall submit the required preliminary documents for review at least six month prior to the program expiration date.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 318, effective August 29, 2006 (Supp. 09-1). Amended by final exempt rulemaking at 21 A.A.R. 2047, effective October 27, 2014 (Supp. 15-3). The hyphen between "PreK-12" was replaced with the word "through" for consistency in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-604.03. Alternative Educator Preparation Program Approval Process

- A. An organization that includes, but is not limited to, universities under the jurisdiction of the Arizona Board of Regents, community colleges in this state, private postsecondary institutions licensed by this state, school districts, charter schools, professional organizations, nonprofit organizations, private entities and regional training centers that oversee one or more educator preparation program which wishes to offer a program for an alternative route for the certification of teachers and administrators in this State shall apply to the Department of Education for review to become an approved provider of such a program. The Department of Education shall convene a review team to review the application, using a rubric approved by the Board, and submit a recommendation to the Board. The application shall include:
 - 1. The name and location of the applicant;
 - 2. The name of the program;
 - 3. If the applicant is accredited, the name of the regional accrediting body and the accreditation status of the applicant;
 - 4. If the applicant is a private postsecondary educational institution, evidence that the applicant is licensed to operate by the State Board of Private Postsecondary Education pursuant to A.R.S. § 32-3021;
 - 5. A description of the budget of the program;
 - 6. A list of all staff members responsible for the administration of the program, the roles and responsibilities of each person and his or her credentials;
 - 7. The areas of certification for which the applicant will offer the program;
 - 8. A description of the program, which shall include:
 - a. The way in which the elements of the program will comply with the requirements of this Section and R7-2-602, R7-2-603 as applicable and A.R.S. § 15-501.01;
 - b. The application and review process for persons to enroll in the program, including a copy of all forms that will be used in the process;
 - c. A summary of the program courses, seminars, or modules of study; and
 - d. The supervised, school-based experiences the applicant will provide, including:

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- i. The name of each school and school district that will participate in the supervised, school-based experience, evidenced by a letter or other communication from the school or school district that demonstrates interest in participating;
 - ii. The length of time for which a candidate will be required to participate in the supervised, school-based experience, including any orientation that the candidate must complete;
 - iii. The manner by which candidates will be mentored by an effective or highly effective teacher and evaluated during the supervised, school-based experience;
 - iv. How the supervised, school-based experience will promote the effectiveness of teachers and administrators, as appropriate; and
 - v. A copy of all forms that will be used for the supervised, school-based experience process;
9. If available, data on the efficacy of its preparation program which may include stakeholder surveys, completer data, and student achievement data;
10. A statement of the estimated time it will take a candidate enrolled in the program to complete the program, which shall allow for completion of the program within one year but not more than three years;
11. A description of the manner by which the applicant will evaluate the success or failure of each candidate enrolled in the program and track the progress of each such candidate, including a copy of all forms that will be used for the evaluation and tracking;
12. A description of how the applicant will evaluate the success of the program, which must include the information required for the evaluation pursuant to R7-2-604.02(K)(4);
13. A plan for how the education preparation program will notify and assist program participants and partner schools if the educator preparation program closes.
- B.** Upon receipt of an application for approval as an approved provider pursuant to subsection (A), the Department of Education shall convene a review team that shall:
 1. Examine the application;
 2. Determine whether to recommend that the State Board of Education grant its approval of the application based upon the requirements of this Section and the Board-approved rubric without any additional requirements; and
 3. Submit its recommendation to the State Board of Education within 90 days of receipt of the application.
- C.** The State Board of Education shall review the recommendation of the review team and provide to the applicant written notice of its approval or denial. The State Board of Education may grant provisional approval to an applicant pursuant to subsection (D). If the State Board of Education denies an application, the applicant may correct any deficiencies identified in the notice of denial and resubmit the application for review by the Department within 30 days of the denial. The review team shall review the resubmitted application and submit its recommendation to the Board within 60 days of receipt of the resubmitted application.
- D.** If the State Board of Education grants an applicant provisional approval, the applicant may offer the program for an alternative route to certification described in the application for the period prescribed by the State Board of Education. The applicant must remove all the provisions under which the approval was issued before the expiration of the provisional approval. If the applicant removes the provisions within the prescribed time, the State Board of Education will grant nonprovisional approval to the applicant as an approved provider. Provisional approval is valid for two years after the date on which the State Board of Education granted provisional approval. If an applicant does not remove all the provisions within the prescribed time, the provisional approval is automatically revoked.
- E.** Except as otherwise provided in subsection (D), if an applicant is approved as an approved provider pursuant to this Section, the approval is valid for six years after the date of approval. To continue the approval, the qualified provider must submit an application for renewal before the expiration of the approval to the Department of Education. If the application for renewal is approved by the State Board of Education, the renewal is valid for six years after the date of the approval.
- F.** If an approved provider intends to offer a program for an alternative route to certification for an area of certification that is different from the area of certification for which the qualified provider has been approved, the qualified provider must submit a new application pursuant to subsection (A) to offer a program for an alternative route to certification for that area of certification.
- G.** An approved provider shall provide its program completers with an institutional recommendation for issuance of the appropriate Arizona alternative path certification within 45 days. An approved provider seeking renewal of its program approval shall submit the required renewal application for review at least 90 days prior to the program expiration date.
- H.** Each qualified provider must submit a report once every two years which includes:
 1. A description of any substantive changes in courses, seminars, modules or assessments in the Board approved educator preparation programs;
 2. The name, title and original signature of the certification officer for the professional preparation institution; and
 3. Relevant data on the educator preparation program, relevant staff, and candidates, which may include, but is not limited to, stakeholder surveys, completer data, and student achievement data required as a condition of continuing program approval.
- I.** The Department shall:
 1. Present the results of the report to the State Board of Education; and
 2. After the results have been presented to the State Board of Education, post the report on the Department's website.
- J.** Each qualified provider shall cooperate with the State Board of Education and the Department in the evaluation of the effectiveness of this Section.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 728, effective March 22, 2010 (Supp. 10-3). Amended by final exempt rulemaking at 21 A.A.R. 2047, effective October 27, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 25 A.A.R. 965, effective March 25, 2019 (Supp. 19-1). Amended by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-604.04. Revocation of Approval of Qualified Provider:

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Notification of Intent; Requirements of Exit Plan

- A. The State Board of Education may revoke its approval of an approved provider if the Board determines that the program for an alternative route to certification offered by the qualified provider does not meet the applicable requirements of R7-2-604.03.
- B. Before the Board revokes its approval of an approved provider, the Board will notify the qualified provider of its intent to revoke approval. The notice must include the specific reasons upon which the Board is basing its decision. Not later than 30 days after the date on which the qualified provider receives the notice, the qualified provider may submit a written response to the Board which sets forth the reasons why approval should not be revoked. The Board will review the notice and any response submitted by the qualified provider and will determine whether to:
 - 1. Revoke the approval of the qualified provider;
 - 2. Allow the qualified provider to continue providing the program for an alternative route to certification if certain enumerated conditions are met; or
 - 3. Allow the continued approval of the qualified provider without conditions.
- C. If the Board revokes its approval of an approved provider, the qualified provider must provide an exit plan which includes a description of how the qualified provider will assist candidates enrolled in the program for an alternative route to certification in completing another program with a different qualified provider at no cost to the candidate.

Historical Note

New Section made by exempt rulemaking at 16 A.A.R. 728, effective March 22, 2010 (Supp. 10-3). Amended by final exempt rulemaking at 21 A.A.R. 2047, effective October 27, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

R7-2-604.05. Classroom-Based Alternative Preparation Program Approval Process

- A. A school district or charter school may apply to the Board for approval as a classroom-based alternative preparation program provider. The Department shall facilitate the Board approval process and prescribe an application form that shall include the following:
 - 1. The name of the program and the school district or charter school applying;
 - 2. The areas of certification for which the applicant will offer the program;
 - 3. Verification that individuals enrolled in the program will have a bachelor's degree from an accredited institution, or will meet all of the following criteria:
 - a. Will be currently enrolled in an accredited public or private postsecondary institution's bachelor's degree program;
 - b. Will not be a contracted or permanent full-time teacher or teacher of record for any classroom of students, except those enrollees may be employed by the school district or charter school; and
 - c. Will not regularly instruct students without the presence of a full-time teacher, certificated teacher, instructional coach or instructional mentor unless the individual possesses other means of certification.
 - 4. Verification that individuals to be enrolled in the program will meet the background requirements and have a valid fingerprint card issued by the Arizona Department of Public Safety pursuant to A.R.S. § 15-534;
- 5. Data supporting the efficacy of its teacher preparation program, which may include stakeholder surveys, completer data and student achievement data. The school district or charter school may contract with a third party provider to provide the classroom-based alternative preparation program and may use that program's efficacy data to meet this requirement.
- 6. A list of all staff members responsible for administering the program and the roles and responsibilities of each person;
- 7. A description of the program, which shall include the following:
 - a. A program sequence or training schedule; and
 - b. Information regarding the mentoring and coaching of teacher candidates.
- 8. The school district or charter school may provide information on professional expectations, professional requirements, or student achievement requirements that exceed expectations and requirements of this Section, including requiring candidates to complete specified coursework or trainings.
- 9. A plan for how the program will notify and assist program participants if the program or school closes.
- B. Upon receipt of an application for approval as a classroom-based preparation program provider, the Department shall convene a review team that shall:
 - 1. Examine the application;
 - 2. Determine whether to recommend that the Board grant its approval of the application based upon the requirements of this Section and a Board-approved rubric; and
 - 3. Submit its recommendation to the State Board of Education within 90 days of receipt of the application.
- C. The State Board of Education shall review the recommendation of the review team and provide to the applicant written notice of its approval or denial.
- D. If the Board denies an applicant for program approval, the applicant may correct any deficiencies identified in the notice of denial and resubmit the application for review by the Department within 30 days of the denial. The review team shall review the resubmitted application and submit its recommendation to the Board within 60 days of receipt of the resubmitted application.
- E. If the Board approves an applicant as a classroom-based preparation program provider, the approval is valid for six years after the date of approval. To continue as a program provider, the school district or charter school shall apply for renewal before the expiration of its current approval. If the application for renewal is approved by the Board, the renewal is valid for six years after the date of the approval.
- F. Approved classroom-based alternative preparation program providers shall submit a new application pursuant to subsection (A) to offer a program in an additional certification area.
- G. Each qualified provider shall submit a report once every two years that includes:
 - 1. A description of any substantive changes in courses, seminars, modules or assessments in the Board approved classroom-based preparation programs;
 - 2. The name, title and original signature of the certification officer for the approved program provider;
 - 3. Relevant data on the educator preparation program, relevant staff, and candidates, which may include, but is not limited to, stakeholder surveys, completer data, and stu-

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dent achievement data required as a condition of continuing program approval.

- H. Classroom-based preparation program providers shall provide program completers with an institutional recommendation for the appropriate Classroom-Based Standard Teaching Certificate within 45 days of program completion.

Historical Note

New Section made by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-604.06. Locally Based School Leadership Preparation Program Approval Process

- A. A school district or charter school may apply to the Board for approval as a locally based school leadership preparation program provider. The Department shall administer the Board approval process and prescribe an application form, which shall include the following:
1. The name of the program and the school district or charter school applying;
 2. A list of all staff members responsible for administering the program and the roles and responsibilities of each person;
 3. The areas of certification for which the applicant will offer the program;
 4. A description of the program, which shall include the following:
 - a. A program sequence or training schedule; and
 - b. Information regarding the learning experiences, mentoring and coaching of school leader candidates.
 5. Evidence supporting the efficacy of the school district's or charter school's preparation program. A school district or charter school may contract with a third party provider to provide or assist in the preparation in the preparation program and may use that program's efficacy evidence to meet this requirement.
 6. Verification that individuals enrolled in the program will have a bachelor's degree from an accredited institution;
 7. Verification that individuals enrolled in the program will meet the background requirements and have a valid fingerprint card issued by the Arizona Department of Public Safety pursuant to A.R.S. § 15-534.
 8. A plan for how the program will notify and assist program participants if the program or school closes.
- B. Upon receipt of an application for approval as a locally-based school leadership preparation program provider, the Department shall convene a review team that shall:
1. Examine the application;
 2. Determine whether to recommend that the Board grant its approval of the application based upon the requirements of this Section and a Board-approved rubric; and
 3. Submit its recommendation to the State Board of Education within 90 days of receipt of the application.
- C. The State Board of Education shall review the recommendation of the review team and provide to the applicant written notice of its approval or denial.
- D. If the Board denies an applicant for program approval, the applicant may correct any deficiencies identified in the notice of denial and resubmit the application for review by the Department within 30 days of the denial. The review team

shall review the resubmitted application and submit its recommendation to the Board within 60 days of receipt of the resubmitted application.

- E. If the Board approves an applicant as a locally based school leadership preparation program provider, the approval is valid for six years after the date of approval. To continue as a locally based school leadership program provider, the school district or charter school shall apply for renewal before the expiration of its current approval. If the application for renewal is approved by the Board, the renewal is valid for six years after the date of the approval.
- G. Locally based leadership program providers shall provide program completers with an institutional recommendation for the appropriate locally based pathway standard administrative certificate within 45 days of program completion.

Historical Note

New Section made by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-605. Certification Responsibility

The Superintendent of Public Instruction or the Superintendent's designee shall be responsible for the issuance and evaluation of the appropriate certificates based on the applicant's compliance with the statutes and rules.

Historical Note

Repealed effective December 4, 1978 (Supp. 78-6). New Section R7-2-605 adopted effective April 10, 1984 (Supp. 84-2). Editorial correction, new Section R7-2-605 shown adopted effective April 10, 1984 should read new Section R7-2-605 adopted effective October 1, 1985.

Amended by adding a new subsection (B) effective December 18, 1985 (Supp. 85-6). Amended by adding subsection (C), filed May 5, 1986, effective July 1, 1987; amended by adding subsection (D) effective June 30, 1986 (Supp. 86-3). Correction to Historical Note dated June 30, 1986, second part should have read: "...amended by adding subsections (D), (E), (F), (G) and (H) effective June 30, 1986"; amended subsection (A) effective August 10, 1988 (Supp. 88-3). Amended effective September 12, 1989 (Supp. 89-3). Amended effective November 6, 1990; Amended effective December 12, 1990 (Supp. 90-4). Amended effective March 10, 1994 (Supp. 94-1). Section repealed; new Section adopted effective December 4, 1998 (Supp. 98-4). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4).

R7-2-606. Proficiency Assessments

- A. The Arizona Teacher Proficiency Assessment is adopted as the proficiency assessment for applicants for teaching certificates. The Arizona Administrator Proficiency Assessment is adopted as the proficiency assessment for applicants for administrative certificates.
- B. The subject knowledge portion of the Arizona Teacher Proficiency Assessment shall assess proficiency as described in R7-2-602 related to the teacher's knowledge of the certification subject area or areas.
- C. The professional knowledge portion of the Arizona Teacher Proficiency Assessment shall assess proficiency as described in R7-2-602 related to the teacher's pedagogical knowledge.
- D. The Arizona Administrator Proficiency Assessment shall assess professional knowledge as described in R7-2-603 as a requirement for certification of administrators, supervisors, principals, and superintendents.

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- E. The passing score for each assessment shall be determined by the Board using the results of validity and reliability studies. The passing score for each assessment shall be reviewed by the Board at least every three years.
- F. The proficiency assessments for professional knowledge and subject knowledge for a certificate, endorsement, or approved area shall be approved by the Board.

Historical Note

Repealed effective December 4, 1978 (Supp. 78-6). New Section adopted effective March 10, 1994 (Supp. 94-1). Amended effective March 6, 1997 (Supp. 97-1). Section repealed; new Section adopted effective December 4, 1998 (Supp. 98-4). Section R7-2-606 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 2562, effective May 23, 2002 for a period of 180 days (Supp. 02-2). Emergency Section R7-2-606 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 3739, effective August 5, 2002 for a period of 180 days (Supp. 02-3). May 23, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 8 A.A.R. 5132, effective November 19, 2002 for a period of 180 days (Supp. 02-4). August 5, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 9 A.A.R. 522, effective January 31, 2003 for a period of 180 days (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 24 A.A.R. 1427, effective April 23, 2018 (Supp. 18-2).

R7-2-607. General Certification Provisions

- A. The evaluation to determine qualification for certification shall not begin until an institutional recommendation or application for certification and official transcripts, and the appropriate fees have been received by the Department. Course descriptions, verification of employment, and other documents may also be required for the evaluation.
- B. Unless otherwise specified, a standard certificate shall be issued for 12 years and may be issued with deficiencies. Applicants may receive a standard certificate with the following deficiencies of requirements to be completed within three years: research-based phonics; reading instruction including for students with dyslexia; professionalism and ethics; and U.S. and Arizona Constitutions. If an applicant fails to meet these requirements within the prescribed time period, the Department of Education or the Board shall temporarily suspend the standard certificate, but the suspension is not considered a disciplinary action and the individual shall be allowed to correct the deficiency within the remaining time of the standard certification.
- C. The effective date of a new certificate shall be the date the evaluation is completed by the Department. The effective date of a renewed certificate shall be the date the evaluation for renewal is completed by the Department.
- D. Unless otherwise specified, all certificates and provisional endorsements issued for three years or less shall expire on the date of issuance in the year of expiration. All certificates issued for more than three years shall expire on the holder's birth date in the year of expiration.
- E. Only those degrees awarded by an accredited institution shall be considered to satisfy the requirements for certification.
- F. Professional preparation programs, courses, practica, and examinations required for certification shall be taken at an accredited institution or a Board-approved teacher preparation program.
- G. Only those courses in which the applicant received a passing grade or credit shall be considered to satisfy the requirements for certification.
- H. All certificates issued by the Department are considered to have been issued in conformance with these rules, except on a finding that an applicant submitted falsified or misrepresented documents, records, or facts in an application for certification or on a finding that a certificate was issued in error due to an error by the verifying authority or issuing authority. If the Department makes a finding pursuant to this subsection, the Department shall provide notice to the applicant of the finding. Within 60 days of the date of the notice, the applicant shall submit proof to the Department that the applicant meets the requirements for the certification. If the applicant is unable to provide proof they meet the requirements within 60 days of receipt of notice, the Department shall reclaim the certificate. Reclaiming a certificate pursuant to this subsection is not considered a disciplinary action but the Department shall refer the case for investigation pursuant to R7-2-1308 for findings that an applicant submitted falsified or misrepresented documents, records, or facts.
- I. The Department shall issue a comparable standard Arizona certificate described in R7-2-608, R7-2-609, R7-2-610, R7-2-611, R7-2-612 or R7-2-613 to an applicant who holds a valid certification from the National Board for Professional Teaching Standards, possess a valid fingerprint clearance card issued by the Arizona Department of Public Safety, and holds a bachelor's, master's or doctoral degree from an accredited institution. These applicants are exempt from all portions of the Arizona Teacher Proficiency Assessment.
- J. An applicant is not required to take any portion of the Arizona Teacher Proficiency Assessment if the applicant has at least three years of full-time teaching experience in any state, including this state, in the comparable area of certification or endorsement in which the person is applying for certification, regardless of whether the applicant was certified or uncertified. An applicant is not required to take any portion of the Arizona Administrator Proficiency Assessment if the person has at least three years of full-time experience in a school leadership position in any state, including this state, regardless of whether the applicant was certified or uncertified.
- K. An applicant is exempt from the testing requirements for Arizona certificates if the applicant passed corresponding portions of a professional or subject knowledge examinations, or administrator examination adopted by a state agency in another state that are similar to the Arizona Teacher Proficiency Assessments or the Arizona Administrator Proficiency Assessment.
- L. An applicant is exempt from the subject knowledge portion of the Arizona Teacher Proficiency Assessment if:
 1. The applicant provides verification of teaching courses relevant to a content area or subject matter for the last two consecutive years, and for a total of at least three years at one or more accredited postsecondary institutions; or
 2. The applicant obtained a bachelor's, master's or doctoral degree from an accredited institution in a relevant subject area; or
 3. The applicant provides verification of a minimum of five years of work experience that is relevant to a subject area of certification.
- M. Unless otherwise specified, individuals who hold a valid Arizona elementary, middle grades or secondary certificate, or a

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special education certificate that includes grades six through 12, may add an approved area to their certificate by passing the appropriate subject area portion of the Arizona Teacher Proficiency Assessment or as provided in subsections (J), (K) and (L). Any approved area shall be specified on the certificate. If a proficiency assessment is not offered in a subject area, an approved area shall consist of a minimum of 24 semester hours of courses in the subject.

- N. If a language assessment is not offered through the Arizona Teacher Proficiency Assessment, a passing score on a nationally accredited test of a foreign language approved by the Board may demonstrate proficiency of that foreign language in lieu of the 24 semester hours of courses in that subject.
- O. A teacher's language proficiency in a Native American language shall be verified by a person, persons, or entity designated by the appropriate tribe in lieu of the 24 semester hours of courses in that subject.
- P. Teachers of homebound students shall hold the same certificate that is required of a classroom teacher.
- Q. Fingerprint clearance cards shall be issued by the Arizona Department of Public Safety.
- R. A person who surrenders their teaching certificate for any reason shall not submit an application for certification with the Board for a period of five years. A person re-applying after the five-year ban must apply under the current rules at the time of re-application.
- S. Notwithstanding any other provision, an individual with a deficiency in the Arizona and U.S. Constitutions who teaches an academic course that focuses primarily on history, government, social studies, citizenship, law or civics shall be issued a standard certificate subject to suspension in one year if that deficiency is not removed. The suspension is not considered a disciplinary action and the individual shall be allowed to correct that deficiency within the remaining time of the standard certification.
- T. As used in this Article, unless otherwise provided, "work experience" means paid or unpaid work, including teaching experience as a certificated or noncertificated educator at a public or private school, which demonstrates knowledge or skill relevant to a subject area. Work experience, and its relevance to a subject area, shall be verified with one of the following:
 1. A letter from a superintendent or personnel director that the applicant demonstrates knowledge or skill in the subject area that is comparable to holding a bachelor's degree, master's degree, or doctoral degree in that subject area, as identified in a resume;
 2. A letter from a public or private school superintendent or personnel director, in this state or in another state, that the applicant has the requisite experience teaching the most advanced Arizona academic standards, or comparable out-of-state standards, in the subject area sought; or
 3. If an applicant is unable to obtain a letter described in subsections (T)(1) or (2), the applicant may submit a letter from a current or former supervisor verifying that the applicant demonstrates knowledge or skill in the subject area that is comparable to holding a bachelor's degree, master's degree, or doctoral degree in that subject area, as determined by the Department.
- U. Single subject classroom teachers in grades six through 12 are required to be appropriately certified for the subject they teach for the greater part of their instructional schedule. If a teacher is assigned to two or more subjects for equal parts of their

instructional schedule, the teacher is required to be appropriately certified in each subject.

- V. The requirements to be considered appropriately certified for a self-contained, single subject, or other classroom shall be established in the Certification Guidelines for Teaching Assignments, which shall be approved by the Board and on file with the Department.

Historical Note

Adopted effective December 5, 1977 (Supp. 77-6).
 Repealed effective December 4, 1978 (Supp. 78-6). New Section adopted effective May 3, 1993 (Supp. 93-2).
 Amended effective March 6, 1997 (Supp. 97-1). Section repealed; new Section adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1).
 Amended by exempt rulemaking at 16 A.A.R. 102, effective May 1, 2009 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 160, effective October 26, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 324, effective January 25, 2010 (Supp. 10-3).
 Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2054, effective December 8, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 22 A.A.R. 648, effective January 25, 2016 (Supp. 16-1). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 27 A.A.R. 2353, (October 22, 2021), effective September 27, 2021 (Supp. 21-4).
 Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-607.01 Subject Areas – Waiver

Notwithstanding any other provision in this Article, any individual with a valid Elementary or Secondary certificate, or a Special Education certificate that includes grades six through 12, issued prior to August 1, 2016 may add one or more approved areas to the certificate prior to August 1, 2017 without any additional requirements provided the individual received an evaluation in the top two levels of performance on the most recent teacher evaluation related to one or more of the subject areas and meets one of the following requirements:

1. The individual was teaching in one or more subject areas based on a verified Arizona High, Objective, Uniform, State Standard of Evaluation (HOUSSE) rubric as highly qualified to teach the subject area(s) as defined under the No Child Left Behind Act; or
2. The individual has completed of a minimum of 24 semester hours of courses in the subject area(s).

Historical Note

New Section made by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1).

R7-2-608. Early Childhood Education Teaching Certificate

- A. The Standard Professional Early Childhood Education Certificate authorizes the holder to teach students in a birth through grade three classroom. An individual who holds a Standard Professional Early Childhood Education certificate described in this Section in combination with an Arizona cross categorical, specialized special education, mild/moderate disabilities, or moderate/severe disabilities special education certificate

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described in R7-2-611 is also authorized to teach early childhood special education, birth-age eight or grade three.

- B. Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- C. Standard Professional Early Childhood Education Certificate – birth through grade three.
 - 1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in early childhood education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
 - i. At least 45 classroom hours of Department-approved training or three college-level credit hours, or the equivalent, in research-based science of reading, including systematic phonics;
 - ii. At least 45 classroom hours of Department-approved training or three college-level credit hours, or the equivalent, in research-based reading instruction, including training on assessments, instructional practices and interventions to improve student reading proficiency. The instruction provided must meet the requirements for dyslexia training prescribed in A.R.S. § 15-219;
 - iii. Foundations of early childhood education;
 - iv. Teaching students with exceptionalities;
 - v. Child guidance and classroom management, including characteristics and quality practices for typical and atypical behaviors of young children;
 - vi. Child growth and development, including health, safety and nutrition;
 - vii. Child, family, cultural and community relationships;
 - viii. Developmentally appropriate instructional methodologies for teaching language, math, science, social studies and the arts;
 - ix. Assessing, monitoring and reporting progress of young children;
 - x. Instructional design and lesson planning, including modifications and accommodations;
 - xi. Professional responsibility and ethical conduct; and
 - xii. Twelve-week capstone experience as described in R7-2-604 in a preschool through grade three classroom, which may be completed during the valid period of an alternative teaching or student teaching intern certificate. One year of verified full-time teaching experience in preschool through grade three may be substituted for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
 - c. A valid Fingerprint Clearance Card issued by the Arizona Department of Public Safety;
 - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and

- e. A passing score on the early childhood subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge examination pursuant to the provisions in R7-2-607.

- 2. Applicants may meet the requirements in subsection (C)(1)(b) with the submission of an application for the Standard Professional Early Childhood Education certificate that includes evidence of two years of verified full-time teaching experience serving children birth through grade three, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (C)(1)(b)(i) through (x).

Historical Note

Adopted effective May 20, 1994 (Supp. 94-2). Section repealed; new Section adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1).

Section R7-2-608 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 2562, effective May 23, 2002 for a period of 180 days (Supp. 02-2). May 23, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 8 A.A.R. 5132, effective November 19, 2002 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Former Section R7-2-608 recodified to R7-2-609 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). New Section R7-2-608 made by exempt rulemaking at 16 A.A.R. 52, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 119, effective September 21, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 235, effective December 7, 2009 (Supp. 10-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Section amended by final exempt rulemaking at 30 A.A.R. 2547 (August 9, 2024), effective July 24, 2024 (Supp. 24-3).

R7-2-609. Elementary Teaching Certificate

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. Standard Professional Elementary Certificate – grades kindergarten through eight.
 - 1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in elementary education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. At least forty-five classroom hours of Department-approved training or three semester hours of college-level coursework, or the equivalent, in research-based science of reading systematic phonics;
 - ii. At least forty-five classroom hours of Department-approved training or three semester hours of college coursework, or the equivalent, in research-based reading instruction, including

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- training on assessments, instructional practices and interventions to improve student reading proficiency. Instruction provided must meet the requirements for dyslexia training prescribed in A.R.S. § 15-219;
- iii. Developmentally appropriate instructional delivery, facilitation and methodologies for teaching language, math, science, social studies and the arts;
 - iv. Instructional design and lesson planning, including modifications, and accommodations;
 - v. The learning environment, including classroom management;
 - vi. Assessing, monitoring and reporting progress;
 - vii. Teaching students with exceptionalities;
 - viii. Professional responsibility and ethical conduct; and
 - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades kindergarten through eight, which may be completed during the valid period of an alternative teaching or student teaching intern certificate. One year of verified full-time teaching experience in grades kindergarten through eight may be substituted for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
- c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant qualifies for a waiver of the subject knowledge assessment pursuant to the general certification provisions in R7-2-607; and
 - e. A valid fingerprint card issued by the Arizona Department of Public Safety.
2. Applicants may meet the requirements in subsection (B)(1)(b) with the submission of an application for the Standard Professional Elementary certificate that includes evidence of two years of verified full-time teaching experience in grades kindergarten through eight, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (B)(1)(b)(i) through (viii).

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Section R7-2-609 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 2562, effective May 23, 2002 for a period of 180 days (Supp. 02-2). May 23, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 8 A.A.R. 5132, effective November 19, 2002 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Former R7-2-609 recodified to R7-2-610; new R7-2-609 recodified from R7-2-608 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). R7-2-609 “Pre-kindergarten” corrected to “PreK” at request of the Board, Office File No. M09-444, filed November 24, 2009 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 235, effective December 7, 2009 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249,

effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 2947, effective September 24, 2018 (Supp. 18-3). Section amended by final exempt rulemaking at 30 A.A.R. 2547 (August 9, 2024), effective July 24, 2024 (Supp. 24-3).

R7-2-609.01. Middle Grades Teaching Certificate

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. Standard Professional Middle Grades Certificate – grades five through nine
 1. The requirements include all of the following:
 - a. A bachelor’s degree;
 - b. Completion of a teacher preparation program in middle grades education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. Early adolescent psychology;
 - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
 - iii. Instructional design and lesson planning, including modifications and accommodations;
 - iv. The learning environment, including classroom management;
 - v. Developmentally appropriate instructional delivery, facilitation and methodologies;
 - vi. Assessing, monitoring and reporting progress;
 - vii. Teaching students with exceptionalities;
 - viii. Professional responsibility and ethical conduct; and
 - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades five through nine, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in grades five through nine may be substituted for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on at least one subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor’s, master’s or doctoral degree in the relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment; and
 - e. A valid fingerprint card issued by the Arizona Department of Public Safety.
2. Applicants may meet the requirements in subsection (B)(1)(b) with the submission of an application for the Standard Professional Middle Grades certificate that includes evidence of two years of verified full-time teaching experience in grades five through nine, and Board-

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approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (B)(1)(b)(i) through (viii).

Historical Note

New Section by final exempt rulemaking at 24 A.A.R. 791, effective March 26, 2018 (Supp. 18-1).

R7-2-610. Secondary Teaching Certificates

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. Standard Professional Secondary Certificate – grades six through 12. The requirements are:
 1. A bachelor's degree;
 2. One of the following:
 - a. Completion of a teacher preparation program in secondary education from an accredited institution or a Board-approved teacher preparation program, described in R7-2-604; or
 - b. Thirty semester hours of education courses which teach the knowledge and skills described in R7-2-602, including at least eight semester hours of practicum in grades six through 12. Two years of verified teaching experience in grades six through postsecondary may substitute for the eight semester hours of practicum; or
 - c. A valid secondary certificate from another state.
 3. A passing score on one or more subject knowledge portions of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant subject area or otherwise qualifies for a waiver of the subject knowledge exam;
 4. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
 5. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- C. Standard Professional Secondary Certificate – grades six through 12 for applications received on and after August 1, 2018.
 1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in secondary education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
 - ii. Instructional design and lesson planning, including modifications and accommodations;
 - iii. The learning environment, including classroom management;
 - iv. Developmentally appropriate instructional delivery, facilitation and methodologies;
 - v. Assessing, monitoring and reporting progress;
 - vi. Teaching students with exceptionalities;
 - vii. Professional responsibility and ethical conduct;
 - viii. Twelve weeks of capstone experience as described in R7-2-604 in grades six through postsecondary, which may be completed during the valid period of a teaching intern or student teaching intern certificate; one year of verified full-time teaching experience in grades six through postsecondary may substitute for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
 2. Applicants may meet the requirements in subsection (C)(1)(b) with the submission of an application for the Standard Professional Secondary certificate that includes evidence of two years of verified full-time teaching experience in grades six through postsecondary, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (C)(1)(b)(i) through (vii). One year of verified full-time teaching experience in grades six through postsecondary may be substituted for the capstone experience.
- D. Notwithstanding any other provision, individuals seeking a secondary certificate with an approved area in science, technology, engineering or mathematics are exempted from the requirements of a passing score on one or more subject knowledge portions of the Arizona Teacher Proficiency Assessment based on:
 1. Verified work experience of five or more years in science, technology, engineering or mathematics; and
 2. Demonstrated adequate knowledge of science, technology, engineering or mathematics by:
 - a. A master's or a doctoral degree in an academic subject that is specific to science, technology, engineering or mathematics; or
 - b. Twenty-four semester hours of relevant coursework in an academic subject that is specific to science, technology, engineering or mathematics.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Section R7-2-610 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 2562, effective May 23, 2002 for a period of 180 days (Supp. 02-2). May 23, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 8 A.A.R. 5132, effective November 19, 2002 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Amended by final rulemaking at 10 A.A.R. 2399, effective July 23, 2004 (Supp. 04-2). Amended by exempt rulemaking at 15 A.A.R. 1838, effective August 29, 2006 (Supp. 09-1). Former R7-2-610 recodified to R7-2-611; new R7-2-610 recodified from R7-2-609 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 235, effective

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tive December 7, 2009 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2054, effective December 8, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

R7-2-610.01. Specialized Secondary Teaching Certificates

Specialized Secondary Certificate – Science, Technology, Engineering or Mathematics – grades six through 12

A. The requirements are:

1. One of the following:
 - a. Demonstrate expertise in the subject matter knowledge through:
 - i. A bachelor's, master's or a doctoral degree and 24 semester hours of relevant coursework in an academic subject that is specific to science, technology, engineering or mathematics; or
 - ii. Verified teaching experience for the last two consecutive years, and for a total of at least three years at one or more accredited postsecondary institutions in science, technology, engineering or mathematics
2. Verified work experience of five or more years in science, technology, engineering or mathematics
3. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

B. An individual who meets the requirements of this Section is exempt from the competency requirements of the United States and Arizona Constitutions, and the professional knowledge and the subject knowledge portions of the Arizona Teacher Proficiency Assessments.**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

R7-2-610.02. Subject Matter Expert Standard Teaching Certificate

Subject Matter Expert Standard Teaching Certificate – grades six through 12

A. The requirements are:

1. A bachelor's degree and one of the following:
 - a. Verified teaching experience for the last two consecutive years, and for a total of at least three years at one or more accredited postsecondary institutions in the relevant subject area of certification. An individual seeking certification pursuant to this subdivision is exempt from passing the professional knowledge portion of the Arizona Teacher Proficiency Assessment; or
 - b. A bachelor's, master's or doctoral degree from an accredited postsecondary institution in the specific subject area of certification that is directly relevant to a content area or subject matter taught in public schools; or
 - c. Verification of expertise through work experience of a minimum of five years in the relevant area of certification.
2. A passing score on the professional knowledge Arizona Teacher Proficiency Assessment within two years except as provided by subsection (A)(1)(a). If an applicant fails to meet this requirement within two years, the Department of Education or the Board shall temporarily suspend

the standard certificate, but the suspension is not considered a disciplinary action and the individual shall be allowed to correct the deficiency within the remaining time of the standard certification.

3. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
4. Verification that the applicant has reviewed and attests to reviewing the best practices for social media and cellular telephone use between students and school personnel adopted by the Board.
5. Completion of Board-approved training in professionalism and ethics within two years. If an applicant fails to meet this requirement within two years, the Department or the Board shall temporarily suspend the standard certificate, but the suspension is not considered a disciplinary action and the individual shall be allowed to correct the deficiency within the remaining time of the standard certification.

B. An individual who meets the requirements of this Section is exempt from the competency requirements of the United States and Arizona Constitutions and the subject knowledge portion of the Arizona Teacher Proficiency Assessment.**Historical Note**

New Section made by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 2947, effective September 24, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-611. Special Education Teaching Certificates

- A.** Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619. An Early Childhood Special Education certificate as described in this Section is not required for individuals who hold the Early Childhood endorsement as described in R7-2-615 in combination with an Arizona cross-categorical, specialized special education, or moderate/severe disabilities teaching certificate as described in this Section. An Early Childhood Special Education certificate as described in this Section is not required for individuals who hold the Early Childhood Teaching Certificate as described in R7-2-608 in combination with an Arizona cross-categorical, specialized special education, or moderate/severe disabilities teaching certificate as described in this Section.
- B.** Terms used in this Section are defined in A.R.S. § 15-761.
- C.** Standard Professional Mild/Moderate Disabilities Certificate - grades K through 12.
 1. The holder is qualified to teach students with mild/moderate disabilities as documented by student needs in the individualized education program and the following categories, including: autism, mild/moderate intellectual disabilities, traumatic brain injury, emotional disability, specific learning disability, orthopedic impairments, developmental delay and/or other health impairments.
 2. The requirements are:
 - a. A bachelor's degree,
 - b. One of the following:
 - i. Completion of a teacher preparation program in special education from an accredited institution which included courses in the instruction and behavior management of students with mild/moderate disabilities; or

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- ii. Forty-five semester hours of education courses which teach the standards described in R7-2-602, including a minimum of 37 semester hours of special education courses and eight semester hours of practicum with students with mild/moderate disabilities. Special education courses shall include foundations of special education, legal aspects, effective collaboration and communication practices, research-based instruction in mathematics, research-based instruction in English language arts, classroom management and behavior analysis, assessment and eligibility, language development and disorders, and electives. Two years of verified teaching experience in mild/moderate special education, grades K through 12 may substitute for the eight semester hours of practicum.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in mild/moderate special education or otherwise qualifies for a waiver of the subject knowledge examination, and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - D. Standard Professional Mild/Moderate Disabilities Certificate - grades K through 12 for applications received on or after August 1, 2018.**
 - 1. The holder is qualified to teach students with mild/moderate disabilities as documented by student needs in the individualized education program and the following categories, including: autism, mild/moderate intellectual disabilities, traumatic brain injury, emotional disability, specific learning disability, orthopedic impairments, developmental delay and/or other health impairments.
 - 2. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in mild/moderate disabilities special education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
 - i. Research-based systematic phonics;
 - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
 - iii. Instructional design and lesson planning, including specially designed instruction;
 - iv. The learning environment, including classroom and behavioral management;
 - v. Instructional delivery, facilitation and methodologies;
 - vi. Legal aspects of special education, including individualized education programs and transition planning;
 - vii. Effective collaboration and communication practices, including modifications and accommodations;
 - viii. Research-based instruction in math;
 - ix. Research-based instruction in English language arts;
 - x. Assessment and eligibility, including monitoring and reporting requirements;
 - xi. Language development and disorders;
 - xii. Professional responsibility and ethical conduct;
 - xiii. Twelve weeks of capstone experience as described in R7-2-604 in mild/moderate special education in grades K through 12, which may be completed during the valid period of a teaching intern certificate. One year of verified teaching experience in mild/moderate special education in grades K through 12 may substitute for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - 3. Applicants may meet the requirements in subsection (D)(2)(b) with the submission of an application for the Standard Professional Mild/Moderate Disabilities Certificate grades K through 12 that includes evidence of two years of verified full-time teaching experience in mild/moderate disabilities special education in grades K through 12 and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (D)(2)(b)(i) through (xii).
 - 4. Board approved educator preparation programs leading to dual certification in mild/moderate disabilities and elementary, middle school, or secondary education may exempt a student from the mild/moderate special education capstone experience upon the completion of the following:
 - a. Verification from the applicable district or charter school administrator that the student was employed continuously as a paraprofessional whose primary responsibility was working with students in mild/moderate special education classrooms for the two years preceding commencement of the capstone experience in elementary, middle school, or secondary education;
 - b. Verification from the applicable district or charter school administrator that the student received evaluations, in each of the preceding two years of employment as a paraprofessional, indicating effectiveness in performance; and
 - c. Completion of the capstone experience in elementary, middle school or secondary education and demonstration of all of the following competencies during the dual certification educator preparation program:
 - i. Participation on a multi-disciplinary evaluation team;
 - ii. Participation in and drafting of an acceptable individualized education program; and
 - iii. Planning and delivery of specially designed instruction for a class of students.
- E. Provisional Specialized Special Education Certificate – grades K through 12.**

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1. The certificate is valid for three years and is not renewable.
 2. No new applications for a Provisional Specialized Education Certificate will be accepted after December 31, 2015.
 3. The holder is qualified to teach students with intellectual disabilities, emotional disability, specific learning disability, orthopedic impairments or other health impairments, as specified on the certificate.
- F. Standard Professional Specialized Special Education Certificate – grades K through 12.**
1. The certificate is valid for 12 years and may be renewed.
 2. The holder is qualified to teach students with intellectual disabilities, emotional disability, specific learning disability, orthopedic impairments or other health impairments, as specified on the certificate.
 3. The requirements are:
 - a. A valid Arizona Provisional Specialized Special Education certificate, or a Provisional Specialized Special Education certificate which has not expired for more than one year;
 - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- G. Standard Professional Moderate/Severe Disabilities Certificate – grades K through 12.**
1. The holder is qualified to teach students with moderate/severe disabilities as documented by student needs in the individualized education program and the following categories, including: autism, moderate/severe intellectual disabilities, traumatic brain injury, emotional disability, orthopedic impairments, and/or other health impairments.
 2. The requirements are:
 - a. A bachelor's degree,
 - b. One of the following:
 - i. Completion of a teacher preparation program in moderate/severe disabilities education from an accredited institution; or
 - ii. Forty-five semester hours of education courses which teach the standards described in R7-2-602, including a minimum of 37 semester hours of special education courses and eight semester hours of practicum with students with moderate/severe disabilities. Special education courses shall include foundations of low incidence disabilities, legal aspects, effective collaboration and communication practices, adaptive communication, instructional strategies across the curriculum, classroom management and behavior analysis, assessment and eligibility, and electives. Two years of verified special education teaching experience in with students with moderate/severe disabilities, grades K through 12 may substitute for the eight semester hours of practicum.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in moderate/severe special education or otherwise qualifies for a waiver of the subject knowledge examination, and
 - e. A valid fingerprint card issued by the Arizona Department of Public Safety.
- H. Standard Professional Moderate/Severe Disabilities Certificate – grades K through 12 for applications received on or after August 1, 2018.**
1. The holder is qualified to teach students with moderate/severe disabilities as documented by student needs in the individualized education program and the following categories, including: autism, moderate/severe intellectual disabilities, traumatic brain injury, emotional disability, orthopedic impairments, and/or other health impairments.
 2. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in moderate/severe disabilities education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
 - i. Research-based systematic phonics;
 - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
 - iii. Instructional design and lesson planning, including specially designed instruction;
 - iv. The learning environment, including classroom and individual behavioral management;
 - v. Instructional delivery, facilitation and methodologies for teaching research-based instruction in math and English language arts;
 - vi. Legal aspects of special education, including individualized education programs and transition planning;
 - vii. Effective collaboration and communication practices, including modifications and accommodations;
 - viii. Adaptive communication, including language development and disorders;
 - ix. Assessment and eligibility, including monitoring and reporting requirements;
 - x. Professional responsibility and ethical conduct;
 - xi. Twelve weeks of capstone experience as described in R7-2-604 in special education in moderate/severe disabilities grades K through 12, which may be completed during the valid period of a teaching intern certificate. One year of verified full-time teaching experience in special education in moderate/severe disabilities grades K through 12 may substitute for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in moderate/severe special education or otherwise qualifies for a waiver of the subject knowledge examination, and

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- e. A valid fingerprint card issued by the Arizona Department of Public Safety.
- 3. Applicants may meet the requirements in subsection (H)(2)(b) with the submission of an application for the Standard Professional Moderate/Severe Disabilities Certificate grades K through 12 that includes evidence of two years of verified full-time teaching experience in moderate/severe disabilities special education in grades K through 12 and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (H)(2)(b)(i) through (x).
- I. Standard Professional Hearing Impaired Certificate – birth through grade 12. The requirements are:
 - 1. A bachelor's degree,
 - 2. One of the following:
 - a. Completion of a teacher preparation program in hearing impaired education from an accredited institution; or
 - b. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses for the hearing impaired and eight semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with hearing impairment, foundations of instruction of students with hearing impairment, and diagnostic and assessment procedures for the hearing impaired. Two years of verified teaching experience in the area of hearing impaired in grade PreK through 12 may be substituted for the eight semester hours of practicum.
 - 3. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
 - 4. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in hearing impaired special education or otherwise qualifies for a waiver of the subject knowledge examination, and
 - 5. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- J. Standard Professional Hearing Impaired Certificate – birth through grade 12 for applications received on or after August 1, 2018.
 - 1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in hearing impaired education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
 - i. Research-based systematic phonics;
 - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
 - iii. Survey of exceptional students;
 - iv. Teaching methodologies for students with hearing impairment;
 - v. Foundations of instruction of students with hearing impairment;
 - vi. Diagnostic and assessment procedures for the hearing impaired;
 - vii. Professional responsibility and ethical conduct;
 - viii. Twelve weeks of capstone experience as described in R7-2-604 in hearing impaired special education birth through grade 12, which may be completed during the valid period of a teaching intern certificate. One year of verified full-time teaching experience in the area of hearing impaired in birth through grade 12 may be substituted for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in hearing impaired special education or otherwise qualifies for a waiver of the subject knowledge examination; and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- 2. Applicants may meet the requirements in subsection (J)(1)(b) with the submission of an application for the Standard Professional Hearing Impaired Certificate – birth through grade 12 that includes evidence of receipt of two years of verified full-time teaching experience in hearing impaired special education birth through grade 12 and training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (J)(1)(b)(i) through (vii).
- K. Standard Professional Visually Impaired Certificate – birth through grade 12. The requirements are:
 - 1. A bachelor's degree,
 - 2. One of the following:
 - a. Completion of a teacher preparation program in visual impairment from an accredited institution; or
 - b. Forty-five semester hours of education courses which teach the knowledge and skills described in R7-2-602, including 21 semester hours of special education courses for the visually impaired and eight semester hours of practicum. Special education courses shall include survey of exceptional students, teaching methodologies for students with visual impairment, foundations of instruction of students with visual impairment, and diagnostic and assessment procedures for the visually impaired. Two years of verified teaching experience in the area of visually impaired in grades PreK through 12 may be substituted for the eight semester hours of practicum.
 - 3. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
 - 4. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment, and
 - 5. Demonstration of competency in Braille through one of the following:
 - a. A passing score on the original version of the National Library of Congress certification exam, or

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- b. A valid certificate for a literary Braille transcriber issued by the National Library of Congress, or
 - c. A passing score on a Braille exam administered by another state, or
 - d. A passing score on the Braille exam developed and administered by the University of Arizona. Individuals who take this test and are not students at the University of Arizona may be assessed a fee.
- 6. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- L. Standard Professional Visually Impaired Certificate – birth through grade 12 for applications received on or after August 1, 2018.**
 - 1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in visual impairment from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
 - i. Research-based systematic phonics;
 - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
 - iii. Survey of exceptional students;
 - iv. Teaching methodologies for students with visual impairment;
 - v. Foundations of instruction of students with visual impairment;
 - vi. Diagnostic and assessment procedures for the visually impaired;
 - vii. Professional responsibility and ethical conduct;
 - viii. Twelve weeks of capstone experience as described in R7-2-604 in visually impaired special education birth through grade 12, which may be completed during the valid period of a teaching intern certificate. One year of verified full-time teaching experience in the area of visually impaired in birth through grade 12 may be substituted for the capstone experience requirement. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment,
 - e. Demonstration of competency in Braille through one of the following:
 - i. A passing score on the original version of the National Library of Congress certification exam, or
 - ii. A valid certificate for a literary Braille transcriber issued by the National Library of Congress, or
 - iii. A passing score on a Braille exam administered by another state, or
 - iv. A passing score on the Braille exam developed and administered by the University of Arizona.
- f. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- 2. Applicants may meet the requirements in subsection (L)(1)(b) with the submission of an application for the Standard Professional Visually Impaired Certificate – birth through grade 12 that includes evidence of two years of verified full-time teaching experience in visually impaired special education birth through grade 12 and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (L)(1)(b)(i) through (vii).
- M. Standard Professional Early Childhood Special Education Certificate – Birth through age 8 or grade three.**
 - 1. The requirements are:
 - a. A bachelor's degree,
 - b. Completion of a teacher preparation program in early childhood special education from an accredited institution,
 - c. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in early childhood special education or otherwise qualifies for a waiver of the subject knowledge examination,
 - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - 2. Applicants may meet the requirements in subsection (M)(1)(b) with completion of the following:
 - a. Thirty-seven semester hours of early childhood education which teach the standards described in R7-2-602 which include the following areas of study:
 - i. Foundations early childhood education and special education;
 - ii. Behavioral interventions for children with and without disabilities;
 - iii. Characteristics and quality practices for typical and atypical behaviors of young children;
 - iv. Typical and atypical child growth and development, including health, safety and nutrition with an emphasis on special health care needs for children birth through grade three;
 - v. Child, family, cultural and community relationships including community organizations that support and assist children with disabilities and their families;
 - vi. Developmentally appropriate instructional and inclusive methodologies for teaching social and emotional development, language arts, math, science, social studies, and the arts;
 - vii. Diagnosis and remediation of learning difficulties;
 - viii. Early language and literacy development including communication methods in early childhood education/special education;
 - ix. Assessment and evaluation for early childhood special education to include observing, assessing, monitoring and reporting on the progress of young children;

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- x. A minimum of four semester hours in a supervised field experience, practicum, internship or student teaching setting serving children with identified special needs birth through preschool or one year of full-time teaching experience with children identified with special needs birth through preschool; and
 - xi. A minimum of four semester hours in a supervised student teaching setting serving children with identified special needs in kindergarten through grade three or one year of full time teaching experience with children identified with special needs kindergarten through grade three.
 - N. Standard Professional Early Childhood Special Education Certificate – birth through age 8 or grade three for applications received on or after August 1, 2018.
 - 1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in early childhood special education from a Board-approved educator preparation program or from an accredited institution offering substantially similar training addressing the following topics and any others as required by law:
 - i. Research-based systematic phonics;
 - ii. Research-based instructional strategies for delivering differentiated reading instruction, assessment, intervention and remediation to support readers of varying ages and ability levels, including students with dyslexia;
 - iii. Teaching students with exceptionalities;
 - iv. Characteristics and quality practices for typical and atypical behaviors of young children, including behavioral interventions for children with and without disabilities;
 - v. Typical and atypical child growth and development, including health, safety and nutrition with an emphasis on special health care needs for children birth through grade three;
 - vi. Child, family, cultural and community relationships including community organizations that support and assist children with disabilities and their families;
 - vii. Developmentally appropriate instructional and inclusive methodologies for teaching social and emotional development, language arts, math, science, social studies, the arts and diagnosis and remediation of learning difficulties;
 - viii. Early language and literacy development including communication methods in early childhood education/special education;
 - ix. Assessment and evaluation for early childhood special education to include observing, assessing, monitoring and reporting on the progress of young children;
 - x. Substantial experience in practicum as described in R7-2-604 serving children with exceptionalities birth through preschool and kindergarten through grade three;
 - xi. Professional responsibility and ethical conduct; and
 - xii. Twelve weeks of capstone experience as described in R7-2-604 serving children with exceptionalities in birth through grade three, which may be completed during the valid period of a teaching intern certificate. For individuals seeking dual certification, any capstone experience requirements may be met through separate eight-week capstone experiences in each of the certification areas sought.
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment,
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment unless the applicant has a bachelor's, master's or doctoral degree in early childhood special education or otherwise qualifies for a waiver of the subject knowledge examination, and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - 2. Applicants may meet the requirements in subsection (N)(1)(b) with the submission of an application for the Standard Professional Early Childhood Special Education Certificate – birth through age 8 or grade three that includes two years of verified full-time teaching experience in early childhood special education serving children birth through prekindergarten and kindergarten through grade three and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (N)(1)(b)(i) through (xi).
 - 3. Board approved educator preparation programs leading to dual certification in early childhood special education and early childhood teaching may exempt a student from the early childhood special education capstone experience upon completion of the following:
 - a. Verification from the applicable district or charter school administrator that the student was employed continuously as a paraprofessional whose primary responsibility was working with students in early childhood special education for two years preceding commencement of the early childhood teaching capstone experience;
 - b. Verification from the applicable district or charter school administrator that the student received evaluations, in each of the preceding two years of employment as a paraprofessional, indicating effectiveness in performance; and
 - c. Completion of the capstone experience in early childhood education and demonstration of all of the following competencies during the dual certification educator preparation program:
 - i. Participation on a multi-disciplinary evaluation team;
 - ii. Participation in and drafting of an acceptable individualized education program; and
 - iii. Planning and delivery of specially designed instruction for a class of students.
- O. Provisional Cross-Categorical Special Education Certificate – grades K through 12
 - 1. No new applications for the Provisional Cross-Categorical Special Education certificate are accepted as of December 31, 2015.
 - 2. Individuals who hold a valid Provisional Cross-Categorical Special Education certificate are qualified to teach students with mild to moderate autism, intellectual disabilities, traumatic brain injury, emotional disability, spe-

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cific learning disability, orthopedic impairments, developmental delay and/or other health impairments.

3. The Provisional certificate may not be renewed or extended. Individuals who hold a valid Provisional Cross-Categorical Special Education certificate, or a Provisional Cross-Categorical certificate which has not expired for more than one year, may apply for a Standard Professional Cross-Categorical Special Education certificate.

P. Standard Professional Cross-Categorical Special Education Certificate – grades K through 12.

1. The Standard Professional Cross-Categorical is valid for 12 years and may be renewed.
2. Individuals who hold a valid Standard Professional Cross-Categorical Special Education certificate are qualified to teach students with autism, intellectual disabilities, traumatic brain injury, emotional disability, specific learning disability, orthopedic impairments, developmental delay and/or other health impairments.
3. The requirements are:
 - a. An Arizona Provisional Cross-Categorical Special Education Certificate that is either valid or has not expired for more than one year.
 - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 5139, effective November 19, 2002 for a period of 180 days (Supp. 02-4). Emergency rulemaking renewed under A.R.S. § 41-1026(D) at 9 A.A.R. 1547, effective April 29, 2003 for a period of 180 days (Supp. 03-2). Emergency rulemaking repealed under A.R.S. § 41-1026(E) and permanent R7-2-611 amended by final rulemaking at 9 A.A.R. 3950, effective October 21, 2003 (Supp. 03-3). Former R7-2-611 recodified to R7-2-612; new R7-2-611 recodified from R7-2-610 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). R7-2-611 “Prekindergarten” corrected to “PreK” at request of the Board, Office File No. M09-444, filed November 24, 2009 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 119, effective September 21, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 235, effective December 7, 2009 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2056, effective December 2, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 1427, effective April 23, 2018 (Supp. 18-2). The word “kindergarten” has been changed to the letter “K,” the term, “grade 3” has been changed to “grade three,” the word “twelve” has been changed to the numeral “12,” and “age eight” has been changed to “age 8” for consistency in this Section at the request of the Board (Supp. 21-2).

R7-2-612. Career and Technical Education Teaching Certificates

- A.** Except as noted, all certificates are subject to the general certification provisions in R7-2-607, and the renewal requirements in R7-2-619.

- B.** For purposes of this Section, the following definitions apply:

1. “Career and Technical Education means a field of study in any area relating to a CTE program approved by the Arizona Department of Education as described in the Guidance on CTE Teacher Certification, which is on file with the Arizona Department of Education.
2. “Occupational Area” means employment in any area relating to a CTE program approved by the Department as described in the Guidance on CTE Teacher Certification, which is on file with the Arizona Department of Education.
3. “Verified Work Experience” means written documentation from a current or former supervisor for paid or unpaid work, a current school superintendent, or the Department of Education Career and Technical Education Programmatic State Supervisor indicating that an applicant for a career and technical education certificate performed work in a business or industry setting related to an approved CTE program occupational area.

- C. Standard Career and Technical Education (CTE) Certificate – CTE Field of Study – grades K through 12**

1. The requirements include all of the following:
 - a. Within three years, obtain a passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment or qualification for a waiver of this assessment.
 - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - c. At least one of the following options:
 - i. Option A – Bachelor’s degree in the specified CTE field of study – requirements include all of the following:
 - (1) A bachelor’s or more advanced degree in the specified CTE field of study from an accredited institution.
 - (2) Thirty semester hours of courses in the specified CTE field of study.
 - (3) Two hundred forty clock hours of verified work experience in the specified CTE occupational area. Hours may have been accumulated before obtaining a certification.
 - (4) Within three years, complete 15 semester hours of courses in professional knowledge in career and technical education, to include any of the following areas: principles/philosophy of career and technical education, developmentally appropriate instructional delivery, facilitation and methodologies, instructional technology, instructional design and lesson planning, including modifications and accommodations, assessing, monitoring and reporting progress, the learning environment, including classroom management, teaching students with exceptionalities, or professional responsibility and ethical conduct. Hours may be obtained prior to issuance of the standard career and technical education certificate in the specified CTE field of study. Fifteen semester hours

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- may be obtained through Department or Board-CTE approved professional development. Fifteen clock hours equals one semester hour.
- ii. Option B – Valid non-CTE Arizona Provisional or Standard teaching certificate or an Arizona CTE teaching certificate in another CTE field of study – requirements include all of the following:
 - (1) A valid Arizona provisional or standard teaching certificate for teachers in birth through grade 12 issued pursuant to this Article.
 - (2) One year of the most recent teacher evaluation(s) approved by a certificated administrator, or the administrator's designee, in a grades PreK through 12 school setting and issued during the term of the Arizona teaching certificate exhibiting satisfactory performance in the classroom.
 - (3) Three semester hours of courses in professional knowledge in career and technical education to include any of the following areas: principles/philosophy of career and technical education, developmentally appropriate instructional delivery, facilitation and methodologies for career and technical education, or instructional technology. Three semester hours may be obtained through Department or Board-CTE approved professional development. Fifteen clock hours equals one semester hour.
 - (4) Two hundred forty clock hours of verified work experience in the specified CTE occupational area. Hours may have been accumulated before obtaining a certification.
 - (5) Within three years, complete nine semester hours of subject knowledge courses in the CTE field of study.
 - iii. Option C – Business and industry professional - requirements include 6,000 clock hours of verified work experience in an occupational area. Within three years, complete 15 semester hours of courses in professional knowledge in career and technical education to include any of the following areas: principles/philosophy of career and technical education, developmentally appropriate instructional delivery, facilitation and methodologies, instructional design and lesson planning, including modifications and accommodations, assessing, monitoring and reporting progress, instructional technology, the learning environment, including classroom management, teaching students with exceptionalities, or professional responsibility and ethical conduct. Fifteen semester hours may be obtained through Department or Board-CTE approved professional development. Fifteen clock hours equals one semester hour; and
 - iv. Option D – Bachelor's degree in the specified CTE field of study teacher preparation program – requirements include both of the following:
 - (1) A bachelor's or more advanced degree that included completion of a Board approved teacher preparation program in the CTE field of study or from an accredited institution offering substantially similar training, addressing the following topics in career and technical education and any others as required by law: Principles/philosophy of career and technical education, instructional design and lesson planning, including modifications and accommodations; the learning environment, including classroom management; developmentally appropriate instructional delivery, facilitation and methodologies; assessing, monitoring and reporting progress; teaching students with exceptionalities; professional responsibility and ethical conduct; and
 - (2) Two hundred forty clock hours of verified work experience in the specified occupational area. Hours shall have been accumulated before obtaining a certification.
2. If an applicant fails to meet these requirements within the prescribed time period, the Department of Education or the Board shall temporarily suspend the standard certificate, but the suspension is not considered a disciplinary action and the individual shall be allowed to correct the deficiency within the remaining time of the standard certification.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4).
 Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Section R7-2-612 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 2562, effective May 23, 2002 for a period of 180 days (Supp. 02-2). May 23, 2002 emergency rulemaking renewed under A.R.S. § 41-1026 at 8 A.A.R. 5132, effective November 19, 2002 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003 (Supp. 03-2). Amended by final rulemaking at 11 A.A.R. 1885, effective June 26, 2005 (Supp. 05-2). Amended by exempt rulemaking at 15 A.A.R. 1292, effective June 26, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1893, effective September 25, 2006 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 2086, effective May 19, 2008 (Supp. 09-3). Former R7-2-612 recodified to R7-2-613 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). New Section made by exempt rulemaking at 15 A.A.R. 2143, effective August 25, 2008 (Supp. 09-4). Former R7-2-612 recodified to R7-2-613; new R7-2-612 recodified from R7-2-611 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 102, effective May 1, 2009 (Supp. 10-1). Amended by final exempt rulemaking at 21 A.A.R. 2063, effective August 26, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 23 A.A.R. 694, effective February 26, 2018 (Supp. 18-1). The word "fifteen" has been changed to the numeral "15," the words "six thousand" have been changed to the

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numeral “6,000,” and the word “rule” has been changed to “Section” to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-612.01. Standard Specialized Career and Technical Education (CTE) Certificates – grades K through 12

- A.** Standard Specialized CTE certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B.** The holder is qualified to teach in an area that is specified on the certificate relating to a CTE program approved by the Arizona Department of Education as described in Guidance on CTE Teacher Certification which is on file with the Arizona Department of Education.
- C.** The requirements are:
 1. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 2. Demonstration of expertise in the specified CTE area through one of the following:
 - a. A Bachelor’s, master’s or doctoral degree in the specified CTE area; or
 - b. A Bachelor’s or more advanced degree and completion of 24 semester hours of coursework in the specified CTE area; or
 - c. An Associate’s degree in the specified CTE area; or
 - d. An industry certification, license, or credential in the specified CTE area approved by the appropriate Department of Education Career and Technical Education Program Specialist or Career and Technical Education Program Services Director; or
 - e. Verified teaching experience for the last two consecutive years, and for a total of at least three years at one or more accredited postsecondary institutions in a subject that is specific to the CTE course being taught.
 3. Verification of five years of work experience in the specified CTE occupational area.
 4. An individual who meets the requirements of this Section is exempt from the competency requirements of the United States and Arizona Constitutions, the professional knowledge and subject knowledge portions of the Arizona Teacher Proficiency Assessments, and structured English immersion endorsement requirements.

Historical Note

New Section made by final exempt rulemaking at 22 A.A.R. 2617, effective August 22, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 23 A.A.R. 694, effective February 26, 2018 (Supp. 18-1). The term “twenty-four” has been changed to the numeral “24,” the hyphen between “PreK-12” has been replaced with the word “through” in the Section heading for consistency in Chapter style and format (Supp. 21-1).

R7-2-613. PreK through 12 Teaching Certificates

- A.** Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B.** Standard Professional PreK through 12 Arts Education Certificate: art, dance, dramatic arts or music. The requirements are:
 1. A bachelor’s degree.
 2. One of the following:
 - a. Completion of a teacher preparation program in PreK through 12 arts education in one of the following approved areas: art, dance, dramatic arts or

music from a Board-approved teacher preparation program, described in R7-2-604; or

- b. Completion of a teacher preparation program in PreK through 12 arts education in one of the following approved areas: art, dance, dramatic arts or music from an institution accredited by the National Association of Schools of Art and Design, National Association of Schools of Dance, National Association of Schools of Theatre, the National Association of Schools of Music, or National Council for Accreditation of Teacher Education; or
 - c. Thirty semester hours of education or arts education courses which teach the knowledge and skills described in R7-2-602, including at least eight semester hours of elementary and secondary methods in the certificate area and 12 semester hours of practicum in the certificate area grades PreK through 12. Two years of verified full-time teaching experience in the certificate area in grades PreK through 12 may substitute for the 12 semester hours of practicum; or
 - d. A valid PreK through 12 arts education certificate from another state.
3. A passing score on the appropriate subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor’s, master’s or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment. If a proficiency assessment is not offered in a subject area, an approved area shall consist of a minimum of 24 semester hours of courses in the subject.
 4. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment.
 5. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- C.** Standard Professional PreK through 12 Arts Education Certificate for applications received on or after August 1, 2018.
 1. The requirements include all of the following:
 - a. A bachelor’s degree;
 - b. Completion of a teacher preparation program in PreK through 12 arts education from a Board-approved teacher educator preparation program or from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. Studio art;
 - ii. Art history and analysis;
 - iii. Advanced work in studio or art application areas;
 - iv. Technical processes;
 - v. Instructional design and lesson planning, including modifications, and accommodations;
 - vi. The learning environment, including classroom management;
 - vii. Assessing, monitoring and reporting progress;
 - viii. Professional responsibility and ethical conduct;
 - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades PreK through 12 arts education, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in the certificate area in grades PreK through 12 arts

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- education may substitute for the capstone experience requirement;
- c. A passing score on the appropriate subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment.
 - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
2. Applicants may meet the requirements in subsection (C)(1)(b) with the submission of an application for the Standard Professional PreK through 12 Arts Education certificate that includes evidence of two years of verified full-time teaching experience in grades PreK through 12 arts education, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (C)(1)(b)(i) through (vii). One year of verified full-time teaching experience in grades PreK through 12 arts education may be substituted for the capstone experience.
- D. Standard Professional PreK through 12 Dance Education Certificate**
1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in PreK through 12 dance education from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. Performance;
 - ii. Choreography;
 - iii. Theoretical and historical studies of dance;
 - iv. Technical processes;
 - v. Instructional design and lesson planning, including modifications, and accommodations;
 - vi. The learning environment, including classroom management;
 - vii. Assessing, monitoring and reporting progress;
 - viii. Professional responsibility and ethical conduct; and
 - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades PreK through 12 dance education, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in grades PreK through 12 dance education may substitute for the capstone experience requirement; and
 - c. A passing score on the appropriate subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment.
 - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 2. Applicants may meet the requirements in subsection (D)(1)(b) with the submission of an application for the Standard Professional PreK through 12 Dance Education certificate that includes evidence of two years of verified full-time teaching experience in grades PreK through 12 dance education, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (D)(1)(b)(i) through (viii). One year of verified full-time teaching experience in grades PreK through 12 dance education may be substituted for the capstone experience.
- E. Standard Professional PreK through 12 Theatre Education Certificate**
1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in PreK through 12 theatre education from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. Foundations of production;
 - ii. Aesthetics, theatre history, literature, theory and criticism;
 - iii. Advanced work in theatre performance;
 - iv. Instructional design and lesson planning, including modifications, and accommodations;
 - v. The learning environment, including classroom management;
 - vi. Assessing, monitoring and reporting progress;
 - vii. Professional responsibility and ethical conduct and;
 - viii. Twelve weeks of capstone experience as described in R7-2-604 in grades PreK through 12 theatre education, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in grades PreK through 12 theatre education may substitute for the capstone experience requirement; and
 - c. A passing score on the appropriate subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment.
 - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 2. Applicants may meet the requirements in subsection (E)(1)(b) with the submission of an application for the Standard Professional PreK through 12 Theatre Education certificate that includes evidence of two years of verified full-time teaching experience in grades PreK through 12 theatre education, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (E)(1)(b)(i) through (vii). One year of verified full-time teaching experience in grades PreK through 12 theatre education may be substituted for the capstone experience.

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F. Standard Professional PreK through 12 Music Education Certificate

1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in PreK through 12 music education from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. Performance;
 - ii. Musicianship skills and analysis;
 - iii. Composition and improvisation;
 - iv. Music history and repertory;
 - v. Instructional design and lesson planning, including modifications, and accommodations;
 - vi. The learning environment, including classroom management;
 - vii. Assessing, monitoring and reporting progress;
 - viii. Professional responsibility and ethical conduct; and
 - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades PreK through 12 music education, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in grades PreK through 12 music education may substitute for the capstone experience requirement; and
 - c. A passing score on the appropriate subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment.
 - d. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
2. Applicants may meet the requirements in subsection (F)(1)(b) with the submission of an application for the Standard Professional PreK through 12 Music Education certificate that includes evidence of two years of verified full-time teaching experience in grades PreK through 12 music education, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (F)(1)(b)(i) through (viii). One year of verified full-time teaching experience in grades PreK through 12 music education may be substituted for the capstone experience.

G. Standard Professional PreK through 12 Physical Education Certificate. The requirements are:

1. A bachelor's degree.
2. One of the following:
 - a. Completion of a teacher preparation program in PreK through 12 physical education, including 12 semester practicum hours evenly split between elementary and secondary physical education from an accredited institution or a Board-approved teacher preparation program; or
 - b. Thirty-three semester hours of education or physical education courses, including:

- i. At least nine semester hours of elementary, secondary and adaptive physical education methods;
 - ii. Foundational coursework in the areas of Growth and Motor Development, Movement Activities, Lifelong Physical Fitness and Comprehensive School Physical Activity Programming; and
 - iii. Twelve semester hours of practicum in physical education in PreK through 12 grades, evenly split between elementary and secondary physical education, and supervised by a licensed or certified physical education teacher. Two years of verified full-time teaching experience in the certificate area in grades PreK through 12 may substitute for the 12 semester hours of practicum; or
 - c. A valid PreK through 12 physical education certificate from another state.
3. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment.
 4. A passing score on the Physical Education subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment.
 5. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

H. Standard Professional PreK through 12 Physical Education Certificate for applications received on or after August 1, 2018.

1. The requirements include all of the following:
 - a. A bachelor's degree;
 - b. Completion of a teacher preparation program in PreK through 12 physical education at a Board-approved educator preparation program or from an accredited institution offering substantially similar training, addressing the following topics and any others as required by law:
 - i. Elementary, secondary and adaptive physical education methods;
 - ii. Foundational coursework in the areas of Growth and Motor Development;
 - iii. Movement Activities;
 - iv. Lifelong Physical Fitness;
 - v. Instructional design and lesson planning, including modifications, and accommodations;
 - vi. The learning environment, including classroom management;
 - vii. Assessing, monitoring and reporting progress;
 - viii. Professional responsibility and ethical conduct and;
 - ix. Twelve weeks of capstone experience as described in R7-2-604 in grades PreK through 12 physical education, serving students in elementary and secondary physical education, which may be completed during the valid period of a teaching intern or student teaching intern certificate. One year of verified full-time teaching experience in the certificate area in grades PreK through 12 physical education may substitute for the capstone experience requirement;

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- c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - d. A passing score on the Physical Education subject knowledge portion of the Arizona Teacher Proficiency Assessment, unless the applicant has a bachelor's, master's or doctoral degree in a relevant content area or otherwise qualifies for a waiver of the subject knowledge assessment; and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
2. Applicants may meet the requirements in subsection (H)(1)(b) with the submission of an application for the Standard Professional PreK through 12 Physical Education certificate that includes evidence of two years of verified full-time teaching experience in grades PreK through 12 physical education, and Board-approved or accredited training or coursework which teaches the knowledge and skills described in R7-2-602 and subsections (H)(1)(b)(i) through (viii). One year of verified full-time teaching experience in grades PreK through 12 physical education may be substituted for the capstone experience.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 10 A.A.R. 4581, effective December 18, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 1885, effective June 26, 2005 (Supp. 05-2). Amended by exempt rulemaking at 15 A.A.R. 1225, effective December 5, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1259, effective March 26, 2007 (Supp. 09-2). Amended by exempt rulemaking at 15 A.A.R. 1298, effective July 18, 2007 (Supp. 09-3). Former R7-2-613 recodified to R7-2-614; new R7-2-613 recodified from R7-2-612 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-613 recodified to R7-2-614; new R7-2-613 recodified from R7-2-612 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 235, effective December 7, 2009 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2073, effective June 22, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). The hyphen between "PreK-12" has been changed to the word "through" in the Section heading and subsections for consistency in Chapter style and format (Supp. 21-1).

R7-2-614. Other Teaching Certificates

- A. Except as noted, all certificates are subject to the general certification provisions in R7-2-607.
- B. Substitute Certificate - PreK through 12
 - 1. The certificate is valid for six years and renewable by reapplication.
 - 2. The certificate entitles the holder to substitute in the temporary absence of a regular contract teacher. A person holding only a substitute certificate shall not be assigned a contract teaching position.
 - 3. An individual who holds a valid teaching or administrator certificate shall not be required to hold a substitute certificate to be employed as a substitute teacher.
 - 4. The requirements for issuance are:
 - a. A bachelor's degree, and
 - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- C. Emergency Substitute Certificate - PreK through 12
 - 1. The certificate is valid for two school years or part thereof. The expiration date shall be July 1 in the year of expiration.
 - 2. The certificate entitles the holder to substitute only in the district that has a verified emergency employment situation.
 - 3. The certificate entitles the holder to substitute in the temporary absence of a regular contract teacher. A person holding only an emergency substitute certificate shall not be assigned a contract teaching position.
 - 4. The holder of an emergency substitute certificate shall be limited to 120 days of substitute teaching in the same school each school year. A person holding an emergency substitute certificate may be exempt from the limit on teaching 120 days in the same school each school year if the school district superintendent provides verification to the Department that the position has been continuously advertised on a statewide basis at a minimum of three sites with at least one being a higher education institution and that an employable candidate was not found. An exemption from teaching 120 days shall not be granted to the same individual more than three times.
 - 5. The requirements for initial issuance are:
 - a. A high school diploma, General Education diploma, or associate's degree;
 - b. Verification from the school district superintendent that an emergency employment situation exists; and
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - 6. The requirements for each reissuance are:
 - a. Two semester hours of academic courses completed since the last issuance of the Emergency Substitute Certificate. District in-service programs designed for professional development may substitute for academic courses. Fifteen clock hours of in-service is equivalent to one semester hour. In-service hours shall be verified by the district superintendent or personnel director. Academic courses and in-service programs completed pursuant to this Section may include classroom management and professionalism and ethics. Individuals who have earned 30 or more semester hours are exempt from this requirement.
 - b. Verification from the school district superintendent that an emergency employment situation exists, and
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- D. Emergency Teaching Certificate - birth through grade 12
 - 1. The emergency teaching certificate is valid one school year or part thereof. The expiration date shall be the following July 1. Excluding an emergency teaching certificate issued under subsection (D)(6), an emergency teaching certificate shall not be issued more than three times to an individual.
 - 2. The emergency teaching certificate entitles the holder to enter into a teaching contract.
 - 3. Emergency teaching certificates shall be issued for early childhood, elementary and secondary certificates required by A.R.S. § 15-502(B) and required endorsements.

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4. The emergency teaching certificate entitles the holder to teach only in the district or charter school that verifies that an emergency employment situation exists.
 5. The requirements for initial issuance are:
 - a. A bachelor's degree,
 - b. Verification from the school district superintendent or charter school administrator that an emergency employment situation exists, and
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 6. Notwithstanding this subsection, an emergency teaching certificate entitling the holder to teach in any Arizona school district or charter school may be issued for early childhood, elementary, middle grades, secondary, special education, and PreK through 12 teaching certificates for applicants who meet the following requirements:
 - a. A bachelor's degree,
 - b. Completion of a teacher preparation program in the certification area, as described in R7-2-608, R7-2-609, R7-2-609.01, R7-2-610, R7-2-611 and R7-2-613, from a Board-approved educator preparation program or from an accredited institution offering substantially similar training,
 - c. Verification that the applicant was unable to take one or all portions of the proficiency assessments required for the requested certificate as the result of a public health emergency declared by the governor or a public health official, and
 - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 7. Emergency teaching certificates issued pursuant to subsection (D)(6) shall not be renewed or re-issued.
- E. Alternative Teaching Certificate - PreK through 12**
1. The certificate is valid for two years from the date of initial issuance and may be extended yearly for no more than two consecutive years at no cost to the applicant if the provisions in subsection (E)(5) are met.
 2. The alternative teaching certificate entitles the holder to enter into a teaching contract while completing the requirements for an Arizona teaching certificate. During the valid period of the alternative teaching certificate the holder may teach in a Structured English Immersion classroom, or in any subject area in which the holder has passed the appropriate Arizona Teacher Proficiency Assessment. Alternative Teaching certificate holders who teach in a Structured English Immersion classroom shall hold a valid Provisional or full Structured English Immersion Endorsement, an English as a Second Language Endorsement, or a Bilingual Endorsement, if applicable. The candidate shall be enrolled in a Board authorized alternative path to certification program or a Board approved teacher educator preparation program.
 3. An individual is not eligible to hold the alternative teaching certificate more than once in a five year period.
 4. The requirements for initial issuance of the alternative teaching certificate are:
 - a. A bachelor's degree or higher from an accredited institution;
 - b. Verification of enrollment in a Board approved alternative path to certification program, or a Board approved educator preparation program; and
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 5. The requirements for the extension of the alternative teaching certificate are:
 - a. The alternative teaching certificate outlined in subsection (E)(4),
 - b. Verification from the educator preparation program in which the alternative teaching certificate holder is enrolled, that the certificate holder has made adequate progress toward completion of the program,
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 6. The holder of the alternative teaching certificate may apply for a Standard teaching certificate upon completion of the following:
 - a. Successful completion of a Board authorized alternative path to certification program or a Board-approved educator preparation program.
 - b. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment as applicable;
 - c. A passing score on one or more subject knowledge portions of the Arizona Teacher Proficiency Assessment that corresponds to the Board approved alternative path to certification program in which the applicant is enrolled, unless the applicant has a bachelor's, master's or doctoral degree in the corresponding content area;
 - d. The submission of an application for a Standard teaching certificate to the Department;
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 7. Placement decisions of alternative teaching certificate holders shall only be based on agreements between the educator preparation provider, the provider's partner organizations and the local education agency except as otherwise provided in this subsection.
- F. Standard Adult Education Certificate**
1. The holder is qualified to teach Adult Basic Education, Adult Secondary Education, English Language Acquisition for Adults, or Citizenship.
 2. The requirements are:
 - a. A valid fingerprint clearance card issued by the Arizona Department of Public Safety, and
 - b. A bachelor's degree.
 3. The renewal requirements are completion of a professional development program, described in R7-2-619.
- G. Junior Reserve Officer Training Corps Teaching Certificate - grades nine through 12**
1. The standard certificate is valid at any local education agency which conducts an approved Junior Reserve Officer Training Corps program of the Air Force, Army, Navy, or Marine Corps.
 2. The requirements are:
 - a. Verification by the district of an approved Junior Reserve Officer Training Corps program of instruction in which the applicant will be teaching,
 - b. Verification by the district that the applicant meets the work experience required by the respective military service, and
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- H. Athletic coaching certificate - grades seven through 12**
1. The standard certificate entitles the holder to perform coaching duties in interscholastic and extracurricular athletic activities. It is not required for teachers who hold a

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valid elementary, secondary or special education certificate.

2. The requirements are:
 - a. Valid certification in first aid and Coronary and Pulmonary Resuscitation (CPR);
 - b. Completion of courses, Board-approved or accredited seminars or modules of study which shall include the following:
 - i. Methods of coaching,
 - ii. Anatomy and physiology,
 - iii. Sports psychology,
 - iv. Adolescent psychology,
 - v. The prevention and treatment of athletic injuries; and
 - vi. Signs of physical abuse, emotional abuse, sexual abuse, neglect, bullying, hazing and cyberbullying.
 - c. Two hundred fifty hours of verified coaching experience in the sport to be coached. Coaching experience may include experience as a head coach or assistant coach in a school program or in an organized athletic league; and
 - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
4. Renewal requirements are:
 - a. Completion of a professional development program described in R7-2-619,
 - b. Valid certification in first aid and CPR.

I. International Teaching Certificate

1. The International Teaching certificate is issued to teachers from foreign countries who are contracted through the foreign teacher program as authorized by federal statutes enacted by the Congress of the United States or other foreign teacher recruitment programs approved by the United States Department of State or the United States Citizenship and Immigration Services.
2. This certificate is valid for the length of the certificate holder's visa, not to exceed 12 years.
3. The requirements are:
 - a. Verification that the applicant has completed teacher preparation in the home country or country of legal residence that is comparable to the requirements to qualify for an Arizona teaching certificate as provided in R7-2-608, R7-2-609, R7-2-610, R7-2-610.01, R7-2-610.02, R7-2-611 and R7-2-613.
 - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - c. A valid non-immigrating visa issued by the United States Department of State or the United States Citizenship and Immigration Services for international teachers.
 - d. Verification that the applicant has been contracted by an Arizona school through a foreign teacher program.
4. An individual with an international teaching certificate may qualify for a certificate to instruct students in a language other than English with submission of a letter from a department chair or dean of an accredited institution in another country or in the United States verifying that the applicant is proficient in the language.
5. The international teaching certificate may be extended with the following:
 - a. Verification of an extended visa issued by the United States Department of State or the United States Citizenship and Immigration Services for international teachers.

zensionship and Immigration Services for international teachers. The certificate may be extended to the new expiration date of the visa not to exceed 12 years.

- b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

J. Native American Language Certificate

1. The standard certificate is optional and issued to individuals to teach only a Native American language in grades PreK through 12.
2. The requirements are:
 - a. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - b. Language proficiency in a Native American Language. Proficiency shall be verified on official letterhead by a person, persons, or entity designated by the appropriate tribe.
3. The certificate may be renewed upon completion of professional development, as prescribed in R7-2-619.

K. Student Teaching Intern Certificate - PreK through 12

1. The student teaching intern certificate is optional and is not a requirement for participation in a student teaching capstone experience.
2. The certificate entitles the holder to perform teaching duties under the supervision of a program supervisor as defined in R7-2-604(14) and is only valid in the school district or charter school requesting the certificate.
3. The certificate is valid for one year from date of initial issuance and may be extended for one year at no cost to the applicant if the provisions in subsection (K)(4) are met.
4. The requirements are:
 - a. Verification of enrollment in the culminating student teaching capstone experience of a Board approved educator preparation program pursuant to R7-2-604.01,
 - b. Verification documenting completed coursework with a minimum GPA of 3.0 on a 4.0 scale or the equivalent,
 - c. A passing score on the professional knowledge portion of the Arizona Teacher Proficiency Assessment that corresponds to the teaching certificate the student teaching intern is pursuing,
 - d. A passing score on the subject knowledge portion of the Arizona Teacher Proficiency Assessment that corresponds to the teaching certificate the student teaching intern is pursuing,
 - e. A request for issuance of the student teaching intern certificate from the district superintendent or charter school superintendent and the educator preparation program.
 - f. Verification from the educator preparation provider that a written supervision plan, approved by the Board, includes the following:
 - i. The educator preparation provider's roles and responsibilities for the Program Supervisor, and
 - ii. The onsite mentorship and induction provided by the Local Education Agency.
 - g. A valid fingerprint card issued by the Arizona Department of Public Safety.
5. Placement decisions of student teaching intern certificate holders shall only be based on collaborative agreements between the Board approved educator preparation provider and the local education agency. Notwithstanding any other provision, a student teaching intern certificate

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holder may not teach in a special education classroom unless the certificate holder has a bachelor's degree.

6. The holder of the student teaching certificate may apply for an Arizona Teaching Certificate upon completion of the following:
 - a. Successful completion of a Board approved educator preparation program.
 - b. The submission of an application, and all required documentation including an institutional recommendation, for the Arizona teaching certificate to the Department.

L. Classroom-Based Standard Teaching Certificate

1. The requirements are:
 - a. A bachelor's degree;
 - b. Successful completion of a Board-approved Classroom-Based Alternative Preparation Program;
 - c. Verification of satisfactory progress and achievement with students;
 - d. Demonstration of subject knowledge proficiency with:
 - i. Verification of teaching courses relevant to a content area or subject matter for the last two consecutive years, and for a total of at least three years at one or more accredited postsecondary institutions; or
 - ii. A bachelor's, master's or doctoral degree from an accredited institution in the applicable subject area; or
 - iii. Verification of a minimum of five years of work experience in the applicable subject area of certification; or
 - iv. Three years of verified teaching experience in the same area of certification in which the individual is applying for certification; or
 - v. A passing score on the applicable subject knowledge portion of the Arizona Teacher Proficiency Assessment;
 - e. Demonstration of professional knowledge proficiency with:
 - i. Three years of verified teaching experience in the same area of certification in which the individual is applying for certification; or
 - ii. A passing score on the applicable professional knowledge portion of the Arizona Teacher Proficiency Assessment;
 - f. An individual seeking certification who was teaching courses or subjects tested by the statewide assessment must also provide:
 - i. Verified evidence of two years of full-time teaching; and
 - ii. Verified evidence that the individual's students performed at grade level; or
 - iii. Verified evidence that the individual's students achieved at least one year of academic growth at a rate equivalent to the state average for the students' associated peer groups;
 - g. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4).
Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Section R7-2-614 amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 3739, effective August 5, 2002 for a period of 180

days (Supp. 02-3). Emergency rulemaking renewed under A.R.S. § 41-1026 at 9 A.A.R. 522, effective January 31, 2003 for a period of 180 days (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 1605, effective May 5, 2003

(Supp. 03-2). Amended by exempt rulemaking at 15 A.A.R. 1304, effective June 26, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1898, effective April 28, 2008 (Supp. 09-2). Former R7-2-614 recodified to R7-2-615; new R7-2-614 recodified from R7-2-613 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-614 recodified to R7-2-615; new R7-2-614 recodified from R7-2-613 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 52, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 63, effective June 22, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 728, effective March 22, 2010 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). R7-2-614(J) amended by final exempt rulemaking at 21 A.A.R. 2073, effective August 27, 2012; R7-2-614(I) amended by final exempt rulemaking at 21 A.A.R. 2073, effective June 24, 2013; R7-2-614(B)(C)(E) amended by final exempt rulemaking at 21 A.A.R. 2073, effective January 26, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 22 A.A.R. 667, effective January 25, 2016; filed in the Office March 1, 2016 (Supp. 16-3). Amended by final exempt rulemaking at 22 A.A.R. 2617, effective August 22, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 2947, effective September 24, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2). The hyphen between "PreK-12" has been changed to the word "through," and the word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 28 A.A.R. 366 (February 11, 2022), with an immediate effective date of January 24, 2022 (Supp. 22-1).

R7-2-615. Endorsements

- A.** An endorsement shall be automatically renewed with the certificate on which it is posted.
- B.** Except as noted, all endorsements are subject to the general certification provisions in R7-2-607.
- C.** Endorsements which are optional as specified herein may be required by local governing boards.
- D.** Special subject endorsements, grades Pre-K through 12
 1. Special subject endorsements shall be issued in the area of art, computer science, dance, dramatic arts, music, or physical education.
 2. Special subject endorsements are optional.
 3. The requirements are:
 - a. An Arizona elementary, secondary, or special education certificate;
 - b. One course in the methods of teaching the subject at the elementary level and one course in the methods of teaching the subject at the secondary level; and
 - c. One of the following:

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- i. Thirty semester hours of courses in the subject area which may include the courses listed in subsection (D)(3)(b);
 - ii. A passing score on the subject area portion of the Arizona Teacher Proficiency Assessment, if an assessment has been adopted by the Board; or
 - iii. A passing score on a comparable out-of-state subject area assessment.
- E. Mathematics Specialist Endorsement, grades K through eight. This subsection is valid until June 30, 2011.
 - 1. The mathematics specialist endorsement is optional.
 - 2. The requirements are:
 - a. An Arizona elementary or special education certificate,
 - b. Three semester hours of courses in the methods of teaching elementary school mathematics, and
 - c. Fifteen semester hours of courses in mathematics education for teachers of elementary or middle school mathematics.
- F. Mathematics Endorsement, grades K through eight. This subsection becomes effective on July 1, 2011.
 - 1. The mathematics endorsement is optional for all K through eight teachers, but recommended for an individual in the position of mathematics specialist, consultant, interventionist, or coach. Nothing in this Section prevents school districts from requiring certified staff to obtain a mathematics endorsement as a condition of employment. The mathematics endorsement does not waive the requirements set forth in R7-2-607.
 - 2. The requirements are:
 - a. An Arizona elementary or special education certificate;
 - b. Three years of full-time teaching experience in grades K through eight; and
 - c. Eighteen semester hours to include:
 - i. Three semester hours of data analysis, probability, and discrete mathematics;
 - ii. Three semester hours of geometry and measurement;
 - iii. Six semester hours of patterns, algebra, and functions; and
 - iv. Six semester hours of number and operations.
 - d. Six semester hours to include:
 - i. Three semester hours of mathematics classroom assessment;
 - ii. Three semester hours of research-based practices, pedagogy, and instructional leadership in mathematics.
 - e. A passing score on the middle school mathematics knowledge portion of the Arizona Educator Proficiency Assessment may be substituted for the 18 semester hours described in subsection (F)(2)(c).
 - f. Completion of a comparable valid mathematics specialist certificate or endorsement from another state may be substituted for the requirements described in subsection (F)(2)(c) and (d).
- G. Reading Specialist Endorsement, grades K through 12. This subsection is valid until June 30, 2011.
 - 1. The reading specialist endorsement shall be required of an individual in the position of reading specialist, reading consultant, remedial reading teacher, special reading teacher, or in a similar position.
 - 2. The requirements are:
 - a. An Arizona elementary, secondary, or special education certificate; and
 - b. Fifteen semester hours of courses to include decoding, diagnosis and remediation of reading difficulties, and practicum in reading.
- H. Reading Endorsement. This subsection becomes effective on July 1, 2011.
 - 1. A reading endorsement shall be required of an individual in the position of reading or literacy specialist, reading or literacy coach, and reading or literacy interventionist.
 - 2. Reading Endorsement for grades K through eight. The requirements are:
 - a. A valid Arizona elementary special education or early childhood certificate,
 - b. Three years of full-time teaching experience,
 - c. Three semester hours of a supervised field experience or practicum in reading completed for the grades K through eight, and
 - d. One of the following:
 - i. Twenty-one semester hours beyond requirements of initial provisional or standard teaching certificate to include the following:
 - (1) Three semester hours in the theoretical and research foundations of language and literacy;
 - (2) Three semester hours in the essential elements of elementary reading and writing instruction (grades K through eight);
 - (3) Three semester hours in the elements of elementary content area reading and writing (grades K through eight);
 - (4) Six total semester hours in reading assessment systems;
 - (5) Three semester hours in leadership; and
 - (6) Three semester hours of elective courses in an area of focus that will deepen knowledge in the teaching of reading to elementary students, such as children's literature, or teaching reading to English Language Learners.
 - ii. Proof of a comparable valid reading specialist certificate or endorsement from another state may be substituted for the requirements described in subsections (H)(2)(c) and (d)(i).
 - 3. Reading Endorsement for grades six through 12. The requirements are:
 - a. A valid Arizona elementary, secondary, or special education certificate;
 - b. Three years of full-time teaching experience;
 - c. Three semester hours of supervised field experience or practicum in reading completed for the grades six through 12; and
 - d. One of the following:
 - i. Twenty-one semester hours beyond requirements of initial provisional or standard teaching certificate to include the following:
 - (1) Three semester hours in the theoretical and research foundations of language and

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- literacy;
- (2) Three semester hours in the essential elements of reading and writing instruction for adolescents (grades six through 12);
- (3) Three semester hours in the elements of content area reading and writing for adolescents (grades six through 12);
- (4) Six total semester hours in reading assessment systems;
- (5) Three semester hours in leadership; and
- (6) Three semester hours of elective courses in an area of focus that will deepen knowledge in the teaching of reading such as adolescent literature, or teaching reading to English Language Learners.
- ii. Proof of a comparable valid reading specialist certificate or endorsement from another state may be substituted for the requirements described in subsections (H)(3)(c) and (d)(i).
- e. A passing score on the reading endorsement subject knowledge portion of the Arizona Educator Proficiency Assessment for grades six through 12 may be substituted for 21 semester hours of reading endorsement coursework as described in subsection (H)(3)(d)(i).
- 4. Reading Endorsement, grades K through 12. The requirements are:
 - a. A valid Arizona elementary, secondary, special education certificate or early childhood certificate;
 - b. Three years of full-time teaching experience;
 - c. Three semester hours of a supervised field experience or practicum in reading completed for the grades K through five;
 - d. Three semester hours of a supervised field experience or practicum in reading completed for the grades six through 12; and
 - e. One of the following:
 - i. Twenty-four semester hours beyond requirements of initial provisional or standard teaching certificate to include the following:
 - (1) Three semester hours in the theoretical and research foundations of language and literacy,
 - (2) Three semester hours in the essential elements of elementary reading and writing instruction (grades K through eight),
 - (3) Three semester hours in the essential elements of reading and writing instruction for adolescents (grades six through 12),
 - (4) Three semester hours in the elements of elementary content area reading and writing (grades K through eight),
 - (5) Three semester hours in the elements of content area reading and writing for adolescents (grades six through 12),
 - (6) Six total semester hours in reading assessment systems, and
 - (7) Three semester hours in leadership,
 - ii. Proof of a comparable valid reading specialist certificate or endorsement from another state may be substituted for the requirements described in subsections (H)(4)(c), (d) and (e)(i).
 - f. A passing score on the reading endorsement subject knowledge portion of the Arizona Educator Proficiency Assessment for grades K through eight and a passing score on the reading endorsement professional knowledge portion of the Arizona Educator Proficiency Assessment for grades six through 12 may be substituted for 24 semester hours of reading endorsement coursework as described in subsection (H)(4)(e)(i).
 - I. Elementary Foreign Language Endorsement, grades K through eight
 - 1. The elementary foreign language endorsement is optional.
 - 2. The requirements are:
 - a. An Arizona elementary, secondary or special education certificate.
 - b. Proficiency in speaking, reading, and writing a language other than English, verified by the appropriate language department of an accredited institution. American Indian language proficiency shall be verified by an official designated by the appropriate tribe.
 - c. Three semester hours of courses in the methods of teaching a foreign language at the elementary level.
 - J. Bilingual Endorsements, PreK through 12
 - 1. A provisional bilingual endorsement or a bilingual endorsement is required of an individual who is a bilingual classroom teacher, bilingual resource teacher, bilingual specialist, or otherwise responsible for providing bilingual instruction.
 - 2. The provisional bilingual endorsement is valid for three years and is not renewable. The requirements are:
 - a. An Arizona elementary, secondary, supervisor, principal, superintendent, special education, early childhood, arts education or CTE certificate; and
 - b. Proficiency in a spoken language other than English, verified by one of the following:
 - i. A passing score on the Arizona Classroom Spanish Proficiency exam;
 - ii. A passing score on a foreign language subject knowledge portion of the Arizona Teacher Proficiency Assessment or a comparable foreign language subject knowledge exam from another state;
 - iii. If an exam in the language is not offered through the Arizona Teacher Proficiency Assessment or the American Council on the Teaching of Foreign Languages, proficiency may be verified by the language department of an accredited institution. A minimum passing score of "Advanced Low" is required on the American Council on the Teaching of Foreign Languages for Speaking and Writing Exams in the foreign language;
 - iv. Proficiency in American Indian languages shall be verified by an official designated by the appropriate tribe; or
 - c. Proficiency in sign language is verified through 24 hours of coursework from an accredited institution.
 - 3. The holder of the bilingual endorsement is also authorized to teach English as a Second Language.
 - 4. The requirements are:

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- a. An Arizona elementary, secondary, supervisor, principal, superintendent, special education, early childhood, arts education or CTE certificate;
- b. Completion of a bilingual education program from an accredited institution or the following courses:
 - i. Three semester hours of foundations of instruction for non-English-language-background students;
 - ii. Three semester hours of bilingual methods;
 - iii. Three semester hours of English as a Second Language for bilingual settings;
 - iv. Three semester hours of courses in bilingual materials and curriculum, assessment of limited-English-proficient students, teaching reading and writing in the native language, or English as a Second Language for bilingual settings;
 - v. Three semester hours of linguistics to include psycholinguistics, sociolinguistics, first language acquisition, and second language acquisition for language minority students, or American Indian language linguistics;
 - vi. Three semester hours of courses dealing with school, community, and family culture and parental involvement in programs of instruction for non-English-language-background students; and
 - vii. Three semester hours of courses in methods of teaching and evaluating handicapped children from non-English-language backgrounds. These hours are only required for bilingual endorsements on special education certificates.
- c. A valid bilingual certificate or endorsement from another state may be substituted for the courses described in subsection (J)(4)(b);
- d. Practicum in a bilingual program or two years of verified bilingual teaching experience; and
- e. Proficiency in a spoken language other than English, verified by one of the following:
 - i. A passing score on the Arizona Classroom Spanish Proficiency exam;
 - ii. A passing score on a foreign language subject knowledge portion of the Arizona Teacher Proficiency Assessment or a comparable foreign language subject knowledge exam from another state;
 - iii. If an exam in the language is not offered through the Arizona Teacher Proficiency Assessment or the American Council on the Teaching of Foreign Languages, proficiency may be verified by the language department of an accredited institution. A minimum passing score of "Advanced Low" is required on the American Council on the Teaching of Foreign Languages for Speaking and Writing Exams in the foreign language;
 - iv. Proficiency in American Indian languages shall be verified by an official designated by the appropriate tribe; or
 - f. Proficiency in sign language is verified through 24 hours of coursework from an accredited institution.
- K. English as a Second Language (ESL) Endorsements, grades Pre-K through 12**
 - 1. An ESL or bilingual endorsement is required of an individual who is an ESL classroom teacher, ESL specialist, ESL resource teacher, or otherwise responsible for providing ESL instruction.
 - 2. The provisional ESL endorsement is valid for three years and is not renewable. The requirements are:
 - a. An Arizona elementary, secondary, supervisor, principal, superintendent, special education, early childhood, arts education or CTE certificate; and
 - b. Six semester hours of courses specified in subsection (K)(3)(b), including at least one course in methods of teaching ESL students.
 - 3. The requirements for the ESL endorsement are:
 - a. An Arizona elementary, secondary, supervisor, principal, superintendent, special education, early childhood, arts education or CTE certificate;
 - b. Completion of an ESL education program from an accredited institution or the following courses:
 - i. Three semester hours of courses in foundations of instruction for non-English-language-background students. Three semester hours of courses in the nature and grammar of the English language, taken before January 1, 1999, may be substituted for this requirement;
 - ii. Three semester hours of ESL methods;
 - iii. Three semester hours of teaching of reading and writing to limited-English-proficient students;
 - iv. Three semester hours of assessment of limited-English-proficient students;
 - v. Three semester hours of linguistics; and
 - vi. Three semester hours of courses dealing with school, community, and family culture and parental involvement in programs of instruction for non-English-language-background students.
 - vii. A passing score on a foreign language subject knowledge portion of the Arizona Teacher Proficiency Assessment or a comparable foreign language subject knowledge exam from another state; or
 - c. Three semester hours of a practicum or two years of verified ESL or bilingual teaching experience, verified by the district superintendent;
 - d. Second language learning experience, which may include sign language. Second language learning experience may be documented by any of the following:
 - i. Six semester hours of courses in a single second language, or the equivalent, verified by the department of language, education, or English at an accredited institution;
 - ii. Completion of intensive language training by the Peace Corps, the Foreign Service Institute, or the Defense Language Institute;
 - iii. Placement by the language department of an accredited institution in a third-semester level;
 - iv. Placement at level 1-intermediate/low or more advanced score on the Oral Proficiency Interview, verified by the American Council for the Teaching of Foreign Languages;
 - v. Passing score on the Arizona Classroom Spanish Proficiency Examination approved by the Board; or

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- vi. Proficiency in an American Indian language, verified by an official designated by the appropriate tribe.
 - vii. A passing score on a foreign language subject knowledge portion of the Arizona Teacher Proficiency Assessment or a comparable foreign language subject knowledge exam from another state; or
 - e. A valid ESL certificate or endorsement from another state may be substituted for the requirements described in subsection (K)(3)(b), (c) and (d).
- L. Structured English Immersion (SEI) Endorsement, Pre-K through 12.** A Provisional or full Structured English Immersion (SEI) endorsement, or an English as a Second Language or Bilingual endorsement, shall be required of a teacher who is instructing students in a sheltered English immersion or structured English immersion model.
1. The provisional SEI endorsement is valid for three years and is not renewable. The requirements are:
 - a. An Arizona elementary, secondary, special education, CTE, early childhood, Pre-K through 12 teaching, supervisor, principal or superintendent certificate; and
 - b. One semester hour or 15 clock hours of professional development in Structured English Immersion methods of teaching English Language Learner (ELL) students, including but not limited to instruction in SEI strategies, teaching with the ELL Proficiency Standards adopted by the Board and monitoring ELL student academic progress using a variety of assessment tools through a training program that meets the requirements of A.R.S. § 15-756.09(B).
 2. The requirements for the SEI endorsement are: an Arizona elementary, secondary, special education, CTE, early childhood, Pre-K through 12 teaching, supervisor, principal, or superintendent certificate; and one of the following:
 - a. Three semester hours of courses related to the teaching of the English Language Learner Proficiency Standards adopted by the Board, including but not limited to instruction in SEI strategies, teaching with the ELL Proficiency Standards adopted by the Board and monitoring ELL student academic progress using a variety of assessment tools; or
 - b. Completion of 45 clock hours of professional development in the teaching of the English Language Learner Proficiency Standards adopted by the Board, including but not limited to instruction in SEI strategies, teaching with the ELL Proficiency Standards adopted by the Board and monitoring ELL student academic progress using a variety of assessment tools through a training program that meets the requirements of A.R.S. § 15-756.09(B).
 - c. A passing score on the Structured English Immersion portion of the Arizona Teacher Proficiency Assessment.
 3. Nothing in this Section prevents a school district or charter school from requiring certified staff to obtain an SEI, ESL or bilingual endorsement as a condition of employment.
- M. Gifted Endorsements, grades Pre-K through 12**
1. The gifted endorsements authorize the holder to teach gifted students within the grade range and subject area of the prerequisite certificate. A gifted endorsement is required for all district teachers who have primary responsibility for teaching gifted pupils.
 2. The provisional gifted endorsement is valid for three years and is not renewable. The requirements are:
 - a. A valid Arizona International or Standard Professional teaching certificate.
 - b. One of the following:
 - i. Six semester hours of courses in gifted education; or
 - ii. Verification from a public school superintendent or personnel director that the applicant completed a minimum of 90 clock hours of in-service training in gifted education, or the equivalent through competency-based credentials, that is aligned to the Teacher Preparation Standards in Gifted and Talented Education adopted by the National Association for Gifted Children and the Council for Exceptional Children.
 3. Requirements for the gifted endorsement are:
 - a. A valid Arizona International or Standard Professional teaching certificate;
 - b. One of the following:
 - i. Verification from a public school superintendent or personnel director that the applicant completed a minimum of 180 clock hours of in-service training in gifted education, or the equivalent through competency-based credentials, that is aligned to the Teacher Preparation Standards in Gifted and Talented Education adopted by the National Association for Gifted Children and the Council for Exceptional Children; or
 - ii. Completion of 12 semester hours of courses in gifted education. No more than six semester hours of courses in gifted education may be obtained through completion of in-service training that is aligned to the Teacher Preparation Standards in Gifted and Talented Education adopted by the National Association for Gifted Children and the Council for Exceptional Children. Fifteen clock hours of in-service is equivalent to one semester hour. In-service hours shall be verified by the district superintendent or personnel director.
- N. Early Childhood Education Endorsements, birth through age eight**
1. When combined with an Arizona elementary education teaching certificate or an Arizona special education teaching certificate, the early childhood endorsement may be used in lieu of an early childhood education certificate as described in R7-2-608. When combined with an Arizona cross-categorical, specialized special education, or severe and profound teaching certificate as described in R7-2-611, the early childhood endorsement may be used in lieu of an Early Childhood Special Education certificate.
 2. The provisional early childhood endorsement is valid for three years and is not renewable. The requirements are:
 - a. A valid Arizona elementary teaching certificate as provided in R7-2-609 or a valid Arizona special education teaching certificate as provided in R7-2-611, and

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- b. A passing score on the early childhood subject knowledge portion of the Arizona Teacher Proficiency Assessment.
- 3. The requirements for the early childhood endorsement are:
 - a. A valid Arizona elementary education teaching certificate as provided in R7-2-609 or a valid Arizona special education teaching certificate as provided in R7-2-611, and
 - b. Early childhood education coursework and practicum experience which includes both of the following:
 - i. Twenty-one semester hours of early childhood education courses to include all of the following areas of study:
 - (1) Foundations of early childhood education;
 - (2) Child guidance and classroom management;
 - (3) Characteristics and quality practices for typical and atypical behaviors of young children;
 - (4) Child growth and development, including health, safety and nutrition;
 - (5) Child, family, cultural and community relationships;
 - (6) Developmentally appropriate instructional methodologies for teaching language, math, science, social studies and the arts;
 - (7) Early language and literacy development;
 - (8) Assessing, monitoring and reporting progress of young children; and
 - ii. A minimum of eight semester hours of practicum including:
 - (1) A minimum of four semester hours in a supervised field experience, practicum, internship or student teaching setting serving children birth through preschool. One year of full-time verified teaching experience with children in birth through preschool may substitute for this student teaching experience. This verification may come from a school-based education program or center-based program licensed by the Department of Health Services or regulated by tribal or military authorities; and
 - (2) A minimum of four semester hours in a supervised student teaching setting serving children in kindergarten through grade three. One year of full-time verified teaching experience with children in kindergarten through grade three in an accredited school may substitute for this student teaching experience;
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety, and
 - d. A passing score on the early childhood professional knowledge portion of the Arizona Educator Proficiency Assessment may be substituted for the 21 semester hours of early childhood education courses as described in subsection (N)(3)(b)(i); and
 - e. A passing score on the early childhood subject knowledge portion of the Arizona Educator Proficiency Assessment.
- 4. Teachers with a valid Arizona elementary education certificate or Arizona special education certificate meet the requirements of this Section with evidence of the following:
 - a. A minimum of three years infant/toddler, preschool or kindergarten through grade three classroom teaching experience; and
 - b. A passing score on the early childhood subject knowledge portion of the Arizona Educator Proficiency Assessment.
- O. Library-Media Specialist Endorsement, grades Pre-K through 12**
 - 1. The library-media specialist endorsement is optional.
 - 2. Requirements are:
 - a. An Arizona elementary, secondary, early childhood or special education certificate;
 - b. A passing score on the Library Media Specialist portion of the Arizona Teacher Proficiency Assessment. A master's degree in Library Science may be substituted for a passing score on the assessment; and
 - c. One year of teaching experience.
- P. Middle Grade Endorsement, grades five through nine**
 - 1. The middle grade endorsement is optional. The middle grade endorsement may expand the grades a teacher is authorized to teach on an elementary or secondary certificate.
 - 2. The requirements are:
 - a. An Arizona elementary or secondary certificate, and
 - b. Six semester hours of courses in middle grade education to include:
 - i. One course in early adolescent psychology;
 - ii. One course in middle grade curriculum; and
 - iii. A practicum or one year of verified teaching experience, in grades five through nine.
- Q. Drivers Education Endorsement**
 - 1. The drivers education endorsement is optional.
 - 2. The requirements are:
 - a. An Arizona teaching certificate,
 - b. A valid Arizona driver's license,
 - c. One course in each of the following:
 - i. Safety education,
 - ii. Driver and highway safety education, and
 - iii. Driver education laboratory experience, and
 - d. A driving record with less than seven violation points and no revocation or suspension of driver's license within the two years preceding application.
 - 3. For the purposes of this Section, a course is defined as a three hour semester course offered by an accredited institution of higher learning or 45 clock hours of educational classes approved by the Department. Each semester hour of courses shall be equivalent to 15 clock hours of training. If semester hours are used, the required documentation for the semester hours shall be an official transcript.
- R. Cooperative Education Endorsement, grades K through 12**
 - 1. The cooperative education endorsement is required for individuals who coordinate or teach CTE.
 - 2. The requirements are:
 - a. A provisional or standard CTE certificate in the areas of agriculture, business, family and consumer sciences, health occupations, marketing, or industrial technology; and
 - b. One course in CTE.
- S. Computer Science, PreK through eight Endorsement**

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1. The computer science, PreK through eight endorsement authorizes the holder to teach computer science in prekindergarten through grade eight.
 2. The requirements are:
 - a. An Arizona Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Special Education, or PreK through 12 Teaching certificate;
 - b. Three semester hours in foundations for teaching computer science which addresses the following topics:
 - i. Introduction to computer science;
 - ii. Inclusive recruitment, retention, and pedagogical strategies in computing education;
 - iii. Computational thinking;
 - iv. Instructional planning based on the Arizona state standards for computer science, or comparable computer science standards.
 - c. Six semester hours in computer science to include the following:
 - i. Three semester hours in teaching and learning programming for educators; and
 - ii. Three semester hours in a computer science elective which may include, but is not limited to, physical computing or mobile computing.
 3. Completion of a training program through an Arizona public local education agency or an accredited institution may substitute for the semester hours required in subsections (S)(2)(b) and (c). Fifteen clock hours of training, or the equivalent competency-based credential, is equivalent to one semester hour of college coursework. Training programs shall be verified by a superintendent or personnel director of the Arizona local education agency or the appropriate administrator of an accredited institution.
- T. Computer Science, grades six through 12 Endorsement**
1. The computer science, grades six through 12 endorsement authorizes the holder to teach computer science in grades six through 12.
 2. The requirements are:
 - a. A valid Arizona Standard Professional Elementary, Middle Grades, Secondary, Hearing Impaired, Visually Impaired, Mild/Moderate Disabilities, Moderate/Severe Disabilities, or PreK through 12 Teaching certificate;
 - b. Three semester hours in foundations for teaching computer science which addresses the following topics:
 - i. Introduction to computer science;
 - ii. Inclusive recruitment, retention, and pedagogical strategies in computing education;
 - iii. Computational thinking;
 - iv. Instructional planning based on the Arizona state standards for computer science or comparable computer science standards.
 - c. Nine semester hours of courses in computer science to include the following:
 - i. Three semester hours in teaching and learning programming for educators; and
 - ii. Six semester hours in computer science electives which may include, but is not limited to, computer programming, cybersecurity, algorithms and data structures, operating systems, artificial intelligence, machine learning, database development and management, computer networks, and data mining and analytics.
 3. Completion of a training program through an Arizona public local education agency or an accredited institution may substitute for the semester hours required in subsections (T)(2)(b) and (c). Fifteen clock hours of training, or the equivalent competency-based credential, is equivalent to one semester hour of college coursework. Training programs shall be verified by a superintendent or personnel director of the Arizona local education agency or the appropriate administrator of an accredited institution.
- U. Literacy, K through five Endorsement**
1. For the purposes of this Section, the following definitions apply:
 - a. "Literacy instruction" means instruction in English language arts provided by a teacher.
 - b. "Science of reading instruction" means instruction which includes a focus on the elements of structured literacy, to include oral language, phonological awareness, phonics, fluency, vocabulary, comprehension, and foundational writing skills, including spelling and handwriting.
 - c. "Teaching certificate" means an Alternative Teaching certificate, International Teaching certificate, Classroom-Based Standard Teaching certificate, or Standard Professional teaching certificate.
 2. An individual who receives a teaching certificate in early childhood education, elementary education, middle grades education, or special education issued on or before August 1, 2025, and who provides literacy instruction in kindergarten programs or in any of grades one through five must obtain a Literacy, K through five endorsement, a Reading Specialist endorsement, grades K through 12, a Reading endorsement for grades K through 12, or a Reading endorsement for grades K through eight by August 1, 2028.
 3. An individual who receives a teaching certificate in early childhood education, elementary education, middle grades education, or special education issued after August 1, 2025, and who provides literacy instruction in kindergarten or in any of grades one through five must obtain a Literacy, K through five endorsement, a Reading Specialist endorsement, grades K through 12, a Reading endorsement for grades K through 12, or a Reading endorsement for grades K through eight within three years after the teaching certificate is issued.
 4. Literacy, K through Five Endorsement
 - a. The Literacy, K through five Endorsement authorizes the holder to provide literacy instruction within the grade range and subject area of the teaching certificate it endorses. The requirements are:
 - i. A valid teaching certificate in early childhood education, elementary education, middle grades education, or special education;
 - ii. Three semester hours in the science of reading instruction, including systematic phonics instruction;
 - iii. Three semester hours in reading instruction, including assessments, instructional practices, and interventions to improve student reading proficiency for struggling readers, including students with the characteristics of dyslexia;
 - iv. A passing score on a literacy instruction assessment approved by the Board for the Literacy, K through five endorsement.

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- b. Completion of Department-approved training may substitute for the semester hours required in subsections (U)(4)(a)(ii) and (iii). Fifteen clock hours of training, or the equivalent competency-based credential, is equivalent to one semester hour.
- 5. Applicants may meet the requirements described in subsections (U)(4)(a)(ii), (iii), and (iv) with verification from an Arizona public school superintendent, principal or personnel director that the applicant meets the following requirements: The applicant is a teacher who provides literacy instruction in kindergarten through grade five and has demonstrated through classroom observations and student achievement data across subgroups using evidence-based measures for at least three consecutive years, based on criteria established by the Board, that the teacher possesses the instructional knowledge and skills to:
 - a. Effectively teach foundational reading skills, phonological awareness, phonics, fluency, vocabulary, and comprehension; and
 - b. Implement reading instruction using high-quality instructional materials; and
 - c. Provide effective instruction and interventions for students with reading deficiencies, including students with characteristics of dyslexia.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by exempt rulemaking at 15 A.A.R. 1838, effective August 29, 2006 (Supp. 09-1). Amended by exempt rulemaking at 15 A.A.R. 1306, effective September 26, 2006 (Supp. 09-1). Former R7-2-615 recodified to R7-2-616; new R7-2-615 recodified from R7-2-614 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-615 recodified to R7-2-616; new R7-2-615 recodified from R7-2-614 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 52, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 119, effective September 21, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 129, effective September 21, 2009 (Supp. 10-2). Amended by exempt rulemaking at 16 A.A.R. 734, effective July 1, 2011 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by exempt rulemaking at 16 A.A.R. 1496, effective July 1, 2011 (Supp. 11-1). Amended by final exempt rulemaking at 22 A.A.R. 227, effective June 23, 2014; filed in the Office January 20, 2016 (Supp. 16-2). Amended by final exempt rulemaking at 22 A.A.R. 1912, effective October 1, 2011; filed in the Office July 1, 2016 (Supp. 16-3). Amended by final exempt rulemaking at 22 A.A.R. 219, effective June 5, 2015; filed in the Office January 20, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 22 A.A.R. 233, effective September 28, 2015 and filed in the Office January 20, 2016 (Supp. 17-1). Amended by final exempt rulemaking at 22 A.A.R. 670, effective January 1, 2016, filed in the Office March 2, 2016; amended by final exempt rulemaking at 22 A.A.R. 2241, effective August 6, 2016, filed in the Office August 5, 2016 (Supp. 17-2). Amended by final exempt rulemaking at 25 A.A.R. 1552, effective May 20, 2019 (Supp. 19-2). The hyphen between “6-12,” “PreK-8,” and “PreK-12” have been cor-

rected to the word “through,” the numeral “6” has been changed to “six,” and the numeral “8” has been changed to “eight” for consistency in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021; amended by final exempt rulemaking at 28 A.A.R. 180, (January 14, 2022) effective January 25, 2022 (Supp. 21-4).

R7-2-615.01 Special Education Endorsements

- A. Except as noted, special education endorsements are subject to the general certification provisions in R7-2-607.
- B. Mild/Moderate Disabilities Endorsement:
 - 1. The endorsement authorizes the holder to teach students with mild/moderate disabilities in preschool through grade 12.
 - 2. A provisional mild/moderate disabilities endorsement is valid for three years and is not renewable. The requirements are:
 - a. A valid Arizona Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Visually Impaired, Hearing Impaired, Early Childhood Special Education, or Moderate/Severe Disabilities certificate;
 - b. Three years of full-time teaching experience in preschool through grade 12;
 - c. Six semester hours of special education courses to include both of the following:
 - i. Behavior management for students with disabilities; and
 - ii. Special education assessment and individualized education program planning.
 - d. Completion of 15 clock hours of practicum in mild/moderate disabilities special education that may be included in the courses listed in (B)(2)(c).
 - 3. The requirements for the mild/moderate disabilities endorsement are:
 - a. A valid Arizona Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Visually Impaired, Hearing Impaired, Early Childhood Special Education, or Moderate/Severe Disabilities certificate;
 - b. Three years of full-time teaching experience in preschool through grade 12;
 - c. Fifteen semester hours of special education courses to include all of the following:
 - i. Methods for teaching students with disabilities;
 - ii. Behavior management for students with disabilities;
 - iii. Special education law;
 - iv. Special education assessment and individualized education program planning;
 - v. Language development and disorders.
 - d. Completion of 45 clock hours of practicum in mild/moderate disabilities special education that may be included in the courses listed in (B)(3)(c).
- C. Moderate/Severe Disabilities Endorsement
 - 1. The endorsement authorizes the holder to teach students with moderate/severe disabilities in preschool through grade 12.
 - 2. A provisional moderate/severe disabilities endorsement is valid for three years and is not renewable. The requirements are:
 - a. A valid Arizona Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Visu-

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- ally Impaired, Hearing Impaired, Early Childhood Special Education, or Mild/Moderate Disabilities certificate;
 - b. Three years of full-time teaching experience in pre-school through grade 12; and
 - c. Six semester hours of special education courses to include both of the following:
 - i. Behavior management for students with disabilities; and
 - ii. Special education assessment and individualized education program planning.
 - d. Completion of 15 clock hours of practicum in moderate/severe disabilities special education that may be included in the courses listed in (C)(2)(c).
3. The requirements are for the moderate/severe disabilities endorsement are:
- a. A valid Arizona Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Visually Impaired, Hearing Impaired, Early Childhood Special Education, or Mild/Moderate Disabilities certificate;
 - b. Three years of full-time teaching experience in pre-school through grade 12;
 - c. Fifteen semester hours of special education courses to include all of the following:
 - i. Behavior management for students with disabilities;
 - ii. Special education law;
 - iii. Special education assessment and individualized education program planning;
 - iv. Methods for teaching students with severe disabilities;
 - v. Adaptive communication, including language development and disorders.
 - d. Completion of 45 clock hours of practicum in moderate/severe disabilities special education that may be included in the courses listed in (C)(3)(c).
- D. Deaf/Hard of Hearing Endorsement**
- 1. The endorsement authorizes the holder to teach students who are deaf or hard of hearing from birth through grade 12.
 - 2. The requirements are:
 - a. A valid Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Mild/Moderate Disabilities, Moderate/Severe Disabilities, Early Childhood Special Education, Specialized Special Education, Cross-Categorical Special Education, or Visually Impaired teaching certificate.
 - b. Three years of full-time teaching experience in pre-school through grade 12.
 - c. Six semester hours of special education courses to include all of the following:
 - i. Special education law and individualized education program planning,
 - ii. Behavior management for students with disabilities,
 - iii. The use of instructional and assistive technologies in the classroom.
 - d. Fifteen semester hours of courses in deaf/hard of hearing education that adhere to a guidance document approved by the Board and include all of the following:
 - i. Methods for facilitating language acquisition and literacy development in children who are deaf or hard of hearing;
 - ii. Auditory skill development for students who are deaf or hard of hearing;
 - iii. Assessment of students who are deaf or hard of hearing;
 - iv. Principles of audiology;
 - v. Social and cultural foundations and family involvement for students who are deaf or hard of hearing;
 - vi. Early intervention and parental involvement to enhance the early language skills of students who are deaf or hard of hearing;
 - vii. Methods for teaching students who are deaf or hard of hearing with multiple disabilities, including deaf-blindness.
- E. Visually Impaired Endorsement**
- 1. The endorsement authorizes the holder to teach students who are blind or visually impaired in birth through grade 12.
 - 2. The requirements are:
 - a. A valid Standard Professional Early Childhood, Elementary, Middle Grades, Secondary, Mild/Moderate Disabilities, Moderate/Severe Disabilities, Early Childhood Special Education, Specialized Special Education, Cross-Categorical Special Education, or Hearing Impaired teaching certificate.
 - b. Three years of full-time teaching experience in pre-school through grade 12.
 - c. Six semester hours of special education courses to include all of the following:
 - i. Special education law and individualized education program planning,
 - ii. Behavior management for students with disabilities,
 - iii. The use of instructional and assistive technologies in the classroom.
 - d. Fifteen semester hours of courses in visually impaired special education that adhere to a guidance document approved by the Board and include all of the following:
 - i. Instructional approaches for teaching students who have vision impairments;
 - ii. Methods for facilitating literacy development in children who are blind or low vision;

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- iii. Assistive technologies for students with vision impairments;
- iv. Assessment of students with vision impairment;
- v. Early intervention and parental involvement to enhance early skills of students with vision impairment;
- vi. Anatomy and physiology of the eye;
- vii. Methods for teaching orientation and mobility to students who have visual impairments;
- viii. Methods for teaching students who have visual impairments with multiple disabilities, including deaf-blindness.
- e. Completion of a minimum of 90 clock hours of supervised practicum in teaching students who have visual impairments, which may be included in the courses listed under subsections (2)(c) or (d).
- f. Proficiency in braille verified by one of the following:
 - i. Successful completion of a nationally validated braille test approved by the Board; or
 - ii. Successful completion of a braille test developed in the program in visual impairment at the University of Arizona.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 595, effective February 24, 2020 (Supp. 20-1).
Amended by final exempt rulemaking at 27 A.A.R. 743, effective April 26, 2021 (Supp. 21-2).

R7-2-616. Standard Professional Administrative Certificates

- A. All certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B. Standard Professional Supervisor Certificate – grades PreK through 12
 - 1. Except for individuals who hold a valid Arizona principal or superintendent certificate, the supervisor certificate is required for all personnel, except for superintendents pursuant to R7-2-616(D), whose primary responsibility is administering instructional programs, supervising certified personnel, or similar administrative duties.
 - 2. The requirements are:
 - a. A valid Arizona Standard Professional teaching certificate, Career and Technical Education certificate, Classroom-Based Standard Teaching Certificate, Subject Matter Expert Standard Teaching Certificate, or Specialized Secondary Teaching Certificate or an other professional certificate established in R7-2-617 issued by the Department;
 - b. A master's or more advanced degree;
 - c. Three years of verified full-time teaching experience or related education services experience in a PreK through 12 setting;
 - d. Completion of a program in educational administration which shall consist of a minimum of 18 graduate semester hours of educational administration courses which teach the knowledge and skills described in R7-2-603 to include three semester hours in school law and three semester hours in school finance;
 - e. A practicum in educational administration or two years of verified educational administrative experience in grades PreK through 12;

- f. A passing score on the Supervisor, Principal, or Superintendent portion of the Arizona Administrator Proficiency Assessment; and
- g. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

C. Standard Professional Principal Certificate – grades PreK through 12

- 1. The principal certificate is required for all personnel who hold the title of principal, assistant principal, or perform the duties of principal or assistant principal as delineated in A.R.S. Title 15.
- 2. The requirements are:
 - a. A master's or more advanced degree;
 - b. Three years of verified teaching experience in grades PreK through 12;
 - c. Completion of a program in educational administration for principals including at least 30 graduate semester hours of educational administration courses teaching the knowledge and skills described in R7-2-603 to include three semester hours in school law and three semester hours in school finance;
 - d. A practicum as a principal or two years of verified experience as a principal or assistant principal under the supervision of a certified principal in grades PreK through 12;
 - e. A passing score on either the Principal or Superintendent portion of the Arizona Administrator Proficiency Assessment; and
 - f. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

D. Standard Professional Superintendent Certificate – grades PreK through 12

- 1. The superintendent certificate is optional, but may be required by local governing boards for individuals who hold the title or perform the duties of a superintendent, assistant superintendent or associate superintendent and who perform duties directly relevant to curriculum, instruction, certified employee evaluations, and instructional supervision.
- 2. The requirements are:
 - a. A master's or more advanced degree including at least 60 graduate semester hours;
 - b. Completion of a program in educational administration for superintendents, including at least 36 graduate semester hours of educational administrative courses which teach the standards described in R7-2-603 to include three semester hours in school law and three semester hours in school finance;
 - c. Three years of verified full-time teaching experience or related education services experience in a PreK through 12 setting;
 - d. A practicum as a superintendent or two years verified experience as a superintendent, assistant superintendent, or associate superintendent in grades PreK through 12;
 - e. A passing score on the Superintendent portion of the Arizona Administrator Proficiency Assessment; and
 - f. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Former R7-2-616 recodified to R7-2-617; new R7-2-616 recodified from R7-2-615 at 15 A.A.R. 2146, effective

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August 25, 2008 (Supp. 09-4). Former R7-2-616 recodified to R7-2-617; new R7-2-616 recodified from R7-2-615 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 326, effective January 25, 2010 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by exempt rulemaking at 16 A.A.R. 2034, effective October 1, 2010 (Supp. 11-1). Amended by final exempt rulemaking at 22 A.A.R. 219, effective June 5, 2015; filed in the Office January 20, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-616.01. Standard Administrative Certificates – Locally Based Leadership Program Pathway

- A.** Except as noted, all certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B.** Standard Site-Based Supervisor Certificate – grades PreK through 12.
 - 1. The certificate authorizes the holder to administer instructional programs, supervise certified personnel, or perform similar administrative duties at the school-level.
 - 2. The requirements are:
 - a. A bachelor's or more advanced degree; and
 - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety; and
 - c. Verification from the superintendent of a school district or the principal of a charter school that the applicant has made satisfactory progress in the program sequence and model, which may include professional evaluations, observations of the applicant, student achievement data and demonstration of competencies, skills and knowledge associated with the relevant school leadership position; and
 - d. Verification of successful completion of a Board-approved locally based school leadership preparation program for supervisors; and
 - e. A passing score on the Supervisor, Principal or Superintendent portion of the Arizona Administrator Proficiency Assessment.
- C.** Standard Site-Based Principal Certificate – grades PreK through 12.
 - 1. The certificate authorizes the holder to administer instructional programs, supervise certified personnel, or perform similar administrative and leadership duties at the school-level, and perform the duties and hold the title of principal, assistant principal as delineated in A.R.S. Title 15.
 - 2. The requirements are:
 - a. A bachelor's or more advanced degree; and
 - b. A valid fingerprint clearance card issued by the Arizona Department of Public Safety; and
 - c. Verification from the superintendent of a school district or the principal of a charter school that the applicant has made satisfactory progress in the program sequence and model, which may include professional evaluations, observations of the applicant, student achievement data and demonstration of com-

- petencies, skills and knowledge associated with the relevant school leadership position; and
- d. Verification of successful completion of a Board-approved locally based school leadership preparation program for principals; and
- e. A passing score on the Principal or Superintendent portion of the Arizona Administrator Proficiency Assessment.

Historical Note

New Section made by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-616.02. Interim Administrative Certificates

- A.** Except as noted, all certificates are subject to the general certification provisions in R7-2-607.
- B.** The certificate authorizes the holder to serve an administrator while completing the requirements for a standard administrator certificate.
- C.** Interim administrative certificates are valid for one year and may be extended yearly for no more than two consecutive years at no cost to the certificate holder if the requirements in subsection (I) are met.
- D.** An individual is not eligible for issuance of an interim administrative certificate more than once in a five-year period.
- E.** Interim administrative certificate holders shall be enrolled in a Board approved alternative administrator preparation program, a Board approved locally based leadership preparation program, or a Board approved traditional administrator preparation program.
- F.** Interim Supervisor Certificate – grades PreK through 12:
 - 1. The Interim Supervisor Certificate authorizes the holder for a position in which the primary responsibility is administering instructional programs, supervising certified personnel, or similar administrative duties. An individual who is enrolled in a locally-based school leadership program shall be limited to a supervisor position at the school-level.
 - 2. The requirements are:
 - a. A valid Arizona Standard Professional teaching certificate, Career and Technical Education Certificate, Classroom-Based Standard Teaching Certificate, Subject Matter Expert Standard Teaching Certificate, Specialized Secondary Teaching Certificate or an other professional certificate established in R7-2-617; and
 - b. A bachelor's or more advanced degree; and
 - c. Verification of three years of full-time teaching or related education services experience in a PreK through grade 12 setting; and
 - d. Verification of enrollment in a Board approved alternative administrator preparation program, a Board approved locally based school leadership program, or a Board approved administrator preparation program; and
 - e. Verification that the certificate holder will be employed as an administrator and will be under the direct supervision of an Arizona certified administrator or the appropriate county school superintendent; and
 - f. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- G.** Interim Principal Certificate – grades PreK through 12

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1. The Interim Principal certificate authorizes the holder to administer instructional programs, supervise certified personnel, perform the duties, hold the title of principal or assistant principal as delineated in A.R.S. Title 15, and perform similar administrative duties. An individual who is enrolled in a locally-based school leadership program shall be limited to an administrative position at the school-level.
 2. The requirements are:
 - a. A bachelor's or more advanced degree; and
 - b. Verification of three years of full-time teaching in grades PreK through 12; and
 - c. Verification of enrollment in a Board approved alternative administrator preparation program, a Board approved locally based school leadership program, or a Board approved administrator preparation program; and
 - d. Verification that the certificate holder will be employed as a principal or assistant principal under the direct supervision of an Arizona certified principal, an Arizona certified superintendent, or the appropriate county school superintendent; and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- H. Interim Superintendent Certificate – Grades PreK through 12:**
1. The superintendent certificate is optional, but may be required by local governing boards for individuals who hold the title or perform the duties of a superintendent, assistant superintendent or associate superintendent and who perform duties directly relevant to curriculum, instruction, certified employee evaluations, and instructional supervision
 2. The requirements are:
 - a. A master's degree or more advanced degree;
 - b. Three years of verified full-time teaching experience or related education services experience in a PreK through 12 setting;
 - c. Verification of enrollment in a Board approved alternative path to administrator certification program, or a Board approved administrator preparation program;
 - d. Verification that the holder of the interim certificate shall be employed as a superintendent, assistant superintendent, or associate superintendent and working under the direct supervision of an Arizona certified superintendent or the appropriate county school superintendent; and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- I. Interim Administrative Certificate Extension**
1. The Interim Administrative certificate may be extended yearly for no more than two consecutive years at no cost to the applicant.
 2. The requirements to extend an Interim Administrative Certificate are:
 - a. Qualification and issuance of the initial Interim Administrative certificate;
 - b. Verification from the Board approved program provider that the applicant is enrolled and has made adequate progress towards completion of the Board approved alternative administrator preparation program, Board approved locally based leadership preparation program, or Board approved traditional administrator preparation program;
 - c. Verification that the holder meets the employment and supervision requirements for the Interim Administrative certificate as described in subsection (F)(2)(e), (G)(2)(d), and (H)(2)(d); and
 - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- J. The holder of an interim administrative certificate may apply for the appropriate Arizona standard administrative certificate with verification of the following:**
1. Successful completion of the Board approved alternative path to administrator certification program, Board approved locally based leadership program, or Board approved administrator preparation program; and
 2. A passing score on the required portion of the Arizona Administrator Proficiency Assessment; and
 3. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 4. Individuals who have completed a locally based leadership program shall also submit verification from the superintendent of a school district or the principal of a charter school that the applicant has made satisfactory progress in the program sequence and model, which may include professional evaluations, observations of the applicant, student achievement data and demonstration of competencies, skills and knowledge associated with the relevant school leadership position.
- K. Interim Administrative Certificates – Public Health Emergency**
1. Notwithstanding this Section, an Interim Administrative Certificate entitling the holder to serve as a supervisor, principal, or superintendent may be issued to an applicant who meets the following requirements:
 - a. Completion of all requirements for the Standard Professional Supervisor, Standard Professional Principal, or Standard Professional Superintendent certificate, as described in subsection (B)(2), (C)(2), and (D)(2), with the exception of a passing score on the Arizona Administrator Proficiency Assessment.
 - b. Verification that the applicant was unable to take the Arizona Administrator Proficiency Assessment required for the Standard Professional Administrative certificate as the result of a public health emergency declared by the governor or a public health official.
 2. A certificate issued pursuant to this subsection shall be issued for one year and shall not be renewed or extended.

Historical Note

New Section made by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-617. Other Professional Certificates

- A.** All certificates are subject to the general certification provisions in R7-2-607 and the renewal requirements in R7-2-619.
- B.** Standard School Counselor Certificate - grades PreK through 12.
1. The school counselor certificate is optional but may be required by local governing boards.
 2. The requirements are:
 - a. A master's or more advanced degree,
 - b. Completion of a graduate program in guidance and counseling,
 - c. A valid fingerprint clearance card issued by the Arizona Department of Public Safety, and

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- d. One of the following:
 - i. Completion of a supervised counseling practicum in school counseling;
 - ii. Two years of verified, full-time experience as a school counselor; or
 - iii. Three years of verified teaching experience.
 - 3. The certificate may be renewed consistent with the provisions of R7-2-619 that may include continuing education in the area of college and career readiness.
 - 4. Applicants may meet the requirements in subsection (B)(2)(b) with completion of one of the following:
 - a. Completion of a graduate program in counseling, social work, or psychology and six semester hours of courses in any of the following areas: school counseling, college and career guidance, or academic advising; or
 - b. A valid license as an associate counselor, professional counselor, master or clinical social worker, or marriage and family therapist issued by the Arizona Board for Behavioral Health Examiners and six semester hours of courses in any of the following areas: school counseling, college and career guidance, or academic advising; or
 - c. Completion of a graduate program in academic advising and six semester hours of courses in school counseling to include any of the following areas: social and emotional development, mental health counseling, trauma and disaster counseling, multiculturalism in counseling, theories of counseling, foundations of school counseling, or child and adolescent counseling.
 - 5. Applicants who otherwise qualify but are deficient in the required six semester hours of courses described in subsections (B)(4)(a), (b), or (c) may receive a Standard School Counselor certificate with a deficiency in the required courses to be completed within three years. If an applicant fails to meet this requirement within the prescribed time, the Department of Education shall temporarily suspend the certificate, but the suspension is not considered a disciplinary action and the individual shall be allowed to correct the deficiency within the remaining timeframe of the certificate.
 - 6. Applicants who otherwise qualify but are deficient in the requirements prescribed in subsection (B)(2)(d) may receive a Standard School Counselor certificate with a deficiency in the required experience or practicum to be completed within three years. If an applicant fails to meet this requirement within the prescribed time, the Department of Education shall temporarily suspend the certificate, but the suspension is not considered a disciplinary action and the individual shall be allowed to correct the deficiency within the remaining timeframe of the certificate.
- C. Standard School Psychologist Certificate - grades PreK through 12**
- 1. A standard school psychologist certificate is required for all personnel whose primary responsibility is in the role of a school psychologist providing services that include but are not limited to the duties of student psychoeducational assessment, therapeutic consultation and intervention, and involvement in the process of determination of student disabilities or disorders.
 - 2. The requirements are:
 - a. A master's or more advanced degree;
 - b. Completion of a graduate program in school psychology consisting of at least 60 graduate semester hours, or completion of a doctoral program in psychology and completion of a re-training program in school psychology from an accredited institution or Board approved program with a letter of institutional endorsement from the head of the school psychology program;
 - c. A supervised internship of at least 1200 clock hours with a minimum of 600 of those hours in a school setting. Three years experience as a certified school psychologist within the last 10 years may be substituted for the internship requirement; and
 - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
 - 3. Any of the following may be substituted for the requirement described in subsection (C)(3)(b):
 - a. Five years experience within the last 10 years working full time in the capacity of a school psychologist in a school setting serving any portion of grades kindergarten through 12; or
 - b. A Nationally Certified School Psychologist Credential; or
 - c. A diploma in school psychology from the American Board of School Psychology.
- D. Standard Speech-Language Pathologist Certificate - grades PreK through 12**
- 1. The standard speech-language pathologist certificate is required for school-based speech-language pathologists.
 - 2. The certificate may be renewed consistent with the provisions of R7-2-619 with relevant professional development in the field of speech pathology, or professional development in the areas of articulation, voice, fluency, language, low incidence disabilities, curriculum and instruction, professional issues and ethics, or service delivery models.
 - 3. The requirements are:
 - a. A master's or more advanced degree, from an accredited institution, in speech pathology or communication disorders;
 - b. A minimum of 250 clinical clock hours supervised by a university or a speech-language pathologist with a certificate of clinical competence;
 - c. A certificate of clinical competence, or a passing score on the national exam, or a passing score on the speech and language impaired special education portion of the Arizona Teacher Proficiency Assessment; and
 - d. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- E. Standard Speech-Language Technician - grades PreK through 12**
- 1. The standard speech-language technician certificate is required for school-based speech-language professionals.
 - 2. No new applications for a speech-language technician certificate will be accepted after June 30, 2014.
 - 3. The certificate may be renewed consistent with the provisions of R7-2-619 with professional development in the areas of articulation, voice, fluency, language disorders, low incidence disabilities, professional issues and ethics, or service delivery models.
 - 4. The requirements are:

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- a. A bachelor's degree from an accredited program in Speech-Language Pathology, Speech Hearing Sciences, or Communication Disorders;
 - b. A minimum of 50 hours of university supervised observation;
 - c. A minimum of 150 university clinical clock hours, or 150 clock hours supervised by a master's level licensed speech-language pathologist, or two years' experience as a school speech-language therapist or technician;
 - d. A passing score on the speech and language impaired special education portion of the Arizona Teacher Proficiency Assessment; and
 - e. A valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- F. Standard School Social Worker Certificate - grades PreK through 12**
- 1. The standard School Social Worker certificate is optional but may be required by local governing boards.
 - 2. The requirements are:
 - a. Master's or more advanced degree in social work from an accredited institution or completion of a Board approved school social worker program;
 - b. A valid fingerprint clearance issued by the Arizona Department of Public Safety; and
 - c. One of the following:
 - i. Completion of at least six semester hours of practicum in social work in a school setting completed through an accredited institution; or
 - ii. One year of full time experience as a social worker in a setting which primarily serves children in preschool through grade 12.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by emergency rulemaking under A.R.S. § 41-1026 at 8 A.A.R. 5139, effective November 19, 2002 for a period of 180 days (Supp. 02-4). Emergency rulemaking renewed under A.R.S. § 41-1026(D) at 9 A.A.R. 1547, effective April 29, 2003 for a period of 180 days (Supp. 03-2). Emergency rulemaking repealed under A.R.S. § 41-1026(E) and permanent R7-2-617 amended by final rulemaking at 9 A.A.R. 3950, effective October 21, 2003 (Supp. 03-3). Amended by exempt rulemaking at 15 A.A.R. 1264, effective May 22, 2006 (Supp. 09-1). Former R7-2-617 recodified to R7-2-618; new R7-2-617 recodified from R7-2-616 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-617 recodified to R7-2-618; new R7-2-617 recodified from R7-2-616 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). R7-2-617 "Prekindergarten" corrected to "PreK" at request of the Board, Office File No. M09-444, filed November 24, 2009 (Supp. 10-1). Office corrected labeling error in subsection (C) under A.R.S. § 41-1011 and A.A.C. R1-1-108 (Supp. 10-4). Amended by final exempt rulemaking at 21 A.A.R. 2077, effective October 28, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 231, effective December 19, 2016 (Supp. 17-1). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 2947, effective September 24, 2018 (Supp. 18-3). The hyphen between "PreK-12" has been changed to the word "through" for consistency in Chapter style and format (Supp. 21-2). Amended by final

exempt rulemaking at 28 A.A.R. 276 (January 28, 2022), effective April 29, 2019; filed January 11, 2022 (Supp. 22-1).

R7-2-618. Fees

- A.** The Superintendent of Public Instruction or the Superintendent's designee shall collect proper fees for certification services and shall transmit the fees to the state Treasurer. The following fees are established for certification services:
- 1. Evaluation of qualification for a certificate: \$30.
 - 2. Evaluation of qualification for an endorsement: \$30.
 - 3. Issuance of a certificate, endorsement, or letter of non-qualification: \$30.
 - 4. Renewal of a certificate: \$20.
 - 5. Name change, duplicate copy, or changes of coding to existing files or certificates: \$20.
- B.** Fees shall be paid by credit or debit card, money order, cashier's check, certified check, business check, or personal check and shall be made payable to the order of the Arizona Department of Education. If a check offered in payment for services is not cleared by the financial institution, the applicant shall be notified to pay the fees by money order or certified check. If a certificate has been issued or renewed and payment is not received within two weeks of notification to the applicant, the Department may file a statement of complaint pursuant to R7-2-1302. If a certificate or renewal has not been issued, no certificate or renewal shall be issued until the fees are paid by cashier's check or money order.
- C.** Fees paid pursuant to this Section are not refundable.
- D.** Notwithstanding this Section and pursuant to A.R.S. § 41-1080.01, the Superintendent or the Superintendent's designee shall waive any certification fee for initial certification, including for endorsements, for any of the following individuals if the individual is applying for the specific certification or endorsement in this state for the first time:
- 1. Any individual applicant whose family income does not exceed 200 percent of the federal poverty guidelines;
 - 2. Any active duty military service member's spouse.
 - 3. Any honorably discharged veteran who has been discharged not more than two years before application.
- E.** Applicants who are requesting a waiver of a certification fee shall submit an attestation and appropriate documentation verifying that they meet the criteria as described in subsection (D).

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 2002, effective May 27, 1999 (Supp. 99-2). Former R7-2-618 recodified to R7-2-619; new R7-2-618 recodified from R7-2-617 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-618 recodified to R7-2-619; new R7-2-618 recodified from R7-2-617 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-619. Renewal Requirements

- A.** A certificate may be renewed within six months of its expiration date except that an individual holding multiple valid certificates may renew all certificates at one time in order to align the expiration dates of each certificate. Certificates being aligned shall be renewed at the same time as the certificate that will expire first. Individuals seeking to align certificates shall meet the renewal requirements for each certificate being

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aligned. Certificates that are renewed or aligned pursuant to this Section shall be valid for 12 years.

- B.** A certificate may be renewed within ten years after it expires. Individuals whose certificates have been expired for more than ten years shall reapply for certification under the requirements in effect at the time of reapplication. Nothing in this Section shall imply that an individual may be employed in a position that requires certification after the expiration of the relevant certificate.
- C.** Renewal of certificates requires the completion of continuing education credits after the most recent issuance or renewal of the certificate, except that continuing education credits completed during the valid term of the certificate that expires first meets the requirement of certificates being aligned. Fifteen hours of continuing education credits are required each year of the certificate term to renew a certificate, which may be accumulated in various increments per year prior to renewal. One hour of continuing education credit shall be equivalent to one clock hour of a professional development activity. Continuing education credits must relate to Arizona academic or professional educator standards or apply toward the attainment of an additional Arizona certificate, endorsement, or approved area, and may include training regarding suicide awareness and prevention; child abuse, human trafficking of children and the sexual abuse of children, including warning signs that a child may be a victim of child abuse, human trafficking, or sexual abuses; screening, intervention, accommodation, use of technology and advocacy for students with reading impairments, including dyslexia; or other training programs explicitly permitted or required by state law. Professional development that may be counted toward the required hours of continuing education credit shall consist of any of the following activities:
1. Courses related to education or a subject area taught in Arizona schools, taken from an accredited institution. Each semester hour of courses shall be equivalent to 15 clock hours of professional development. The required documentation shall be an official transcript.
 2. Professional activities such as conferences and workshops related to the profession of teaching or the field of public education. A maximum of 30 clock hours per year may be earned by attendance at professional conferences and workshops. The required documentation shall be a conference agenda and a statement or certificate from the sponsoring organization noting the clock hours earned.
 3. District-sponsored or school-sponsored in-services or activities which are specifically designed for professional development. The required documentation shall be written verification from the sponsoring district or school stating the dates of participation and the number of clock hours earned.
 4. Internships in business settings. The internship shall be based on an agreement between a business and a district or school with the stated objective of aligning teaching curriculum with workplace skills. A maximum of 80 clock hours may be earned through business internships. The required documentation shall be written verification by the sponsoring business and district or school stating the dates of participation and number of clock hours earned.
 5. Educational research. The research shall be sponsored by a research facility or an accredited institution or funded by a grant. The required documentation shall be the published report of the research or verification by the sponsoring agency; and a statement of the dates of participation and the number of clock hours earned.
- 6.** Serving in a leadership role of a professional organization that provides training, activities, or projects related to the profession of teaching or the field of public education. A maximum of 30 clock hours per year may be earned by serving in a leadership role of a professional organization. The required documentation shall be written verification by the governing body of the professional organization of the dates of service and clock hours earned.
- 7.** Serving on a visitation team for a school accreditation agency. A maximum of 60 clock hours per year may be earned by serving on a visitation team. The required documentation shall be written verification from the accreditation agency of the dates of service and clock hours earned.
- D.** An individual holding a Standard teaching certificate, a standard administrative certificate, or other professional certificate may renew the certificate for 12 years upon completion of 15 hours of continuing education credits each year of the certificate term which may be accumulated in various increments per year prior to renewal or with one of the following:
1. A valid professional license as a counselor, social worker, psychologist, or speech pathologist issued by the appropriate state agency in this state or in another state;
 2. A valid certificate issued by the National Board of Professional Teaching Standards;
 3. A valid Certificate of Clinical Competence in Speech-Language Pathology issued by the American Speech-Language Hearing Association; or
 4. A Nationally Certified School Psychologist credential issued by the National Association of School Psychologists.
- E.** An individual who is employed by a school or school district at the time of renewal shall submit the required documentation of professional development to the district superintendent, director of personnel, or other designated administrator for verification. A certified individual who is not employed by a school or school district at the time of renewal shall submit the required documentation of professional development to a county school superintendent, the dean of a college of education, or the Department for verification. The school or district official, county school superintendent, or the dean of a college of education shall verify on forms provided by the Department the number of hours of professional development completed by the individual during the valid period of the certificate being renewed.
- F.** The Department shall issue a Standard teaching certificate of the same type.
- G.** Notwithstanding any other provision in this Section, an individual with a valid fingerprint clearance card who has had a certificate or certificates expire for at least two years but not more than 10 years may renew the expired certificate or certificates and any endorsements or approved areas if the individual is in good standing. Individuals who apply for renewal under this provision are exempt from the continuing education requirements described in subsections (C) and (D). Standard certificates issued to that individual pursuant to this subsection shall be identical to the expired certificate or certificates.

Historical Note

New Section made by exempt rulemaking at 8 A.A.R. 2396, effective May 10, 2002 (Supp. 02-2). Amended by exempt rulemaking at 15 A.A.R. 1225, effective December 5, 2006 (Supp. 09-1). Former R7-2-619 recodified to

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R7-2-620; new R7-2-619 recodified from R7-2-618 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-619 recodified to R7-2-620; new R7-2-619 recodified from R7-2-618 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 242, effective December 7, 2009 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 1249, effective May 24, 2010 (Supp. 10-4). Amended by final exempt rulemaking at 22 A.A.R. 648, effective January 25, 2016 (Supp. 16-1). Amended by final exempt rulemaking at 22 A.A.R. 2246, effective August 6, 2016 (Supp. 16-3). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 26 A.A.R. 214, effective January 27, 2020 (Supp. 20-1). Amended by final exempt rulemaking at 27 A.A.R. 2694 (November 19, 2021), effective October 25, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 183 (January 13, 2023), effective December 9, 2022 (Supp. 22-4).

R7-2-620. Certification Time-frames

- A.** For certification by the State Board of Education (Board), Certification Division (Division), the time-frames required by A.R.S. § 41-1072 et seq are:
 1. Overall time-frame: 165 days.
 2. Administrative review time-frame: 45 days.
 3. Substantive review time-frame: 120 days.
- B.** Administrative completeness review time-frame. The Division shall issue a written notice of administrative completeness or deficiency to an applicant for certification within 45 days of receipt of the application.
 1. If the Division determines that an application for certification is not administratively complete, the Division shall include a comprehensive list of the specific deficiencies in the written notice.
 2. If the Division issues a written notice of deficiency, the administrative completeness review time-frame and the overall time-frame are suspended from the date the notice is issued until the date that the Division receives the missing information from the applicant.
 3. If the Division does not issue a notice of administrative completeness or deficiency within 45 days of receipt of the application, the application is deemed administratively complete.
- C.** Substantive review time-frame. Within 120 days after the administrative completeness review time-frame is complete, the Division shall determine whether an applicant for certification meets all substantive criteria required by statute or rule.
 1. During the substantive review time-frame, the Division may make one comprehensive written request for additional information. If the Division issues a comprehensive written request for additional information, the substantive review time-frame and the overall time-frame are suspended from the date the request is issued until the date that the Division receives the additional information from the applicant.
 2. The Division and the applicant may mutually agree in writing to allow the Division to submit supplemental requests for additional information. If the Division issues a supplemental request by mutual written agreement for additional information, the substantive review time-frame and the overall time-frame are suspended from the date

the request is issued until the date that the Division receives the additional information from the applicant.

- D.** Overall time-frame. The Division shall issue a written notice that the Board has granted or denied a certificate no later than 165 days after receipt of an application for certification, or no later than the time-frame extension allowed under subsection (E).
 1. Written notice denying an applicant certification shall include justification for the denial with references to the statutes or rules on which the denial is based and an explanation of the applicant's right to appeal the denial.
 2. The explanation of an applicant's right to appeal the denial shall include the number of days the applicant has to file an appeal challenging the denial and the name and telephone number of the Executive Director of the Board as the contact person who can answer questions regarding the appeals process.
- E.** By mutual written agreement, the Division and an applicant for certification may extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 33 days.
- F.** If the Division does not issue to an applicant written notice granting or denying a certificate within the overall time-frame or any extension mutually agreed upon in writing, the Division shall refund to the applicant all fees charged, excuse payment of any fees that have not yet been paid, and pay all penalties required by A.R.S. § 41-1077.
- G.** The Division shall issue all written notices under this Section to the last known address of the applicant by regular, 1st-class mail. The written notices are deemed "issued" on the postmark date.
- H.** By August 1 of each year, the Division shall report to the Executive Director of the Board the Division's compliance with the overall time-frames for the prior fiscal year. The Division shall include the number of certificates issued or denied within the time-frames specified in this Section and the dollar amount of all fees returned or excused. The Division shall also include the amount of all penalties paid to the state general fund due to the Division's failure to comply with the time-frames.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 2399, effective July 23, 2004 (Supp. 04-2). Former R7-2-620 recodified to R7-2-621; new R7-2-620 recodified from R7-2-619 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-620 recodified to R7-2-621; new R7-2-620 recodified from R7-2-619 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1).

R7-2-621. Reciprocity

- A.** The Board shall issue a comparable standard Arizona certificate or endorsement as applicable, if one is established pursuant to this Article, to an applicant who holds a valid certificate or endorsement from another state and is in good standing with that other state. These applicants are exempt from all provisions of the Arizona Teacher proficiency examinations.
- B.** Standard certificates shall be valid for 12 years and are renewable.
- C.** The applicant shall possess a valid fingerprint clearance card issued by the Arizona Department of Public Safety.
- D.** The applicant shall have completed the required class or passed a satisfactory examination on the provisions and principles of the Constitutions of the United States and Arizona.

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E. Notwithstanding any other provision, the deficiencies allowed pursuant to Arizona Revised Statutes in Arizona Constitution and United States Constitution shall be satisfied prior to the issuance of the same type of certificate prescribed in this Article, but are subject to suspension as follows:

1. An applicant's standard Arizona teaching certificate shall be suspended three years from the date of issuance if the applicant has not completed the required class or passed a satisfactory examination on the provisions and principles of the Constitutions of the United States and Arizona.
2. An applicant's standard Arizona teaching certificate shall be suspended one year from the date of issuance if the applicant has not completed the required class or passed a satisfactory examination on the provisions and principles of the Constitutions of the United States and Arizona if the applicant applies for a certificate authorizing the person to teach an academic course that focuses predominantly on history, government, social studies, citizenship, law or civics.
3. The suspension for a deficiency in the Constitutions of the United States and Arizona is not considered a disciplinary action and the applicant shall be allowed to correct that deficiency within the remaining time of the standard certification.

Historical Note

New Section recodified from R7-2-620 at 15 A.A.R. 2146, effective August 25, 2008 (Supp. 09-4). Former R7-2-621 recodified to R7-2-622; new R7-2-621 recodified from R7-2-620 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1). Amended by exempt rulemaking at 16 A.A.R. 135, effective September 21, 2009 (Supp. 10-1). Amended by final exempt rulemaking at 22 A.A.R. 227, effective June 23, 2014; filed in the Office January 20, 2016 (Supp. 16-2). Amended by final exempt rulemaking at 22 A.A.R. 219, effective June 5, 2015; filed in the Office January 20, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 22 A.A.R. 2248, effective August 6, 2016 (Supp. 17-1). Amended by final exempt rulemaking at 24 A.A.R. 195, effective August 9, 2017; filed in the Office on January 2, 2018 (Supp. 18-1).

R7-2-622. Qualification Requirements of Professional, Non-Teaching School Personnel**A. Definitions:**

1. "Educational Interpreter." For the purposes of this Section, "educational interpreter" means a person trained to translate in sign language for students identified to require such services through an Individualized Education Program (IEP) or a 504 accommodation plan in order to access academic instruction. This does not in any way restrict the provisions of R7-2-401(B)(14) which defines "interpreter" and provides that each student's IEP team determines the level of interpreter skill necessary for the provision of FAPE, nor does it restrict a school district's ability to develop a job description for someone in a position of "educational interpreter" that requires additional job responsibilities.
2. "Accommodation plan developed to comply with Section 504 of the Rehabilitation Act of 1973, 29 USC 794, et seq. ("504 accommodation plan")." For the purposes of this Section, "504 accommodation plan" means a plan developed for the purpose of specifying accommodations and/or services that will be implemented by classroom

teachers and other school personnel so that students will benefit from their educational program.

B. Educational Interpreters for the Hearing Impaired.

1. Persons employed by or contracting with schools and school districts to provide educational interpreting services for hearing impaired students must meet the following qualifications from and after January 1, 2005:
 - a. Have a high school diploma or GED;
 - b. Hold a valid fingerprint clearance card, and
 - c. Show proficiency in interpreting skills through one of the following:
 - i. A minimum passing score of 3.5 or higher on the Educational Interpreter Performance Assessment (EIPA), or
 - ii. Hold a valid Certificate of Interpretation (CI) and/or Certificate of Transliteration (CT) from the Registry of Interpreters for the Deaf (RID), or
 - iii. Hold a valid certificate from the National Association of the Deaf (NAD) at level 3 or higher.
 2. If a public education agency (PEA) is unable to find an individual meeting the above qualifications, the PEA may hire an individual with lesser qualifications, but the PEA is required to provide a professional development plan for the individual they employ to provide educational interpreting services. This professional development plan must include the following:
 - a. Proof of at least 24 hours of training in interpreting each year that a valid certification is not held or EIPA passing score is not attained, and
 - b. Documentation of a plan for the individual to meet the required qualifications within three years of employment. If the qualifications are not attained within three years, but progress toward attainment is demonstrated, the plan shall be modified to include an intensive program for up to one year to meet the provisions of subsection (B)(1).
 3. An individual employed under the provisions of subsection (B)(2) must also have the following:
 - a. A valid fingerprint clearance card, and
 - b. A high school diploma or GED.
- C. Compliance with these rules will be reviewed at the same time as a PEA is monitored for compliance with the requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400, et seq.

Historical Note

New Section recodified from R7-2-621 at 16 A.A.R. 68, effective December 8, 2008 (Supp. 10-1).

R7-2-623. Certification Requirements in a Public Health Emergency

- A. As the result of a public health emergency declared by the governor, the Department may temporarily modify certification requirements established in this Article, subject to review and approval by the Board.
- B. A modification made pursuant to this Section shall:
 1. Not be more restrictive than requirements in effect at the time the public health emergency is declared.
 2. Comply with statutory requirements.
 3. Be limited to requirements that cannot be feasibly completed as the result of the public health emergency.
 4. Be in effect for no more than one year after Board approval.

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Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 1311, effective May 18, 2020 (Supp. 20-2).

ARTICLE 7. ADJUDICATIONS**R7-2-701. Definitions**

In this Article, unless the context otherwise specifies:

1. "Board" means the State Board of Education.
2. "Chairman" means the chairperson of the Professional Practices Advisory Committee, established pursuant to R7-2-205.
3. "Contested case" means any proceeding in which the legal rights, duties or privileges of a party are required by law to be determined by the State Board of Education after an opportunity for hearing.
4. "Department" means the Department of Education.
5. "Document" includes papers such as complaints, petitions, motions, responses and notices.
6. "Hearing body" means the Board or the Professional Practices Advisory Committee.
7. "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.
8. "PPAC" means the Professional Practices Advisory Committee, established pursuant to R7-2-205.
9. "Presiding officer" means a hearing officer, with either a minimum of three years of verified experience in the practice of law or a minimum of one year of verified experience in conducting hearings, who shall oversee hearings pursuant to this Article.
10. "Pupil" means any student enrolled in an Arizona public or private school defined in A.R.S. § 15-101. "Pupil" also means any student who was enrolled in an Arizona public or private school at the time of the events which are the subject of a proceeding.
11. "Victim" means any person who has been previously identified pursuant to state law as a victim in a criminal proceeding which is the basis for a contested case.

Historical Note

Adopted effective May 25, 1978 (Supp. 78-3). Former Section R7-2-701 repealed, new Section R7-2-701 adopted effective December 4, 1978 (Supp. 78-6). Amended effective June 27, 1979 (Supp. 79-3). Amended subsection (A) effective October 7, 1980 (Supp. 80-5). Amended by adding subsection (A)(6) effective April 6, 1984 (Supp. 84-2). Amended effective October 19, 1984 (Supp. 84-5). Section R7-2-701 repealed as an emergency, new Section R7-2-701 adopted as an emergency effective January 2, 1985 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-1). Emergency expired. Repealed effective December 17, 1987 (Supp. 87-4). New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 21 A.A.R. 1775, effective May 20, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-702. Filing; Computation of Time; Extension of Time

- A.** All documents concerning a contested case shall be filed within the time limit, if any, for such filing.

- B.** All documents filed in any contested case shall be typewritten or legibly written on paper 8 1/2 by 11 inches in size, shall contain the name and address of the party or other correspondent, shall be properly captioned and designate the title and case number, shall state the name and address of each party served with a copy and how service was made, and shall be signed by the party or, if represented, by the party's attorney. The signature constitutes a certification that the signer has read the document, has a good faith basis for submission of the document, and that it is not filed for the purpose or delay or harassment.
- C.** In computing any period of time prescribed or allowed by this Article, or any notice or order concerning a contested case, the day of the act, event, or default from which the designated period of time begins to run shall not be included. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation. When that period of time is 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or a legal holiday.
- D.** Whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other document upon the party by another party, and the notice or other document is served by mail, five days shall be added to the prescribed period.
- E.** For good cause shown, the presiding officer may grant continuances and extensions of time for filing notices or other documents.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-703. Contested Cases; Notice; Hearing Records

- A.** In a contested case, the parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall be given at least 20 days prior to the date set for the hearing.
- B.** The notice shall include:
1. A statement of the time, place and nature of the hearing.
 2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
 3. A reference to the particular sections of the statutes and rules involved.
 4. A short and plain statement of the matters asserted. If a party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.
- C.** Opportunity shall be afforded all parties to respond and present evidence and argument on the issues involved.
- D.** The Board may dispose of any contested case by decision or approved stipulation, agreed settlement, consent agreement or by default.
- E.** A hearing before a hearing body in a contested case or any part thereof shall be recorded manually or by a recording device

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and shall be transcribed on request of any party, unless otherwise provided by law. The cost of such transcript shall be paid by the party making the request, unless otherwise provided by law or unless assessment of the cost is waived by the Board.

- F. The Board or the presiding officer may reschedule the hearing, maintaining due regard for the interests of justice and the orderly and prompt conduct of the proceedings.
- G. The record in a contested case shall include:
 1. All pleadings, motions and interlocutory rulings.
 2. Evidence received or considered, including confidential evidence received in executive session.
 3. A statement of matters officially noticed.
 4. Objections and offers of proof and rulings thereon.
 5. Proposed findings of fact, conclusions of law and recommendations of the hearing body.
 6. All staff memoranda, other than privileged communications, or data submitted to the hearing body in connection with its consideration of the case.
 7. A victim impact statement, if submitted by the victim.
- H. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 21 A.A.R. 1775, effective May 20, 2013 (Supp. 15-3). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-704. Service; Proof of Service

- A. The Board shall serve notices of hearing, findings of fact, conclusions of law, and recommendations of the hearing body, and decisions and final orders of the Board, either by personal service or by certified mail. All other documents required to be served by the Board may be served by regular or certified mail or may be personally served.
- B. After service of a notice of hearing in a contested case, a copy of every document filed by a party, or individual seeking to intervene, shall be served on all parties to the contested case, or their lawyers if represented, at the same time the document is filed. Filing with the Board and service shall be completed by personal delivery, first-class mail or email.
- C. The following evidences completed service:
 1. If personally served, an affidavit of personal service, sworn to by the individual serving the document and stating the name of the individual upon whom it was served, where service was made, and the date of such service; or
 2. If served by certified mail, proof of delivery; or
 3. If served by email or regular mail, either a statement subscribed on the document filed, or an affidavit indicating the date mailed and listing those to whom it was mailed.
- D. When a party is represented by an attorney, service shall be made on the attorney. If a notice of hearing shows service on the Attorney General, all documents served thereafter shall be served on the Assistant Attorney General named on the notice of hearing or who later appears on behalf of the Attorney General, or if no Assistant Attorney General is named, then on the Attorney General, Education and Health Section, Education Unit.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by

final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-705. Hearings and Evidence

- A. Parties may participate in the hearing in person or through an attorney.
- B. The parties may submit proposed findings of fact and conclusions of law prior to the hearing. The presiding officer or hearing body may require that the parties submit proposed findings of fact and conclusions of law prior to the hearing or at the close of evidence.
- C. A hearing in a contested case shall be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Irrelevant, immaterial or unduly repetitious evidence shall be excluded. A party to such proceedings may be represented by counsel and shall have the right to submit evidence in open hearing and conduct cross examination. Hearings may be held in any location or manner determined by the Board.
- D. Copies of documentary evidence may be received in the discretion of the presiding officer. Upon request, the parties shall be given an opportunity to compare the copy with the original.
- E. Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the specialized knowledge of the hearing body. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The hearing body's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.
- F. If a party fails to appear at a hearing, the hearing body may proceed with the presentation of the evidence of the appearing party.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-706. Request for Hearing

When a request for a hearing is filed with the Board, the request shall be in writing and shall state the specific grounds which are the basis of the hearing request and the statute, rule or other legal basis entitling the person to a hearing.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4).

R7-2-707. Denial of Request for Hearing

If the Board denies the request for a hearing, the denial shall be in writing and shall state the reasons therefor. A denial of a request for hearing is final and not subject to further administrative review.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-708. Repealed

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Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Section repealed by final rulemaking at 11 A.A.R. 696, effective March 29, 2005 (Supp. 05-1).

R7-2-709. Rehearing and Review of Decisions

- A.** After a hearing is held, a party in a contested case who is aggrieved by a decision rendered by the Board may file with the Board, not later than 30 days after such decision has been made, a written motion for rehearing specifying the particular grounds therefor. A response may be filed within 15 days after service of such motion by any other party. The Board may require the filing of written briefs on the issues raised in the motion or response and may provide for oral argument.
- B.** A rehearing of a decision by the Board may be granted for any of the following causes materially affecting the moving party's rights:
 1. Irregularity in the administrative proceedings of the hearing body, or abuse of discretion, whereby the moving party was deprived of a fair hearing.
 2. Misconduct of the hearing body or the prevailing party.
 3. Accident or surprise which could not have been prevented by ordinary prudence.
 4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the hearing.
 5. Excessive or insufficient penalties.
 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing.
 7. That the decision is not justified by the evidence or is contrary to the law.
- C.** The Board may affirm or modify the decision or grant a rehearing before a hearing body to all or any of the parties, on all or part of the issues, for any of the reasons set forth in subsection (B). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
- D.** After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. The order granting such a rehearing shall specify the grounds therefor.
- E.** Not later than 20 days after a decision is rendered, the Board may, on its own initiative, order a rehearing of its decision for any reasons for which it might have granted a rehearing on motion of a party. The order granting such a rehearing shall specify the grounds therefor.
- F.** When a motion for rehearing is based upon affidavits they shall be served with the motion. An opposing party may, within ten days after service of such motion, serve opposing affidavits and this period may be extended for an additional period not exceeding 20 days, by the Board for good cause shown or by written stipulation of the parties. Reply affidavits may be permitted.
- G.** After a hearing has been held and a final administrative decision has been entered, a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.
- H.** Any party in a contested case who is aggrieved by a decision rendered by the Board may file with the Board, not later than 20 days after such decision has been made, a written request for review of the decision. If a review of the decision is granted, the Board may affirm or modify the previous decision.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353, (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-710. Repealed**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Repealed by final exempt rulemaking at 27 A.A.R. 2353, (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-711. Consolidation and Severance

- A.** When proceedings involving a common question of law or fact or common parties are pending before the hearing body, the presiding officer may, upon the presiding officer's own volition or upon request of any party, order a consolidated hearing on any or all the matters at issue.
- B.** In furtherance of convenience, to avoid prejudice, or when separate hearings will be conducive to expedition and economy, the presiding officer may, upon the presiding officer's own volition or upon request of any party, order any proceeding severed with respect to some or all issues or parties.
- C.** The presiding officer shall send a written ruling granting or denying consolidation or severance to all parties, identifying the cases, and the reasons for the decision.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353, (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-712. Subpoenas

- A.** The Board may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence on its own volition or at the request of a party. The subpoena shall be signed by a Board employee designated by the Board.
- B.** A request for a hearing subpoena shall be in writing and served on each party at least seven days prior to the date set for hearing and shall state:
 1. The name of the contested case, the case number, and the time and place where the witness is expected to appear and testify;
 2. The name and address of the witness subpoenaed;
 3. The documents, if any, sought to be provided; and
 4. A brief statement of the relevance of testimony or documents.
- C.** On application of a party or the agency and for use as evidence, the presiding officer may permit a deposition to be taken, in the manner and upon the terms designated by the presiding officer, of a witness who cannot be subpoenaed or is unable to attend the hearing.
- D.** The individual to whom a subpoena is directed shall comply with its provisions unless, prior to the date set for appearance, the presiding officer grants a written request to quash or modify the subpoena. The request shall be submitted to the Board

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and state the reasons why it should be granted. The presiding officer shall grant or deny such request by order.

- E. The party requesting the subpoena shall prepare it and cause it to be served upon the individual to whom it is directed and on all parties in the same manner as provided for service of subpoenas in civil matters before the superior court. The return of service shall be filed with the Board.
- F. A party, or the person served with a subpoena who objects to the subpoena, or any portion of it, may file an objection with the presiding officer. The objection shall be filed within five days after service of the subpoena, or at the outset of the hearing, if the subpoena is served fewer than five days before the hearing.
- G. If a subpoena issued for the Board is disobeyed, the Board may petition the superior court to enforce the subpoena pursuant to A.R.S. § 15-203.
- H. If a subpoena issued for a party other than the Board is disobeyed, the party may petition the superior court in the manner provided by law for the enforcement of subpoenas in a civil action.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-713. Conduct of Hearing

- A. The presiding officer may conduct all or part of the hearing by telephone, or other electronic means, as long as each party has an opportunity to participate in the entire proceeding as it takes place.
- B. Except for those hearings which may involve presentation of evidence protected by A.R.S. § 15-350, or which are otherwise closed pursuant to an express provision of law, all hearings are open to public observation.
- C. Conduct at any hearing that is disruptive or shows contempt for the proceedings shall be grounds for exclusion from further participation or observation.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353, (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-714. Testimony of Pupils

- A. All individuals present at a hearing regarding an action against a certificate shall:
 - 1. Keep confidential the name and identifying information of any pupil involved in the hearing, unless disclosure is with the consent of the pupil's parent or guardian or the pupil if the pupil is at least 18 years of age at the time of the hearing, or by order of the superior court. This action does not prevent disclosure of the pupil's name to any party to the hearing.
 - 2. Keep confidential the testimony of any pupil, all of which shall be taken in executive session, except that the Board office shall be furnished a confidential copy of the pupil's testimony as part of the complete transcript of the hearing. The individuals present during the executive session shall be determined by the presiding officer in consultation with the Attorney General's office except that the

respondent and counsel shall always be permitted to be present. The transcripts of testimony taken during executive session shall be maintained by the Board.

- B. The Board of Education or its designee shall:
 - 1. Make available a consent form which requires the signature of the pupil's parent or guardian or the pupil if the pupil is at least 18 years of age at the time of the hearing, prior to disclosure of the pupil's name;
 - 2. Assign a fictitious name to all witnesses identified as pupils on the witness lists provided by the complainant and respondent if not in receipt of written parental or guardian consent for disclosure;
 - 3. Notify hearing participants, prior to and during the hearing, of any fictitious names to be used.
- C. The presiding officer shall instruct all individuals present at the hearing of the confidentiality requirements of A.R.S. § 15-551 and this Section.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). The Section heading has been updated to title case to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-715. Evidence

- A. All witnesses shall testify under oath or affirmation. At the request of a party, or at the discretion of the presiding officer, the presiding officer may exclude witnesses who are not parties from the hearing room so that they cannot hear the testimony of other witnesses.
- B. The presiding officer shall have the power to administer oaths and affirmations.
- C. All parties shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and fair disclosure of the facts.
- D. The presiding officer shall make rulings necessary to prevent argumentative, repetitive, or irrelevant questioning, to exclude evidence the presiding officer determines to be irrelevant, immaterial, or unduly repetitious, and to expedite the examination to the extent consistent with the disclosure of all relevant testimony and information.
- E. Unless otherwise ordered by the hearing body, documentary evidence shall be limited in size when folded to 8 1/2 by 11 inches. The submitting party shall identify documentary exhibits by number or letter and party and furnish a copy of each exhibit to each party present. One additional copy shall be furnished to the hearing body unless the hearing body otherwise directs. When evidence offered by any party appears in a larger work, containing other information, the party shall plainly designate the portion offered. If the evidence offered is so voluminous as would unnecessarily encumber the record, the book, paper, or document shall not be received in evidence but may be marked for identification and, if properly authenticated, the designated portion may be read into or photocopied for the record. All documentary evidence offered shall be subject to appropriate and timely objection.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by

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final exempt rulemaking at 27 A.A.R. 2353, (October 22, 2021) effective September 27, 2021 (Supp. 21-4).

R7-2-716. Stipulations

Parties to any contested case may stipulate, in writing, agreement upon any matter involved in the proceeding. If approved by the presiding officer, agreement on matters of procedure shall be binding upon the parties to the stipulation. No substantive matter agreed to by the parties shall be binding upon the Board unless incorporated into the decision of the Board.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021) effective September 27, 2021 (Supp. 21-4).

R7-2-717. Recommended Decisions

- A. A recommended decision, findings of fact and conclusions of law shall be prepared for the Board by the PPAC.
- B. A recommended decision, findings of fact and conclusions of law shall be delivered to the Board within 90 days after the close of the hearing or the date ordered for submission of proposed findings or legal memoranda, whichever comes last, unless the Board extends the period for good cause.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 27 A.A.R. 2353, (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-718. Decisions and Orders

- A. Any final decision or order adverse to a party in a contested case shall be in writing or stated in the record. Any final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Parties shall be notified either personally or by mail to their last known address of any decision or order.
- B. When the Board is the hearing body, the decision shall be rendered within 120 days following the final day of the hearing or the date ordered for submission of proposed findings of fact and conclusions of law or legal memoranda, whichever comes last.
- C. Within 30 days after receipt of any recommended decision from the PPAC, the Board shall render a decision to affirm, reverse, adopt, modify, supplement, amend or reject the findings of fact, conclusions of law and recommendations in whole or in part, may remand the matter to the hearing body with instructions, or may convene itself as the hearing body.
- D. If no request for rehearing or review has been timely filed by a party, a decision in a contested case is effective and final ten days from the date served on that party.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 48, effective December 15, 2000 (Supp. 00-4). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021) effective September 27, 2021 (Supp. 21-4).

ARTICLE 8. COMPLIANCE**R7-2-801. Compliance**

- A. Procedures governing noncompliance with laws and rules by school districts.

1. Scope. Except as may be otherwise directed by federal or state statute or by rules adopted by the State Board of Education, this Section shall govern the procedure for determining noncompliance by school districts with laws and rules concerning school districts, the enforcement of which is the statutory responsibility of the State Board of Education or the Department of Education.
2. Preliminary notice of noncompliance and response:
 - a. The Department of Education, upon its own initiative or at the direction of the State Board of Education, shall inform school districts by written notice that the district is in possible noncompliance with laws or rules, the enforcement of which is the statutory responsibility of the Board or the Department.
 - b. A preliminary notice of possible noncompliance shall detail in writing the nature of the possible noncompliance and shall identify:
 - i. The law or rule which the school district may be violating; and
 - ii. The manner in which the school district may be in noncompliance with the identified law or rule.
 - c. A school district may submit a written response to the Department of Education within 20 days of receipt of a preliminary notice of noncompliance.
 - d. Nothing contained in this Section is intended to preclude a reasonable attempt between Department of Education personnel and school district personnel to resolve administratively possible noncompliance prior to sending a written preliminary notice of noncompliance.
3. Scheduling a formal hearing
 - a. Recommendation by the Department of Education
 - i. After giving a school district preliminary notice as provided in this Section, the Department of Education shall submit a written recommendation to the State Board of Education. This recommendation shall be submitted within 10 days after receipt of a written response from the school district or if no response is received within 30 days of the issuance of the preliminary notice. The Department shall recommend one of the following courses of action to be taken by the Board.
 - (1) A formal hearing should be scheduled before noncompliance is probable and achieving voluntary compliance within a reasonable period of time under the circumstances is unlikely; or
 - (2) A formal hearing should not be scheduled at this time because, although noncompliance is probable, achieving voluntary compliance within a reasonable period of time is likely; or
 - (3) A formal hearing should not be scheduled because the school district is in compliance with the law or rule in question.
 - ii. Any written response of the school district to the preliminary notice of noncompliance shall accompany the written recommendation of the Department of Education.
 - b. Within 30 days of receipt of the recommendation of the Department of Education, the State Board of Education shall either:

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- i. Schedule formal hearing;
 - ii. Postpone the decision to schedule a hearing for a stated time period not to exceed six months, or
 - iii. Dismiss the matter.
 - c. When the State Board of Education determines that a formal hearing is necessary, it shall be scheduled within 30 days after such determination, unless an extension of time is granted by the Board.
 - d. When a formal hearing is scheduled, the Board or its designee shall give notice of the hearing as provided in A.R.S. § 41-1009(A) and (B).
 - e. When the Board decides to postpone scheduling a formal hearing, the Board shall specify the extent of the postponement and the Department of Education shall report periodically, at least every 30 days, unless otherwise directed, with respect to progress by the school district toward compliance with the law or rule in question. At the end of the postponement period, the Board shall again make a determination whether to schedule a hearing, further postpone the determination, or dismiss the matter.
 - f. The Board may order further investigation by the Department of Education at any time, and admit into evidence any such report at any subsequent formal hearing.
4. Hearings held pursuant to this Section shall be conducted as provided in A.R.S. § 41-1010.
5. The Board's decision
- a. A decision by the State Board of Education shall be determined by a majority of the members of the Board and shall be based upon substantial evidence.
 - b. A decision shall be rendered within 30 days after the hearing.
 - c. Within 30 days after a decision is reached, copies of the written decision shall be delivered to the parties personally or by certified mail.
 - d. The parties shall have the opportunity to provide proposed findings of fact and conclusions of law to the Board no later than five days after the decision of the Board is received.
6. Rehearing procedure
- a. Any party aggrieved by a decision rendered by the Board may file with the Board, not later than 15 days after service of the decision, a written motion for rehearing or review of the decision, specifying the particular grounds therefor.
 - b. A motion to alter or amend a decision or order shall be filed not later than 15 days after service of the decision.
 - c. A motion for rehearing under this Section may be amended at any time before it is ruled upon by the Board.
 - d. A response may be filed within 10 days after service of such motion by any other party or by the Attorney General.
 - e. The Board may require the filing of written memoranda upon the issues raised in the motion and may provide for oral argument.
 - f. The Board may consolidate the hearing to consider the motion for rehearing with the requested rehearing.
 - g. A rehearing or review of the decision may be granted for any of the following causes materially affecting the moving party's rights:
 - i. Irregularity in the administrative proceedings of the agency or its hearing officer or the prevailing party, or any order, or abuse of discretion, whereby the moving party was deprived of a fair hearing;
 - ii. Misconduct of the Board of the prevailing party.
 - iii. Accident or surprise which could not have been prevented by ordinary prudence;
 - iv. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
 - v. Excessive or insufficient penalty;
 - vi. Error in the admission or rejection of evidence or other errors of law occurring in the administrative hearing;
 - vii. The decision is not justified by the evidence or is contrary to law.
 - h. The Board may affirm or modify the decision or grant a rehearing to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (A)(6). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.
 - i. Not later than 15 days after a decision is rendered, the Board may on its own initiative order a rehearing or a review of its decision for any reason for which it might have granted a rehearing on motion of a party. After giving the parties or their counsel notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing for a reason not stated in the motion. In either case, the order granting such a rehearing shall specify the grounds on which the order is based.
 - j. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party may, within 10 days after such service, serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days, by the Board for good cause shown, or by the parties by written stipulation. The Board may permit a reply affidavit by the moving party.
- B.** Waiver from administrative rules. Upon request of a school district acting either on its own behalf or on behalf of a school within the district's jurisdiction, the State Board of Education may grant a waiver exempting such district or school from specific administrative rules.
- 1. Requests
 - a. Requests for exemption from any State Board of Education rule shall include:
 - i. Evidence that the school or school district is currently in compliance with all state laws and State Board of Education rules;
 - ii. A statement identifying goals that will be accomplished and how the waiver will assist in enhancing school improvement;
 - iii. A three-year plan for school improvement;

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- iv. Identification of the specific rules for which the waiver is requested;
- v. Evidence of a public hearing held by the school or school district which provided for parental and public involvement and input into the proposed three-year plan.
- b. Requests for waiver may be granted by the State Board of Education for a period not to exceed three years. The State Board of Education may at any time rescind approved waivers at its discretion.
- c. Requests for waiver may be submitted by a local governing board and shall be made through the State Superintendent of Public Instruction for consideration by the State Board of Education.
- d. Local governing boards shall adopt policies and procedures which will allow their schools to request waivers from the State Board of Education and shall submit those policies and procedures to the Superintendent of Public Instruction prior to October 1, 1993. Those policies shall be consistent with the criteria specified in subsections (B)(1)(a) and (B)(3). Additionally, those policies shall provide that:
 - i. Requests for such waivers by schools be forwarded within 30 days of receipt by the governing board to the Superintendent of Public Instruction. Requests may include additional information as the governing board deems appropriate.
 - ii. Schools not be required to meet criteria other than those specified in subsection (B)(1)(a).
- 2. Reporting
 - a. Schools or school districts with State Board-approved waivers shall document progress obtained as a result of the waiver and report on or before June 30 of each year to the State Superintendent of Public Instruction.
 - b. A school district having a school with an approved waiver may report the effects that such waiver has had on the operation of the school district. Reports shall be submitted on or before June 30 of each year to the State Superintendent of Public Instruction.
 - c. The State Superintendent of Public Instruction shall report to the State Board of Education, on or before September 30 of each year, the status of those schools and school districts with approved waivers and, as a minimum, include the following:
 - i. The status of meeting the goals as stated in the three-year plan;
 - ii. Recommendations regarding approved continuance of the waiver, conditions for continuance of the waiver, revision of the three-year plan or rescission of the waiver.
- 3. Renewal. Upon request from a school district, on behalf of itself or a school within its jurisdiction, waivers may be approved by the State Board of Education for additional three-year periods. Requests shall be made through the State Superintendent of Public Instruction and requests from schools shall be forwarded by the local governing board to the State Superintendent of Public Instruction within 30 days from receipt.

Historical Note

Adopted effective February 27, 1980 (Supp. 80-1).
Amended effective April 9, 1993 (Supp. 93-2). The word

“rule” has been updated to “Section” to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-802. School and School District Compliance with the Uniform System of Financial Records and the Uniform System of Financial Records for Charter Schools

- A. Upon receipt of a report from the Auditor General that a school or school district has failed to comply with the Uniform System of Financial Records (“USFR”) or the Uniform System of Financial Records for Charter Schools (“USFRCS”) within 90 days after having received a notice of noncompliance from the Auditor General, the State Board of Education (“Board”) shall review the Auditor General’s report to determine whether the school or school district is in noncompliance.
- B. When the Board determines that a school or school district is in noncompliance with the USFR or USFRCS, it shall give written notice to the school or district of its determination. The written notice shall advise the school or district of the following:
 - 1. The Superintendent of Public Instruction shall withhold distribution of state funds to the school or district until such time as the Auditor General reports compliance with the USFR or USFRCS unless a hearing is requested by the school or district.
 - 2. The school or district has 10 days from the receipt of the written notice of noncompliance by the Board to submit a written request for a hearing.
 - 3. If the school or district makes a timely request for a hearing, the hearing will be held pursuant to the hearing procedures specified in R7-2-701 et seq.
- C. The Board’s decision
 - 1. The Board shall determine whether the school or school district was in compliance with the USFR or USFRCS within 90 days after having been informed of noncompliance by the Auditor General, and whether the district is in compliance with the USFR or USFRCS at the time of the hearing.
 - 2. A decision by the Board shall be determined by a majority of the members of the Board and shall be based upon substantial evidence.

Historical Note

Adopted effective February 27, 1980 (Supp. 80-1).
Amended subsections (A) and (E)(1) and (5) effective December 17, 1981 (Supp. 81-6). Amended effective December 31, 1998 (Supp. 98-4).

R7-2-803. Implementation of the Uniform System of Financial Records

All school districts shall implement the current version of the Uniform System of Financial Records, as prescribed by the Auditor General, in conjunction with the Department of Education. The Uniform System of Financial Records shall include standards to ensure that enrollment is determined by all school districts on a uniform basis.

Historical Note

Adopted effective November 10, 1980 (Supp. 80-6).
Amended effective February 20, 1997 (Supp. 97-1).

R7-2-804. Compliance with Federal Statutes or Regulations

- A. This Section prescribes procedures to be used in filing and processing written complaints alleging the failure of a public agency or school district to comply with federal statutes or regulations applicable to federal education programs con-

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ducted and subject to Title 34, Code of Federal Regulations, § 76.780.

- B. The Arizona Department of Education (Department) shall accept and investigate complaints provided that the complaint:
 1. Is written and signed by the complaining party or his or her designated representative;
 2. Sets forth the facts forming the basis of the complaint; the facts set forth in the complaint, if true, could constitute noncompliance by a public agency or school district;
- C. Upon receipt of a complaint setting forth the criteria contained in (B), the Department shall immediately begin an impartial review which may include onsite investigations. If in the course of the review it is determined that the nature of the complaint is not a matter of noncompliance, the complainant will be so informed and advised of appropriate means of resolving the complaint.
- D. A written decision with specific findings shall be issued by the Department within 60 calendar days of receipt of the written complaint. If corrective action is required, such action shall be designated in the decision and shall include the time line for correction and possible consequences for continued noncompliance. A copy of the written decision shall be sent to the complaining party and the agency involved on or before the expiration of the 60-day period. An extension of this timeline will be permitted only if exceptional circumstances exist with respect to a particular complaint.
- E. If there appears to be a failure or refusal to comply with the applicable law or regulations, and if the noncompliance or refusal to comply cannot be corrected or avoided by informal means, compliance shall be effected by the Superintendent and the State Board of Education by any means authorized by law or by rule and regulation. The Superintendent shall retain jurisdiction over the issue of noncompliance with the law or regulations and shall retain jurisdiction over the implementation of any corrective action required. However, nothing herein shall preclude the availability of an informal resolution between the complainant and the agency or school district involved, nor shall this Section preclude the availability of any administrative hearing remedies to resolve such disputes or judicial review of such administrative remedies.
- F. If, pursuant to an investigation by the Department, the Superintendent finds a failure to comply with applicable law or regulations, he or she shall so inform the agency or school district and compliance shall be obtained by informal means whenever possible. If corrective action is required, such action shall be designated in this decision and shall include the time lines for correction and the possible consequences for continued noncompliance.
- G. A summary of each complaint received and investigated by the Department and the decision of the Superintendent shall be submitted annually to the State Board of Education for informational purposes only. Any personally identifiable information shall be deleted from the report to the State Board of Education.
- H. The complainant may request the U.S. Department of Education to review the final decision of the Superintendent. The Department shall inform a complainant of the procedures for requesting a review by the U.S. Department of Education.

Historical Note

Adopted effective February 11, 1983 (Supp. 83-1).
 Amended subsection (B) effective March 13, 1986 (Supp. 86-2). The Section heading has been updated to title case, the word "rule" has been updated to "Section." Both

changes reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-805. Education Division General Administrative Regulations

- A. This Section prescribes procedures to be used for appealing a decision by the Arizona Department of Education (Department) relating to federal programs administered by the Department and subject to the Education Division General Administrative Regulations (EDGAR) Title 34, Code of Federal Regulations § 75 and 76.
- B. A school district or public agency may request a hearing if it alleges that the Department violated a federal statute or regulation by:
 1. Terminating further assistance for an approved project;
 2. Ordering, in accordance with a final state audit resolution determination, the repayment of misspent or misapplied federal funds;
 3. Disapproving or failing to approve the application or project in whole or in part; or
 4. Failing to provide funds in amounts in accordance with the requirements of statutes and regulations.
 5. Not approving the school district or public agency's proposal for funding.
- C. When a school district or public agency requests a hearing, the Superintendent of Public Instruction (Superintendent) shall select a hearings appeals panel from Department staff other than those within the same division as the federal program area under which the appeal rose.
- D. Hearing procedures
 1. An applicant must request a hearing by notifying the Superintendent by certified mail of its decision to appeal a decision as set forth in subsection (B). If the applicant is or represents a school district, authorization to seek a hearing must come from the Governing Board of that school district.
 2. The request for hearing must set forth the nature of the complaint and the facts on which the complaint is based.
 3. The applicant shall request a hearing within 30 days of the date notice of the Department action was sent. For purposes of this Section, the date of notice by the Department is the date of sending notice of the Department action.
 4. A hearing shall be scheduled before the appeal panel within 30 days from the receipt of the request.
 5. The appeals panel chairperson shall give at least 10 days' notice of the hearing date to the complainant.
 6. The parties may submit written materials no later than five days prior to the hearing, such materials to consist of six copies.
 7. At the hearing the parties may present evidence in writing and through witnesses and may be represented by counsel.
 8. The length and order of the presentation may be determined by the appeals panel chairperson.
 9. If the complainant or authorized representative fails to appear at the designated time, place and date of the hearing, the appeal shall be considered closed and the process terminated.
- E. Decision. No later than five days after the hearing, the appeals panel shall forward to the Superintendent its recommendation relating to the school district or agency's request for review. Within 10 days after the hearing, the Superintendent shall issue his or her written ruling, including findings of fact and reasons for the ruling. If the Superintendent determines that

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the Department's action was contrary to the statutes and regulations that govern the applicable program, the Superintendent shall rescind the action.

- F. Appeal. If the Superintendent does not rescind the Department action, the applicant may appeal to the U.S. Department of Education. The applicant shall file a notice of appeal with the U.S. Department of Education within 20 days after the applicant has been notified by the Superintendent of his or her decision by certified mail.
- G. State Board of Education submission. The Superintendent shall annually submit to the State Board of Education as an informational item summaries of all decisions including the findings of fact of hearing procedures conducted pursuant to this Section for State Board of Education review.

Historical Note

Adopted effective June 24, 1983 (Supp. 83-3). The Section heading has been updated to title case, the word "rule" has been updated to "Section," the phrase, "of this rule" has been removed to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-806. Repealed**Historical Note**

Adopted effective February 6, 1984 (Supp. 84-1). Section repealed by final rulemaking at 7 A.A.R. 182, effective December 15, 2000 (Supp. 00-4).

R7-2-807. Repealed**Historical Note**

Adopted as an emergency effective August 2, 1984 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Permanent rule adopted effective November 27, 1984 (Supp. 84-6). Amended effective May 3, 1993 (Supp. 93-2). Repealed effective February 20, 1997 (Supp. 97-1).

R7-2-808. Pupil Participation in Extracurricular Activities

The following standards are effective for students in grade six, if part of a middle school, and grades seven through 12.

1. Definition. Extracurricular activities are:
 - a. All interscholastic activities which are of a competitive nature and involve more than one school where a championship, winner, or rating is determined; and all those endeavors of a continuous and ongoing nature for which no credit is earned in meeting graduation or promotional requirements and are organized, planned, and sponsored by the district consistent with district policy.
 - b. Activities which are an integral part of a credit class shall be excepted from the rule.
2. Eligibility requirements and ineligibility.
 - a. Eligibility. To be eligible to participate in extracurricular activities, a student shall be required to:
 - i. Earn a passing grade in each course in which the student is enrolled; and
 - ii. Maintain satisfactory progress toward promotion or graduation.
 - b. Ineligibility. When it is determined that a student has failed to meet the requirements specified for eligibility, the student shall be declared ineligible to participate in extracurricular activities and shall remain ineligible until the requirements of eligibility are met.

- i. The governing board shall establish the criteria for a passing grade and satisfactory progress toward promotion or graduation, taking into account the needs of children placed in special education programs pursuant to R7-2-401 et seq. Passing grades shall be determined on a cumulative basis, from the beginning of instruction to the recording of a final grade for the course.
- ii. Every nine weeks or less, as determined by the governing board, district personnel shall review the progress of students to determine their eligibility status. If a student is declared ineligible, the student shall remain ineligible until a subsequent check is performed and it is determined that the student meets the eligibility requirements specified in subsection (2)(a).

3. Each governing board shall adopt a policy and implement a program pursuant to that policy to provide:
 - a. Oral or written preliminary notice to all district students and their parents or guardian of pending ineligibility;
 - b. Written notice to students and their parents or guardians when ineligibility has been determined;
 - c. Educational support services to students declared ineligible because of this Section, as well as those notified of pending ineligibility.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended subsection (B) and added a new subsection (D) effective February 17, 1988 (Supp. 88-1). Amended subsection (A) effective August 15, 1988 (Supp. 88-3). Amended effective April 28, 1989 (Supp. 89-2). Amended effective December 20, 1991 (Supp. 91-4). Section R7-2-808 repealed, new Section adopted effective July 10, 1992 (Supp. 92-3). Amended effective September 20, 1996 (Supp. 96-3). Amended effective December 22, 1997 (Supp. 97-4). Numerals were corrected and the word "rule" was replaced with "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-809. Emergency Administration of Auto-Injectable Epinephrine

- A. Applicability. This Section applies to:
1. Any school district or charter school that voluntarily chooses to stock auto-injectable epinephrine pursuant to A.R.S. § 15-157.
 2. All school districts and charter schools when required to stock auto-injectable epinephrine pursuant to A.R.S. § 15-157.
- B. Definitions. The following definitions are applicable to this Section:
1. "Anaphylactic shock" is a severe systemic allergic reaction, resulting from exposure to an allergen, which may result in death.
 2. "Auto-injectable epinephrine" means a disposable drug delivery device that is easily transportable and contains a premeasured single dose of epinephrine used to treat anaphylactic shock.
 3. "Standing order" means a prescription protocol or instructions issued by the chief medical officer of the department of health services, the chief medical officer of a county health department, a doctor of medicine licensed

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pursuant to A.R.S. Title 32, Chapter 13, a doctor of naturopathic medicine licensed pursuant to A.R.S. Title 32, Chapter 14, a doctor of osteopathic medicine licensed pursuant to A.R.S. Title 32, Chapter 17, a nurse practitioner licensed pursuant to A.R.S. Title 32, Chapter 15 or a physician assistant licensed pursuant to A.R.S. Title 32, Chapter 25 for non-individual specific epinephrine.

- C. Annual training in the administration of auto-injectable epinephrine.
1. Each school district and charter school shall designate at least two school personnel for each school site who shall be required to receive annual training in the proper administration of auto-injectable epinephrine in cases of anaphylactic shock pursuant to standing order. One or more of the trained personnel may be a school nurse or athletic trainer if they are employed by the school.
 2. Training in the administration of auto-injectable epinephrine shall be conducted in accordance with minimum standards and curriculum developed by the Arizona Department of Health Services in consultation with the Arizona Department of Education.
 3. At a minimum, training shall include procedures to follow when responding to anaphylactic shock, including direction regarding summoning appropriate emergency care, and documenting, tracking and reporting of the event.
 4. Training shall also include standards and procedures for acquiring a supply of at least two juvenile doses and two adult doses of auto-injectable epinephrine, restocking auto-injectable epinephrine upon use or expiration, and storing all auto-injectable epinephrine at room temperature and in secure, easily accessible locations on school sites.
 5. Training shall be conducted via courses provided in collaboration with a public health organization or by a regulated health care professional, whose competencies include the administration of auto-injectable epinephrine, including but not limited to a licensed school nurse, certified emergency medical technician or licensed athletic trainer.
- D. Annual training on the recognition of anaphylactic shock symptoms and procedures to follow when anaphylactic shock occurs.
1. Each school district and charter school shall require all school site personnel to receive an annual training on the recognition of anaphylactic shock symptoms and procedures to follow when anaphylactic shock occurs.
 2. Training shall be conducted in accordance with minimum training standards developed by the Arizona Department of Health Services in consultation with the Arizona Department of Education and shall follow the most current guidelines issued by the American Academy of Pediatrics.
 3. Training shall be conducted in collaboration with a public health organization by a regulated health care professional whose competencies include the recognition of anaphylactic shock symptoms and procedures to follow when anaphylactic shock occurs, including but not limited to a licensed school nurse, certified emergency medical technician or licensed athletic trainer.
- E. Procedures for annually requesting a standing order for auto-injectable epinephrine.
1. Each school district or charter school shall obtain a standing order from its designated district or charter school physician licensed pursuant to A.R.S. Title 32, Chapter 13, 14, 17, 15, or 25 and if no such physician is available to provide a standing order, from the chief medical officer of the Department of Health Services or the chief medical officer of a county health department.
 2. Standing orders shall be renewed annually and upon the change of any designated school district or charter school physician.
 3. Standing orders shall identify the appropriate dosage of auto-injectable epinephrine to administer based upon weight and the frequency at which auto-injectable epinephrine may be administered if symptoms persist or return.
- F. Procedures for the administration of auto-injectable epinephrine in emergency situations.
1. All school districts and charters schools shall adopt procedures for the emergency administration of auto-injectable epinephrine by designated trained personnel.
 2. Procedures shall address, at a minimum, the following requirements:
 - a. Determining if symptoms indicate possible anaphylactic shock.
 - b. Selecting the appropriate dosage of auto-injectable epinephrine to administer pursuant to a standing order.
 - c. Injecting epinephrine via auto-injector pursuant to a standing order, noting the time and dose given.
 - d. Calling 911 to advise that anaphylactic shock is suspected and epinephrine was administered.
 - e. Keeping the person stable until emergency responders arrive.
 - f. Advising school medical personnel and administration of the incident.
 - g. Repeating dose pursuant to a standing order when symptoms persist and emergency responders have not arrived.
 - h. Providing emergency responders with used epinephrine auto-injector labeled with name, date and time administered.
 - i. Assuring that parents/guardians have been notified and advised to promptly alert student's primary care physician of the incident.
 - j. Completing written documentation of the incident, detailing who administered the injection, the rationale for administering the injection, the approximate time of the injection or injections, and notifications made to school administration, emergency responders, the student's parents or guardians, and the doctor or chief medical officer who issued the standing order.
 - k. Ordering replacement dose or doses of auto-injectable epinephrine.
 1. Reviewing any incident involving emergency administration of epinephrine to determine the adequacy of response.
- G. All school districts and charter schools shall report to the Arizona Department of Health Services all incidents of use of auto-injectable epinephrine pursuant to this Section in the format prescribed by the Arizona Department of Health Services.

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Historical Note

Adopted effective July 30, 1992 (Supp. 92-3). Amended effective April 9, 1993 (Supp. 93-2). Repealed effective February 20, 1997 (Supp. 97-1). Amended by final exempt rulemaking at 21 A.A.R. 1784, effective February 24, 2014 (Supp. 15-3). Amended by final exempt rulemaking at 24 A.A.R. 3279, effective October 22, 2018 (Supp. 18-4). The word “rule” has been updated to “Section” to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 1531, effective August 27, 2021 (Supp. 21-3).

R7-2-810. Emergency Administration of Inhalers**A. Applicability.** This Section applies to:

1. Any school district or charter school that voluntarily chooses to stock inhalers pursuant to A.R.S. § 15-158.
2. All school districts when required to stock inhalers pursuant to A.R.S. § 15-158.

B. Definitions. The following definitions are applicable to this Section:

1. “Authorized Entity” refers to any school district or charter school.
2. “Bronchodilator” means Albuterol or another short-acting bronchodilator that is approved by the United States Food and Drug Administration for the treatment of respiratory distress.
3. “Inhaler” means a device that delivers a bronchodilator to alleviate symptoms of respiratory distress that is manufactured in the form of a metered-dose inhaler or dry-powder inhaler that includes a spacer or holding chamber that attaches to the inhaler to improve the delivery of the bronchodilator.
4. “Personnel” means employees at a school district or charter school or nurses who are under contract with the school district or charter school.
5. “Respiratory distress” includes the perceived or actual presence of coughing, wheezing or shortness of breath.
6. “Standing order” means a prescription protocol or instructions issued by the chief medical officer of a county health department, physicians licensed pursuant to A.R.S. Title 32, Chapter 13, 14, or 17, or nurse practitioners licensed pursuant to A.R.S. Title 32, Chapter 15.

C. Annual training on recognition of symptoms of respiratory distress and administration of inhalers:

1. Each school district and charter school that elects to administer inhalers shall designate at least two personnel at each school site who shall be required to be trained in the recognition of respiratory distress symptoms, the procedures to follow when respiratory distress occurs, and the administration of inhalers, as directed on the prescription protocol. While each school is required to have two trained personnel in order to implement the stock inhaler policies, schools may train as many personnel as they feel necessary.
2. Training in the administration of inhalers shall be conducted by a nationally recognized organization or professionally certified medical professionals that are experienced in training laypersons in emergency health treatment.
3. Training may be conducted online or in person and at a minimum shall include:
 - a. How to recognize signs and symptoms of respiratory distress in accordance with good clinical practice.
 - b. Standards and procedures for the storage of inhalers.
 - c. Standards and procedures for the administration of an inhaler, as directed on the prescription protocol.
 - d. If necessary, emergency follow-up procedures after the administration of an inhaler.

- c. Standards and procedures for the administration of an inhaler, as directed on the prescription protocol.
 - d. If necessary, emergency follow-up procedures after the administration of an inhaler.
4. The organization that conducts the training shall issue a certificate to each person who successfully completes the training. The personnel shall submit this certificate to the school.
 5. Annual training is required for all designated personnel of the school.
 6. School districts and charter schools shall maintain and make available on request a list of school personnel who are authorized to administer inhalers pursuant to a standing order.

D. Procedures for annually requesting a standing order and the prescription for the inhaler and holding chamber

1. Each participating school district or charter school shall obtain a standing order and prescription for inhalers and spacers or holding chambers pursuant to A.R.S. § 15-158 from the chief medical officer of a county health department, a physician licensed pursuant to A.R.S. Title 32, Chapter 13, 14, or 17, or a nurse practitioner pursuant to A.R.S. Title 32, Chapter 15.
2. Standing orders and prescriptions shall be requested and renewed annually.

E. Procedures for the administration of inhalers in emergency situations:

1. School districts and charter schools that elect to administer inhalers shall:
 - a. Prescribe and enforce policies and procedures for the emergency administration of inhalers by designated and trained medical and non-medical personnel.
 - b. Designate at least two personnel at each school to be trained to recognize respiratory distress and administer inhalers.
 - c. Require designated personnel to participate in annual training and provide a certificate of successful completion to the school.
 - d. Designate personnel who have completed the required training to be responsible for the storage, maintenance, control and general oversight of the inhalers and spacers or holding chambers acquired by the school.
 - e. Acquire and stock a supply of inhalers and spacers or holding chambers pursuant to a standing order prescription.
 - f. Store medication in a secure, temperature appropriate location, unlocked and readily accessible to designated personnel.
2. Pursuant to a standing order, school district or charter school personnel who are trained in the administration of inhalers may administer or assist in the administration of an inhaler to a pupil or adult whom the personnel believes in good faith to be exhibiting symptoms of respiratory distress while at school or a school-sponsored activity.
3. Procedures adopted by school districts and charter schools shall address at a minimum, the following requirements:
 - a. Determine if symptoms indicate possible respiratory distress or emergency and determine if the use of an inhaler will properly address the respiratory distress or emergency.

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- b. Administer the correct dose of inhaler medication, as directed by the prescription protocol, regardless of whether the individual who is believed to be experiencing respiratory distress has a prescription for an inhaler and spacer or holding chamber or has been previously diagnosed with a condition requiring an inhaler.
 - c. Restrict physical activity, encourage slow breaths and allow the individual to rest.
 - d. Assure that trained personnel stay with the subject who has been administered inhaler medication until it is determined whether the medication alleviates symptoms.
 - e. If applicable, instruct office staff to notify the school nurse if the inhaler is administered by a trained but non-licensed person.
 - f. Instruct school staff to notify the parent or guardian.
 - g. Call 911 if severe respiratory distress continues. Advise that inhaler medication was administered and stay with the person until emergency medical responders arrive.
 - h. If the individual shows improvement, keep the individual under supervision until breathing returns to normal, with no more chest tightness or shortness of breath, and the individual can walk and talk easily.
 - i. Allow a student to return to class if breathing has returned to normal and all symptoms have resolved.
 - j. Notify a parent or guardian once the inhaler has been administered and the student has returned to class.
 - k. Document the incident detailing who administered the inhaler, the approximate time of the incident, notifications made to the school administration, emergency responders, and parents/guardians.
 - l. Retain the incident data on file at the school pursuant to the general records retention schedule regarding health records for school districts and charter schools established by the Arizona State Library, Archives and Public Records.
 - m. Order replacement inhalers, spacers and holding chambers as needed.
4. A school district or charter school may accept monetary donations for or apply for grants for the purchase of inhalers and spacers or holding chamber or may accept donations of inhalers and spacers or holding chambers directly from the product manufacturers.
- F. Immunity from civil liability is prescribed in A.R.S. § 15-158.**
- Historical Note**
- New Section made by final exempt rulemaking at 24 A.A.R. 146, effective August 9, 2018; filed in the Office on January 2, 2018 (Supp. 18-1). Amended by final exempt rulemaking at 24 A.A.R. 3279, effective October 22, 2018 (Supp. 18-4). The word “rule” has been updated to “Section” to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 1531, effective August 27, 2021 (Supp. 21-3).
- R7-2-811. Emergency Administration of Seizure Management Plans and Medication**
- A. Applicability.** This Section applies to:
- 1. Any school district or charter school that has received a seizure management plan from a parent pursuant to A.R.S. § 15-160.02.
 - 2. All school districts and charter schools when required to stock seizure rescue medication or a medication prescribed to treat seizure disorder pursuant to A.R.S. § 15160.02.
 - 3. The State Board of Education shall adopt rules as necessary to administer this Section pursuant to A.R.S. § 15-160.02.
- B. Definitions.** The following definitions are applicable to this Section:
- 1. “Parent” is the guardian responsible for the student in question.
 - 2. “Seizure Management and Treatment Plan”, also known as a seizure action plan, outlines procedures recommended by the student’s parent and the student’s physician or registered nurse practitioner as defined in A.R.S. § 32-1601 and is signed by the student’s parent and the student’s physician or registered nurse practitioner.
 - 3. “Seizure rescue medication” is a medication prescribed by the student’s physician or registered nurse practitioner and is approved as an acute treatment, given at the time of the seizure to abort an ongoing or excessive number of seizures on an as need basis.
 - 4. “School Nurse” is a Registered Nurse (RN) or a Licensed Practical Nurse (LPN) employed by, or under contract with, a school district or charter school whose duties at the school include regular contact with students who have submitted a seizure management and treatment plan.
 - 5. “School Personnel” includes the school principal, guidance counselor, teacher, bus driver, or classroom aide whose duties at the school include regular contact with students who have submitted a seizure management and treatment plan.
- C. Quinquennial training in the administration of seizure management and treatment plans, stocking of seizure rescue medication, or stocking of a medication prescribed to treat seizure disorder.**
- 1. A school nurse who is employed or under contract with a school district or charter school that has received a seizure management and treatment plan shall complete an online course of instruction for school nurses regarding managing students with seizure disorders. This training must be approved by the State Board of Education. The minimum requirements of this training are defined pursuant to A.R.S. § 15-160.02. Information regarding training that has been approved by the State Board of Education shall be posted on the Board’s website.
 - a. Information regarding training that has been approved by the State Board of Education shall be posted on the Board’s website.
 - b. The training shall be initially completed within 30 days of receipt of the first seizure management and treatment plan.
 - c. A new hire who will have regular contact with a student who has previously submitted a seizure management and treatment plan shall be required to complete the training during the school’s new hire orientation unless the new hire can submit proof of successful completion within the last five years.
 - d. The training must be completed at least once in a five-year period.
 - 2. A school principal, guidance counselor, teacher, bus driver or classroom aide whose duties at the school include regular contact with students who have submitted a seizure management and treatment plan shall complete

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an online course of instruction for school personnel regarding awareness of students with seizure disorders. This training must be completed at least once in a five-year period and be approved by the State Board of Education. The minimum requirements of this training are defined pursuant to A.R.S. § 15-160.02. Information regarding training that has been approved by the State Board of Education shall be posted on the Board's website.

- a. Information regarding training that has been approved by the State Board of Education shall be posted on the Board's website.
 - b. The training shall be initially completed within 30 days of receipt of the first seizure management and treatment plan.
 - c. A new hire who will have regular contact with a student who has previously submitted a seizure management and treatment plan shall be required to complete the training during the school's new hire orientation unless the new hire can submit proof of successful completion within the last five years.
 - d. The training must be completed at least once in a five-year period.
3. Each school district and charter school shall have at least one school employee at the school, other than the school nurse, who has met the training requirements necessary to administer or assist with the self-administration of both of the following:
 - a. A seizure rescue medication or a medication prescribed to treat seizure disorder symptoms as approved by the United States Food and Drug Administration, or its successor agency.
 - b. A manual dose of prescribed electrical stimulation using a vagus nerve stimulator magnet as approved by the United States Food and Drug Administration, or its successor agency.
 4. The State Board of Education shall approve the school district or charter school course of instruction per the minimum training requirements pursuant to A.R.S. § 15-160.02.
 - a. All unapproved courses of instruction must be submitted to the State Board of Education for approval.
 - b. All courses of instruction shall issue a certificate to each person who successfully completes the training and the date of completion. The school personnel shall submit this certificate to the school.
 - c. Any approved courses of instruction that are altered must seek pre-approval from the State Board of Education. Approval from the State Board of Education must be gained prior to launching the updated course of instruction.
 5. School districts and charter schools shall maintain and make available on request:
 - a. List of school personnel who are authorized to administer seizure medication pursuant to the seizure management and treatment plan, the date the training was successfully completed, and the certificate signifying successful completion.
 - b. The school's course of instruction that is not consistent with (C)(1)(a) and (C)(2)(a) of this Section.
- D.** Procedures for the administration of seizure rescue medication, a medication prescribed to treat seizure disorder symptoms, or manual dose of prescribed electrical stimulation using a vagus nerve stimulator magnet.

1. All school districts and charter schools shall adopt procedures for the emergency administration of seizure rescue medication or medication prescribed to treat seizure disorder symptoms.
 2. All school districts and charter schools shall adopt procedures for the manual dose of prescribed electrical stimulation using a vagus nerve stimulator magnet.
 3. Procedures shall address, at minimum, the following requirements:
 - a. Basic seizure first aid steps with steps to keep the student safe and from injury during a seizure, guidelines for activating 911/the Emergency Medical System (EMS) and notifying the student's parent.
 - b. Steps to obtain a seizure management and treatment plan also known as a seizure action plan for students with a seizure disorder.
 - c. Designate personnel who have completed the required training to be responsible for the storage, maintenance, control, and general oversight of the items for students with seizures including a seizure action plan and medication.
 - d. Store the medication in a secure, temperature-appropriate location and readily accessible to designated personnel.
 - e. Store the vagus nerve stimulator magnet in a secure location, where it is readily accessible to designated personnel.
 - f. Documenting the incident detailing the seizure, location where the seizure began, actions taken as defined by the seizure action plan on file for the student, who administered the medication or vagus nerve stimulator magnet, the approximate time of the incident, student response to the medication or vagus nerve stimulator magnet, notifications made to the school administration, emergency responders, and parent, disposition per the seizure action plan, and any other pertinent details of the incident.
 - g. Steps to obtain an updated seizure action plan from the parent post-incident if found to be necessary.
 - h. Steps to obtain replacement medication for the student, if needed, in alignment with the student's seizure action plan.
- E.** Immunity from civil liability is prescribed in A.R.S. § 15-160.02.

Historical Note

New Section made by final exempt rulemaking at 30 A.A.R. 2547 (August 9, 2024), effective July 24, 2024 (Supp. 24-3).

ARTICLE 9. SCHOOL DISTRICT BUDGET AND ACCOUNTING**R7-2-901. Teacher Experience Index Provisions**

- A.** General purpose. These guidelines are provided for local governing boards to assist in development of policies identifying activities which contribute to the instructional programs at the local school level. The policies will define what constitutes a full-time vs. a part-time teacher position for the purpose of developing a school district's Teacher Experience Index.
- B.** Local governing boards may include the following activities in their policies as those which contribute toward an instructional program. This listing is not intended to be exclusive, and districts may utilize additional activities:
1. Classroom related:
 - a. Classroom instruction,

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- b. Preparation time,
 - c. Supervision,
 - d. Evaluation,
 - e. Curriculum development,
 - f. Housekeeping chores, i.e., daily reports, blackboard preparation, etc.
2. School related:
- a. Teacher conferences,
 - b. Parent conferences,
 - c. Professional association activities,
 - d. Professional days,
 - e. District directed reports,
 - f. Participation in activities related to education scheduled by county, state, or federal agencies.

Professional association activities must be, in the opinion of the local governing board, for a public purpose and must not be for the sole benefit of the professional association.

3. Other district related:
- a. Special assignments,
 - b. School board approved leave,
 - c. Home visitation,
 - d. Home instruction,
 - e. Off-site instruction,
 - f. Research,
 - g. In-service training.

In-service training activities are those approved by the local governing board and intended to promote the educational advancement of the youth of the district. These activities may be conducted either during the regular school day or at other times.

- C. A local governing board may exercise its option to contract with certified personnel on a less than full-time basis in order to meet local district needs.
- D. In those instances where a district may contract with certified personnel, and the responsibilities specified within the contract include activities not related to instruction, then the district must define in terms of "full-time equivalencies" that portion which is instruction-related.

Historical Note

Adopted as an emergency effective May 21, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-3). Former emergency adoption now adopted without change effective October 7, 1980 (Supp. 80-5).

R7-2-902. Independent Accounting Responsibility

- A. The governing board of a school district applying to operate with full independence from the county school superintendent as provided in A.R.S. § 15-914.01, shall apply to the State Board of Education and submit a plan for accounting responsibility to the county school superintendent of the county in which the school district is located and the Department of Education before January 1, which documents the following:
 1. Administrative and internal accounting controls designed to achieve compliance with the Uniform System of Financial Records and the following objectives:
 - a. Procedures for approving, preparing and signing vouchers and warrants;
 - b. Procedures to ensure verification of administrators' and teachers' certification records with the Department of Education for all classroom and administrative personnel required to hold a certificate by the State Board pursuant to A.R.S. § 15-203, before issuing warrants for their services;

- c. Procedures to account for all revenues, including allocation of certain revenues to funds as provided in the revenues section of the Uniform Accounting Manual for Arizona County School Superintendents;
- d. Procedures for reconciling the accounting records monthly to the county treasurer as provided in the reconciliations section of the Uniform Accounting Manual for Arizona County School Superintendents.

2. A compilation of resources required to implement accounting responsibility, including personnel, training and equipment, and a comprehensive analysis of the budgetary implications of accounting responsibility for the school district and the county treasurer.

- B. Before January 1 of the fiscal year preceding the fiscal year of implementation and before submitting an application to assume accounting responsibility, a school district shall apply for evaluation by the Auditor General. After completing the evaluation, the Auditor General may recommend approval or denial of accounting responsibility to the State Board of Education. The evaluation by the Auditor General shall be performed contingent on staff availability and may be billed to the school district at cost. Evaluation at a minimum shall include the following:

1. The most recent financial statements audited by an independent certified public accountant.
2. The most recent reports on internal control, compliance and uniform system of financial records compliance questionnaire prepared by an independent certified public accountant or procedural review completed by the Auditor General.
3. The working papers of the independent certified public accountant responsible for auditing the school district, if deemed appropriate by the Auditor General.
4. A procedural review if deemed appropriate by the Auditor General.

- C. Before January 1 of the fiscal year preceding the fiscal year of implementation and before submitting an application to assume accounting responsibility, a school district shall apply for evaluation by the county treasurer of the county in which the school district is located. After completing the evaluation, the county treasurer may recommend approval or denial of accounting responsibility to the State Board of Education. The evaluation by the county treasurer shall be performed contingent on staff availability and may be billed to the school district at cost. Evaluation by the county treasurer at a minimum shall include an analysis of the computer programming required for the county to manage the school districts funds.

- D. School districts that are approved by the State Board of Education to assume accounting responsibility shall contract with an independent certified public accountant for an annual financial and compliance audit. The Auditor General may reevaluate the school district annually based on the audit to determine compliance with the uniform system of financial records. If permitted by federal law, a school district may convert to a biennial audit schedule if the previous annual audit conducted pursuant to this subsection did not contain any significant negative findings. If a biennial audit of a school district conducted pursuant to this subsection contains any significant negative findings, the school district shall convert back to an annual audit schedule. If a school district is required to convert back to an annual audit schedule pursuant to this subsection because of significant negative findings, the school district may subsequently convert to a biennial audit schedule if the previous two annual audits did not contain any significant negative findings.

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For the purposes of this subsection, “significant negative finding” means a finding that results in the issuance of a letter of noncompliance from the Auditor General.

- E. Upon receipt of an accounting responsibility plan as prescribed in subsection (A), the county treasurer shall establish acceptable standards for interface by school districts with the county treasurer, including specifications for computer hardware and software compatibility and procedures to ensure the capacity of each school district to reconcile accounts with those of the county treasurer.
- F. Any school district that fails to maintain accounting standards as provided by the uniform system of financial records and that is found to be in noncompliance with the uniform system of financial records by the State Board of Education as provided in A.R.S. § 15-272 is not eligible to participate in the program provided by this Section.

Historical Note

Adopted effective February 4, 1988 (Supp. 88-1). The word “rule” has been updated to “Section” to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 29 A.A.R. 1402 (June 23, 2023), with an effective date of May 22, 2023 (Supp. 23-2).

ARTICLE 10. SCHOOL DISTRICT PROCUREMENT**PART I. IN GENERAL****R7-2-1001. Definitions**

In Articles 10 and 11, unless the context otherwise requires:

1. “Acceptance period” means the period of time specified in the solicitation that a bid or proposal is irrevocable, except as specified in R7-2-1030.
2. “Actual energy production” means the actual amount of energy that flows from the energy production measure on an annual basis as measured by a meter in kilowatt hours alternating current.
3. “Advantageous to the school district” means in the best interest of the school district, but does not necessarily mean lowest bid/cost.
4. “Affiliate” means any person whose governing instruments require it to be bound by the decision of another person or whose governing board includes enough voting representatives of the other person to cause or prevent action, whether or not the power is exercised. It also may include persons doing business under a variety of names, or where there is a parent-subsidiary relationship between persons.
5. “Alternative project delivery methods for construction” means construction-manager-at-risk, design-build, and job-order-contracting construction services.
6. “Architect services,” “engineer services,” “land surveying services,” “geologist services” and “landscape architect services” mean those professional services within the scope of the practice of those services as provided in A.R.S. Title 32, Chapter 1, Article 1.
7. “Award” means a determination by the school district that it is entering into a contract with one or more bidders or offerors.
8. “Bid” means a response to an invitation for bids and includes an offer to contract with the school district.
9. “Bidder” means a person submitting a bid in response to an invitation for bids.
10. “Brand name or equal specification” means a written description that uses one or more manufacturers’ names or catalog numbers to describe the standard of quality, performance, and other characteristics needed to meet the school district’s requirements, and that provides for the submission of equivalent products.
11. “Brand name specification” means a written description limited to one or more items by manufacturers’ names or catalog numbers.
12. “Business” means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.
13. “Change order” means a written order that is approved by the governing board and that directs the contractor to make changes that the changes clause of the contract authorizes the governing board to order.
14. “Clergy” means a minister of a religion.
15. “Coefficient” means the contractor’s price adjustment to the unit price in a job order contract. Several coefficients may apply to the unit price book.
16. Construction:
 - a. Means the process of building, altering, repairing, improving or demolishing any school district structure or building, or other public improvements of any kind to any public real property.
 - b. Construction does not include:
 - i. The routine operation, routine repair or routine maintenance of existing facilities, structures, buildings or real property.
 - ii. The investigation, characterization, restoration or remediation due to an environmental issue of existing facilities, structures, buildings or real property.
17. “Construction-manager-at-risk” means a project delivery method in which:
 - a. There is a separate contract for design services and a separate contract for construction services, except that instead of a single contract for construction services, the school district may elect separate contracts for preconstruction services during the design phase, for construction during the construction phase and for any other construction services.
 - b. The contract for construction services may be entered into at the same time as the contract for design services or at a later time.
 - c. Design and construction of the project may be either:
 - i. Sequential with the entire design complete before construction commences.
 - ii. Concurrent with the design produced in two or more phases and construction of some phases commencing before the entire design is complete.
 - d. Finance services, maintenance services, operations services, preconstruction services and other related services may be included.
18. “Construction services” means either of the following for construction-manager-at-risk, design-build and job-order-contracting project delivery methods:
 - a. Construction, excluding services, through the construction-manager-at-risk or job-order-contracting project delivery methods.
 - b. A combination of construction and, as elected by the school district, one or more related services, such as finance services, maintenance services, operations services, design services and preconstruction services, as those services are authorized in the defini-

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- tions of construction-manager-at-risk, design-build or job-order-contracting in this Section.
19. "Contract" means all types of agreements, including purchase orders, regardless of what they may be called, for the procurement of materials, services, construction or construction services, or the disposal of materials.
 20. "Contract modification" means any written alteration in the terms and conditions of any contract accomplished by mutual action of the parties to the contract.
 21. "Contractor" means any person who has a contract with a school district.
 22. "Cooperative purchasing" means procurement conducted by, or on behalf of, more than one public procurement unit.
 23. "Cost" means the aggregate cost of all materials and services, including labor performed by school district employees.
 24. "Cost data" means information concerning the actual or estimated cost of labor, material, overhead and other cost elements that have been actually incurred or that are expected to be incurred by the offeror or contractor in performing the contract.
 25. "Cost-plus-a-percentage-of-cost contract" means a contract that, prior to completion of the work, the parties agree that the fee will be a predetermined percentage of the cost of the work.
 26. "Data" means documented information, regardless of form or characteristic.
 27. "Days" means calendar days and shall be computed pursuant to A.R.S. § 1-243.
 28. "Defective data" means data that is inaccurate, incomplete or outdated.
 29. "Dentist" means a person licensed pursuant to A.R.S. Title 32, Chapter 11.
 30. "Descriptive literature" means information available in the ordinary course of business that shows the characteristics, construction or operation of an item offered in a bid or proposal.
 31. "Design-bid-build" means a project delivery method in which:
 - a. There is a sequential award of two separate contracts.
 - b. The first contract is for design services.
 - c. The second contract is for construction.
 - d. Design and construction of the project are in sequential phases.
 - e. Finance services, maintenance services and operations services are not included.
 32. "Design-build" means a project delivery method in which:
 - a. There is a single contract for design services and construction services, except that instead of a single contract for design services and construction services, the school district may elect separate contracts for preconstruction services and design services during the design phase, for construction and design services during the construction phase and for any other construction services.
 - b. Design and construction of the project may be either:
 - i. Sequential with the entire design complete before construction commences.
 - ii. Concurrent with the design produced in two or more phases and construction of some phases commencing before the entire design is complete.
 - c. Finance services, maintenance services, operations services, preconstruction services and other related services may be included.
 33. "Design professional" means an individual or firm that is registered by the state board of technical registration pursuant to A.R.S. Title 32, Chapter 1 to practice architecture, engineering, geology, landscape architecture or land surveying or any combination of those professions and any person employed by the registered individual or firm.
 34. "Design professional service contract" means a written agreement relating to the planning, design, construction administration, study, evaluation, consulting, inspection, surveying, mapping, material sampling, testing or other professional, scientific or technical services furnished in connection with any actual or proposed study, planning, survey, environmental remediation, construction, improvement, alteration, repair, maintenance, relocation, moving, demolition or excavation of a structure, street or roadway, appurtenance, facility or development or other improvement to land.
 35. "Design professional services" means architect services, engineer services, land surveying services, geologist services or landscape architect services or any combination of those services performed by or under the supervision of a design professional or an employee or subconsultant of the design professional.
 36. "Design requirements" means at a minimum:
 - a. The school district's written description of the project or service to be procured, including:
 - i. The required features, functions, characteristics, qualities and properties.
 - ii. The anticipated schedule, including start, duration and completion.
 - iii. The estimated budgets applicable to the specific procurement for design and construction and, if applicable, for operation and maintenance.
 - b. May include:
 - i. Drawings and other documents illustrating the scale and relationship of the features, functions and characteristics of the project, which shall all be prepared by a design professional who is registered pursuant to A.R.S. § 32-121.
 - ii. Additional design information or documents that the school district elects to include.
 37. "Design services" means architect services, engineer services or landscape architect services.
 38. "Designee" means the governing board member or school district employee who has been delegated procurement authority by the governing board as specified by board action.
 39. "Detailed record" means minutes, that shall include the date, time, place, persons in attendance and a summary of what was said by whom and the decisions made. The minutes may be made either in writing or by a recording.
 40. "Discussions" means an exchange or series of exchanges between the school district and a person who has submitted an unpriced technical offer or a proposal, resulting in an opportunity for the person to revise the unpriced technical offer or proposal prior to final evaluation by the school district.

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41. "District representative" means a district employee or the governing board acting within the limits of the district representative's authority. There may be more than one appointed for different purposes and different procurements.
42. "Earth-moving, material-handling, road maintenance and construction equipment" means a track-type tractor, motor grader, excavator, landfill compactor, wheel tractor scraper, off-highway truck, wheel loader or track loader, having a published manufacturer's minimum unit list price of \$50,000 or more and a minimum expected life cycle of three years.
43. "Effective utility rate" means the average price per kilowatt hour that a school district paid to its utility provider for electricity service to the facility that is the subject of the guaranteed energy production contract over the previous twelve months.
44. "Eligible procurement unit" means a public procurement unit, a nonprofit corporation, or an external procurement activity.
45. "Employee" means an individual drawing a salary from a school district and any noncompensated individual performing personal services for any school district.
46. "Energy baseline" means a calculation of the amount of energy used in an existing facility before the installation or implementation of the energy cost savings measures.
47. "Energy cost savings" means one or both of the following:
 - a. An estimated reduction in net fuel costs, energy costs, water costs, stormwater fees or other utility costs, or related net operating costs, including costs for anticipated equipment replacement and repair, from or as compared to an established baseline of those costs.
 - b. An estimated revenue increase associated with additional facility use or the use of improved meters or other measuring devices due to improvements included in the guaranteed energy cost savings contract.
48. "Energy cost savings measure" means a training program or facility alteration designed to reduce energy consumption, which may include one or more of the measures authorized in A.R.S. § 15-213.01, and any related meters or other measuring devices.
49. "Energy production measure" means renewable and alternative energy projects or renewable energy power service agreements.
50. "Established catalog price" means the price included in a catalog, price list, schedule or other form that:
 - a. Is regularly maintained by a manufacturer, distributor or contractor.
 - b. Is either published or otherwise available for inspection by customers.
 - c. States prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the materials or services involved.
51. "Excess materials" means any materials which have a remaining useful life but which are no longer required by the using school district in possession of the materials.
52. "External procurement activity" means any buying organization not located in this state that would qualify as a public procurement unit.
53. "Fair market value" means the price at which sales have been consummated for materials of like type, quality, and quantity in a particular market at the time of acquisition.
54. "Filed" means delivery to the district representative, school district or its hearing officer, whichever is applicable. A time/date stamp affixed to a document by the school district shall be determinative of the time or delivery for purposes of filing.
55. "Finance services" means financing for a construction services project.
56. "General Services Administration contract" means contracts awarded by the United States government General Services Administration.
57. "Gift or benefit" means a payment, distribution, expenditure, advance, deposit or donation of monies, any intangible personal property or any kind of tangible personal or real property that is not of nominal value such as a greeting card, t-shirt, mug or pen. Gift or benefit does not include either:
 - a. Food or beverage.
 - b. Expenses or sponsorships relating to a special event or function to which individuals involved in procurement and purchasing are invited.
58. "Governing board" has the meaning defined in A.R.S. § 15-101.
59. "Governing instruments" means legal documents that establish the existence of an organization and define its powers, including articles of incorporation or association, constitution, charter, by-laws, or similar documents.
60. "Guaranteed energy cost savings contract" means a contract for implementing one or more energy cost savings measures.
61. "Guaranteed energy price" means the agreed on price to be charged to the school district for each kilowatt hour alternating current of actual energy production as such may change on an annual basis as set forth in the guaranteed energy production contract.
62. "Guaranteed energy production" means the amount of energy, measured in kilowatt hours alternating current, that the qualified provider guarantees for each year of the guaranteed energy production contract.
63. "Guaranteed energy production contract" means a contract for implementing one or more energy production measures between one or more qualified providers and a school district.
64. "Guaranteed energy production shortfall" means the amount, if any, that the actual energy production is less than the guaranteed energy production in any given year.
65. "Incremental award" means an award of portions of a definite quantity requirement to more than one contractor. Each portion is for a definite quantity and the sum of the portions is the total definite quantity required.
66. "Interested party" means an actual or prospective bidder or offeror whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract or by the failure to award a contract. Whether an actual or prospective bidder or offeror has an economic interest will depend upon the circumstances of each case.
67. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.

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68. "Invitation for bids" means all documents, whether attached or incorporated by reference, which are used for soliciting bids in accordance with the procedures prescribed in R7-2-1024.
69. "In writing" has the same meaning as "written" or "writing" in A.R.S. § 47-1201, which includes printing, type-writing, electronic transmission, facsimile, or any other intentional reduction to tangible form.
70. "Job-order-contracting" means a project delivery method in which:
- The contract is a requirements contract for indefinite quantities of construction.
 - The construction to be performed is specified in job orders issued during the contract.
 - Finance services, maintenance services, operations services, preconstruction services, design services and other related services may be included.
71. "Legal counsel" means a person licensed as an attorney by the Arizona Supreme Court.
72. "Life cycle" means the useful life of the earth-moving, material-handling, road maintenance and construction equipment to the original using school district.
73. "Local public procurement unit" means any political subdivision, any agency, board, department or other instrumentality of such political subdivision, and any nonprofit corporation created solely for the purpose of administering a cooperative purchase under Articles 10 and 11.
74. "Maintenance services" means routine maintenance, repair and replacement of existing facilities, structures, buildings or real property.
75. "Materials" means all property, including equipment, supplies, printing, insurance and leases of property, but does not include land, a permanent interest in land or real property or leasing space.
76. "May" denotes the permissive.
77. "Minor" means mistakes, excluding judgmental errors, that have negligible effect on price, quantity, quality, delivery or other contractual terms and the waiver or correction of such mistake does not prejudice other bidders or offerors.
78. "Multiple award" means award of multiple contracts for identical or similar materials or services to more than one bidder or offeror.
79. "Multistep sealed bidding" means a 2-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the school district and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.
80. "Negotiation" means an exchange or series of exchanges between the school district and a person with a goal of establishing the terms, conditions and prices in a contract between the school district and the person, where such negotiation is authorized in Articles 10 and 11.
81. "Nonexpendable materials" means all tangible materials which have an original acquisition cost over an amount set by regulation and a probable useful life of more than one year.
82. "Nonprofit corporation" means any nonprofit corporation as designated by the Internal Revenue Service under section 501(c)(3) through 501(c)(6) or under section 115, if created by two or more local public procurement units, and includes certified nonprofit agencies that serve individuals with disabilities as defined in A.R.S. § 41-2636.
83. "Offeror" means a person submitting a proposal in response to a request for proposals.
84. "Operations services" means routine operation of existing facilities, structures, buildings or real property.
85. "Outright purchase" means the initial cost to the school district for the earth-moving, material-handling, road maintenance and construction equipment, including all vendor charges and financing costs.
86. "Owner" means the school district.
87. "Paper" means newspaper, high-grade office paper, fine paper, bond paper, offset paper, xerographic paper, duplicator paper and related types of cellulosic material containing not more than ten percent by weight or volume of noncellulosic material such as laminates, binders, coatings or saturants.
88. "Paper product" means paper items or commodities, including paper napkins, towels, corrugated paper and related types of cellulosic products containing not more than ten percent by weight or volume of noncellulosic material such as laminates, binders, coatings or saturates.
89. "Person" means any corporation, business, individual, union, committee, club, other organization or group of individuals.
90. "Physician" means a person licensed pursuant to A.R.S. Title 32, Chapters 7, 8, 13, 14, 15.1, 16, or 17.
91. "Post-consumer material" means a discard generated by a business or residence that has fulfilled its useful life. Post-consumer material does not include discards from industrial or manufacturing processes.
92. "Posted prices" means the sale price determined by the school district to be fair market value.
93. "Preconstruction services" means services and other activities during the design phase.
94. "Pricing data" means information concerning prices, including profit, for materials, services or construction substantially similar to those being procured under a contract or subcontract. In this definition, "prices" refers to offered selling prices, historical selling prices or current selling prices of the items being purchased.
95. "Prime contractor" means a general contractor, who contracts with a property owner and, in turn, employs a subcontractor, or subcontractors, to perform some or all of the work.
96. "Procurement" means buying, purchasing, renting, leasing or otherwise acquiring any materials, services, construction or construction services. Procurement also includes all functions that pertain to the obtaining of any material, service, construction, or construction services, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
97. "Procurement file" means the official procurement records of the school district containing the following:
- List of notified vendors.
 - Procurement disclosure statements.
 - Final solicitation.
 - Solicitation amendments.
 - Bids and offers.
 - Offer revisions and best and final offers.
 - Discussions.
 - Clarifications.
 - Final evaluation reports.

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- j. Additional information, as necessary.
98. "Proposal" means a response to a request for proposals and includes an offer to contract with the school district.
 99. "Proprietary specification" means a specification that describes a material made and marketed by a person having the exclusive right to manufacture and sell such material and excludes other material with similar quality, performance or functional characteristics from being responsive to the solicitation.
 100. "Public procurement unit" means either a local public procurement unit, the Arizona Department of Administration, any other state or an agency of the United States.
 101. "Public service corporation" means all corporations other than municipal engaged in furnishing gas, electricity, or water and subject to regulation as a utility by the Arizona Corporation Commission.
 102. "Purchase description" means the words used in a solicitation to describe the materials, services or construction for purchase and includes specifications attached to, or made a part of, the solicitation.
 103. "Purchase requisition" means that document, or electronic transmission, whereby a school district requests that a contract be entered into for a specific need, and may include, but is not limited to, the description of the requested item, delivery schedule, transportation data, criteria for evaluation, suggested source of supply and information supplied for the making of any written determination required by Articles 10 and 11.
 104. "Qualified products list" means an approved list of materials or construction items described by model or catalog numbers that, prior to competitive solicitation, the governing board has determined will meet the applicable specification requirement.
 105. "Qualified select bidders list" means a selection process for establishing a list of best-qualified prime contractors or construction material suppliers for a specific, single project. The selection process is based upon listed evaluation criteria and conducted through a request for qualifications. Once the selection process is complete, the qualified bidders are invited to submit a sealed competitive bid based upon architectural/engineering plans and specifications or material specifications.
 106. "Reasonably susceptible of being awarded a contract" means those proposals that the school district determines are subject to award after the initial review of all original proposals.
 107. "Recycled paper" means paper products which have been manufactured from materials otherwise destined for the waste stream and which contain at least forty percent recovered wastepaper with ten percent of that being post-consumer material.
 108. "Regional award" means an award of portions of the total requirement by geographic region.
 109. "Request for information" means all documents issued to vendors for the sole purpose of seeking information about the availability in the commercial marketplace of materials or services.
 110. "Request for proposals" means all documents, whether attached or incorporated by reference, which are used for soliciting proposals in accordance with procedures prescribed in R7-2-1042.
 111. "Request for qualifications" means all documents, whether attached or incorporated by reference, which are used for soliciting statements of qualifications in accordance with procedures prescribed in R7-2-1101, R7-2-1106, R7-2-1108 or R7-2-1117.
 112. "Residual value" means the guaranteed minimum market value of the earth-moving, material-handling, road maintenance and construction equipment at the end of the life cycle of the equipment being procured, as determined by a guaranteed minimum value offered by the vendor or other parties in its bid.
 113. "Responsible bidder or offeror" means a person who at the time of contract award has the capability to perform the contract requirements and the integrity and reliability which will assure good faith performance.
 114. "Responsive bidder or offeror" means a person who submits a bid or proposal which conforms in all material respects to the invitation for bids or request for proposals.
 115. "Reverse auction" means a procurement method in which bidders are invited to bid on supplying specified materials over the Internet in a real-time competitive bidding event.
 116. "School district" has the meaning defined in A.R.S. § 15-101, whose authority is exercised by the governing board or its designee.
 117. "Services" means the furnishing of labor, time or effort by a contractor or subcontractor that does not involve the delivery of a specific end product other than required reports and performance. Services does not include employment agreements or collective bargaining agreements.
 118. "Shall" denotes the imperative.
 119. "Solicitation" means an invitation for bids, an invitation to submit technical offers, a request for proposals, a request for qualification, or any other invitation or request by which the school district invites a person to participate in a procurement.
 120. "Specification" means any description of the physical or functional characteristics, or of the nature of a material, service or construction item. Specification may include a description of any requirement for inspecting, testing or preparing a material, service or construction item for delivery.
 121. "Specified professional services" means services of an architect, engineer, land surveyor, assayer, geologist and landscape architect and any combination of those services.
 122. "Standard commercial material" means material that, in the normal course of business, is customarily maintained in stock or readily available by a manufacturer, distributor or dealer for the marketing of such material.
 123. "Statement of qualifications" means a response to a request for qualifications issued pursuant to R7-2-1101, R7-2-1106, R7-2-1108 or R7-2-1117, or unsolicited qualifications submitted pursuant to R7-2-1062 or R7-2-1122, and does not include an offer to contract with the school district.
 124. "Subcontractor" means a person who contracts to perform work or render service to a contractor or to another subcontractor as a part of a contract with a school district.
 125. "Subconsultant" means any person, firm, partnership, corporation, association or other organization or a combination of any of them, that has a direct contract with a design professional or another subconsultant to perform a portion of the work under a design professional service contract.
 126. "Surplus materials" means any materials that no longer have any use to the school district or materials acquired

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from the United States government. This includes obsolete materials, scrap materials and nonexpendable materials that have completed their useful life.

127. "Suspension" means an action taken by the governing board under R7-2-1168 temporarily disqualifying a person from participating in school district procurements.
128. "Technical offer" means unpriced written information from a prospective contractor stating the manner in which the prospective contractor intends to perform certain work, its qualifications and its terms and conditions.
129. "Total life cycle cost" means total school district costs and financing costs throughout the life cycle of the earth-moving, material-handling, road maintenance and construction equipment being purchased less residual value.
130. "Total school district costs" means costs to the school district for the earth-moving, material-handling, road maintenance and construction equipment, including repair costs, present value of monies, vendor charges, and all other identifiable school district costs that may be incurred.
131. "Unit price" means the price published in the unit price book for a specific construction or construction related task. Each unit price is comprised of labor, equipment, or material costs to accomplish a specific task, and shall be defined in the contract.
132. "Unit price book" means a comprehensive listing of specific construction related tasks together with a specific unit of measurement and a unit price.
133. "Vendor charges" means the costs of all vendor support, materials, transportation, and all other identifiable costs associated with the vendor's proposal or bid.
134. "Vendor support" means services provided by the vendor for items such as consulting, education and training.
135. "Wastepaper" means recyclable paper and paperboard, including high-grade office paper, computer paper, fine paper, bond paper, offset paper, xerographic paper, duplicator paper and corrugated paper.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective March 21, 1991 (Supp. 91-1).

Amended effective October 22, 1992 (Supp. 92-4).

Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1). Amended by final exempt rulemaking at 27 A.A.R. 2342, (October 22, 2021) effective September 27, 2021 (Supp. 21-4).

R7-2-1002. Applicability

- A. Articles 10 and 11 apply to every expenditure of public monies, including federal assistance monies and grants, by a school district as specified in A.R.S. § 15-213(A) for the procurement of all construction, materials and services when the total procurement cost exceeds the aggregate dollar amount specified in A.R.S. § 41-2535(A). If procurement involves the expenditure of federal assistance or contract monies, the school district shall comply with federal law and authorized regulations which are mandatorily applicable and which are not presently reflected in Articles 10 and 11.
- B. Articles 10 and 11 apply to the disposal of school district materials regardless of value.
- C. Articles 10 and 11 do not apply to:

1. Agreements for providing career and technological education and vocational education pursuant to A.R.S. § 15-789;
2. Contracts between a school district and other governments, including intergovernmental agreements and contracts pursuant to A.R.S. § 11-952, except as provided by R7-2-1191 through R7-2-1196. This exemption also includes the purchase of a fee or license from a local, state or federal public entity required by law to collect said fees;
3. Purchases for amounts not exceeding the aggregate dollar amount specified in A.R.S. § 41-2535(A). Such procurements shall comply with the guidelines prescribed by the Auditor General in the Uniform System of Financial Records pursuant to A.R.S. § 15-271;
4. Contracts for professional witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial or administrative proceeding in which the school district is or may become a party;
5. Agreements negotiated by legal counsel representing the school district in settlement of litigation or threatened litigation;
6. Expenditures from student activity monies as defined in A.R.S. § 15-1121, if no district funds are involved;
7. Expenditures for governing board adopted textbooks as defined in A.R.S. § 15-721 and A.R.S. § 15-722, if purchased from the publisher;
8. The placement of a pupil in a private school that provides special education services if such placement is prescribed in the pupil's individualized education program and the private school has been approved by the Department of Education Division of Special Education pursuant to A.R.S. § 15-765;
9. Purchases of any products, materials and services directly from certified nonprofit agencies that serve individuals with disabilities as defined in A.R.S. § 41-2636, and Arizona Correctional Industries if the delivery and quality of the products, materials or services meet the school district's reasonable requirements;
10. The decision to participate in programs pursuant to A.R.S. § 15-382. A program authorized by A.R.S. § 15-382 is not required to engage in competitive bidding for the services necessary to administer the program or for the purchase of insurance or reinsurance;
11. The purchase of water, gas or electric utilities from a public service corporation. This exemption expressly does not apply to guaranteed energy cost savings contracts and guaranteed energy production contracts subject to A.R.S. § 15-213.01 and A.R.S. § 15-213.03;
12. Purchases of professional certifications, professional memberships, conference registrations, conference hotels and airfare that meets Arizona Department of Administration General Travel Principles and Policies;
13. Purchases, sales or leases of real estate. This exemption expressly does not apply to the services of a real estate broker as defined in A.R.S. § 32-2101;
14. Purchases of surplus property from the state or United States Federal Government in accordance with R7-2-1132;
15. Purchases in compliance with the terms and conditions of any grant, gift, bequest or cooperative agreement; and
16. The cost of special elections, including the preparation of ballots in accordance with A.R.S. § 15-406.

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- D. Unless displaced by the particular provisions of Articles 10 and 11, the principles of law and equity, including the Uniform Commercial Code of this state, the common law of contracts as applied in this state and law relative to agency, fraud, misrepresentation, duress, coercion, and mistake supplement the provisions of Articles 10 and 11.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended effective March 21, 1991 (Supp. 91-1).
 Amended effective March 6, 1997 (Supp. 97-1).
 Amended effective December 4, 1998 (Supp. 98-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1491, effective October 28, 2013 (Supp. 15-3). Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1003. General Provisions

- A. The school district shall not award a contract or incur an obligation on behalf of the school district unless it is reasonable to believe sufficient funds will be available for the procurement. If sufficient funds are not available when a solicitation is issued, the solicitation shall include a statement that funds are not currently available and that any contract awarded will be conditioned upon the availability of funds.
- B. Projects and purchases shall not be divided or sequenced into separate projects or purchases in order to avoid the limits prescribed in Articles 10 and 11.
- C. Any bid or proposal that is conditioned upon award to the bidder or offeror of both the particular contract being solicited and another school district contract shall be deemed nonresponsive or unacceptable.
- D. Except by mutual consent of the parties to the contract, rules in Articles 10 and 11 shall not change any commitment, right or obligation of a school district or of a contractor under a contract in existence on the effective date of the Section.
- E. If a contractor requests to change the name in which it holds a school district contract, the school district may, upon receipt of a document indicating the name change, enter into a contract modification with the contractor to effect the name change. The contract modification shall provide that no other terms and conditions of the contract are changed.
- F. The school district may allow electronic media transactions, including an electronic record or electronic signature, if consistent with state law and advantageous to the school district.
- G. Rights and duties arising from a school district contract may only be transferred, waived or assigned upon the express written consent of both parties.
- H. School district employees and public officers shall not purchase construction, materials or services for their own personal or business use from contracts entered into by the school district.
- I. A person who supervises or participates in contracts, purchases, payments, claims or other financial transactions, or who supervises or participates in the planning, recommending, selecting or contracting for materials, services, goods, construction, or construction services of a school district or school purchasing cooperative is subject to the penalties prescribed in A.R.S. § 15-213(N) if the person solicits, accepts or agrees to accept any personal gift or benefit from a person or vendor that has secured or has taken steps to secure a contract, purchase, payment, claim or financial transaction with a school district or school purchasing cooperative.

- J. Any person or vendor that has secured or has taken steps to secure a contract, purchase, payment, claim or financial transaction with a school district or school purchasing cooperative that offers, confers or agrees to confer any personal gift or benefit on a person who supervises or participates in contracts, purchases, payments, claims or other financial transactions, or on a person who supervises or participates in planning, recommending, selecting or contracting for materials, services, goods, construction or construction services of a school district or school purchasing cooperative is subject to the penalties prescribed in A.R.S. § 15-213(O).
- K. A person who serves on an evaluation committee for a procurement is subject to A.R.S. § 41-2616(C).
- L. A person who contracts for or purchases materials, services, goods, construction or construction services shall be subject to the penalties prescribed in A.R.S. § 15-213 and A.R.S. § 41-2616 for violations of and attempts to avoid Articles 10 and 11.
- M. Pursuant to A.R.S. § 15-213 and A.R.S. Title 41, Chapter 23, the Attorney General shall enforce the provisions of Articles 10 and 11 and may take action prescribed therein.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended effective March 21, 1991 (Supp. 91-1).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 24 A.A.R. 3283, effective October 22, 2018 (Supp. 18-4). Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-1004. Written Determinations

- A. Written determinations required by Articles 10 and 11, including for any specified professional services, construction, construction services or materials to an entity selected from a qualified select bidders list or through a school purchasing cooperative, shall specify the reasons for the determination, including how the determination was made.
- B. The school district is authorized to prescribe methods and operational procedures to be used in preparing written determinations.
- C. The school district shall place the written determination into the school district's procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 24 A.A.R. 3283, effective October 22, 2018 (Supp. 18-4).

R7-2-1005. Change orders and contract modifications

Any change order or contract modification that exceeds \$100,000 or five percent, whichever is greater, may be executed only if the governing board determines in writing that the change order or contract modification is advantageous to the school district and the price is determined to be fair and reasonable.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt

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rulemaking at 21 A.A.R. 1525, effective July 1, 2014
(Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1006. Confidential Information

- A. If a person believes that a bid, proposal, response to a request for information, technical offer, statement of qualifications, specification, or protest contains confidential trade secrets or other proprietary data not to be disclosed as otherwise required by A.R.S. § 39-121, a statement advising the school district of this fact shall accompany the submission and the information shall be so identified wherever it appears. Contract terms and conditions, pricing, and information generally available to the public are not considered confidential information under this Section.
- B. Until a determination is made under subsection (C), the school district shall not disclose information designated as confidential under subsection (A) except to school district personnel having a legitimate interest in, or persons assisting the school district in evaluation of, the bid, proposal, response to a request for information, technical offer, statement of qualifications, specification, or protest.
- C. Upon receipt of a submission designating information as confidential, the school district shall make one of the following written determinations:
 - 1. The designated information is confidential and the school district shall not disclose the information except to school district personnel having a legitimate interest in, or persons assisting the school district in evaluation of, the bid, proposal, response to a request for information, technical offer, statement of qualifications, specification, or protest.
 - 2. The designated information is not confidential.
- D. The school district may request additional information, if necessary to make the determination required by subsection (C).
- E. If the school district determines that information submitted is not confidential, the person who made the submission shall be notified in writing. The notice shall specify that a request for review of the district representative's determination may be filed within 10 days of the date of the district representative's determination.
- F. A request for review of the district representative's determination shall be filed in writing with the district representative. The request for review shall state the precise legal or factual errors in the district representative's decision. If a request for review is received:
 - 1. The district representative shall consider the alleged legal or factual errors in the request for review of the district representative's determination and issue a final written determination to the person filing the request.
 - 2. Until the final determination is made under subsection (C)(2), the school district shall not disclose information designated as confidential under subsection (A) except to school district personnel having a legitimate interest in, or persons assisting the school district in evaluation of, the bid, proposal, response to a request for information, technical offer, statement of qualifications, specification, or protest.
- G. The school district may release information determined to not be confidential under subsection (C)(2) if:
 - 1. A request for review is not received by the district representative within the time period specified in the notice; or
 - 2. The district representative issues a final written determination under subsection (F)(1) that the designated information is not confidential.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective March 21, 1991 (Supp. 91-1). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1007. Delegation of Procurement Authority

- A. The governing board may, in a public meeting held in conformity with A.R.S. Title 38, Chapter 3, Article 3.1, delegate procurement authority to a designee. Any delegation shall be accomplished by adopting a governing board policy for this purpose.
 - 1. Delegated procurement authority may include, but is not limited to the following:
 - a. Authority to make determinations required by Articles 10 and 11;
 - b. Authority to award contracts;
 - c. Authority to make sole source and emergency procurements; and
 - d. Authority to approve change orders and contract modifications.
 - 2. Delegated activities and functions shall be adequately separated among individuals so that one individual does not have complete authority over an entire procurement.
- B. Any delegation shall specify:
 - 1. The title of the school district employee or employees to whom authority is delegated;
 - 2. The activity or function authorized;
 - 3. Any limits or restrictions on the exercise of the delegated authority, including the maximum cost of any procurement;
 - 4. Whether the authority may be further delegated;
 - 5. The duration of the delegation; and
 - 6. The conditions and procedures for revocation and modification of the delegation.
- C. No person delegated such authority may participate in any aspect of a specific procurement if the person would receive any benefit directly or indirectly from a contract for such procurement. Violation of this prohibition may result in termination or other disciplinary action.
- D. Delegation of procurement authority does not abrogate the responsibility of the governing board to ensure compliance with Articles 10 and 11 notwithstanding the fact that school district personnel were authorized to make procurement decisions.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1008. Procurement Consultants and Procurement Advisory Groups

- A. The school district may contract with a procurement consultant to assist in drafting specifications, in the development of solicitations, or in the management of the procurement process. A procurement consultant may provide guidance or advice to a procurement evaluation committee, but shall not serve as a voting member of such committee. For the purposes of this Section, a school district employee or a contracted business manager or purchasing director for the school district is not a procurement consultant.
- B. The school district may appoint procurement advisory groups or evaluation committees to assist with respect to specifica-

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tions, solicitation evaluations or procurement in specific areas. Members of such procurement advisory groups or evaluation committees are not procurement consultants as set forth in this Section. Non-school district employees serving on such procurement advisory groups or evaluation committees are not eligible to receive compensation but are eligible for reimbursement of expenses consistent with the school district's travel policy adopted pursuant to A.R.S. § 15-342(5).

- C. A procurement consultant, a member of a procurement advisory group, or a member of an evaluation committee who participates in any aspect of a specific procurement shall be prohibited from receiving any benefit directly or indirectly from a contract for such procurement, and shall sign a procurement disclosure statement that the person has no interest in the procurement other than that of a disclosed remote interest, as defined in A.R.S. § 38-502, will have no contact with any representative of a competing vendor related to the particular procurement except those contacts specifically authorized by these rules, and has not accepted any personal gift or benefit from a person or vendor that has secured or has taken steps to secure a contract, purchase, payment, claim or financial transaction with the school district or school purchasing cooperative. The procurement disclosure statements shall be retained in the procurement file.
- D. Specifications prepared by a procurement consultant or a procurement advisory group shall comply with R7-2-1010 through R7-2-1016.
- E. The school district shall not delegate to a procurement consultant, a procurement advisory group, or an evaluation committee the authority for the award or administration of any particular contract, or over any dispute, claim or litigation pertaining thereto, and a procurement consultant or a procurement advisory group shall not be authorized to obligate the school district in any manner.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1009. Repealed**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

PART II. SPECIFICATIONS**R7-2-1010. Preparation of Specifications**

- A. Specifications shall be prepared only by the school district or by contract pursuant to R7-2-1014 and R7-2-1015. Regardless of who prepares the specifications, the governing board retains the authority to disapprove all specifications.
- B. In an emergency under R7-2-1055, any necessary specifications may be utilized by the person designated in R7-2-1055 (C) without regard to the provisions of this Section.
- C. Content of specifications.
 - 1. A specification may provide alternate descriptions of materials, services, or construction items where two or more design, functional, or performance criteria will satisfactorily meet the school district's requirements.
- 2. To the extent practicable, a specification shall not include any solicitation term or condition or any contract term or condition.
- 3. If a specification for a common or general use item has been developed in accordance with R7-2-1011(A) or a qualified products list has been developed in accordance with R7-2-1011(D) for a particular material, service, or construction item, it shall be used unless the school district makes a written determination that its use is not advantageous to the school district and that another specification shall be used.
- 4. To the extent practicable, specifications shall emphasize functional or performance criteria. To facilitate the use of such criteria, the school district shall use reasonable efforts to include the principle functional or performance requirements as a part of their purchase requisitions.
- 5. All procurement solicitations for volatile organic compound containing commodities shall include a request for substitute commodities with lower or no volatile organic content. Substitute products shall not have increased toxicity compared to the original commodity.

Historical Note

Adopted effective October 22, 1992 (Supp. 92-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1011. Types of Specifications

- A. Specification for common or general use items. To the extent practicable, a specification for common or general use item shall be prepared and utilized when:
 - 1. A material, service or construction item is used repeatedly by the school district, and the characteristics of the material, service, or construction item, as commercially produced or provided, remain relatively stable while the frequency or volume of procurements is significant;
 - 2. The school district's recurring needs require uniquely designed or specially produced items; or
 - 3. The school district finds it to be advantageous to the school district.
- B. Brand name or equal specification. A brand name or equal specification may be used when the school district determines that use of a brand name or equal specification is advantageous to the school district.
- C. Brand name specification. A brand name specification may be prepared and utilized only if the school district makes a determination that only the identified brand name item will satisfy the school district's needs. If only one source can supply the requirement, the procurement shall be made pursuant to R7-2-1053.
- D. Qualified products list. A qualified products list may be prepared and utilized when:
 - 1. The school district determines that testing or examination of the materials or construction items prior to issuance of the solicitation is desirable or necessary in order to best satisfy the school district's requirements.
 - 2. The school district shall solicit as many potential suppliers as practicable to submit products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration in accordance with the schedule or procedure established for this purpose. The qualified products list shall not be modified after the solicitation is issued.

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3. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with requirements established by the school district.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1012. Proprietary Specifications

The school district shall not use specifications in any way proprietary to one supplier unless the specification includes a statement of the reasons why no other specification is practicable, a description of the essential characteristics of the specified product and a statement specifically permitting an acceptable alternative product to be supplied.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1013. Recycled Products Use

- A. If the price of a recycled paper product that conforms to specifications is within five percent of a low bid product that is not recycled and the recycled product bidder is otherwise the lowest responsible and responsive bidder, the award shall be made to the bidder offering the recycled product. The governing board may adopt rules requiring a five percent preference for other products made from recycled materials.
- B. Specifications shall emphasize functional or performance criteria which, to the extent practicable, do not discriminate against the use of recycled materials.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1014. Maximum Practicable Competition

- A. Procurement of any materials, services, goods, construction or construction services pursuant to Article 10 or Article 11, shall seek to achieve maximum practicable competition.
- B. All specifications, including those prepared by architects, engineers, consultants and others for public contracts, shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the school district's needs and shall not be unduly restrictive.
- C. Unless otherwise permitted by R7-2-1010 through R7-2-1016, all specifications shall describe the school district's requirements in a manner that does not unreasonably exclude a material, service, or construction item. Proprietary specifications shall be used only as provided in R7-2-1012.
- D. To the extent practicable, the school district shall use accepted commercial specifications and shall procure standard commercial materials.
- E. Contracts for the preparation of specifications by persons other than the school district shall require the specification writer to adhere to R7-2-1010 through R7-2-1016.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 24 A.A.R. 3283, effective October 22, 2018 (Supp. 18-4).

R7-2-1015. Conflict of Interest

- A. No person preparing specifications pursuant to R7-2-1014 shall receive any direct or indirect benefit from the utilization of such specifications.
- B. The governing board may contract for the preparation of specifications with persons, including, but not limited to, consultants, architects, engineers, designers, and other draftsmen of specifications.
- C. If a person prepares a specification pursuant to subsection (B) of this Section, such person shall comply with the requirements of R7-2-1010 through R7-2-1016.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1016. Confidentiality

- A. Specifications and any written determination or other document generated or used in the development of a specification shall be available for public inspection pursuant to A.R.S. § 39-121, except to the extent that the withholding of such information is permitted or required by law.
- B. If the supplier believes that the specifications contain confidential trade secrets, test data, or similar information, a statement advising the school district of this fact shall accompany the specification in accordance with R7-2-1006.
- C. Qualified products lists test results shall be made available in a manner to protect the identity of the supplier.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1017. Reserved**PART III. REVERSE AUCTIONS****R7-2-1018. Reverse Auctions**

- A. Using reverse auctions
 1. If a governing board determines in writing that use of reverse auctions is more advantageous to the school district than other procurement methods prescribed by Articles 10 and 11, the school district may use reverse auctions for the purchase of materials.
 2. The written determination shall include, but is not limited to the following information:
 - a. An estimate of the number of prospective bidders;
 - b. An explanation of how reverse auctions will foster competition;
 - c. An explanation of why reverse auctions is more advantageous to the school district than other prescribed procurement methods; and
 - d. The scope and estimated total dollar value of the proposed procurement.
- B. Reverse auction procedures
 1. The school district shall develop and implement procedures prior to conducting procurement via reverse auctions. The procedures shall include:
 - a. The method or methods to ensure the integrity and security of the reverse auctions;
 - b. The method or methods for registering bidders for reverse auctions;
 - c. The method or methods for notifying vendors of reverse auction opportunities;
 - d. The method or methods for receiving reverse auction bids; and

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- e. The school district official or officials authorized to conduct reverse auctions.
- 2. School districts may require bidders to register before the date and time for opening the reverse auction for submission of bids and, as part of that registration, require bidders to agree to any terms, conditions or other requirements of the invitation for bids.
- 3. Notice of a reverse auction shall be issued at least 14 days before the date and time for opening the reverse auction for submission of bids, unless a shorter time is determined necessary by the school district. If a shorter time is necessary, the school district shall document the specific reasons in the procurement file. The reverse auction notice shall include:
 - a. The school district's requirements for registering prior to the opening date and time, if any;
 - b. The designated site on the Internet for bidder registration and bid submission;
 - c. A link to the designated site on the Internet;
 - d. The scheduled date and time for opening the reverse auction for bid submission; and
 - e. The scheduled date and time for closing the reverse auction for bid submission.
- 4. The school district shall issue the notice of reverse auction as follows:
 - a. Mail or otherwise furnish the notice of reverse auctions to all prospective bidders registered with the school district for the specific material being solicited.
 - b. Notice of reverse auction shall be given by the school district pursuant to R7-2-1022.
 - c. In addition to the notice provided in subsections (B)(4)(a) and (b), the school district may give such additional notice as the school district deems appropriate, including posting on a designated site on the Internet.
- 5. The school district shall prepare an invitation for bids that includes:
 - a. Notice that all information submitted by bidders will be made available for public inspection following the award of the contract, except for bid prices which will be made available to other bidders and the public when submitted by the bidder;
 - b. Information for submitting bids, including:
 - i. The date and time for opening the reverse auction for bid submission;
 - ii. The date and time for closing the reverse auction for bid submission;
 - iii. The provisions for extending the period for bid submission, if any;
 - iv. Instructions for submitting bids and other required information, including the designated site on the Internet for submitting bids;
 - v. Notice that bids shall be accepted electronically at the time and in the manner designated in the invitation for bids;
 - vi. Notice that bidders' prices shall be disclosed electronically to other bidders and the public on a real time basis;
 - vii. Notice that bidders may submit multiple prices and may reduce their bid prices until the reverse auction bidding is closed;
 - viii. Notice that the lowest price offered shall become the official bid price;
 - ix. Notice that the bidder is required to certify that submission of the bid did not involve collusion or other anticompetitive practices;
 - x. Notice that the bidder is required to declare whether the bidder has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;
 - c. The purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements, as applicable. If a brand name or equal specification is used, instructions that use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics needed to meet the school district's requirements and is not intended to limit or restrict competition. The invitation for bids shall state that products substantially equivalent to the brands designated qualify for consideration;
 - d. The factors to be used in bid evaluations, including criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Only objectively measurable evaluation criteria shall be included in the invitation for bids. Examples of such criteria include, but are not limited to, transportation cost, energy cost, ownership cost and other identifiable costs. Evaluation factors need not be precise predictors, but to the extent possible the evaluation factors shall be reasonable estimates based upon information the school district has available concerning future use.
 - e. The contract terms and conditions, including:
 - i. Warranty and bonding or other security requirements, as applicable;
 - ii. The length of the contract and whether the contract will include an option for extension; and
 - iii. Any other contract terms and conditions;
 - f. The name of the district representative or district representatives;
 - g. The manner by which the bidder is required to acknowledge amendments;
 - h. The minimum required information in the bid;
 - i. The specific requirements for designating trade secrets and other proprietary data as confidential;
 - j. Any specific responsibility criteria;
 - k. A statement specifying where documents incorporated by reference may be obtained;
 - l. A statement that the school district may cancel the solicitation or reject a bid in whole or in part if deemed advantageous to the school district;
 - m. The date, time and location of bid opening;
 - n. A description of all information that will be recorded and available for public inspection at bid opening; and
 - o. Procurement of earth-moving, material-handling, road maintenance and construction equipment shall include as price evaluation criteria the total life cycle cost including residual value of the earth-moving, material-handling, road maintenance and construction equipment and, to the extent practicable, outright purchase.

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6. Amendments to invitations for bids shall be made in accordance with R7-2-1026.
- C. The school district shall accept reverse auction bids as follows:
 1. At the date and time for opening the reverse auction for bid submission, the school district shall begin accepting on-line bids and shall continue accepting bids until the reverse auction is officially closed.
 2. Bids shall be accepted electronically in the manner designated in the invitation for bids.
 3. All reverse auction on-line bids shall be posted electronically and updated on a real-time basis. Bidders' prices shall be disclosed to other bidders and the public.
 4. The identity of competing bidders shall not be disclosed until the reverse auction bidding is closed.
 5. Bidders shall have the opportunity to submit multiple prices and to reduce their bid prices.
 6. The lowest price offered shall become the official bid price.
- D. Bids made through a reverse auction are considered to be opened when a computer generated record of the information contained in all bids that were received by the designated site on the Internet not later than the scheduled or final closing date and time are reviewed publicly by the school district in the presence of one or more witnesses at the time and place designated in the invitation for bids. Bid opening shall not be later than 24 hours after the scheduled or final closing date and time.
- E. The contract shall be awarded to the lowest responsible and responsive bidder whose bid conforms in all material respects to the requirements and evaluation criteria set forth in the invitation for bids. No criteria may be used in bid evaluation that are not set forth in the invitation for bids. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the lowest bidder.
- F. The school district shall not modify evaluation criteria after the closing date and time.
- G. In the event that multiple bidders submit identical prices for the same materials, bids will be considered in the order received with the first being considered to be the lowest bid.
- H. If only one bid is received in response to an invitation for bids, the school district shall proceed according to R7-2-1032.
- I. The date and time for closing a reverse auction for bid submission may be fixed or remain open depending on the materials being bid.
- J. After the reverse auction bidding has closed, a bidder may withdraw a bid or correct a mistake in accordance with R7-2-1030. Withdrawal of bids shall also be permitted as provided in R7-2-1028.
- K. The school district shall notify all bidders of an award.
- L. A copy of the invitation for bids shall be made available for public inspection at the school district office.
- M. A record of the bid prices received and the name of each bidder shall be open to public inspection following bid opening.
- N. A record of the reverse auction shall be maintained by the school district that will include all prices offered by all bidders. This record will become part of the procurement file.
- O. Within 10 days after a contract is awarded, the school district shall make the procurement file, including all bids, available for public inspection.
 1. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be

placed in the procurement file for the purpose of public inspection.

2. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1019. Reserved**R7-2-1020. Reserved****PART IV. COMPETITIVE SEALED BIDDING****R7-2-1021. Method of Source Selection**

- A. Unless otherwise authorized by law, all school district contracts shall be awarded by competitive sealed bidding as provided in R7-2-1021 through R7-2-1032, except as provided in R7-2-1018, R7-2-1033 through R7-2-1068, R7-2-1100 through R7-2-1123, and R7-2-1196.
- B. A school district may conduct competitive sealed bidding electronically, provided that the electronic competitive sealed bidding process complies with the requirements of R7-2-1021 through R7-2-1032. A determination that conducting competitive sealed bidding electronically is advantageous to the school district shall be in writing and retained in the procurement file.
- C. When using electronic competitive sealed bidding, the school district shall determine whether electronic submission of bids is required or optional and state the electronic submission requirements in the public notice and the invitation for bids.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended effective October 22, 1992 (Supp. 92-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1022. Notice of Competitive Sealed Bidding

- A. Adequate public notice of the invitation for bids shall be given as provided in R7-2-1024. Notice also may be given as provided in subsection (B). In the event there are four or fewer prospective bidders on the bidders list, then notice also shall be given as provided in subsection (B). If the invitation for bids is for the procurement of services other than those described in R7-2-1061 through R7-2-1068 and R7-2-1100 through R7-2-1123, notice also shall be given as provided in subsection (B).
- B. If required by subsection A, the notice shall include publication in the official newspaper of the county, within which the school district is located, as prescribed in A.R.S. § 11-255. The publication, shall occur in a reasonable time before bid opening, which shall not be less than 14 days before bid opening. The time of publication may be altered if deemed necessary pursuant to R7-2-1024(A).
- C. In addition to the notice provided in subsections (A) and (B), the school district may give such additional notice as the school district deems appropriate, including posting on a designated site on the Internet.

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Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year cor-
rected in Supp. 18-2. Amended by final exempt rulemak-
ing at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1023. Prospective Bidders Lists

- A. The school district shall compile and maintain a prospective bidders list. Inclusion of the name of a person shall not indicate whether the person is responsible concerning a particular procurement or otherwise capable of successfully performing a school district contract.
- B. Persons desiring to be included on the prospective bidders list shall notify the school district. Upon notification, the school district shall mail or otherwise provide the person with the school district procedures for inclusion on the bidders list. Within 30 days after receiving the required information, the school district shall add the person to the prospective bidders list unless the school district makes a determination that inclusion is not advantageous to the school district.
- C. Persons who fail to respond to invitations for bids for two consecutive procurements of similar items may be removed from the applicable bidders list after notifying the person in writing. This notice shall not be required if the two invitations for bids which were not responded to both contained the notice that bidders' names may be removed from the bidders list if they fail to respond to invitations for bids for two consecutive procurements of similar items. Persons may be reinstated upon request.
- D. Prospective bidders lists shall be available for public inspection, unless the school district makes a written determination that it is advantageous to the school district that they be kept confidential or private and should not be open for inspection pursuant to A.R.S. § 39-121.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year cor-
rected in Supp. 18-2.

R7-2-1024. Invitation for Bids

- A. Invitation for bids shall be issued at least 14 days before the due date and time in the invitation for bids unless a shorter time is deemed necessary for a particular procurement as determined by the school district. If a shorter time is necessary, the school district shall document the specific reasons in the procurement file.
- B. Content.
 - 1. The invitation for bids shall include the following:
 - a. Notice that all information and bids submitted by bidders will be made available for public inspection following the award of the contract;
 - b. Instructions and information to bidders concerning bid submission requirements, including the means for bid submission such as, hand delivery, U.S. mail, electronic mail, facsimile, or other acceptable means, the bid due date and time, the address of the office at which bids or other documents are to be received, the bid acceptance period, and any other special information or requirements;
 - c. Whether the school district will consider partial bids for award of a contract;
 - d. Notification of whether the school district may award multiple contracts and the school district's

basis for determining whether to award multiple contracts. If multiple contracts may be awarded, the invitation for bids shall include the criteria the school district will use for selecting vendors for each contract under the multiple award, including, as applicable, whether contracts will be awarded by individual line items, groups of line items, or categories, whether contracts will be awarded incrementally, and whether contracts will be awarded by designated regions or locations;

- e. The basis for determining the lowest bidder or bidders;
- f. Procurement of earth-moving, material-handling, road maintenance and construction equipment shall include as price evaluation criteria the total life cycle cost including residual value of the earth-moving, material-handling, road maintenance and construction equipment and, to the extent practicable, the cost of outright purchase;
- g. The purchase description, specifications, delivery or performance schedule, and inspection and acceptance requirements, as applicable. If a brand name or equal specification is used, instructions that use of a brand name is for the purpose of describing the standard of quality, performance, and other characteristics needed to meet the school district's requirements and is not intended to limit or restrict competition. The invitation for bids shall state that products substantially equivalent to the brands designated qualify for consideration;
- h. The factors to be used in bid evaluations, including criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Only objectively measurable evaluation criteria shall be included in the invitation for bids. Examples of such criteria include, but are not limited to, transportation cost, energy cost, ownership cost and other identifiable costs. Evaluation factors need not be precise predictors, but to the extent possible the evaluation factors shall be reasonable estimates based upon information the school district has available concerning future use;
- i. The contract terms and conditions, including:
 - i. Warranty and bonding or other security requirements, as applicable;
 - ii. The length of the contract and whether the contract will include an option for extension; and
 - iii. Any other contract terms and conditions;
- j. The name of the district representative or district representatives;
- k. The manner by which the bidder is required to acknowledge amendments;
- l. The minimum information required in the bid;
- m. The specific requirements for designating trade secrets and other proprietary data as confidential;
- n. Any specific responsibility criteria;
- o. A statement specifying where documents incorporated by reference may be obtained;
- p. A statement that the school district may cancel the solicitation or reject a bid in whole or in part if deemed advantageous to the school district;
- q. Notice that the bidder is required to certify that submission of the bid did not involve collusion or other

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anticompetitive practices and that the bidder has taken steps and exercised due diligence to ensure that no violation of A.R.S. § 15-213(O) has occurred;

- r. Notice that the bidder is required to declare whether the bidder has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;
 - s. Any bid security required;
 - t. A description of all information that will be recorded and available for public inspection at bid opening; and
 - u. The date, time and location of any pre-bid conference.
2. When using electronic competitive sealed bidding, the invitation for bids shall specify whether electronic submission of bids is required or optional, the electronic submission requirements, and the electronic signature requirements.
- C. The school district shall mail or otherwise furnish invitation for bids or notices of the availability of invitation for bids to all prospective bidders registered with the school district for the specific material, service or construction being bid.
- D. A copy of the invitation for bids shall be made available for public inspection at the school district office.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended effective October 22, 1992 (Supp. 92-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1025. Pre-bid Conferences

- A. The school district may conduct a pre-bid conference to explain the procurement requirements.
- B. If a pre-bid conference is conducted, it shall be not less than seven days before the bid due date and time, unless the school district makes a written determination that the specific needs of the procurement justify a shorter time. Statements made during a pre-bid conference are not amendments to the solicitation.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1026. Amendments to Invitation for Bids

- A. An amendment to an invitation for bids shall be issued if necessary to:
 - 1. Make changes in the invitation for bids;
 - 2. Correct defects or ambiguities;
 - 3. Furnish to other bidders information given to one bidder if the information will assist the other bidders in submitting bids or if the lack of the information will prejudice the other bidders;
 - 4. Provide additional information or instructions; or
 - 5. Set a later bid due date and time if the school district determines that an extension is advantageous to the school district.

- B. Amendments to an invitation for bids shall be so identified and the school district shall ensure that the amendments are distributed or made available to all persons to whom the original invitation for bids was distributed or made available. The school district shall make a copy of the amendments to an invitation for bids available for public inspection at the school district office. If the school district posted the invitation for bids or a notice of the availability of an invitation for bids on a designated site on the Internet, then the school district shall post any amendments to the invitation for bids on the same designated site on the Internet. The school district shall also do one or more of the following:
 - 1. Distribute the amendment, by any method reasonably calculated to ensure delivery, to all prospective bidders to whom the invitation for bids was distributed;
 - 2. Make the amendment available and issue a notice of amendment which contains instructions for obtaining copies of the amendment. The notice of amendment shall be distributed, by any method reasonably calculated to ensure delivery, to all prospective bidders to whom the invitation for bids was distributed. Upon receipt of such notice of amendment, it is the responsibility of the prospective bidder to obtain the amendment.

- C. Amendments to invitation for bids shall be issued within a reasonable time before bid opening to allow prospective bidders to consider them in preparing their bids. If the school district determines that the bid due date and time does not permit sufficient time for bid preparation, the bid due date and time shall be extended in the amendment or, if necessary, by telephone, facsimile, email, or other communications methods, and confirmed in the amendment.
- D. A bidder shall acknowledge receipt of an amendment in the manner specified in the invitation for bids or the amendment on or before the bid due date and time.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1027. Pre-opening Modification or Withdrawal of Bids

- A. A bidder may modify or withdraw a bid in writing at any time before bid opening if the modification or withdrawal is received before the bid due date and time at the location designated in the invitation for bids for receipt of bids.
- B. All documents concerning a modification or withdrawal of a bid shall be retained in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1028. Late Bids, Late Withdrawals and Late Modifications

- A. A bid, modification or withdrawal is late if it is received at the location designated in the invitation for bids for receipt of bids after the bid due date and time.
- B. A late bid, late modification, or late withdrawal shall be rejected, unless the late bid, late modification, or late withdrawal would have been timely received but for the action or inaction of school district personnel and is received before contract award.

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- C. Upon receiving a late bid, late modification, or late withdrawal, the school district shall record the time and date of receipt and promptly send written notice of late receipt to the bidder. The school district may discard the document 30 days after the date on the notice unless the bidder requests and provides funding for the document to be returned.
- D. All documents concerning acceptance of a late bid, late modification, or late withdrawal shall be retained in the procurement file.
 - c. The reasons why correction or withdrawal is consistent with fair competition and advantageous to the school district.
- B. A bidder who discovers a mistake in its bid after bid opening and before award, may request correction or withdrawal in writing and shall include all of the following in the written request:
 - 1. An explanation of the mistake and any other relevant information;
 - 2. A request for correction including the corrected bid or a request for withdrawal; and
 - 3. The reasons why correction or withdrawal is consistent with fair competition and advantageous to the school district.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1029. Receipt, Opening and Recording of Bids

- A. A school district shall maintain a record of bids and modifications received for each invitation for bids, shall record the time and date when each bid or modification is received, and shall store each unopened bid or modification in a secure place until the bid due date and time.
 - 1. If required to confirm a vendor's inquiry regarding receipt of its bid prior to the due date and time, a school district may open a bid to identify the vendor. If this occurs, the school district shall record the reason for opening the bid, the date and time the bid was opened, and the solicitation number. The school district shall secure the bid and retain it for public opening.
 - 2. One or more witnesses shall be present for the opening of a bid under subsection (A)(1).
- B. Bids and modifications shall be opened publicly at the date, time and place designated in the invitation for bids in the presence of one or more witnesses. The name of each bidder, the amount of each bid, and other relevant information deemed appropriate by the school district shall be recorded. The person opening the bids and all witnesses shall sign the record.
 - 1. The record created in subsection (B) shall be available for public inspection.
 - 2. The bids shall not be open for public inspection until after a contract is awarded.
- C. If correction or withdrawal of a bid after bid opening is permitted or denied under subsections (D), (F) and (J), the school district shall prepare a written determination showing that the relief was permitted or denied under this Section.
- D. After bid opening and before award, the school district shall either waive minor informalities in a bid or allow the bidder to correct them if correction is advantageous to the school district.
- E. After bid opening and before award, the bid may not be withdrawn and shall be corrected to the intended bid if a bid mistake and the intended bid are evident on the face of the bid.
- F. After bid opening and before award, the school district may permit a bidder to withdraw a bid if:
 - 1. A nonjudgmental mistake is evident on the face of the bid but the intended bid is not evident; or
 - 2. The bidder establishes by clear and convincing evidence that a nonjudgmental mistake was made.
- G. If correction or withdrawal of a bid after bid opening is permitted or denied under subsections (D), (F) and (J), the school district shall prepare a written determination showing that the relief was permitted or denied under this Section.
- H. Notwithstanding other provisions of this Section, after bid opening and before award, no corrections in bid prices or other provisions of bids prejudicial to the interest of the school district or fair competition shall be permitted.
- I. If a mistake in the bid is discovered after the award, the bidder may request withdrawal or correction in writing and shall include all of the following in the written request:
 - 1. An explanation of the mistake and any other relevant information;
 - 2. A request for correction including the corrected bid or a request for withdrawal; and
 - 3. The reasons why correction or withdrawal is consistent with fair competition and advantageous to the school district.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1030. Mistakes in Bids

- A. If an apparent mistake in a bid, relevant to the award determination, is discovered after opening and before award, a school district shall contact the bidder for written confirmation of the bid. If the bidder fails to act, the bidder is considered nonresponsive and the school district shall place a written determination that the bidder is nonresponsive in the procurement file. The school district shall designate a time-frame within which the bidder shall either:
 - 1. Confirm that no mistake was made and assert that the bid stands as submitted; or
 - 2. Acknowledge that a mistake was made and include all of the following in a written response:
 - a. An explanation of the mistake and any other relevant information;
 - b. A request for correction including the corrected bid or a request for withdrawal; and
- B. Based on the considerations of fair competition and the best interest of the school district, the school district may take one of the following actions regarding a bid mistake discovered after the award:
 - 1. Allow correction of the mistake, if the corrected bid amount is less than the next lowest bid;
 - 2. Cancel all or part of the award; or
 - 3. Deny correction or withdrawal.
- C. After cancellation of all or part of an award in accordance with subsection (J)(2), if the bid acceptance period has not expired, the school district may award all or part of the contract to the next lowest responsible and responsive bidder, based on the considerations of fair competition and the best interest of the school district.

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Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year cor-
rected in Supp. 18-2.

R7-2-1031. Bid Evaluation and Award

- A.** As provided in subsection (C), the contract or contracts shall be awarded to the lowest responsible and responsive bidder or bidders whose bid or bids conform in all material respects to the requirements and evaluation criteria set forth in the invitation for bids. No criteria may be used in bid evaluation that are not set forth in the invitation for bids. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the lowest bidder.
- B.** A product acceptability evaluation shall be conducted solely to determine whether a bidder's product is acceptable as set forth in the invitation for bids and not whether one bidder's product is superior to another bidder's product. Any bidder's offering that does not meet the acceptability requirements shall be rejected as nonresponsive.
- C.** The school district shall award the contract to the single lowest responsible and responsive bidder for all materials or services, except that the school district may make a multiple award if the invitation for bids included notification that multiple contracts may be awarded, the school district's basis for determining whether to award multiple contracts, and the criteria for selecting vendors for the multiple contracts.
- D.** Before making a multiple award, the school district shall determine in writing that a multiple award is necessary and is advantageous to the school district and shall establish procedures for the use of the multiple awarded contracts to ensure that purchases are made from the contracts determined by the school district to offer the lowest cost in satisfying the school district's requirements. A multiple award shall be limited to the least number of suppliers the school district determines in writing to be necessary to meet the school district's requirements, and may include the following types of awards:
 - 1. Awards to the lowest responsible and responsive bidder for individual line items, groups of line items, or categories.
 - 2. Awards to the lowest responsible and responsive bidders for similar or identical line items, groups of line items, or categories only if the school district determines in writing that such awards are necessary to obtain the required quantity or delivery, and the awards are limited to the least number of bidders necessary to meet the school district's requirements.
 - 3. An incremental award only if the school district determines in writing that such an award is necessary to obtain the required quantity or delivery. The award shall be made to the lowest responsible and responsive bidder, then the next lowest responsible and responsive bidder or bidders until the total definite quantity required is awarded.
 - 4. A regional award to the lowest responsible and responsive bidder in designated regions or locations only if the school district determines in writing that such an award is necessary to obtain the required quantity or delivery over widely scattered locations or a particular requirement is of a local nature.
- E.** The procurement file shall contain the basis on which the award or awards are made.
- F.** The school district shall not modify evaluation criteria after the bid due date and time.
- G.** A school district may appoint an evaluation committee to assist in the evaluation of bids. If bids are evaluated by an evaluation committee, the evaluation committee shall prepare an evaluation report for the school district. The school district may:
 - 1. Accept the findings of the evaluation committee;
 - 2. Request additional information from the evaluation committee; or
 - 3. Reject the findings of the evaluation committee, in which case the school district shall appoint a new evaluation committee to evaluate the existing bids or cancel the solicitation.
- H.** The school district may contact a bidder to confirm the school district's understanding of the bid. Such contact shall be prior to award. The school district shall obtain written confirmation from the bidder and shall retain the confirmation in the procurement file.
- I.** The contract or contracts shall be awarded during the bid acceptance period. If the bid acceptance period expires prior to award of the contract or contracts, the procurement shall be canceled, unless the bid acceptance period is extended in accordance with subsection (J).
- J.** To extend the bid acceptance period, a school district shall notify all bidders in writing of an extension and request written concurrence from each bidder. To be eligible for a contract award, a bidder shall submit a written concurrence to the extension. The school district shall reject a bid as nonresponsive if written concurrence is not provided as requested.
- K.** A contract may not be awarded to a bidder submitting a higher quality item than that designated in the invitation for bids unless the bidder is also the lowest bidder as determined under subsection (A). This Section does not permit negotiations with any bidder, except as provided in subsection (L).
- L.** If all bids for a construction project exceed available monies as certified by the school district, and the lowest responsive bid from a responsible bidder does not exceed such monies by more than five percent, the school district may in situations in which time or economic considerations preclude resolicitation of work of a reduced scope, negotiate an adjustment of the bid price, including changes in the bid requirements, with the lowest responsible and responsive bidder, to bring the bid within the amount of available monies.
- M.** If there are two or more low responsive bids from responsible bidders that are identical in price and that meet all the requirements and criteria set forth in the invitation for bids, award shall be made by drawing lots in the presence of one or more witnesses.
- N.** A record showing the basis for determining the successful bidder shall be retained in the procurement file.
- O.** The school district shall notify all bidders of an award.
- P.** After a contract is awarded, the school district shall return any bid security provided by unsuccessful bidders.
- Q.** Upon execution of the contract, if performance and payment bonds were not required, or upon receipt of the specified bonds, if performance and payment bonds were required, the school district shall return any bid security provided by the successful bidder.
- R.** Within 10 days after a contract is awarded, the school district shall make the procurement file, including all bids, available for public inspection.
 - 1. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable docu-

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ments with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection.

2. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective October 22, 1992 (Supp. 92-4).

Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1032. Only One Bid Received

If only one responsive bid is received in response to an invitation for bids, an award may be made to the single bidder if the school district determines in writing that the bidder is responsible, that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for resolicitation. Otherwise the bid may be rejected in whole or in part as may be specified in the invitation for bids if it is advantageous to the school district. The reasons for cancellation or rejection shall be made part of the procurement file and:

1. New bids may be solicited;
2. The proposed procurement may be canceled; or
3. If the school district determines that the need for the material or service continues and the acceptance of the one bid is not advantageous to the school district, the procurement may then be conducted as follows:
 - a. The school district may follow the sole source procurement procedure if R7-2-1053 applies.
 - b. Notwithstanding any other provision of Articles 10 and 11, the school district may make emergency procurements pursuant to R7-2-1055 and R7-2-1056 if an emergency condition exists pursuant to R7-2-1055.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1033. Simplified School Construction Procurement Program

- A. The simplified school construction procurement program is applicable to construction projects which do not exceed the maximum amount specified in A.R.S. § 15-213(A)(2).
- B. To participate in the simplified school construction procurement program:
 1. Each county school superintendent shall maintain a prospective bidders list of persons who desire to receive solicitations to bid on school district construction projects within that county. The prospective bidders list shall be maintained in accordance with R7-2-1023;
 2. The prospective bidders list maintained pursuant to subsection (B)(1) shall be available for public inspection;
 3. A performance bond and a payment bond, as required by A.R.S. § 34-222, shall be provided for contracts for construction by contractors;
 4. All bids for construction shall be opened at a public opening and the bids shall remain confidential until the public opening;

5. All persons desiring to submit bids shall be treated equitably and the information related to each project shall be available to all eligible persons; and
6. Competition for construction projects under the simplified school construction procurement program shall be encouraged to the maximum extent possible. School districts shall submit information on each project to all persons listed on the prospective bidders list maintained by the county school superintendent pursuant to subsection (B)(1).

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4).

Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1034. Reserved**PART V. MULTISTEP SEALED BIDDING****R7-2-1035. Multistep Sealed Bidding**

- A. The multistep sealed bidding method may be used if:
 1. Available specifications or purchase descriptions are not sufficiently complete to permit full competition without technical evaluations and discussions to ensure mutual understanding between each bidder and the school district;
 2. Definite criteria exist for evaluation of technical offers;
 3. More than one technically qualified source is expected to be available; and
 4. A fixed-price contract will be used.
- B. The multistep sealed bidding method may not be used for construction contracts.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1036. Phase 1 of Multistep Sealed Bidding

- A. Multistep sealed bidding shall be initiated by the issuance of an invitation to submit technical offers. The invitation to submit technical offers shall be issued according to R7-2-1022 and R7-2-1024(A).
- B. The invitation to submit technical offers shall include the following information:
 1. Notice that the procurement shall be conducted in two phases;
 2. The best description of the material or services desired;
 3. A statement that unpriced technical offers only shall be considered in phase 1;
 4. The requirements for the technical offers, such as drawings and descriptive literature;
 5. The criteria for evaluating technical offers;
 6. The due date and time for receipt of technical offers and the location where technical offers shall be delivered or mailed;
 7. A statement that discussions may be held;
 8. A statement that only bids based on technical offers determined to be acceptable in phase 1 shall be considered for award;
 9. The name of the district representative or district representatives;

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10. Notice that all technical offers submitted will be made available for public inspection following the award of the contract; and
 11. The date, time and location of any pre-technical offer conference.
- C. A school district may conduct a pre-technical offer conference open to all persons. If a pre-technical offer conference is conducted, it shall be not less than seven days before the technical offer due date and time, unless the school district makes a written determination that the specific needs of the procurement justify a shorter time. Statements made during the pre-technical offer conference shall not be considered modifications to the invitation to submit technical offers.
- D. The invitation to submit technical offers may be amended before or after the submission of the unpriced technical offers. Amendments to an invitation to submit technical offers shall be so identified and the school district shall ensure that the amendments are distributed or made available to all persons to whom the original invitation to submit technical offers was distributed or made available. The school district shall make a copy of the amendments to an invitation to submit technical offers available for public inspection at the school district office. If the school district posted the invitation to submit technical offers or a notice of the availability of an invitation to submit technical offers on a designated site on the Internet, then the school district shall post any amendments to the invitation to submit technical offers on the same designated site on the Internet. The school district shall also do one or more of the following:
- a. Distribute the amendment, by any method reasonably calculated to ensure delivery, to all persons to whom the invitation to submit technical offers was distributed;
 - b. Make the amendment available and issue a notice of amendment which contains instructions for obtaining copies of the amendment. The notice of amendment shall be distributed, by any method reasonably calculated to ensure delivery, to all persons to whom the invitation to submit technical offers was distributed. Upon receipt of such notice of amendment, it is the responsibility of the person to obtain the amendment.
2. Amendments shall be issued within a reasonable time before technical offer opening to allow persons to consider them in preparing their technical offers. If the school district determines that the technical offer due date and time does not permit sufficient time for technical offer preparation, the technical offer due date and time shall be extended in the amendment or, if necessary, telephone, facsimile, email, or other communications methods, and confirmed in the amendment.
3. A person shall acknowledge receipt of an amendment in the manner specified in the invitation to submit technical offers or the amendment on or before the technical offer due date and time.
- E. Unpriced technical offers shall not be opened publicly, but shall be opened in the presence of two or more district officials designated by the school district. The contents of unpriced technical offers shall not be disclosed to unauthorized persons. Late technical offers shall not be considered except under the circumstances set forth in R7-2-1028(B).
- F. Unpriced technical offers shall be evaluated solely in accordance with the criteria set forth in the invitation to submit technical offers and shall be determined to be either acceptable for further consideration or unacceptable. A determination that an unpriced technical offer is unacceptable shall be in writing, state the basis for the determination and be retained in the procurement file. If the school district determines a person's unpriced technical offer is unacceptable, the school district shall notify that person of the determination and that the person shall not be afforded an opportunity to amend the technical offer.
- G. The school district may conduct discussions with any person who submits an acceptable or potentially acceptable technical offer. During discussions, the school district shall not disclose any information derived from one unpriced technical offer to any other person. After discussions, the school district shall establish a due date and time for receipt of final technical offers and shall notify, in writing, persons submitting acceptable or potentially acceptable technical offers of the due date and time. The school district shall keep a detailed record of all discussions.
- H. At any time during phase 1, technical offers may be withdrawn.
- I. A copy of the invitation to submit technical offers shall be made available for public inspection at the school district office.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1037. Phase 2 of Multistep Sealed Bidding

- A. Upon completion of phase 1, the school district shall issue an invitation for bids and conduct phase 2 under R7-2-1024 through R7-2-1032 as a competitive sealed bidding procurement, except that the invitation for bids shall be issued only to persons whose technical offers were determined to be acceptable in phase 1.
- B. Unpriced technical offers of unsuccessful persons shall be open to public inspection after contract award, except to the extent set forth in R7-2-1006.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1038. Reserved**R7-2-1039. Reserved****R7-2-1040. Reserved****PART VI. COMPETITIVE SEALED PROPOSALS****R7-2-1041. Competitive Sealed Proposals**

- A. This Section does not apply to procurement of services of clergy, certified public accountants, physicians, dentists, and legal counsel, construction, construction services, or specified professional services. Services of clergy, certified public accountants, physicians, dentists and legal counsel shall be procured pursuant to R7-2-1061 through R7-2-1068. Construction and construction services shall be procured as provided in R7-2-1100. Specified professional services shall be procured pursuant to R7-2-1117 through R7-2-1123.
- B. As an alternative to competitive sealed bidding, competitive sealed proposals may be used in order to:
1. Use a contract other than a fixed-price type;

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2. Conduct oral or written discussions with offerors concerning technical and price aspects of their proposals;
 3. Afford offerors an opportunity to revise their proposals;
 4. Compare the different price, quality, and contractual factors of the proposals submitted; or
 5. Award a contract in which price is not the determining factor.
- C. A school district may conduct competitive sealed proposals electronically, provided that the electronic competitive sealed proposals process complies with the requirements of R7-2-1041 through R7-2-1050. A determination that conducting competitive sealed proposals electronically is advantageous to the school district shall be in writing and retained in the procurement file.
- D. When using electronic competitive sealed proposals, the school district shall determine whether electronic submission of proposals is required or optional and state the electronic submission requirements in the public notice and the request for proposals.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective March 21, 1991 (Supp. 91-1).

Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1042. Request for Proposals

- A. Competitive sealed proposals shall be solicited through a request for proposals. A request for proposals shall include the following:
1. Instructions to offerors, including:
 - a. Instructions and information to offerors concerning proposal submission requirements, including the means for proposal submission such as, hand delivery, U.S. mail, electronic mail, facsimile, or other acceptable means, the proposal due date and time, the address of the office at which proposals or other documents are to be received, the proposal acceptance period, and any other special information or requirements;
 - b. The manner by which the offeror is required to acknowledge amendments;
 - c. Notification of whether the school district may award multiple contracts and the school district's basis for determining whether to award multiple contracts. If multiple contracts may be awarded, the request for proposals shall include the criteria the school district will use for selecting vendors for each contract under the multiple award, including as applicable, whether contracts will be awarded by individual line items, groups of line items, or categories, whether contracts will be awarded incrementally, and whether contracts will be awarded by designated regions or locations;
 - d. The minimum information required in the proposal;
 - e. The specific requirements for designating trade secrets and other proprietary data as confidential;
 - f. Any specific responsibility criteria;
 - g. Whether the offeror is required to submit samples, descriptive literature, and technical data with the proposal;
 - h. Evaluation factors and the relative importance of price and other evaluation factors. Specific numerical weighting is not required;
 2. Specifications, including:
 - a. The purchase description, delivery or performance schedule, and inspection and acceptance requirements, as applicable;
 - b. If a brand name or equal specification is used, instructions that the use of a brand name is for the purpose of describing the standard of quality, performance, and other characteristics needed to meet the school district's requirements and is not intended to limit or restrict competition. The solicitation shall state that products substantially equivalent to those brands designated shall qualify for consideration; and
 - c. Any other specification requirements specific to the solicitation.
 3. Contract terms and conditions, including:
 - a. Warranty and bonding or other security requirements, as applicable;
 - b. The length of the contract and whether the contract will include an option for extension; and
 - c. Any other contract terms and conditions.
- i. Procurement of earth-moving, material-handling, road maintenance and construction equipment shall include as evaluation factors the total life cycle cost including residual value of the earth-moving, material-handling, road maintenance and construction equipment and, to the extent practicable, the cost of outright purchase;
 - j. A statement specifying where documents incorporated by reference may be obtained;
 - k. A statement that the school district may cancel the solicitation or reject a proposal in whole or in part if deemed advantageous to the school district;
 - l. Notice that the offeror is required to certify that submission of the proposal did not involve collusion or other anticompetitive practices and that the offeror has taken steps and exercised due diligence to ensure that no violation of A.R.S. § 15-213(O) has occurred;
 - m. Notice that the offeror is required to declare whether the offeror has been debarred, suspended, or otherwise lawfully prohibited from participating in any public procurement activity, including, but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body;
 - n. Any bid security required;
 - o. Any cost or pricing data required;
 - p. The type of contract to be used;
 - q. A statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being awarded a contract;
 - r. The date, time and location of any pre-proposal conference;
 - s. The name of the district representative or district representatives;
 - t. A description of all information that will be recorded and available for public inspection at proposal opening;
 - u. Notice that all information and proposals submitted by offerors will be made available for public inspection following the award of the contract; and
 - v. Whether the school district will consider partial proposals for award of a contract.

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4. When using electronic competitive sealed proposals, the request for proposals shall specify whether electronic submission of proposals is required or optional, the electronic submission requirements, and the electronic signature requirements.
- B. A request for proposals shall be issued at least 14 days before the due date and time for receipt of proposals unless a shorter time is determined necessary by the school district. If a shorter time is necessary, the school district shall document the specific reasons in the procurement file.
- C. Notice of the request for proposals shall be given by the school district pursuant to R7-2-1022 and R7-2-1024(C).
- D. Before submission of initial proposals, amendments to requests for proposals shall be made in accordance with R7-2-1026. After submission of proposals, amendments may be made in accordance with R7-2-1036(D).
- E. A copy of the request for proposals shall be made available for public inspection at the school district office.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended effective October 22, 1992 (Supp. 92-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1043. Pre-proposal Conferences

Pre-proposal conferences may be convened in accordance with R7-2-1025.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1044. Late Proposals, Modifications or Withdrawals

- A. An offeror may modify or withdraw a proposal in writing at any time before proposal opening if the modification or withdrawal is received before the proposal due date and time at the location designated in the request for proposals for receipt of proposals.
- B. Withdrawal of a proposal after proposal opening is permissible only in accordance with R7-2-1049.
- C. A proposal received after the due date and time for receipt of proposals is late and shall not be considered except under the circumstances set forth in R7-2-1028(B). A best and final offer received after the due date and time for receipt of best and final offers is late and shall not be considered except under the circumstances set forth in R7-2-1028(B).
- D. A modification of a proposal received after the due date and time for receipt of proposals is late and shall not be considered except under the circumstances set forth in R7-2-1028(B).
- E. A modification of a proposal resulting from an amendment issued after the due date and time for receipt of proposals or a modification of a proposal resulting from discussions shall be considered if received by the due date and time set forth in the amendment or by the due date and time for submission of best and final offers, whichever is applicable. If the modifications described in this subsection are received after the respective date and time described in this subsection, the modifications are late and shall not be considered except under the circumstances set forth in R7-2-1028(B).
- F. Upon receiving a late proposal, late modification, or late withdrawal, the school district shall record the time and date of receipt and promptly send written notice of late receipt to the offeror. The school district may discard the document 30 days

after the date on the notice unless the offeror requests and provides funding for the document to be returned.

- G. All documents concerning acceptance of a late proposal, late modification, or late withdrawal shall be retained in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1045. Receipt, Opening and Recording of Proposals

- A. A school district shall maintain a record of proposals and modifications received for each solicitation, shall record the time and date when each proposal or modification is received, and shall store each unopened proposal or modification in a secure place until the proposal due date and time.
 1. If required to confirm a vendor's inquiry regarding receipt of its proposal prior to the due date and time, a school district may open a proposal to identify the vendor. If this occurs, the school district shall record the reason for opening the proposal, the date and time the proposal was opened, and the solicitation number. The school district shall secure the proposal and retain it for public opening.
 2. One or more witnesses shall be present for the opening of a proposal under subsection (A)(1).
- B. Proposals and modifications shall be opened publicly at the date, time and place designated in the request for proposals in the presence of one or more witnesses. The name of each offeror and other relevant information deemed appropriate by the school district shall be recorded. The person opening the proposals and all witnesses shall sign the record. All other information contained in the proposals shall be confidential so as to avoid disclosure of contents prejudicial to competing offerors during the evaluation of proposals. Proposals and modifications shall be shown only to school district personnel having a legitimate interest in them or persons assisting the school district in evaluation.
 1. The record created in subsection (B) shall be available for public inspection.
 2. The proposals shall not be open for public inspection until after a contract is awarded.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
 Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1046. Evaluation of Proposals

- A. Evaluation of proposals and best and final offers shall be based on the evaluation factors set forth in the request for proposals. Specific numerical weighting may be used.
 1. If only one proposal is received in response to a request for proposals, the school district shall proceed according to R7-2-1032.
 2. The school district shall not modify evaluation factors or the relative importance of price and other evaluation factors after the proposal due date and time.
 3. A school district may appoint an evaluation committee to assist in the evaluation of proposals. If proposals are evaluated by an evaluation committee, the evaluation com-

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mittee shall prepare an evaluation report for the school district. The school district may:

- a. Accept the findings of the evaluation committee;
 - b. Request additional information from the evaluation committee; or
 - c. Reject the findings of the evaluation committee, in which case the school district shall appoint a new evaluation committee to evaluate the existing proposals or cancel the solicitation.
- B.** As part of its initial evaluation, the school district may contact an offeror to confirm the school district's understanding of the proposal. Such contact shall be prior to the determination that a proposal is acceptable for further consideration. The school district shall obtain written confirmation from the offeror and shall retain the confirmation in the procurement file.
- C.** The contract or contracts shall be awarded during the proposal acceptance period. If the proposal acceptance period expires prior to award of the contract or contracts, the procurement shall be canceled, unless the proposal acceptance period is extended in accordance with subsection (D).
- D.** To extend the proposal acceptance period, a school district shall notify all offerors in writing of an extension and request written concurrence from each offeror. To be eligible for a contract award, an offeror shall submit a written concurrence to the extension. The school district shall reject a proposal as nonresponsive if written concurrence is not provided as requested.
- E.** For the purpose of conducting discussions, the school district shall determine that proposals are either acceptable for further consideration or unacceptable.
- F.** A proposal is acceptable if it is determined to be reasonably susceptible of being awarded a contract in accordance with the evaluation criteria and a comparison and ranking of original proposals. Proposals to be considered reasonably susceptible of being awarded a contract shall, at a minimum, demonstrate the following:
1. Affirmative compliance with mandatory requirements designated in the solicitation.
 2. An ability to deliver goods or services on terms advantageous to the school district sufficient to be entitled to continue in the competition.
 3. That the proposal is technically acceptable as submitted.
- G.** A proposal is unacceptable if it is determined to not be reasonably susceptible of being awarded a contract. Those proposals that have no reasonable chance for award when compared on a relative basis with more highly ranked proposals will not be reasonably susceptible of being awarded a contract. The determination shall be in writing, state the basis for the determination and be retained in the procurement file. When there is doubt as to whether a proposal is reasonably susceptible of being awarded a contract, the proposal shall be considered acceptable.
- H.** If the school district determines an offeror's proposal is unacceptable, the school district shall notify that offeror of the determination and that the offeror shall not be afforded an opportunity to amend its proposal.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1047. Discussions with Individual Offerors

- A.** Discussions may be conducted with responsible offerors who submit proposals determined to be acceptable for further consideration. Discussions may be conducted to assure full understanding of the proposal in order to obtain the most advantageous contract for the school district based upon the requirements and evaluation factors in the request for proposals. Offerors shall be afforded fair treatment with respect to any opportunity for discussion and revision of proposals.
- B.** A school district shall establish procedures and schedules for conducting discussions. The school district shall ensure there is no disclosure of one offeror's price or any information derived from competing proposals to another offeror.
- C.** Discussions may be conducted orally or in writing. If oral discussions are conducted, the offeror shall confirm the discussions in writing.
- D.** If discussions are conducted, they shall be conducted with all offerors who submit proposals determined to be acceptable for further consideration. Proposals may not be revised during discussions.
- E.** The school district shall keep a detailed record of all discussions in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1048. Best and Final Offers

- A.** Only if discussions are conducted pursuant to R7-2-1047, the school district shall issue a written request for best and final offers to all offerors who submitted proposals determined to be acceptable pursuant to R7-2-1046(E). The request shall set forth the date, time and place for the submission of best and final offers.
- B.** Best and final offers shall be requested only once, unless the school district makes a determination that it is advantageous to the school district to conduct further discussions or change the school district's requirements.
- C.** The request for best and final offers shall inform offerors that, if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final offer.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1049. Mistakes in Proposals

- A.** Prior to the due date and time for receipt of best and final offers, any offeror may withdraw a proposal in writing or correct any mistake by modifying the proposal.
- B.** After receipt of best and final offers, an offeror may withdraw a proposal or correct a mistake in accordance with R7-2-1030.
- C.** The offeror shall withdraw or correct its proposal in writing. The school district shall retain the written withdrawal or correction in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1050. Contract Award

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- A. As provided in subsection (B), the school district shall award a contract or contracts to the responsible offeror or offerors whose proposal or proposals are determined in writing to be most advantageous to the school district based on the factors set forth in the request for proposals. No factors or criteria may be used in proposal evaluation that are not set forth in the request for proposals. The amount of any applicable transaction privilege or use tax of a political subdivision of this state is not a factor in determining the most advantageous proposal.
- B. The school district shall award the contract to the offeror whose proposal is deemed most advantageous to the school district for all materials or services, except that the school district may make a multiple award if the request for proposals included notification that multiple contracts may be awarded, the school district's basis for determining whether to award multiple contracts, and the criteria for selecting vendors for the multiple contracts.
- C. Before making a multiple award, the school district shall determine in writing that a multiple award is necessary and is advantageous to the school district and shall establish procedures for the use of the multiple awarded contracts to ensure that purchases are made from the contracts determined by the school district to be most advantageous to the school district in satisfying the school district's requirements. A multiple award shall be limited to the least number of contracts the school district determines in writing to be necessary to meet the school district's requirements, and may include the following types of awards:
1. Awards to the offerors most advantageous to the school district for individual line items, groups of line items, or categories.
 2. Awards to the offerors most advantageous to the school district for similar or identical line items, groups of line items, or categories only if the school district determines in writing that such awards are necessary to obtain the required quantity or delivery, and the awards are limited to the least number of offerors necessary to meet the school district's requirements.
 3. An incremental award only if the school district determines in writing that such an award is necessary to obtain the required quantity or delivery. The award shall be made to the offeror whose proposal is determined to be the most advantageous to the school district, then to the offeror with the next most advantageous proposal, etc., until the total definite quantity required is reached.
 4. Regional awards to the offerors most advantageous to the school district in designated regions or locations only if the school district determines in writing that such awards are necessary to obtain the required quantity or delivery over widely scattered locations or a particular requirement is of a local nature.
- D. The school district shall notify all offerors of an award.
- E. The procurement file shall contain the basis on which the award or awards are made.
- F. After a contract is awarded, the school district shall return any bid security provided by the unsuccessful offerors.
- G. Upon execution of the contract, if performance and payment bonds were not required, or upon receipt of the specified bonds, if performance and payment bonds were required, the school district shall return any bid security provided by the successful offeror.
- H. Within 10 days after a contract is awarded, the school district shall make the procurement file, including all proposals, available for public inspection.

1. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection.
2. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective October 22, 1992 (Supp. 92-4).

Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1051. Reserved**R7-2-1052. Reserved****PART VII. SOLE SOURCE PROCUREMENTS****R7-2-1053. Sole Source Procurements**

- A. A contract may be awarded for a material, service or construction item without competition if the governing board determines in writing that there is only one source for the required material, service or construction item. The school district may require the submission of cost or pricing data in connection with an award under this Section. Sole source procurement shall be avoided, except when no reasonable alternative source exists.
- B. The governing board's determination shall be made before entering the contract and shall include the following information:
1. A description of the procurement need and the reason why there is only a single source available or why no reasonable alternative exists;
 2. The name of the proposed supplier;
 3. The duration and estimated total dollar value of the proposed procurement;
 4. Documentation that the price submitted is fair and reasonable; and
 5. A description of efforts made to seek other sources.
- C. The school district shall, to the extent practicable, negotiate with the single supplier a contract advantageous to the school district.
- D. A copy of the written determination of the basis for the sole source procurement and any cost or pricing data shall be retained in the procurement file by the school district. The school district shall keep a record of all sole source procurements pursuant to R7-2-1086.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1054. Reserved**PART VIII. EMERGENCY PROCUREMENTS****R7-2-1055. Emergency Procurement Procedure**

- A. An emergency condition creates an immediate and serious need for materials, services, or construction that cannot be met through normal procurement methods and seriously threatens the functioning of the school district, the preservation or pro-

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tection of property or the public health, welfare or safety. Some examples of emergency conditions are floods, epidemics, or other natural disasters, riots, fire or equipment failures.

- B. An emergency procurement shall be limited to the materials, services, or construction necessary to satisfy the emergency need.
- C. The governing board shall designate a board member or members or school district official or officials authorized to make emergency procurements, and may prescribe limiting factors including maximum spending limits with regard to emergency procurements.
- D. The designated board member or district official shall:
 1. Select the contractor to perform the emergency work with as much competition as practicable under the circumstances;
 2. Obtain a price that is fair and reasonable under the circumstances;
 3. Prepare a written statement documenting the basis for the emergency, the basis for the selection of the particular contractor, and why the price paid was fair and reasonable. The statement shall be signed by the designated governing board member or district official authorized to initiate emergency procurements; and
 4. Convene a meeting of the governing board to approve the emergency procurement, unless the nature of the emergency requires that the procurement be made prior to governing board approval.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1056. Emergency Procurement Reporting

- A. If the nature of the emergency does not permit convening a meeting of the governing board to approve the emergency procurement, the designated board member or district official who makes an emergency procurement shall, at the first scheduled governing board meeting following the procurement, provide to the governing board a report concerning the emergency procurement including the following information:
 1. The written statement documenting the basis for the emergency, the basis for the selection of the particular contractor, and why the price paid was fair and reasonable; and
 2. Why it was impracticable to convene a meeting of the governing board.
- B. The information and documentation required in this Section shall be included in the procurement file.
- C. The school district shall keep a record of all emergency procurements pursuant to R7-2-1086.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1057. Repealed**Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

PART IX. REQUEST FOR INFORMATION

R7-2-1058. Request for Information

- A. The school district may issue a request for information to obtain data about services or materials available to meet a specific need. Notice of the request for information shall be issued in accordance with R7-2-1024(A) and R7-2-1024(C).
- B. Responses to a request for information are not offers and cannot be accepted to form a binding contract.
- C. Information contained in a response to a request for information may be withheld from public inspection until the subsequent procurement is awarded or terminated, two years from the date of the vendor's response, or upon commencement of a new procurement, whichever occurs first.
- D. There is no required format to be used for requests for information.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1059. Reserved**R7-2-1060. Reserved**

PART X. SERVICES OF CLERGY, CERTIFIED PUBLIC ACCOUNTANTS, PHYSICIANS, DENTISTS AND LEGAL COUNSEL

R7-2-1061. Competitive Selection Procedures for Clergy, Certified Public Accountants, Physicians, Dentists and Legal Counsel

- A. The services of clergy, certified public accountants, physicians, dentists, or legal counsel shall be procured in accordance with R7-2-1061 through R7-2-1068, except as authorized pursuant to R7-2-1002, R7-2-1053, or R7-2-1055.
- B. Pursuant to A.R.S. § 15-914, contracts for financial and compliance audits and completed audits shall be approved by the Auditor General as provided in A.R.S. § 41-1279.21.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1062. Statement of Qualifications

- A. If the services specified in R7-2-1061(A) are needed, persons may submit and the school district may solicit persons engaged in providing the services to submit statements of qualifications on a prescribed form that shall include the following information:
 1. Technical education and training;
 2. General or special experience, certifications, licenses, and memberships in professional associations, societies, or boards;
 3. An expression of interest in providing a particular service; and
 4. Any other pertinent information requested by the school district.
- B. Persons who have submitted statements of qualifications may amend those statements at any time by filing a new statement.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R.

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1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1063. Request for Proposals

- A. Adequate notice of the need for services specified in R7-2-1061(A) shall be given by the school district through a request for proposals. The request for proposals shall be in accordance with R7-2-1042.
- B. In addition to providing notice of the request for proposals pursuant to R7-2-1022 and R7-2-1024(C), the school district shall provide notice to all persons who submitted statements of qualifications for the particular services solicited.
- C. If required to evaluate proposals, the request for proposals shall require all offerors who have not already done so to submit a statement of qualifications pursuant to R7-2-1062.
- D. Pre-proposal conferences may be convened in accordance with R7-2-1025.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1064. Receipt of Proposals

Proposals shall be received and opened in accordance with R7-2-1045. Late proposals, modifications, or withdrawals shall be considered in accordance with R7-2-1044.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1065. Evaluation of Proposals

Proposals shall be evaluated in accordance with R7-2-1046.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1066. Discussions with Individual Offerors

- A. As part of its initial evaluation, the school district may contact an offeror to confirm the school district's understanding of the proposal. Such contact shall be prior to the determination that a proposal is acceptable for further consideration. The school district shall obtain written confirmation from the offeror and shall retain the confirmation in the procurement file.
- B. The school district may conduct discussions with any offeror in accordance with R7-2-1047. If such discussions are conducted, the school shall issue a request for best and final offers pursuant to R7-2-1048.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1067. Mistakes in Proposals

Mistakes in proposals shall be addressed pursuant to R7-2-1049.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1068. Contract Award

- A. As provided in subsection (B), the school district shall award a contract or contracts to the responsible offeror or offerors best qualified based on the evaluation factors set forth in the

request for proposal and after making a written determination that the price is fair and reasonable. The school district shall not award a contract based solely on price. No factors or criteria may be used in proposal evaluation that are not set forth in the request for proposals.

- B. The school district shall award the contract to the best qualified offeror whose price is determined to be fair and reasonable for all services, except that the school district may make a multiple award if the request for proposals included notification that multiple contracts may be awarded, the school district's basis for determining whether to award multiple contracts, and the criteria for selecting vendors for the multiple contracts.
- C. Before making a multiple award, the school district shall determine in writing that a multiple award is necessary and is advantageous to the school district and shall establish procedures for the use of the multiple awarded contracts to ensure that purchases are made from the contracts determined by the school district to be most advantageous to the school district in satisfying the school district's requirements. A multiple award shall be limited to the least number of contracts the school district determines in writing to be necessary to meet the school district's requirements, and may include the following types of awards:
 - 1. Award to the best qualified offeror whose price is determined to be fair and reasonable for individual line items, groups of line items, or categories.
 - 2. Awards to the best qualified offerors whose prices are determined to be fair and reasonable for similar or identical line items, groups of line items, or categories only if the school district determines in writing that such awards are necessary to obtain the required quantity or delivery, and the awards are limited to the least number of offerors necessary to meet the school district's requirements.
 - 3. An incremental award only if the school district determines in writing that such an award is necessary to obtain the required quantity or delivery. The award shall be made to the best qualified person whose price is determined to be fair and reasonable, then to the next best qualified person whose price is determined to be fair and reasonable, etc., until the total definite quantity required is reached.
 - 4. Regional awards to the best qualified offerors whose prices are determined to be fair and reasonable in designated regions or locations only if the school district determines in writing that such an award is necessary to obtain the required quantity or delivery over widely scattered locations or a particular requirement is of a local nature.
- D. The school district shall notify all offerors of an award.
- E. The procurement file shall contain the basis on which the award or awards are made.
- F. Within 10 days after a contract is awarded, the school district shall make the procurement file, including all proposals, available for public inspection.
 - 1. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection.
 - 2. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.

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Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

PART XI. GUARANTEED ENERGY CONTRACTS**R7-2-1069. Guaranteed Energy Cost Savings Contracts**

- A.** A school district may procure a guaranteed energy cost savings contract with a qualified provider through competitive sealed proposals in accordance with R7-2-1041 through R7-2-1050.
1. The request for proposal evaluation factors required by R7-2-1042(A)(1)(h) shall include objective criteria for selecting the qualified provider, including the cost of the contract, the energy cost savings, the net projected energy savings, the quality of the technical approach, the quality of the project management plan, the financial solvency of the qualified provider and the experience of the qualified provider with projects of similar size and scope.
 2. Notwithstanding R7-2-1042(A)(1)(h), the request for proposals shall set forth the respective numerical weighting for each evaluation criterion.
 3. At the qualified provider's expense, the proposal shall include an independent third-party validation of cost savings calculations associated with each proposed energy cost savings measure by a licensed, registered professional engineer, with credentials from the national association of energy engineers, who has demonstrated experience in energy analysis. The school district shall approve the selection of the independent third party.
 4. A school district may enter into a guaranteed energy cost savings contract with a qualified provider if the school district determines that the energy savings project will pay for itself within the expected life of the energy cost savings measures implemented (according to the manufacturer's equipment standards), the term of the financial agreement or 25 years, whichever is shortest, if the recommendations in the proposal are followed. Notwithstanding this subsection, a school district may elect to use a shorter capital cost repayment schedule than required pursuant to this subsection. The school district shall retain the cost savings achieved by a guaranteed energy cost savings contract, and these cost savings may be used to pay for the contract and project implementation.
 5. A qualified provider is a person that is experienced in designing, implementing or installing energy cost savings measures, that has a record of established projects or measures of similar size and scope, that has demonstrated technical, operational, financial and managerial capabilities to design and operate cost savings measures and projects and that has the financial ability to satisfy guarantees for energy cost savings.
- B.** In selecting a contractor to perform any construction work related to performing the guaranteed energy cost savings contract, the qualified provider may:
1. Develop and use a prequalification process for contractors.
 2. Require the contractor to demonstrate that the contractor is adequately bonded to perform the work and that the contractor has not failed to perform on a prior job.
- C.** A study shall be performed by the selected qualified provider in order to establish the exact scope of the guaranteed energy cost savings contract, the fixed cost savings guarantee amount and the methodology for determining actual savings. The selected qualified provider will provide the school district with a final study report which validates that the fixed cost savings guarantee amount will meet or exceed the cost savings calculations contained within the original proposal. The study report shall be reviewed and approved by the school district before the actual installation of any equipment. The qualified provider shall transmit a copy of the approved study report to the division of school facilities within the department of administration and the governor's office.
- D.** The information to develop the energy baseline shall be derived from historical energy costs or actual energy measurements or shall be calculated from energy measurements at the facility where energy cost savings measures are to be installed or implemented. The baseline shall be established before the installation or implementation of energy cost savings measures.
- E.** One or more school districts may enter into a financing agreement with a qualified provider or a financial institution, trustee or paying agent for the purchase and installation or implementation of energy cost savings measures. Any required financing may be obtained as part of the original competitive sealed proposal process from the qualified provider, or from a third-party financing institution that is procured separately in accordance with Articles 10 and 11.
- F.** The selected qualified provider shall provide a performance bond in accordance with R7-2-1103(A)(1)(c).
- G.** The selected qualified provider shall make public the information in the subcontractor's bids.
- H.** The guaranteed energy cost savings contract shall include the following:
1. A requirement that, in determining whether the projected energy savings calculations have been met, the energy savings shall be computed by comparing the energy baseline before installation or implementation of the energy cost savings measures with the energy consumed after installation or implementation of the energy cost savings measures. The qualified provider and the school district may agree to make modifications to the energy baseline only for any of the following:
 - a. Changes in utility rates.
 - b. Changes in the number of days in the utility billing cycle.
 - c. Changes in the square footage of the facility.
 - d. Changes in the operational schedule of the facility.
 - e. Changes in facility temperature.
 - f. Significant changes in the weather.
 - g. Significant changes in the amount of equipment or lighting used in the facility.
 - h. Significant changes in the nature or intensity of energy use such as the change of classroom space to laboratory space.
 2. A payment schedule, with payments over a period of not more than the expected life of the energy cost savings measures implemented (according to the manufacturer's equipment standards), the term of the financial agreement or 25 years, whichever is shortest, except a school district may elect to use a shorter capital cost repayment schedule than required pursuant to this subsection.

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3. A requirement that all payments, except obligations on termination of the contract before its expiration, be made pursuant to the terms of the financing agreement.
 4. A written guarantee from the qualified provider that the energy savings will meet or exceed the costs of the energy cost savings measures over the expected life of the energy cost savings measures implemented (according to the manufacturer's equipment standards), the term of the financial agreement or 25 years, whichever is shortest, except a school district may elect to use a shorter capital cost repayment schedule than required pursuant to this subsection. The school district shall ensure that the contractor:
 - a. For the term of the guaranteed energy cost savings contract, prepares a measurement and verification report on an annual basis in addition to an annual reconciliation of savings.
 - b. Reimburses the school district for any shortfall of guaranteed energy cost savings on an annual basis.
 - c. Uses the international performance and measurement and verification protocol standards or the federal energy management program standards to validate the savings guarantee.
 - I. A school district may use a simplified energy performance contract for projects that are less than \$500,000. Simplified energy performance contracts are not required to include an energy savings guarantee and shall comply with all requirements in this Section except for subsections (D), (H)(1)(a) through (h) and (H)(4)(a) through (c).
 - J. This Section does not apply to the construction of new buildings.
 - K. For all projects under this Section, the school district shall report to the division of school facilities within the department of administration and the governor's office:
 1. The name of the project.
 2. The name of the qualified provider.
 3. The total cost of the project.
 4. The expected energy cost savings and relevant escalators.
 5. The agreed-on baseline in the measurement and verification agreement in both kilowatt hours and dollars.
- Historical Note**
- New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1). Amended by final exempt rulemaking at 27 A.A.R. 2342 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).
- R7-2-1070. Guaranteed Energy Production Contracts**
- A. A school district may procure a guaranteed energy production contract with a qualified provider through competitive sealed proposals in accordance with R7-2-1041 through R7-2-1050.
 1. The request for proposals evaluation factors required by R7-2-1042(A)(1)(h) shall include objective criteria for selecting the qualified provider, including the guaranteed energy price, the guaranteed energy production, the quality of the technical approach, the quality of the project management plan, the financial solvency of the qualified provider and the experience of the qualified provider with projects of similar size and scope.
 2. Notwithstanding R7-2-1042(A)(1)(h), the request for proposals shall set forth the respective numerical weighting for each evaluation criterion.
 3. The school district may obtain any required financing as part of the original competitive sealed proposal process from the qualified provider, or from a third-party financing institution procured separately in accordance with Articles 10 and 11.
 4. When submitting a proposal for the installation of equipment, the qualified provider shall include information containing the guaranteed energy production associated with each proposed energy production measure. The school district shall review and approve this guarantee before the actual installation of any equipment. The qualified provider shall transmit a copy of the approved guarantee to the division of school facilities within the department of administration and the governor's office.
 5. A qualified provider is a person that is experienced in designing, implementing or installing energy cost savings measures, that has demonstrated technical, operational, financial and managerial capabilities to design and operate cost savings measures and projects and that has the financial ability to satisfy guarantees for guaranteed energy production, financial solvency and experience for projects of similar size and scope.
 - B. In selecting a contractor to perform any construction work related to performing the guaranteed energy production contract, the qualified provider may:
 1. Develop and use a prequalification process for contractors.
 2. Require the contractor to demonstrate that the contractor is adequately bonded to perform the work and that the contractor has not failed to perform on a prior job.
 - C. A guaranteed energy production contract shall include a guaranteed energy price, and a written guaranteed energy production as measured on an annual basis over the expected life of the energy production measures implemented or within 25 years, whichever is shorter. The school district shall ensure that the contractor:
 1. Prepares a measurement and verification report on an annual basis in addition to an annual reconciliation of any guaranteed energy production shortfall.
 2. Reimburses the school district for any guaranteed energy production shortfall on an annual basis by multiplying any energy production shortfall by either the difference between the guaranteed energy price and the effective utility rate, or an alternative method as mutually agreed on by the school district and the qualified provider.
 - D. The selected qualified provider shall provide a performance bond in accordance with R7-2-1103(A)(1)(c).
 - E. The selected qualified provider shall make public information in the subcontractor's bids.
 - F. For all projects under this Section, the school district shall report to the governor's office and the division of school facilities within the department of administration:
 1. The name of the project.
 2. The name of the qualified provider.
 3. The total cost of the project.
 4. The expected guaranteed energy production and guaranteed energy price, including relevant escalators, if applicable, over the term of the guaranteed energy production contract.
 - G. For all projects under this Section, the school district shall annually report the actual energy production and guaranteed energy price to the division of school facilities within the department of administration no later than October 15.

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Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 27 A.A.R. 2342 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

PART XII. GENERAL CONTRACT REQUIREMENTS**R7-2-1071. Reserved****R7-2-1072. Cancellation of Solicitations; Rejection of Bids and Proposals**

Each solicitation issued by the school district shall state that the solicitation may be canceled or bids or proposals rejected if it is advantageous to the school district.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1073. Cancellation of Solicitation Before the Due Date and Time

- A. Before the due date and time, a solicitation may be canceled in whole or in part if the school district determines that cancellation is advantageous to the school district. The reasons for the cancellation shall be made part of the procurement file.
- B. The school district shall notify in writing all persons to whom the original notice or solicitation was distributed by the school district. Notice shall be in the same manner as the original notice or solicitation, including posting on a designated site on the Internet, as applicable.
- C. The school district shall not open bids or proposals after cancellation. The school district may discard the bid or proposal 30 days after notice is given in accordance with subsection (B), unless the bidder or offeror requests the bid or proposal be returned.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1074. Cancellation of Solicitation After Bid or Proposal Opening and Before Award

- A. After opening of bids or proposals but before award, a solicitation may be canceled in whole or in part if the school district determines that cancellation is advantageous to the school district. The reasons for the cancellation shall be made part of the procurement file.
- B. The school district shall notify bidders or offerors of the cancellation in writing.
- C. The school district shall retain bids or proposals received under the canceled solicitation in the procurement file. If the school district intends to issue another solicitation within six months after cancellation of the procurement, the school district shall withhold the bids or proposals from public inspection. After award of a contract under the subsequent solicitation, the school district shall make bids or proposals submitted in response to the canceled solicitation available for public inspection except for information determined to be confidential pursuant to R7-2-1006.
- D. In the event of cancellation, the school district shall promptly return any bid security provided by a bidder or offeror.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,

effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1075. Rejection of Individual Bids and Proposals

- A. A bid or proposal may be rejected in whole or in part if:
 - 1. The person responding to the solicitation is determined to be nonresponsive pursuant to R7-2-1076;
 - 2. It is nonresponsive or unacceptable;
 - 3. The proposed price is unreasonable; or
 - 4. It is otherwise not advantageous to the school district.
- B. Bidders or offerors whose bids or proposals are rejected shall be notified. A record of the rejection shall be retained in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1076. Responsibility of Bidders and Offerors

- A. The school district shall make a written determination that a bidder or offeror is responsible before awarding a contract to that bidder or offeror.
- B. If the school district determines a bidder or offeror is nonresponsive, the school district shall promptly send a determination to the bidder or offeror stating the basis for the determination. The school district shall file a copy of the determination in the procurement file.
- C. A finding of nonresponsibility shall not be construed as a violation of the rights of any person.
- D. If the school district included specific responsibility criteria in the solicitation, such criteria shall be considered in determining if a bidder or offeror is responsible.
- E. Factors to be considered in determining if a bidder or offeror is responsible may include:
 - 1. The bidder or offeror's financial, material, personnel or other resources, including subcontracts;
 - 2. The bidder or offeror's record of performance and integrity;
 - 3. Whether the bidder or offeror has been debarred or suspended; and
 - 4. Whether the bidder or offeror is qualified legally to contract with the school district.
- F. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility shall be grounds for a determination of nonresponsibility with respect to the bidder or offeror.
- G. As required by A.R.S. § 41-2540(B), information furnished by a bidder or offeror pursuant to this Section shall not be disclosed outside of the school district without prior written consent by the bidder or offeror except to law enforcement agencies.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1077. Prequalification of Contractors for Materials, Services and Construction

- A. Prospective contractors may be prequalified for particular types of materials, services and construction. Prospective contractors have a continuing duty to provide the school district with information on any material change affecting the basis of

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prequalification. Solicitation mailing lists of prospective contractors shall include the prequalified contractors.

- B. A prospective contractor need not be prequalified to be awarded a contract. Prequalification does not represent a determination of responsibility.
- C. The existence of a qualified product list pursuant to R7-2-1011(D) does not constitute prequalification of any prospective supplier of that product.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1078. Bid and Contract Security

- A. Bid and performance bonds or other security may be required for material or service contracts to guarantee faithful bid and contract performance if the governing board determines that such requirement is advantageous to the school district. In determining the amount and type of security required for each contract, the governing board shall consider the nature of the performance and the need for future protection to the school district. The requirement for bonds or other security shall be included in the solicitation.
- B. Bid or performance bonds shall not be used as a substitute for a determination of bidder or offeror responsibility.
- C. If a bid or proposal is withdrawn at any time before bid or proposal opening, any bid security shall be returned to the bidder or offeror.
- D. After the contract is awarded, any bid security shall be returned to the unsuccessful bidders or offerors. Upon execution of the contract, if performance bonds or other security were not required, or upon receipt of the specified bonds, if performance bonds or other security were required, the school district shall return any bid security provided by the successful bidder or offeror.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1079. Cost or Pricing Data

- A. The submission of current cost or pricing data may be required in connection with an award in situations in which analysis of the proposed price is essential to determine that the price is fair and reasonable. A contractor shall, except as provided in subsection (C), submit current cost or pricing data and shall certify that, to the best of the contractor's knowledge and belief, the cost or pricing data submitted is accurate, complete and current as of a mutually determined specified date before the date of either:
 1. The pricing of any contract awarded by competitive sealed proposals or pursuant to the sole source procurement authority, if the total contract price is expected to exceed \$100,000.
 2. The pricing of any change order or contract modification which is expected to increase the total contract price which will then exceed \$100,000.
- B. Any contract, change order or contract modification for which certified cost or pricing data is required shall contain a provision that the price to the school district shall be adjusted to exclude any significant amounts by which the school district finds that the price was increased because the contractor-fur-

nished cost or pricing data was inaccurate, incomplete or not current as of the date agreed on between the parties. Such adjustment by the school district may include profit or fee. The school district may reduce the contract price pursuant to R7-2-1081.

- C. The requirements of this Section may be waived if any of the following apply:
 1. The contract price is based on adequate price competition.
 2. The contract price is based on established catalog prices or market prices.
 3. Contract prices are set by law or regulation.
 4. It is determined in writing by the school district that the waiver is advantageous to the school district. The determination shall include the reasons why the waiver is advantageous to the school district.
- D. When applicable, the solicitation shall include a notice that certified cost or pricing data shall be submitted.
- E. In an emergency, cost or pricing data may be submitted at a reasonable time after the contract is awarded.
- F. A copy of all determinations by the school district that pertain to the submission of cost or pricing data shall be retained in the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1080. Refusal to Submit Cost or Pricing Data

- A. If the offeror fails to submit cost or pricing data in the required form, the school district may reject the proposal.
- B. If a contractor fails to submit data to support a price adjustment in the form required, the school district may:
 1. Reject the price adjustment; or
 2. Set the amount of the price adjustment subject to the contractor's rights under R7-2-1141 through R7-2-1185.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1081. Defective Cost or Pricing Data

- A. The school district may reduce the contract price if, upon determination, the cost or pricing data are defective.
- B. The contract price shall be reduced in the amount of the defect plus related overhead and profit or fee if the school district relied upon the defective data in awarding the contract.
- C. Any dispute as to the existence of defective cost or pricing data or the amount of an adjustment due to defective cost or pricing data may be appealed as a contract controversy under R7-2-1141 through R7-2-1185. Pending appeal, the adjusted contract price shall remain in effect.
- D. If certification of either current cost or pricing data is required, the awarded contract shall include notice of the right of the school district to a reduction in price if certified cost or pricing data are subsequently determined to be defective.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,

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effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1082. Right to Inspect Plant

The school district may at reasonable times inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the school district.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1083. Right to Audit Records

- A. The school district may, at reasonable times and places, audit the books and records of any person who submits cost or pricing data as provided in R7-2-1079 to the extent that the books and records relate to the cost or pricing data. Any person who receives a contract, change order or contract modification for which cost or pricing data is required shall maintain the books and records that relate to the cost or pricing data for five years after completion of the contract.
- B. The school district is entitled to audit the books and records of a contractor or any subcontractor under any contract or subcontract to the extent that the books and records relate to the performance of the contract or subcontract. The books and records shall be maintained by the contractor for a period of five years after completion of the contract and by the subcontractor for a period of five years after completion of the subcontract.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1084. Anticompetitive Practices

- A. If for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice or the relevant facts shall be transmitted to the governing board and the attorney general. This Section does not require a law enforcement agency conducting an investigation into such practices to convey such notice to the school district.
- B. Upon submitting a bid or proposal, the bidder or offeror shall certify on a form prescribed by the school district that the submission of the bid or proposal did not involve collusion or other anticompetitive practices.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1085. Retention of Procurement Records

All procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules approved by the Arizona State Library, Archives and Public Records.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1086. Record of Procurement Actions

- A. The school district shall maintain a record listing all contracts made under R7-2-1053, Sole source procurements, or R7-2-

1055, Emergency procurements, for a minimum of five years. The record shall contain:

1. Each contractor's name.
2. The amount and type of each contract.
3. A listing of the materials, services or construction procured under each contract.

- B. The record shall be available for public inspection.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1087. Contract Clauses

- A. The school district shall include in solicitations and contracts all contract clauses necessary to ensure the school district's interests are addressed. The school district may modify clauses for inclusion in any particular school district contract, provided that any variations are supported by a written determination that states the circumstances justifying the variation and provided that notice of any material variation is stated in the solicitation.
- B. All contract clauses shall be consistent with the provisions of Articles 10 and 11.
- C. The school district may permit or require the inclusion of clauses providing for appropriate remedies, adjustments in prices, time of performance or other contract provisions.
- D. A contract for the procurement of construction or construction services shall include a provision for the recovery of damages related to expenses incurred by the contractor for a delay for which the school district is responsible, that is unreasonable under the circumstances and that was not within the contemplation of the parties to the contract. This subsection does not void any provision in the contract that requires notice of delays, provides for arbitration or any other procedure for settlement or provides for liquidated damages.
- E. A provision, covenant, clause or understanding in, collateral to or affecting a construction contract or design professional service contract that makes the contract subject to the laws of another state or that requires any litigation, arbitration or other dispute resolution proceeding arising from the contract to be conducted in another state is against the public policy of this state and is void and unenforceable.
- F. A provision or clause for contract termination in accordance with A.R.S. § 38-511. The school district may cancel the Contract within three years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of the school district is or becomes at any time while the Contract, or an extension of the Contract is in effect an employee of or a consultant to any party to the Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation unless the notice specifies a later time.
- G. A provision or clause for contract termination if it appears that any person has not complied with A.R.S. § 15-213(O). The school district or school purchasing cooperative may, by written notice, terminate the Contract, in whole or in part, if the school district or school purchasing cooperative determines that any person or vendor has offered, conferred or agreed to confer any personal gift or benefit on any employee of the school district or school purchasing cooperative who super-

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vised or participated in the planning, recommending, selecting or contracting of the Contract.

- H. A provision or clause for contract termination for gratuities. The school district or school purchasing cooperative may, by written notice, terminate the Contract in whole or in part, if the school district or school purchasing cooperative determines that employment or a gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the school district or school purchasing cooperative for the purpose of influencing the outcome of the procurement or securing the Contract, an amendment to the Contract, or favorable treatment concerning the Contract, including making of any determination or decision about contract performance.
- I. A covenant, clause or understanding in, collateral to or affecting a construction contract or subcontract or a design professional services contract or subcontract that purports to indemnify, to hold harmless or to defend the promisee of, from or against liability for loss or damage resulting from the negligence of the promisee or the promisee's agents, employees or indemnitee is against the public policy of this state and is void.
- J. If a design professional provides work, services, studies, planning, surveys or other preparatory work in connection with a public building or improvement, the school district or property owner may require that the design professional services contract or subcontract require the design professional to indemnify and hold harmless the school district or property owner, and its officers and employees, from liabilities, damages, losses and costs, including reasonable attorney fees and court costs, but only to the extent caused by the negligence, recklessness or intentional wrongful conduct of such design professional or other persons employed or used by such design professional in the performance of the contract or subcontract.
- K. A design professional services subcontract entered into in connection with a public building or improvement may also require any design professional to indemnify and hold harmless the school district or property owner and the indemnified design professional who executed the subcontract, and their respective owners, officers and employees, from liabilities, damages, losses and costs, including reasonable attorney fees and court costs, but only to the extent caused by the negligence, recklessness or intentional wrongful conduct of such design professional, or persons employed or used by the indemnifying design professional in connection with the subcontract.
- L. Nothing in this Section shall prohibit the requirement of insurance coverage that complies with this Section, including the designation of the school district or property owner as an additional insured on a general liability insurance policy or as a designated insured on an automobile liability policy provided in connection with a construction contract or subcontract or design professional services contract or subcontract.
- M. Notwithstanding subsection (I), a contractor who is responsible for the performance of a construction contract or subcontract may fully indemnify a person, firm, corporation, state or other agency for whose account the construction contract or subcontract is not being performed and that, as an accommodation, enters into an agreement with the contractor that permits the contractor to enter on or adjacent to its property to perform the construction contract or subcontract for others.
- N. Except as provided in subsections (J), (K) and (L), a design professional services contract or subcontract entered into in connection with a public building or improvement shall not require that a design professional defend, indemnify, insure or

hold harmless the school district or property owner or its employees, officers, directors, agents, contractors or subcontractors from any liability, damage, loss, claim, action or proceeding, and any contract provision that is not permitted by subsections (J), (K) and (L) is against the public policy of this state and is void.

- O. If any provision or condition contained in this Section conflicts with any provision of a contract between the school district and the federal government, such provision shall not apply to any construction contract or subcontract, or design professional services contract or subcontract to the extent such conflict exists, but all provisions of this Section with which there is no such conflict, shall apply.
- P. In this Section:
 1. "Construction contract or subcontract" means a written or oral agreement relating to the construction, alteration, repair, maintenance, relocation, moving, demolition or excavation of a structure, street or roadway, appurtenance, facility, development, or other improvement to land.
 2. "Design professional services" means architect services, engineer services, land surveying services, geologist services or landscape architect services or any combination of those services performed by or under the supervision of a design professional or any person employed by the design professional.
 3. "Design professional services contract or subcontract" means a written or oral agreement relating to the planning, design, construction administration, study, evaluation, consulting, inspection, surveying, mapping, material sampling, testing or other professional, scientific or technical services furnished in connection with any actual or proposed study, planning, survey, environmental remediation, construction, improvement, alteration, repair, maintenance, relocation, moving, demolition or excavation of a structure, street or roadway, appurtenance, facility, development or other improvement to land.
 4. "Other persons employed or used" means a subcontractor to a contractor or design professional in any tier, or any other person or entity who performs work or design professional services, or provides labor, services, materials or equipment in connection with a construction contract or subcontract or design professional service contract or subcontract subject to this Section.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1088. Reserved

R7-2-1089. Reserved

R7-2-1090. Reserved

PART XIII. CONTRACT TYPES

R7-2-1091. Repealed

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed by final exempt rulemaking at 21 A.A.R.

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1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1092. Authority to Use Contract Types

Subject to the limitations of this Section, any type of contract that would be advantageous to the school district may be used, except that the use of a cost-plus-a-percentage-of-cost contract is prohibited.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1093. Multiterm Contracts

- A. Unless otherwise provided by law, multiterm contracts for materials or services and contracts for job-order-contracting construction services may be entered into if the duration of the contract and the conditions of renewal or extension, if any, are included in the invitation for bids or the request for proposals and if monies are available for the first fiscal period at the time the contract is executed. The duration of contracts for materials or services and contracts for job-order-contracting construction services shall be limited to no more than five years unless the governing board determines in writing before the procurement solicitation is issued that a contract of longer duration would be advantageous to the school district. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of monies.
- B. Before the use of a multiterm contract, it shall be determined in writing by the governing board that:
 1. Estimated requirements cover the period of the contract and are reasonable and continuing.
 2. Such a contract will be advantageous to the school district by encouraging effective competition or otherwise promoting economies in school district procurement.
- C. The school district shall include in all multiterm contracts a clause specifying that the contract shall be canceled if monies are not appropriated or otherwise made available to support the continuation of performance in a subsequent fiscal year.
- D. If monies are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled and the contractor may only be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the materials or services delivered under the contract or which are otherwise not recoverable. The cost of cancellation may be paid from any appropriations available for such purposes.
- E. A contract for specified professional services shall have a term not to exceed five years after the date of contract award by the school district of the first contract under the procurement, except that the contract may continue in effect after the five year term for projects on which the rendering of specified professional services commences within the five year term.
- F. Notwithstanding this Section, contracts for auditors and auditing firms shall have a term as prescribed in A.R.S. § 15-213.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt

rulemaking at 24 A.A.R. 3283, effective October 22, 2018 (Supp. 18-4).

R7-2-1094. Reserved

R7-2-1095. Reserved

R7-2-1096. Reserved

R7-2-1097. Reserved

R7-2-1098. Reserved

R7-2-1099. Reserved

ARTICLE 11. SCHOOL DISTRICT PROCUREMENT (CONTINUED)

PART XIV. PROCUREMENT OF CONSTRUCTION

R7-2-1100. Construction Project Delivery Methods

- A. For the design-bid-build project delivery method, the school district shall procure:
 1. Design services pursuant to R7-2-1117 through R7-2-1123, except as authorized by R7-2-1053 and R7-2-1055.
 2. Construction by competitive sealed bidding pursuant to R7-2-1021 through R7-2-1032 and R7-2-1102 through R7-2-1105, except as authorized by R7-2-1033, R7-2-1053, R7-2-1055, and R7-2-1101.
- B. For construction-manager-at-risk, design-build and job-order-contracting project delivery methods, the school district shall procure construction services pursuant to R7-2-1102 through R7-2-1115.
- C. For construction-manager-at-risk project delivery method, the school district shall purchase design services pursuant to R7-2-1117 through R7-2-1123.
- D. For job-order-contracting project delivery method, the school district may include design services in the job-order-contracting construction services contract, but if the school district does not include design services in the contract, the school district shall procure any design services relating to construction services projects under the contract pursuant to R7-2-1117 through R7-2-1123.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1101. Qualified Select Bidders List

- A. The school district may use the qualified select bidders list method to determine the vendors who receive the notice of competitive sealed bidding for a construction contract. The qualified select bidders list shall be determined in accordance with this Section.
- B. Sealed prime contractor or construction materials supplier statements of qualifications shall be solicited through requests for qualifications.
 1. Notice of the request for qualifications shall be given by the school district pursuant to R7-2-1022 and R7-2-1024(C).
 2. Requests for qualifications shall be issued at least 21 days before the due date and time for submission.
 3. Use of the qualified select bidders list shall be restricted to the specific project identified in the request for qualifications.
 4. The qualified select bidders list shall consist of at least three prime contractors when a contractor is solicited or three construction material suppliers when material suppliers are solicited.

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5. The qualified select bidders list for any specific project is valid for one year but may be extended for an additional year, at the option of the school district.
- C. The request for qualifications shall include the following:
 1. Notice that all information and statements of qualifications submitted by persons will be made available for public inspection following the establishment of a qualified select bidders list.
 2. Instructions and information to persons concerning the statement of qualifications submission requirements, including the due date and time for submission, the address of the office at which the statements of qualifications are to be received, and any other special information.
 3. The anticipated evaluation period and selection of a qualified select bidders list.
 4. General information on the project site or sites, scope of work, schedule, evaluation criteria, project design and construction budget, or life cycle budget for a procurement that includes maintenance, operations, and finance services.
 5. The weight prescribed by the school district for each of the criteria to be used in making the evaluation.
 6. The criteria to be used in making the evaluation, which shall include at a minimum:
 - a. Person's capabilities and qualifications for performing the scope of work;
 - b. Person's project team, and key members' education, training and qualifications;
 - c. Method of approach, including subcontractor plan, safety plan;
 - d. Safety record and worker's compensation rate;
 - e. Projected construction schedule;
 - f. Current workload;
 - g. Five most recent representative examples of similar work along with references for each example;
 - h. Current bonding availability and capacity;
 - i. Any judgment or liens against the person within the last three years;
 - j. Any current unresolved bond claims against the person;
 - k. Any deficiency orders issued against the prime contractor by the Arizona Registrar of Contractors within the last three years; and
 - l. Any filing under the United States Bankruptcy Code, assignments for the benefit of creditors, or other measures taken for the protection against creditors during the last three years.
 7. The type of contract to be used.
 8. The name of the district representative or district representatives.
 9. The expiration date of the qualified select bidders list if less than one year.
 10. A statement that the school district reserves the right to conduct interviews as part of the evaluation process.
 11. The date, time and location of any pre-submittal conference.
- D. The school district may conduct a pre-submittal conference not less than 14 days prior to the statement of qualifications due date and time for the purposes of explaining the requirements of the request for qualifications.
- E. Amendments to request for qualifications.
 1. An amendment to a request for qualifications shall be issued if necessary to do any of the following:
 - a. Make changes in the request for qualifications;
 - b. Correct defects or ambiguities;
 - c. Furnish to persons information given to any other person, if the information will assist the persons in submitting their statements of qualifications or if the lack of the information will prejudice the persons;
 - d. Provide additional information or instructions; or
 - e. Extend the due date and time if the school district determines that an extension is advantageous to the school district.
 2. Amendments to a request for qualifications shall be so identified and the school district shall ensure that the amendments are distributed or made available to all persons to whom the original request for qualifications was distributed or made available. The school district shall make a copy of the amendments to a request for qualifications available for public inspection at the school district office. If the school district posted the request for qualifications or a notice of the availability of a request for qualifications on a designated site on the Internet, then the school district shall post any amendments to the request for qualifications on the same designated site on the Internet. The school district shall also do one or more of the following:
 - a. Distribute the amendment, by any method reasonably calculated to ensure delivery, to all persons to whom the request for qualifications was distributed;
 - b. Make the amendment available and issue a notice of amendment which contains instructions for obtaining copies of the amendment. The notice of amendment shall be distributed, by any method reasonably calculated to ensure delivery, to all persons to whom the request for qualifications was distributed. Upon receipt of such notice of amendment, it is the responsibility of the person to obtain the amendment.
 3. Amendments to request for qualifications shall be issued within a reasonable time before the due date and time to allow persons to consider them in preparing their statements of qualifications. If the school district determines that the due date and time in the request for qualifications does not permit sufficient time for statement of qualifications preparation, the due date and time shall be extended in the amendment or, if necessary, by telephone, facsimile, email, or other communications methods, and confirmed in the amendment.
 4. A person shall acknowledge receipt of an amendment in the manner specified in the request for qualifications or the amendment on or before the due date and time.
- F. Pre-submittal modification or withdrawal of statements of qualifications
 1. A person may modify or withdraw a statement of qualifications in writing at any time before the prescribed due date and time if the modification or withdrawal is received before the due date and time at the location designated in the request for qualifications for receipt of statements of qualifications.
 2. All documents concerning a modification or withdrawal of a statement of qualifications shall be retained in the procurement file.
- G. Late statements of qualifications, late withdrawals and late modifications
 1. A statement of qualifications, modification or withdrawal is late if it is received at the location designated in the

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request for qualifications for receipt of statements of qualifications after the due date and time.

2. A late statement of qualifications, late modification, or late withdrawal shall be rejected, unless the statement of qualifications, modification or withdrawal would have been timely received but for the action or inaction of school district personnel and is received before the qualified select bidders list is established.
 3. Upon receiving a late statement of qualifications, late modification, or late withdrawal, the school district shall record the time and date of receipt and promptly send notice of late receipt to the person. The school district may discard the document 30 days after the date on the notice unless the person requests the document be returned.
 4. All documents concerning acceptance of a late statement of qualifications, late modification, or late withdrawal shall be retained in the procurement file.
- H. Receipt, opening and recording statements of qualifications**
1. A school district shall maintain a record of statements of qualifications and modifications received for each solicitation, shall record the time and date when each statement of qualifications or modification is received, and shall store each unopened statement of qualifications or modification in a secure place until the due date and time.
 - a. If required to confirm a vendor's inquiry regarding receipt of its statement of qualifications prior to the due date and time, a school district may open a statement of qualifications to identify the vendor. If this occurs, the school district shall record the reason for opening the statement of qualifications, the date and time the statement of qualifications was opened, and the solicitation number. The school district shall secure the statement of qualifications and retain it for public opening.
 - b. One or more witnesses shall be present for the opening of a statement of qualifications under subsection (H)(1)(a).
 2. Statements of qualifications and modifications shall be opened publicly at the date, time and location designated in the request for qualifications in the presence of one or more witnesses. The name of each person and any other relevant information deemed appropriate by the school district shall be recorded. The person opening the statements of qualifications and all witnesses shall sign the record.
 - a. The record created in subsection (H)(2) shall be available for public inspection.
 - b. The statements of qualifications shall not be open for public inspection until after the qualified select bidders list has been established.
- I. Establishing the qualified select bidders list.**
1. The qualified select bidders list shall be established by determining the highest rated persons from the statements of qualifications received. This will be a minimum of three and a maximum of five.
 2. For each qualified select bidders list process there will be established by the school district an evaluation committee composed of five members. These members shall include the project designer or construction material specifier, one member from the prime contracting or construction material supplier community that performs commensurate level work and is disinterested in this project, a school district facilities representative and two other members as designated by the school district.
3. The evaluation committee shall review and score each statement of qualifications received according to the established evaluation criteria. The committee shall rank the statements of qualifications in accordance with the scores.
 4. The committee may conduct interviews before making the final determination of the qualified select bidders list. The committee shall document the interviews in writing.
 5. The committee shall select at least three and not more than five of the highest scoring persons for the qualified select bidders list.
 6. The district representative shall review the committee's qualified select bidders list. The district representative shall:
 - a. Accept the list as submitted;
 - b. Return the list for additional committee review;
 - c. Reject the list and terminate the process.
 7. A one-year eligibility period for the qualified select bidders list shall begin on the date the district representative accepts it. The qualified select bidders list may be extended one year at the option of the school district.
 8. Once the qualified select bidders list is established, a written notice of the selected persons shall be sent to all the persons that submitted statements of qualifications.
 9. After the establishment of the qualified select bidders list, a written record showing the basis for determining the qualified select bidders list shall be prepared by the district representative and retained in the procurement file. Within 10 days after the qualified select bidders list has been established, the school district shall make the procurement file, including all statements of qualifications, available for public inspection.
 - a. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection.
 - b. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.
 10. The qualified select bidders shall be provided an invitation for bids in accordance with R7-2-1024 to R7-2-1032. For any projects not identified in the request for qualifications, the school district may not solicit bids on those projects under the qualified select bidders list either in the initial one-year period or the one-year extension period.
 11. The project identified in the request for qualifications shall have invitation for bids issued within the initial one-year period, or in the one-year extension period, to be awarded a contract under that qualified select bidders list.
- J. Terminating the process for insufficient response or selection**
1. In the event that less than three statements of qualifications are received, this procurement process shall cease and the school district may elect to reissue the request for qualifications or pursue other procurement methods.
 2. In the event that less than three persons are identified by the selection committee as being the most highly qualified, this procurement process shall cease and the school district may elect to reissue the request for qualifications or pursue other procurement methods.

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- K. A copy of the request for qualifications shall be made available for public inspection at the school district office.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1102. Bid Security

- A. Bid security shall be required for all competitive sealed bidding for construction contracts, and for all competitive sealed proposals for design-build construction services or job-order-contracting construction services procured pursuant to R7-2-1111, if the price, excluding the cost of any finance services, maintenance services, operations services, design services, preconstruction services, or other related services included in the contract, is estimated by the school district to exceed the amount established by R7-2-1002(A).
- B. Invitations for bid on school district construction contracts and requests for proposals for design-build construction services or job-order-contracting construction services, shall require submission of bid security as follows:
1. For design-build construction services, ten percent of the contractor's bid.
 2. For design-build construction services awarded by competitive sealed proposals pursuant to R7-2-1111, ten percent of the school district's construction budget for the project as stated in the request for proposals, excluding finance services, maintenance services, operations services, design services, preconstruction services or any other related services included in the contract.
 3. For job-order-contracting construction services awarded by competitive sealed proposals pursuant to R7-2-1111, the amount prescribed by the school district in the request for proposals, but not more than ten percent of the school district's reasonably estimated budget for construction that the school district believes is likely to actually be done during the first year under the contract, excluding any finance services, maintenance services, operations services, design services, preconstruction services or other related services included in the contract.
- C. Acceptable bid security shall be limited to:
1. An annual or one-time bid bond executed and furnished as required by A.R.S. Title 34, Chapter 2 or 6, as applicable; or
 2. A certified check.
- D. The school district may issue a written determination to accept the bid security if the bid security fails to comply in a nonsubstantial manner when:
1. Only one bid or proposal is received and there is not sufficient time to rebid or resolicit proposals;
 2. The amount of the bid security submitted, although less than the amount required by the invitation for bids or request for proposals, is equal to or greater than the difference between the apparent low bid or highest scoring proposal and the next higher acceptable bid or next highest scoring proposal; or
 3. The bid security is inadequate as a result of modifying or correcting a bid in accordance with R7-2-1027 or R7-2-1030, if the bidder increases the amount of security to required limits within two days after notification.

- E. After the bids and proposals are opened, they are irrevocable for the period specified in the invitation for bids or request for proposals, except as provided in R7-2-1030. If a bidder or offeror is permitted to withdraw its bid before award, no action may be had against the bidder or offeror or the bid security.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1103. Contract Performance and Payment Bonds

- A. The following bonds or security is required and is binding on the parties to the contract if the value of a construction or construction services award exceeds the amount established by R7-2-1002(A):
1. A performance bond that is executed and furnished as required under Arizona Revised Statutes Title 34, Chapter 2, Article 2 or Chapter 6, as applicable, in an amount equal to 100 percent of the price specified in the contract conditioned on the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract, except that:
 - a. For job-order-contracting construction services, the performance bond shall cover the full amount of construction under the job-order-contracting construction services contract, shall not include any design services, preconstruction services, finance services, maintenance services, operations services or other related services included in the contract, may be a single bond for the full term of the contract, a separate bond for each year of a multiyear contract or a separate bond for each job order, as determined by the school district, and, if a single bond for the full term of the contract or a separate bond for each year of a multiyear contract, shall initially be based on the school district's reasonable estimate of the amount of construction that the school district believes is likely to actually be done during the full term of the contract or during the particular year of a multiyear contract, as applicable.
 - b. For construction-manager-at-risk construction services and design-build construction services, the amount of the performance bond shall be the price of construction and shall not include the cost of any design services, preconstruction services, finance services, maintenance services, operations services and other related services included in the contract. This bond is solely for the protection of the school district. The conditions and provisions of the performance bond regarding the surety's obligations shall follow the form required under A.R.S. § 34-222(G) or A.R.S. § 34-610(G), as applicable.
 - c. For guaranteed energy cost savings contracts and guaranteed energy production contracts, the amount of the performance bond shall be one hundred percent of the project amount to the school district for its faithful performance of the equipment installation.
 2. A payment bond that is executed and furnished as required by Arizona Revised Statutes Title 34, Chapter 2, Article 2 or Chapter 6, as applicable, in an amount equal

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to one hundred percent of the price specified in the contract for the protection of all persons supplying labor or material to the contractor or its subcontractors for the performance of the construction provided for in the contract, except that:

- a. For job-order-contracting construction services, the payment bond shall cover the full amount of construction under the job-order-contracting construction services contract, shall not include any design services, preconstruction services, finance services, maintenance services, operations services or other related services included in the contract, may be a single bond for the full term of the contract, a separate bond for each year of a multiyear contract or a separate bond for each job order, as determined by the school district, and, if a single bond for the full term of the contract or a separate bond for each year of a multiyear contract, shall initially be based on the school district's reasonable estimate of the amount of construction that the school district believes is likely to actually be done during the full term of the contract or during the particular year of a multiyear contract, as applicable.
 - b. For construction-manager-at-risk construction services and design-build construction services, the amount of the payment bond shall be the price of construction and shall not include the cost of any design services, preconstruction services, finance services, maintenance services, operations services or other related services included in the contract. The conditions and provisions of the payment bond regarding the surety's obligations shall follow the form required under A.R.S. § 34-222(F) or A.R.S. § 34-610(F), as applicable.
- B.** For design-bid-build construction, the bonds prescribed in subsection (A) shall be provided on and at the same time as execution of the construction contract. For construction-manager-at-risk, design-build and job-order-contracting construction services, the bonds prescribed in subsection (A) shall be provided only on and at the same time as execution of a contract or contract modification that commits the contractor to provide construction for a fixed price, guaranteed maximum price or other fixed amount within a designated time frame.
- C.** If the prime contract or specifications require any persons supplying labor or materials in the prosecution of the work to furnish payment or performance bonds, these bonds shall be executed solely by a surety company or companies holding a certificate of authority to transact surety business in this state issued by the director of the Department of Insurance pursuant to Arizona Revised Statutes Title 20, Chapter 2, Article 1. Notwithstanding the provisions of any other statute, the bonds shall not be executed by an individual surety or sureties, even if the requirements of A.R.S. § 7-101 are satisfied.
- D.** If a contractor fails to deliver the required performance bond or payment bond, the contractor's bid shall be rejected, its bid security shall be enforced, and award of the contract shall be made pursuant to Articles 10 and 11.
- E.** This Section shall not be construed to limit the authority of the school district to require a performance bond or other security in addition to those bonds or in circumstances other than specified in subsection (A).
- F.** Any person who furnishes labor or material to the contractor or its subcontractors for the work provided in the contract, in respect of which a payment bond is furnished under this Sec-

tion, and who has not been paid in full within 90 days from the date on which the last of the labor was performed or material was supplied by the person for whom the claim is made has the right to sue on the payment bond for any amount unpaid at the time the suit is instituted and to prosecute the action for the amount due the person. However, any person who has a contract with a subcontractor of the contractor, but no express or implied contract with the contractor furnishing the payment bond, has a right of action on the payment bond on giving the contractor, only, a written preliminary 20-day notice as provided for in A.R.S. § 33-992.01, subsection (C)(1), (2), (3), and (4) and subsections (D), (E), and (H), and upon giving written notice to the contractor within 90 days from the date on which the last of the labor was performed or material was supplied by the person for whom the claim is made. The person shall state in the notice the amount claimed and the name of the party for whom the labor was performed or to whom the material was supplied. The notice shall be personally served or sent by registered mail, postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or conducts business.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. The term "one hundred" was changed to "100" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-1104. Contract Payment Retention and Substitute Security

- A.** Ten percent of all construction contract payments shall be retained by the school district as insurance of proper performance of the contract or, at the option of the contractor, a substitute security may be provided by the contractor pursuant to this Section. The contractor is entitled to all interest from any such substitute security. When the contract is fifty percent completed, one-half of the amount retained or securities substituted pursuant to this Section shall be paid to the contractor upon the contractor's request provided the contractor is making satisfactory progress on the contract and there is no specific cause or claim requiring a greater amount to be retained. After the contract is fifty percent completed, no more than five percent of the amount of any subsequent progress payments made under the contract shall be retained providing the contractor is making satisfactory progress on the project, except if at any time the governing board determines satisfactory progress is not being made, ten percent retention shall be reinstated for all progress payments made under the contract subsequent to the determination.
- B.** Notwithstanding subsection (A), there shall be no retention for job-order-contracting construction services contracts. The school district may elect to have no retention for construction-manager-at-risk and design-build construction services contracts. If the school district elects to have retention, then payment retention for construction-manager-at-risk and design-build contracts shall be in accordance with this Section.
- C.** Retention applies only to amounts payable for construction and does not apply to amounts payable for design services, preconstruction services, finance services, maintenance services, operations services, or any other related services included in the contract.
- D.** The form of substitute security is limited to the following:

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1. An assignment of time certificates of deposit by financial institutions licensed by this state;
2. Share certificate of a financial institution or credit union authorized to transact business in this state; or
3. Security issued or guaranteed as to principal and interest by:
 - a. The United States;
 - b. The state;
 - c. Counties, municipalities and school districts within this state.

E. Conditions for use of substitute security.

1. A contractor may submit substitute security to replace contract payment retention if:
 - a. The use of substitute security is requested of the school district or designee for work performed under the contract. The contractor shall have the option of submitting the substitute security:
 - i. Prior to each progress payment in an amount of no less than five percent of each progress payment; or
 - ii. Once, prior to the first progress payment in an amount no less than five percent of the total contract amount.
 - b. The interest earned on such security shall accrue to the benefit of the contractor, but shall be retained until the school district has approved completion and acceptance of all work to be performed under the contract;
 - c. The term of such security shall not mature until after the estimated contract completion date; and
 - d. The security shall mature no later than one year after the estimated contract completion date.
2. The substitute security shall not be released without written approval by the school district.
3. A contractor may submit a single substitute security for more than one project provided that:
 - a. The amount of such security is sufficient to cover the aggregate retention amount;
 - b. The school district determines that such single substitute security is advantageous to the school district; and
 - c. Such security complies with the requirements of subsection (E)(1).

F. Any retention shall be paid or substitute security shall be returned to the contractor within 60 days after final completion and acceptance of work under the contract. Retention of payments by a school district longer than 60 days after final completion and acceptance requires a specific written finding by the governing board of the reasons justifying the delay in payment. No school district may retain any monies after 60 days which are in excess of the amount necessary to pay the expenses the governing board reasonably expects to incur in order to pay or discharge the expenses determined in the finding justifying the retention of monies.**G. The school district shall not accept any substitute security unless accompanied by a signed and acknowledged waiver of any right or power of the obligor to set off any claim against either the school district or the contractor in relationship to the security assigned. In any instance in which the school district accepts substitute security as provided in this Section, any subcontractor undertaking to perform any part of the contract is entitled to provide such security to the contractor.****Historical Note**

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1105. Progress Payments

- A.** Progress payments may be made by the school district to the contractor on the basis of a duly certified and approved estimate of the work performed during the preceding month if the contractor agrees to adhere to the provisions of A.R.S. § 41-2577(B), (D), and (F). Payment shall be made within 14 days after the estimate of the work is certified and approved, except that a percentage of all estimates shall be retained as provided in R7-2-1104. The estimate of the work shall be deemed received by the school district on submission of the estimate of the work to the school district or a person designated by the school district for the submission, review or approval of the estimate of the work. An estimate of the work submitted under this Section shall be considered approved and certified after seven days from the date of submission unless before that time the school district or designee prepares and issues a specific written finding detailing those items in the estimate of the work that are not approved and certified under the contract or design professional service contract. The school district may withhold an amount from the progress payment sufficient to pay the expenses the school district reasonably expects to incur in correcting the deficiency set forth in the written finding. No contract for construction or design professional service contract may materially alter the rights of any contractor, subcontractor, design professional or material supplier to receive prompt and timely payment as provided under this Section. On completion and acceptance of separate divisions of the contract or design professional service contract on which the price is stated separately in the contract, payment may be made in full including retained percentages, less deductions, unless a substitute security has been provided pursuant to R7-2-1104.
- B.** Progress payments pursuant to subsection (A) are authorized for construction services and design professional services contracts. The requirements of subsection (A) apply only to amounts payable in a construction services contract for construction and in a contract for design services and do not apply to amounts payable in a contract for preconstruction services, finance services, maintenance services, operations services or any other related services included in the contract.
- C.** A subcontractor or design professional may notify the school district, in writing, requesting that the subcontractor or design professional be notified by the school district in writing within five days from payment of each progress payment made to the contractor. The subcontractor's or design professional's request remains in effect for the duration of the subcontractor's or design professional's work on the project.
- D.** If any payment to a contractor is delayed after the date due, interest shall be paid at the rate of one percent per calendar month, or a fraction of a calendar month, on such unpaid balance as may be due.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

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Amended by final exempt rulemaking at 26 A.A.R. 597,
effective July 1, 2020 (Supp. 20-1).

R7-2-1106. Procurement of Construction Using Alternative Project Delivery Methods

- A.** A school district may use an alternative project delivery method if it determines in writing that such alternative project delivery method is advantageous to the school district. The following factors may be used for such determination:
1. Cost and cost control method;
 2. Value engineering;
 3. Market conditions;
 4. Schedule;
 5. Required specialized expertise;
 6. Technical complexity of the project; or
 7. Project management.
- B.** Use of alternative project delivery methods
1. Alternative project delivery methods for construction services shall be procured as provided in R7-2-1100.
 2. For design-build construction services and construction-manager-at-risk construction services, the school district is limited to one contract per procurement.
 - a. Alternatively, for construction-manager-at-risk construction services, a school district may elect separate contracts for preconstruction services during the design phase, for construction during the construction phase and for any other construction services.
 - b. Alternatively, for design-build construction services, a school district may elect separate contracts for preconstruction services and design services during the design phase, for construction and design services during the construction phase and for any other construction services.
 - c. If the school district enters into the first contract for preconstruction services or construction services the procurement ends. After execution of that first contract the school district may not use the procurement or the existing final list in the procurement as the basis for entering into a contract with any other person that participated in the procurement.
 3. For job-order-contracting construction services, the school district may award a single contract, or multiple contracts for similar job-order-contracting construction services to be awarded to separate persons. If the school district enters into the number of contracts specified under the request for qualifications, the procurement ends. After that time the school district may not use the procurement or any existing final list in the procurement as the basis for entering into a contract with any other person that participated in the procurement.
 4. All construction-manager-at-risk construction services or design-build construction services included in a procurement shall be limited to construction services to be performed at a single location, a common location or, if the construction services are all for a similar purpose, multiple locations. For construction-manager-at-risk construction services and design-build construction services to be performed at multiple locations:
 - a. At the time the request for qualifications is issued, the school district shall intend to commence all construction at each location within thirty months after execution of the first contract for preconstruction services or other construction services at any of the locations.

- b. The request for qualifications shall include the information described in R7-2-1108(B)(2).
5. The school district and the selection committee shall not request or consider fees, price, man-hours or any other cost information at any point in the selection process under this Section and R7-2-1107, R7-2-1108, R7-2-1110, and R7-2-1111, including the selection of persons to be interviewed, the selection of persons to be on the final list, in determining the order of preference of persons on the final list or for any other purpose in the selection process, except as provided in R7-2-1110(D) and R7-2-1111.
6. In determining the persons to participate in any interviews, in determining the persons to be on the final list, and in determining the order on the final list, the selection committee shall use and consider only the criteria and weighting of criteria in the request for qualifications. No other factors or criteria may be used in the evaluation, determinations and other actions.
7. Notwithstanding any other provision specifying the number of persons to be interviewed, the number of persons to be on a final list, or any other numerical specification in R7-2-1106 through R7-2-1115:
 - a. If a smaller number of persons respond to the request for qualifications or if one or more persons drop out of the procurement so there is a smaller number of persons participating in the procurement, the school district, as the school district determines necessary and appropriate, may elect to proceed with the participating persons if there are at least two participating responsive and responsible persons. Alternatively, the school district may elect to terminate the procurement.
 - b. As to a request for qualifications to be negotiated pursuant to R7-2-1110(D), if only one responsive and responsible person responds to the request for qualifications or if one or more persons drop out of the procurement so that only one responsive and responsible person remains in the procurement, the school district may elect to proceed with the procurement with only one person if the governing board determines in writing that the negotiated fee is fair and reasonable and that either other prospective persons had reasonable opportunity to respond or there is not adequate time for a resolicitation.
 - c. If a person on the final list withdraws or is removed from the procurement and the selection committee determines that it is advantageous to the school district, the selection committee may replace that person on the final list with another person that submitted qualifications in the procurement and that is selected as the next most qualified.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1107. Selection Committee

- A.** The school district shall initiate an appropriately qualified selection committee for each request for qualifications. The school district shall ensure that selection committee members are competent to serve on the selection committee.
- B.** Each selection committee shall include at least one school district representative appointed by the school district.

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- C. The selection committee shall not have more than seven members and shall include at least one person who is a senior management employee of a licensed contractor and one person who is an architect or an engineer who is registered pursuant to A.R.S. § 32-121.
- D. Non-school district employees serving on a selection committee shall not receive compensation from the school district for performing this service, but the school district may elect to reimburse non-school district members for travel, lodging and other expenses incurred in connection with service on a selection committee.
- E. A person who is a member of a selection committee shall not be a contractor or subcontractor under a contract awarded under the procurement or provide any specified professional services, construction, construction services, materials or other services under the contract.
- F. For the procurement of multiple contracts for job-order-contracting, the same selection committee shall be used for all contracts in the procurement.
- 3. General information on the project site, scope of work, schedule, selection criteria, project design and construction budget, or life cycle budget for a procurement that includes maintenance, operations, and finance services.
- 4. The criteria and the weight prescribed by the school district for each of the criteria to be used in making the evaluation.
 - a. All selection criteria shall be factors that demonstrate competence and qualifications for the type of construction services included in the procurement.
 - b. One of the criteria shall be the person's subcontractor selection plan or procedures to implement the school district's subcontractor selection plan.
 - c. If interviews will be held, state the selection criteria and relative weights to be used in selecting the persons to be interviewed. The request for qualifications may state the selection criteria and relative weights to be used in selecting the persons on the final list and in determining their order on the final list. The final list selection criteria and relative weights may be different than the selection criteria and relative weights used to determine the persons to be interviewed. The request for qualifications also shall state whether the school district will select the persons on the final list and their order on the final list solely through the results of the interview process or through the combined results of both the interview process and the evaluation of statements of qualifications and performance data submitted in response to the school district's request for qualifications.
 - d. If interviews will not be held, state the selection criteria and relative weights to be used in selecting the persons on the final list and in determining their order on the final list.
- 5. Whether one contract or multiple contracts may or will be awarded.
 - a. For design-build construction services, construction-manager-at-risk construction services, and a single contract for job-order-contracting construction services, state that one person may or will be awarded the contract.
 - b. For multiple contracts for similar job-order-contracting construction services, state the number of contracts that may or will be awarded, the job-order-contracting construction services to be performed under each of the contracts, and that each of the multiple contracts will be awarded to a separate person.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1108. Request for Qualifications

- A. Notice of the need for construction services shall be given by the school district pursuant to R7-2-1022 and R7-2-1024(C). Such notice shall be issued not less than 14 days in advance of when responses shall be received. The notice shall:
 - 1. Contain a statement of the construction services required that adequately describes the procurement and specifies how a request for qualifications containing specific information on the procurement may be obtained;
 - 2. Specify whether the procurement is for a single contract or, for job-order-contracting construction services only, for multiple contracts; and
 - 3. If the procurement is for multiple job-order-contracting construction services contracts:
 - a. Specify that multiple contracts may or will be awarded;
 - b. Specify the number of contracts that may or will be awarded; and
 - c. Describe the construction services to be performed under each contract.
- B. The request for qualifications shall include the following:
 - 1. Instructions and information to persons concerning the statement of qualifications submission requirements, including the due date and time for receipt of statements of qualifications, the address of the office at which the statements of qualifications are to be received, and any other special information.
 - 2. In a procurement of construction-manager-at-risk construction services or design-build construction services to be performed at multiple locations, include:
 - a. A brief description of the construction services to be performed at each location;
 - b. The estimated budget for the construction services to be performed at each location; and
 - c. A schedule for the construction services to be performed at each location that shows the school district's intent to commence all construction at each location within thirty months after execution of the first contract for preconstruction services or other construction services at any of the locations.
 - 6. In a procurement where the contract is to be negotiated under R7-2-1110(D):
 - a. State that there will be a single final list of at least three and not more than five persons for a design-build, construction-manager-at-risk, or single job-order-contracting construction services award.
 - b. In a procurement for multiple contracts for similar job-order-contracting construction services to be awarded to separate persons, state that there will be a single final list and the number of persons on the final list, which shall be the sum of the number of contracts that may or will be awarded, plus another number that is determined by the school district and that is not more than five.
 - 7. In a procurement in which the contract will be awarded under R7-2-1111:

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- a. State that there will be a single final list and that the number of persons on the final list will be three for a design-build or single job-order-contracting construction services award.
 - b. In a procurement for multiple contracts for similar job-order-contracting construction services to be awarded to separate persons, state that there will be a single final list and the number of persons on the final list, which shall be the sum of the number of contracts that may or will be awarded, plus another number that is determined by the school district and that is not more than five.
8. The type of contract to be used.
 9. The name of the district representative or district representatives and the publicly available location of the school district's protest policy and procedures.
 10. If the school district will hold interviews as part of the selection process:
 - a. State that interviews will be held and that the interviews will be with at least three and not more than five persons for a design-build, construction-manager-at-risk, or single job-order-contracting construction services procurement.
 - b. In a procurement for multiple contracts for similar job-order-contracting construction services to be awarded to separate persons, state that interviews will be held and that the interviews will be with a specified number of persons. The specified number shall be stated in the request for qualifications, shall be determined by the school district and shall be the sum of the number of contracts that may or will be awarded, plus another number that is determined by the school district and that is not more than five.
 11. The manner in which subcontractors shall be selected, either:
 - a. A requirement that each person submit a proposed subcontractor selection plan and a requirement that the proposed subcontractor selection plan shall select subcontractors based on qualifications alone or on a combination of qualifications and price and shall not select subcontractors based on price alone; or
 - b. A subcontractor selection plan adopted by the school district that applies to the person that is selected to perform the construction services and that requires subcontractors to be selected based on qualifications alone or on a combination of qualifications and price and not based on price alone and a requirement that each person shall submit a description of the procedures it proposes to use to implement the school district's subcontractor selection plan.
 12. Notice that all information and statements of qualifications submitted by persons will be made available for public inspection after the school district has entered into a single contract or all of the multiple contracts.
- C. A copy of the request for qualifications shall be made available for public inspection at the school district office.

Historical Note

New Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final

exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1109. Receipt and Opening of Statements of Qualifications, Technical Proposals and Price Proposals for Design-build and Job-order-contracting

- A. Statements of qualifications, technical proposals and price proposals shall be received and opened in accordance with R7-2-1045. Late statements of qualifications, proposals, modifications, or withdrawals shall be considered in accordance with R7-2-1044 and R7-2-1049.
- B. A school district may cancel a request for qualifications or a request for proposals, reject in whole or in part any or all statements of qualifications or proposals or determine not to enter into a contract as specified in the solicitation if it is advantageous to the school district. The school district shall make the reasons for cancellation, rejection or determination not to enter into a contract part of the procurement file.

Historical Note

New Section made by exempt rulemaking at 13 A.A.R. 1266, effective February 26, 2007 (Supp. 07-1). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1110. Committee Evaluation and Contract Award

- A. If interviews are specified in the request for qualifications:
 1. The selection committee shall determine the persons to be interviewed by evaluating the statements of qualifications and performance data submitted based solely on the selection criteria and relative weights in the request for qualifications to be used to determine the persons to be interviewed.
 2. If the selection criteria and relative weights to be used by the selection committee to select the persons on the final list and to determine their order on the final list are not included in the request for qualifications:
 - a. Before the interviews are held the school district shall distribute to the persons to be interviewed the selection criteria and relative weights to be used to select the persons on the final list and to determine their order on the final list.
 - b. These selection criteria and relative weights may be different than the selection criteria and relative weight used to determine the persons to be interviewed.
 3. The selection committee shall conduct interviews with the number of persons specified in the request for qualifications.
- B. Based solely on the selection criteria and relative weights for selection of the persons on the final list and their order on the final list, the selection committee shall select the persons for the final list and, in the case of a final list for a contract that will be negotiated under subsection (D), rank the persons in order of preference.
- C. The school district shall make the following notifications regarding the final lists:
 1. If the contract will be negotiated under subsection (D) before or at the same time as the school district notifies the highest ranking person on the final list that it is the highest ranking person, the school district shall send actual notice to each of the following that it is not the highest ranking person or that another person is the highest ranking person:

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- a. If interviews were held, the other persons interviewed.
 - b. If interviews were not held, the other persons that made submittals.
2. If the contract will be awarded under R7-2-1111, before or at the same time as the school district notifies the persons on the final list that they are on the final list, the school district shall send actual notice to each of the following persons that they are not on the final list or that other persons are on the final list:
 - a. If interviews were held, the other persons interviewed.
 - b. If interviews were not held, the other persons that made submittals.
- D. The school district shall conduct negotiations with persons on the final list as follows:
 1. The negotiations shall include consideration of compensation and other contract terms that the school district determines to be fair and reasonable to the school district. In making this decision, the school district shall take into account the estimated value, the scope, the complexity and the nature of the construction services to be rendered.
 2. If the procurement is for a single contract, there is one final list and the school district shall enter into negotiations with the highest qualified person on the final list. If the school district is not able to negotiate a satisfactory contract with the highest qualified person on the final list, at compensation and on other contract terms the school district determines to be fair and reasonable, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations with the next most qualified person on the final list in sequence until an agreement is reached or a determination is made to reject all persons on the final list.
 3. If the procurement is for multiple contracts for similar job-order-contracting construction services to be awarded to separate persons, there is one final list and the school district shall enter into separate negotiations for contracts with the number of the highest qualified persons on the final list equal to the number of contracts to be awarded. If the school district is not able to negotiate a satisfactory contract with a person with whom the school district has commenced negotiations, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations for a contract with the next most qualified person on the final list with whom the school district is not then negotiating and with whom the school district has not previously negotiated in sequence until an agreement is reached for some or all of the multiple contracts included in the request for qualifications or a determination is made to reject all persons on the final list.
 4. If the school district terminates negotiations with a person and commences negotiations with another person on the final list, the school district shall not recommence negotiations or enter into a contract for the construction services covered by the final list with any person with whom the school district terminated negotiations.

at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1111. Alternative Procedure for Design-build or Job-order-contracting Construction Services

- A. As an alternative to R7-2-1110(D), the school district may award a single contract for design-build construction services or a single or multiple contracts for similar job-order-contracting construction services pursuant to this Section.
- B. The school district shall use the selection committee appointed for the request for qualifications pursuant to R7-2-1107.
- C. The school district shall issue a request for proposals to the persons on the final list developed pursuant to R7-2-1110(A) through (C). The request for proposals shall be issued at least 14 days before the due date and time for receipt of proposals unless a shorter time is determined necessary by the school district.
- D. The request for proposals shall include the following:
 1. A statement that the procurement is for a single contract or, for similar job-order-contracting construction services only, for multiple contracts.
 2. If the procurement is for multiple contracts for similar job-order-contracting construction services, the notice shall specify that multiple contracts will be awarded, shall specify the number of contracts that will be awarded, shall specify the number of offerors to whom contracts will be awarded which shall be the number of contracts in the procurement, and shall describe the job-order-contracting services to be performed under each contract.
 3. Instructions and information to persons concerning the proposal submission requirements, including the due date and time for receipt of proposals, the address of the office at which proposals are to be received, the proposal acceptance period, and any other special information.
 4. The school district's project schedule and project final budget for design and construction or life cycle budget for a procurement that includes maintenance services or operations services.
 5. If a single contract will be awarded, a statement that the contract will be awarded to the person whose proposal receives the highest number of points under a scoring method. If multiple contracts for similar job-order-contracting services will be awarded, a statement that the multiple contracts will be awarded to a specified number of offerors whose proposals receive the highest number of points under a scoring method. The specified number of offerors will be the number of contracts included in the procurement.
 6. A description of the scoring method, including a list of the factors in the scoring method and the number of points allocated to each factor.
 7. For design-build constructions services only, the design requirements, including the required features, functions, characteristics, qualities and properties, the anticipated schedule, including start, duration and completion, and the estimated budgets applicable to the specific procurement for design and construction and, if applicable, for operation and maintenance. Drawings and other documents illustrating the scale and relationship of the features, functions and characteristics of the project, which shall all be prepared by an architect or engineer, as appropriate, and additional design information or documents specified by the school district, may also be included.

Historical Note

New Section made by exempt rulemaking at 13 A.A.R. 1266, effective February 26, 2007 (Supp. 07-1). Section repealed; new Section made by final exempt rulemaking

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8. A requirement that each offeror submit separately a technical proposal and a price proposal and that the offeror's entire proposal is responsive to the requirements in the request for proposals. For design-build construction services, the price in the price proposal shall be a fixed price or a guaranteed maximum price.
 9. A statement that in applying the scoring method, the selection committee will separately evaluate and score the technical proposal before opening, evaluating, and scoring the price proposal.
 10. If the school district desires to conduct discussions with offerors, a statement that discussions may be held and a requirement that each offeror submit a preliminary technical proposal before the discussions are held.
 11. Type of contract to be used.
 12. That offerors may designate as proprietary portions of the proposal.
 13. Notice that all information and proposals submitted by offerors, except as stated in subsection (D)(12), will be made available for public inspection after the school district has entered into a single contract or all of the multiple contracts.
 14. The contract terms and conditions, including warranty and bonding or other security requirements, as applicable.
 15. The name of the district representative or district representatives.
 16. If the request for proposals incorporates documents by reference, the request for proposals shall specify where such documents may be obtained.
- E.** The factors in the scoring method described in the request for proposals may include:
1. For design-build construction services only, demonstrated compliance with the design requirements.
 2. Offeror qualifications.
 3. Offeror financial capacity.
 4. Compliance with the school district's project schedule.
 5. For design-build construction services only, if the request for proposals specifies that the school district will spend its project budget and not more than its project budget and is seeking the best proposal for the project budget, compliance of the offeror's price or life cycle price for procurements that include maintenance services, operations services or finance services with the school district's budget as prescribed in the request for proposals.
 6. For design-build construction services if the request for proposals does not contain the specifications prescribed in subsection (E)(5) and for job-order-contracting construction services, the price or life cycle price for procurements that include maintenance services, operations services or finance services.
 7. An offeror quality management plan.
 8. Other evaluation factors that demonstrate competence and qualifications for the type of construction services in the request for proposals as determined by the school district, if any.
- F.** If determined by the school district and included in the request for proposals, the selection committee shall conduct discussions with all offerors that submit preliminary technical proposals. Discussions shall be for the purpose of clarification to ensure full understanding of, and responsiveness to, the solicitation requirements. Offerors shall be accorded fair treatment with respect to any opportunity for discussion and for clarification by the school district. Revision of preliminary technical proposals shall be permitted after submission of preliminary technical proposals and before award for the purpose of obtaining best and final proposals. In conducting any discussions, information derived from proposals submitted by competing offerors shall not be disclosed to other competing offerors.
- G.** After completion of any discussions pursuant to subsection (F) or if no discussions are held, each offeror shall submit separately its final technical proposal and its price proposal.
- H.** Before opening any price proposal, the selection committee shall open and evaluate the final technical proposals and score the final technical proposals using the scoring method in the request for proposals. No other factors or criteria may be used in evaluation and scoring.
- I.** After completion of the evaluation and scoring of all final technical proposals, the selection committee shall open, evaluate and score the price proposals, and complete scoring of the entire proposals using the scoring method in the request for proposals. No other factors or criteria may be used in evaluation and scoring.
- J.** The school district shall award the contract to the responsive and responsible offeror whose proposal receives the highest score under the method of scoring in the request for proposals. No other factors or criteria may be used in evaluation and award.
- K.** For procurements of multiple contracts for similar job-order-contracting construction services, the school district may award up to the number of contracts specified in the request for proposals.
- L.** Before or at the same time as the school district notifies the selected offeror of contract award, the school district shall notify all other offerors of the award.
- M.** For design-build construction services only, the school district shall award a stipulated fee equal to a percentage of the school district's project final budget for design and construction, as prescribed in the request for proposals, but not less than two-tenths of one percent of the project final budget for design and construction to each final list offeror who provides a responsive, but unsuccessful, proposal. If the school district does not award a contract, all responsive final list offerors shall receive the stipulated fee based on the school district's project final budget for design and construction as included in the request for proposals. The school district shall pay the stipulated fee to each offeror within 90 days after the award of the initial contract or the decision not to award a contract. In consideration for paying the stipulated fee, the school district may use any ideas or information contained in the proposals in connection with any contract awarded for the project, or in connection with a subsequent procurement, without any obligation to pay any additional compensation to the offerors. Notwithstanding the other provisions of this subsection, an offeror may elect to waive the stipulated fee. If an offeror elects to waive the stipulated fee, the school district may not use ideas and information contained in the offeror's proposal, except that this restriction does not prevent the school district from using any idea or information if the idea or information is also included in a proposal of an offeror that accepts the stipulated fee.
- N.** The procurement file shall contain the basis on which the award is made, including at a minimum the information and documents required under R7-2-1115.
- O.** A copy of the request for proposals shall be made available for public inspection at the school district office.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt

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rulemaking at 21 A.A.R. 1525, effective July 1, 2014
(Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1112. Contractor Licenses, Contract and Performance Requirements

A. Notwithstanding any other Section:

1. The contractor for design-build or job-order-contracting construction services is not required to be registered to perform design services pursuant to A.R.S. Title 32, Chapter 1 if the person actually performing the design services on behalf of the contractor is appropriately registered.
2. The contractor for construction-manager-at-risk, design-build or job-order-contracting construction services shall be licensed to perform construction pursuant to A.R.S. Title 32, Chapter 10.
3. The school district shall obtain and maintain a record of proof in the procurement file that a construction or construction services provider that has been awarded a contract with the school district, or through a cooperative purchasing agreement, has a license in good standing to perform construction work pursuant to A.R.S. Title 32, Chapter 10. The license shall be active on the day the contract is awarded. This subsection does not require licensure for professions that are not licensed pursuant to A.R.S. Title 32, Chapter 10.

B. In a procurement for construction-manager-at-risk construction services or design-build construction services, except for design-build contracts awarded pursuant to R7-2-1111, the school district shall enter into a written contract with the contractor for preconstruction services under which the school district shall pay the contractor a fee for preconstruction services in an amount agreed by the school district and the contractor, and the school district shall not request or obtain a fixed price or a guaranteed maximum price for the construction from the contractor or enter into a construction contract with the contractor until after the school district has entered into the written contract for preconstruction services and a preconstruction services fee.

C. Construction shall not commence under a construction services contract until the school district and contractor agree in writing on either a fixed price that the school district will pay or a guaranteed maximum price for the construction to be commenced. The construction to be commenced may be the entire project or may be one or more phased parts of the project.

D. For negotiated construction-manager-at-risk and design-build contracts, preconstruction services, general conditions, schedules, construction contingency, and construction fees shall be part of the contract. For design-build contracts awarded pursuant to a request for proposals, the fees shall be included in the vendor's proposal and shall become part of the awarded contract.

E. For job-order-contracting construction services only:

1. The maximum dollar amount of an individual job order for job-order-contracting construction services shall be one million dollars or a higher or lower amount prescribed by the governing board in a policy adopted in a public meeting held pursuant to A.R.S. Title 38, Chapter 3, Article 3.1. Requirements shall not be artificially divided or fragmented in order to constitute a job order that satisfies the requirements of this subsection.
2. If the contractor subcontracts or intends to subcontract part or all of the work under a job order and if the job-order-contracting construction services contract includes

descriptions of standard individual tasks, standard unit prices for standard individual tasks and pricing of job orders based on the number of units of standard individual tasks in the job order:

- a. The contractor has a duty to deliver promptly to each subcontractor invited to bid a coefficient to the contractor to do all or part of the work under one or more job orders a copy of the descriptions of all standard individual tasks on which the subcontractor is invited to bid and a copy of the standard unit prices for the individual tasks on which the subcontractor is invited to bid.
- b. If not previously delivered to the subcontractor, the contractor has a duty to promptly deliver to each subcontractor invited to or that has agreed to do any of the work included in any job order a copy of the description of each standard individual task that is included in the job order and that the subcontractor is invited to perform, the number of units of each standard individual task that is included in the job order and that the subcontractor is invited to perform, and the standard unit price for each standard individual task that is included in the job order and that the subcontractor is invited to perform.

F. For all construction services contracts, the contractor performing the construction services is permitted to self-perform part of the construction work, if and to the extent agreed in writing by the school district and the contractor. The school district may use methods other than competitive bidding to assure itself that the price the school district pays to the contractor for self-performed work is fair and reasonable. Permitted methods to evaluate fairness and reasonableness of the price of self-performed work include evaluation of the contractor's proposed scope of work and price for self-performed work by an estimator who is hired and paid by the school district, who is independent of the contractor and who may be an employee of the school district. Although the school district may elect to so require, nothing in Articles 10 and 11 shall be construed or interpreted to require the school district to require a contractor desiring to self-perform part of the construction work to competitively bid that part of the construction work against other contractors in a bid competition.

G. For all construction services contracts, the following requirements apply to the construction work to be performed by subcontractors and do not apply to construction work that the school district and the contractor agree in writing will be self-performed by the contractor:

1. The person selected to perform the construction services shall select subcontractors based on qualifications alone or on a combination of qualifications and price and shall not select subcontractors based on price alone. A qualifications and price selection may be a single-step selection based on a combination of qualifications and price or a two-step selection. In a two-step selection, the first step shall be based on qualifications alone and the second step may be based on a combination of qualifications and price or on price alone.
2. The school district shall include in each contract:
 - a. If the school district included its subcontractor selection plan in the request for qualifications, the school district's subcontractor selection plan and the procedures to implement the school district's subcontractor selection plan proposed by the awarded contractor in submitting its qualifications with those

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modifications to the procedures as the school district and the contractor agree.

- b. If the school district did not include its subcontractor selection plan in the request for qualifications, the subcontractor selection plan proposed by the awarded contractor in submitting its qualifications with those modifications as the school district and the contractor agree.

3. In making the selection of subcontractors, the contractor shall use the subcontractor selection plan and any procedures included in its contract.

- H. The school district shall include in each contract for construction services the full street or physical address of each separate location at which the construction will be performed and a requirement that the contractor and each subcontractor at any level include in each of its subcontracts the same address information. The contractor and each subcontractor at any level shall include in each subcontract the full street or physical address of each separate location at which construction work will be performed.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 24 A.A.R. 3283, effective October 22, 2018 (Supp. 18-4). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-1113. Prohibitions

- A. Notwithstanding any contrary provision of Articles 10 and 11, a school district shall not enter into a contract to provide construction-manager-at-risk construction services, design-build construction services or job-order-contracting construction services.
- B. The prohibitions prescribed in subsection (A) do not prohibit a school district from providing construction for itself as provided by law.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1114. Bid Security, Contract Performance and Payment Bonds, and Payment and Retention

- A. Bid security shall be provided pursuant to R7-2-1102.
- B. Contract performance and payment bonds shall be provided pursuant to R7-2-1103.
- C. Contract payment retention and substitute security shall be in accordance with R7-2-1104.
- D. Progress payments shall be in accordance with R7-2-1105.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Amended effective March 21, 1991 (Supp. 91-1). Amended effective October 22, 1992 (Supp. 92-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1115. Procurement File Contents and Review

- A. At a minimum, the school district shall retain the following for each procurement under R7-2-1106 through R7-2-1114:

1. For each request for qualifications procurement process:
 - a. If interviews were not held:
 - i. The submittal of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract.
 - ii. The final list.
 - iii. A list of the selection criteria and relative weight of selection criteria used to select the persons for the final list and to determine their order on the final list.
 - iv. A list that contains the name of each person that submitted qualifications and that shows the person's final overall rank or score.
 - v. Documents that show the final score or rank on each selection criteria of each person that submitted qualifications and that support the final overall rankings and scores of the persons that submitted qualifications. The school district shall retain the individual scoring sheets for individual selection committee members.
 - b. If interviews were held:
 - i. All submittals of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract.
 - ii. The final list.
 - iii. A list of the selection criteria and relative weight of selection criteria used to select the persons for the final list and to determine their order on the final list.
 - iv. A list that contains the name of each person that was interviewed and that shows the person's final overall rank or score.
 - v. Documents that show the final score or rank on each selection criteria of each person that was interviewed and that support the final overall rankings and scores of the persons that were interviewed. The school district shall retain the individual scoring sheets for individual selection committee members.
 - vi. A list of the selection criteria and relative weight of the selection criteria used to select the persons for the short list to be interviewed.
 - vii. A list that contains the name of each person that submitted qualifications and that shows the person's final overall rank or score in the selection of the persons to be on the short list to be interviewed.
 - viii. Documents that show the final score or rank on each selection criteria of each person that submitted qualifications and that support the final overall rankings and scores of the persons that submitted qualifications. The school district shall retain the individual scoring sheets for individual selection committee members.
2. For each request for proposals procurement process under R7-2-1111:
 - a. The entire proposal submitted by the person that received the highest score in the scoring method in the request for proposals and the entire proposal submitted by each person with whom the school district enters into a contract.
 - b. The description of the scoring method, the list of factors in the scoring method and the number of

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points allocated to each factor, all as included in the request for proposals.

- c. A list that contains the name of each offeror that submitted a proposal and that shows the offeror's final overall score.
 - d. Documents that show the final score or rank on each factor in the scoring method in the request for proposals of each offeror that submitted a proposal and that support the final overall scores of the offerors that submitted proposals. The school district shall retain the individual scoring sheets for individual selection committee members.
- B.** Information relating to each procurement under R7-2-1106 through R7-2-1114 shall be made available to the public as follows:
- 1. Until the school district awards a single contract or all of the multiple contracts or terminates the procurement, only the name of each person on the final list may be made available to the public. All other information received by the school district in response to the request for qualifications shall be confidential in order to avoid disclosure of the contents that may be prejudicial to competing respondents during the selection process.
 - 2. After the school district awards a single contract or all of the multiple contracts or terminates the procurement, the school district shall make the contents of the procurement file, except the proposals and statements of qualifications submitted in response to a solicitation and the documents described in subsections (A)(1)(a)(v), (A)(1)(b)(v), (A)(1)(b)(viii), and (A)(2)(d), available to the public.
 - 3. After the school district has entered into a single contract or all of the multiple contracts or has terminated the procurement, the school district shall make the proposals and statements of qualifications and the documents described in subsections (A)(1)(a)(v), (A)(1)(b)(v), (A)(1)(b)(viii), and (A)(2)(d) available to the public.
 - 4. To the extent that an offeror designates and the school district concurs, trade secrets and other proprietary data contained in a proposal or statement of qualifications shall remain confidential.
 - 5. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.
- C.** The school district shall retain the records of a procurement under R7-2-1106 through R7-2-1114 in accordance with R7-2-1085.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective March 21, 1991 (Supp. 91-1).

Amended effective October 22, 1992 (Supp. 92-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1116. Repealed**Historical Note**

New Section made by exempt rulemaking at 13 A.A.R. 1266, effective February 26, 2007 (Supp. 07-1). Section repealed by final exempt rulemaking at 21 A.A.R. 1525,

effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

PART XV. PROCUREMENT OF SPECIFIED PROFESSIONAL SERVICES**R7-2-1117. Procurement of Specified Professional Services**

- A.** Specified professional services, which is defined in R7-2-1001(120), as services of an architect, engineer, land surveyor, assayer, geologist and landscape architect, shall be procured as provided in R7-2-1117 through R7-2-1123, except as authorized in R7-2-1033, R7-2-1053, R7-2-1055, and R7-2-1122.
- B.** Prior to public notice of the need for specified professional services, the school district shall determine that the services to be acquired are specified professional services.
- C.** In the procurement of specified professional services:
 - 1. The school district shall specify whether the procurement is for a single contract or for multiple contracts. Multiple contracts may be awarded to separate persons or may be awarded to a single person as specified in the request for qualifications.
 - 2. The school district and the selection committee shall not request or consider fees, price, man-hours or any other cost information at any point in the selection process under this Section and R7-2-1120 or R7-2-1121, including the selection of persons to be interviewed, the selection of persons to be on the final list, in determining the order of preference of persons on a final list or for any other purpose in the selection process except as provided in R7-2-1121.
 - 3. In determining the persons to participate in any interviews, in determining the persons to be on the final list, and in determining the order on the final list, the selection committee shall use and consider only the criteria and weighting of criteria in the request for qualifications. No other factors or criteria may be used in the evaluation, determinations and other actions.
 - 4. If the school district enters into the number of contracts specified in the request for qualifications, the procurement ends. After that time the school district may not use the procurement or any final list in the procurement as the basis for entering into a contract with any other person that participated in the procurement.
 - 5. Notwithstanding any other provision specifying the number of persons to be interviewed, the number of persons to be on a final list, or any other numerical specification in this Section or R7-2-1121:
 - a. If a smaller number of persons respond to the request for qualifications or if one or more persons drop out of the procurement so that there is a smaller number of persons participating in the procurement, the school district, as the school district determines necessary and appropriate, may elect to proceed with the participating persons if there are at least two participating responsive and responsible persons. Alternatively, the school district may elect to terminate the procurement.
 - b. As to a request for qualifications to be negotiated pursuant to R7-2-1121(D), if only one responsive and responsible person responds to the request for qualifications, or if one or more persons drop out of the procurement so that only one responsive and responsible person remains in the procurement, the school district may elect to proceed with the procurement with only one person if the governing

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board determines in writing that the negotiated fee is fair and reasonable and that either other prospective persons had reasonable opportunity to respond or there is not adequate time for a resolicitation.

- c. If a person on the final list withdraws or is removed from the procurement and the selection committee determines that it is advantageous to the school district, the selection committee may replace that person on the final list with another person that submitted qualifications in the procurement and that is selected as the next most qualified.

D. The request for qualifications shall:

1. Provide instructions and information to persons concerning the statement of qualifications submission requirements, including the due date and time for receipt of statements of qualifications, the address of the office at which the statements of qualifications are to be received, and any other special information.
2. State whether one contract or multiple contracts may or will be awarded.
 - a. If one contract will be awarded, state that one contract may or will be awarded, describe the services to be performed under the contract and state that one person may or will be awarded the contract.
 - b. If multiple contracts may or will be awarded, state the number of contracts that may or will be awarded, the services to be performed under each of the multiple contracts, and either that each contract will be awarded to a separate person or that all of the contracts will be awarded to the same person.
3. State the number of persons to be included on the final list.
 - a. If a single contract will be awarded, state that there will be a single final list of at least three and not more than five persons.
 - b. If multiple contracts will be awarded to a single person, state that there will be a single final list of at least three and not more than five persons.
 - c. In a procurement for multiple contracts for similar specified professional services to be awarded to separate persons, state that there will be a single final list and the number of persons on the final list, which shall be the sum of the number of contracts that may or will be awarded plus another number that is determined by the school district and that is not more than five.
 - d. If multiple contracts for different specified professional services will be awarded to separate persons, state that there will be a separate final list for each type of specified professional services and that the number of persons on each final list will be equal to the number of contracts that may or will be awarded for each type of specified professional services plus a number determined by the school district not to exceed five.
4. State the selection criteria and relative weight to be used. All selection criteria shall be factors that demonstrate competence and qualifications for the type of specified professional services included in the procurement.
 - a. If interviews will be held, state the selection criteria and relative weights to be used in selecting the persons on the

final list and in determining their order on the final list. The final list selection criteria and relative weights may be different than the selection criteria and relative weights used to determine the persons to be interviewed. The request for qualifications also shall state whether the school district will select the persons on the final list and their order on the final list solely through the results of the interview process or through the combined results of both the interview process and the evaluation of statements of qualifications and performance data submitted in response to the request for qualifications.

- b. If interviews will not be held, state the selection criteria and relative weights to be used in selecting the persons on the final list and in determining their order on the final list.
5. State whether interviews will be held.
 - a. If a single contract will be awarded, state that there will be interviews with at least three and not more than five persons.
 - b. If multiple contracts will be awarded to a single person, state that there will be interviews with at least three and not more than five persons.
 - c. In a procurement for multiple contracts for similar specified professional services to be awarded to separate persons, state that interviews will be held and that the interviews will be with a specified number of persons. The specified number shall be stated in the request for qualifications, shall be determined by the school district and shall be the sum of the number of contracts that may or will be awarded, plus another number that is determined by the school district and that is not more than five.
 - d. If multiple contracts for different specified professional services will be awarded to separate persons, state that interviews will be held and that the interviews will be with a specified number of persons. The specified number shall be stated in the request for qualifications, shall be determined by the school district, shall be at least three times the number of contracts that may or will be awarded and shall not be more than five times the number of contracts that may or will be awarded.
6. The name of the district representative or district representatives and the publicly available location of the school district's protest policy or procedure.
7. Notice that all information and statements of qualifications submitted by persons will be made available for public inspection after the school district has entered into a single contract or all of the multiple contracts.
- E.** Statements of qualifications shall be received and opened in accordance with R7-2-1045. Late statements of qualifications, late modifications, or late withdrawals shall be considered in accordance with R7-2-1044 and R7-2-1049.
- F.** A copy of the request for qualifications shall be made available for public inspection at the school district office.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1118. Public Notice of Specified Professional Services

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- A. Notice of the need for specified professional services shall be given by the school district pursuant to R7-2-1022 and R7-2-1024(C). Such notice shall be issued not less than 14 days in advance of when responses shall be received.
- B. The notice shall:
1. Contain a statement of the services required that adequately describes the procurement and specifies how a request for qualifications containing specific information on the procurement may be obtained.
 2. Specify whether the procurement is for a single contract or for multiple contracts; and
 3. If the procurement is for multiple contracts:
 - a. Specify that multiple contracts may or will be awarded;
 - b. Specify the number of contracts that may or will be awarded; and
 - c. Describe the specified professional services to be performed under each contract.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final exempt rulemaking at 21 A.A.R. 1525,
effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1119. Cancellation or Rejection of the Solicitation

A school district may cancel a request for qualifications, reject in whole or in part any or all statements of qualifications or determine not to enter into a contract as specified in the solicitation if it is advantageous to the school district. The school district shall make the reasons for cancellation, rejection or determination not to enter into a contract part of the procurement file.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1120. Specified Professional Services Selection Committee

- A. The school district shall initiate an appropriately qualified selection committee for each request for qualifications. The school district shall ensure that selection committee members are competent to serve on the selection committee.
- B. Each selection committee shall include at least one school district representative appointed by the school district.
- C. The school district shall determine the number and qualifications of the selection committee members. These members may be employees of the school district or non-school district appointees.
- D. Non-school district employees serving on a selection committee shall not receive compensation from the school district for performing this service, but the school district may elect to reimburse non-school district members for travel, lodging and other expenses incurred in connection with service on a selection committee.
- E. A person who is a member of a selection committee shall not be a contractor or subcontractor under a contract awarded under the procurement or provide any specified professional services or other services under the contract.
- F. For the procurement of multiple contracts for specified professional services, the same selection committee shall be used for all contracts in the procurement.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1121. Committee Evaluation and Selection

- A. If interviews are specified in the request for qualifications:
1. The selection committee shall determine the persons to be interviewed by evaluating the statements of qualifications and performance data submitted based solely on the selection criteria and relative weights in the request for qualifications to be used to determine the persons to be interviewed.
 2. If the selection criteria and relative weights to be used by the selection committee to select the persons on the final list or final lists and to determine their order on the final list or final lists are not included in the request for qualifications:
 - a. Before the interviews are held the school district shall distribute to the persons to be interviewed the selection criteria and relative weights to be used to select the persons on the final list and to determine their order on the final list.
 - b. These selection criteria and relative weight may be different than the selection criteria and relative weight used to determine the persons to be interviewed.
 3. The selection committee shall conduct interviews with the number of persons specified in the request for qualifications.
- B. Based solely on the selection criteria and relative weights for selection of the persons on the final list or final lists and their order on the final list or final lists, the selection committee shall select the persons for the final list or final lists and rank the persons on the final list or final lists in order of preference. If the procurement is for multiple contracts for different specified professional services to be awarded to separate persons, and if a person submitted qualifications for more than one type of specified professional services, the person may be on more than one final list.
- C. Before or at the same time as the school district notifies the highest ranking person on the final list or final lists that it is the highest ranking person, the school district shall send actual notice to each of the following that it is not the highest ranking person or that another person is the highest ranking person:
1. If interviews were held, the other persons interviewed.
 2. If interviews were not held, the other persons that made submittals.
- D. The school district shall conduct negotiations with persons on the final list or final lists as follows:
1. The school district shall negotiate a contract with the highest qualified person for the required specified professional services at compensation determined in writing to be fair and reasonable to the school district. Contract negotiations shall be directed toward:
 - a. Making certain that the person has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;
 - b. Determining that the person will make available the necessary personnel and facilities to perform the services within the required time; and
 - c. Agreeing upon compensation that is fair and reasonable.

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2. The negotiations shall include consideration of compensation and other contract terms that the school district determines to be fair and reasonable to the school district. In making this decision, the school district shall take into account the estimated value, the scope, the complexity and the nature of the specified professional services to be rendered.
3. If the procurement is for a single contract, there is one final list and the school district shall enter into negotiations with the highest qualified person on the final list. If the school district is not able to negotiate a satisfactory contract with the highest qualified person on the final list, at compensation and on other contract terms the school district determines to be fair and reasonable, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations with the next most qualified person on the final list in sequence until an agreement is reached or a determination is made to reject all persons on the final list.
4. If the procurement is for multiple contracts for specified professional services to be awarded to a single person on the final list, there is one final list and the school district shall enter into negotiations with the highest qualified person on the final list. If the school district is not able to negotiate a satisfactory contract with the highest qualified person on the final list, at compensation and on other contract terms the school district determines to be fair and reasonable, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations with the next most qualified person on the final list in sequence until an agreement is reached or a determination is made to reject all persons on the final list.
5. If the procurement is for multiple contracts for similar specified professional services to be awarded to separate persons, there is one final list and the school district shall enter into separate negotiations for contracts with the number of the highest qualified persons on the final list equal to the number of contracts to be awarded. If the school district is not able to negotiate a satisfactory contract with a person with whom the school district has commenced negotiations, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations for a contract with the next most qualified person on the final list with whom the school district is not then negotiating and with whom the school district has not previously negotiated in sequence until an agreement is reached for some or all of the multiple contracts included in the request for qualifications or a determination is made to reject all persons on the final list.
6. If the procurement is for multiple contracts for different specified professional services to be awarded to separate persons, there is a separate final list for each type of specified professional services and the school district shall enter into separate negotiations for contracts with the number of the highest qualified persons on each final list equal to the number of contracts to be awarded. If the school district is not able to negotiate a satisfactory contract with a person with whom the school district has commenced negotiations, the school district shall formally terminate negotiations with that person. The school district shall then undertake negotiations for a contract with the next most qualified person on the applicable final list with whom the school district is not then negotiating and with whom the school district has not previously negotiated in sequence until an agreement is reached for some or all of the multiple contracts included in the request for qualifications or a determination is made to reject all persons on the final list.
7. If the school district terminates negotiations with a person and commences negotiations with another person on the final list, the school district shall not recommence negotiations or enter into a contract for the specified professional services covered by the final list with any person with whom the school district terminated negotiations.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1122. Specified Professional Services Contracts Not Exceeding Certain Amounts

- A. A school district may procure a single contract or multiple contracts for specified professional services under this Section if the contract is for specified professional services by an architect or architect firm and the contract amount is \$250,000 or less or if the contract is for specified professional services by a person other than an architect and the contract amount is \$500,000 or less. For such procurements, the school district shall encourage persons engaged in the lawful practice of the profession to submit annually a statement of qualifications and experience.
- B. For each procurement of specified professional services under this Section, the school district shall establish a selection committee pursuant to R7-2-1120.
- C. The selection committee shall evaluate current statements of qualifications and experience on file with the school district, together with those that may be submitted by other persons regarding the procurement.
- D. The school district and the selection committee shall not request or consider fees, price, man-hours or any other cost information at any point in the selection process under this Section, including the selection of the persons to be interviewed, the selection of persons to be on a final list, in determining the order of preference of persons on a final list or for any other purpose in the selection process, except as provided in subsection (F).
- E. If possible and practicable, the selection committee shall conduct interviews regarding the procurement and the relative methods of furnishing the required specified professional services and, if possible, shall select, in order of preference and based on criteria established and published by the selection committee, one or more final lists of the persons deemed to be the most qualified to provide the specified professional services required. The selection committee shall base the selection of each final list and the order of preference on demonstrated competence and qualifications only.
 1. If the procurement is for a single contract or if the procurement is for multiple contracts to be awarded to a single person, there shall be one final list of three persons.
 2. If the procurement is for multiple contracts for different specified professional services to be awarded to separate persons, there shall be a separate final list of three persons for each contract.
 3. In a procurement for multiple contracts for similar specified professional services to be awarded to separate per-

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sons, there shall be one final list and the number of persons on the final list shall be the number of contracts, plus another number that is determined by the school district and that is not more than five.

- F.** The school district shall enter into negotiations with the highest qualified person on each final list or, in the case of a single final list for multiple contracts for the same specified professional services to be awarded to separate persons, the school district shall enter into negotiations with a number of the highest qualified persons on the final list equal to the number of contracts that may or will be awarded.
1. Negotiations shall include consideration of compensation and other contract terms that the school district determines to be fair and reasonable to the school district. In making this determination, the school district shall take into account the estimated value, the scope, the complexity and the nature of the specified professional services to be rendered.
 2. If the school district is unable to negotiate a satisfactory contract with a person with whom the school district is negotiating at a price and on other contract terms the school district determines to be fair and reasonable to the school district, the school district shall formally terminate negotiations with that person.
 3. The school district may undertake negotiations with the next most qualified person on the final list in sequence until an agreement is reached or a determination is made to reject all persons on the final list.
 4. If the school district terminates negotiations with a person on a final list and commences negotiations with another person on the final list, the school district shall not in that procurement recommence negotiations or enter into a contract or contracts with any person with whom the school district has terminated negotiations.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1123. Procurement File Contents and Review for Procurements Conducted under R7-2-1117 through R7-2-1121

- A.** At a minimum, the school district shall retain the following for each procurement under R7-2-1117 through R7-2-1121:
1. If interviews were not held:
 - a. The submittal of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract. If the procurement has multiple final lists, the school district shall retain the submittal of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract, for each final list.
 - b. The final list or final lists.
 - c. A list of the selection criteria and relative weight of selection criteria used to select the persons for the final list or final lists and to determine their order on the final list or final lists.
 - d. A list that contains the name of each person that submitted qualifications and that shows the person's final overall rank or score.

- e. Documents that show the final score or rank on each selection criteria of each person that submitted qualifications and that support the final overall rankings and scores of the persons that submitted qualifications. The school district shall retain the individual scoring sheets for individual selection committee members.

2. If interviews were held:

- a. All submittals of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract. If the procurement has multiple final lists, the school district shall retain the submittal of the person listed first on the final list and the submittal of each person with whom the school district enters into a contract, for each final list.
- b. The final list or final lists.
- c. A list of the selection criteria and relative weight of selection criteria used to select the persons for the final list or final lists and to determine their order on the final list or final lists.
- d. A list that contains the name of each person that was interviewed and that shows the person's final overall rank or score.
- e. Documents that show the final score or rank on each selection criteria of each person that was interviewed and that support the final overall rankings and scores of the persons that were interviewed. The school district shall retain the individual scoring sheets for individual selection committee members.
- f. A list of the selection criteria and relative weight of the selection criteria used to select the persons for the short list or short lists to be interviewed.
- g. A list that contains the name of each person that submitted qualifications and that shows the person's final overall rank or score in the selection of the persons to be on the short list or short lists to be interviewed.
- h. Documents that show the final score or rank on each selection criteria of each person that submitted qualifications and that support the final overall rankings and scores of the persons that submitted qualifications. The school district shall retain the individual scoring sheets for individual selection committee members.

B. Information relating to each procurement under R7-2-1117 through R7-2-1121 shall be made available to the public as follows:

1. Until the school district awards a single contract or all of the multiple contracts or terminates the procurement, only the name of each person on the final list may be made available to the public. All other information received by the school district in response to the request for qualifications shall be confidential in order to avoid disclosure of the contents that may be prejudicial to competing respondents during the selection process.
2. After the school district awards a single contract or all of the multiple contracts or terminates the procurement, the school district shall make the contents of the procurement file, except the statements of qualifications and the documents described in subsections (A)(1)(e), (A)(2)(e), and (A)(2)(h), available to the public.
3. After the school district has entered into a single contract or all of the multiple contracts or has terminated the pro-

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curement, the school district shall make the statements of qualifications and the documents described in subsections (A)(1)(e), (A)(2)(e), and (A)(2)(h) available to the public.

4. To the extent that a person designates and the school district concurs, trade secrets and other proprietary data contained in a statement of qualifications shall remain confidential.
 5. If the procurement file contains information that is confidential under R7-2-1006, a copy of the applicable documents with the confidential information redacted shall be placed in the procurement file for the purpose of public inspection. The unredacted original copy of the confidential information shall be placed in a sealed envelope or other appropriate container, identified as confidential information, and maintained in the procurement file.
- C. The school district shall retain the records of a procurement under R7-2-1117 through R7-2-1121 in accordance with R7-2-1085.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section repealed; new Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1124. Reserved**PART XVI. COST PRINCIPLES****R7-2-1125. Cost Principles**

The cost principles adopted by the director of the Department of Administration pursuant to A.R.S. § 41-2591 shall be used to determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions that provide for the reimbursement of costs.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1126. Reserved**R7-2-1127. Reserved****R7-2-1128. Reserved****R7-2-1129. Reserved****R7-2-1130. Reserved****PART XVII. MATERIALS MANAGEMENT****R7-2-1131. Material Management and Disposition**

- A. The school district shall ascertain or verify that materials, services, or construction items procured by the school district conform to specifications as set forth in the solicitation.
- B. The school district shall determine the fair market value of excess and surplus material.
- C. Disposition of surplus materials.
 1. Except as provided in A.R.S. § 15-342(7) related to sales or leases to the state, a county, a city, another school district, or a tribal government agency, and A.R.S. § 15-342(18) related to the disposition of surplus or outdated learning materials, educational equipment and furnishings, surplus materials, regardless of value, shall be offered through competitive sealed bids, public auction, on-line sales, established markets, trade in, posted prices or state surplus property. If unusual circumstances render

the above methods impractical, the school district may employ other disposition methods, including appraisal or barter, provided the school district makes a written determination that such procedure is advantageous to the school district. Only United States Postal Money Orders, certified checks, cashiers' checks or cash shall be accepted for sales of surplus material unless otherwise approved by the school district.

2. Competitive sealed bidding.
 - a. Notice for sale bids shall be publicly available from the school district at least 10 days before the due date set for bids. Notice of the sale bids shall be provided to prospective bidders, including those bidders on lists maintained by the school district pursuant to R7-2-1023. The notice for sale bids shall list the materials offered for sale, their location, availability for inspection, the terms and conditions of sale and instructions to bidders including the bid due date and time. Bids shall be opened publicly pursuant to the requirements of R7-2-1029.
 - b. The award shall be made in accordance with the provisions of the notice for sale bids to the highest responsive and responsible bidder, provided that the price offered by such bidder is acceptable to the school district. If the school district determines that the bid is not advantageous to the school district, the school district may reject the bids in whole or in part and may resolicit bids or the school district may negotiate the sale, provided that the negotiated sale price is higher than the highest responsive and responsible bidder's price.
3. Auctions shall be advertised in the official newspaper of the county as prescribed in A.R.S. § 11-255 or a newspaper of general circulation, in accordance with A.R.S. § 41-2533. The publication shall not be less than 14 days before the auction date. All the terms and conditions of any sale shall be available to the public at least 24 hours prior to the auction date. The school district or any agent acting on the school district's behalf may also advertise the auction in any other manner determined advantageous to the school district.
4. Internet-based on-line sales shall not be subject to the advertisement requirements in subsection (C)(3). For such disposal services, the school district shall post and maintain a notice explaining the use of Internet-based on-line sales on a designated site on the Internet. The notice shall include:
 - a. The name of the on-line sales provider and the designated site on the Internet where potential buyers may obtain information or participate in the on-line auctions;
 - b. A link to the Internet-based on-line sales service;
 - c. A link to the terms and conditions of sale;
 - d. Instructions for bidding on the Internet-based on-line sales site; and
 - e. A period of not less than 14 days for each Internet-based on-line sale during which persons may submit offers to purchase the specified materials.
5. Before surplus materials are disposed of by trade-in to a vendor for credit on an acquisition, the school district shall approve such disposal. The school district shall base this determination on whether the trade-in value is expected to exceed the value realized through the sale or other disposition of such materials.

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6. An employee of the school district or a governing board member, or an employee of a school district's agent conducting an auction on behalf of the school district, shall not directly or indirectly purchase or agree with another person to purchase surplus property if said employee or board member is, or has been, directly or indirectly involved in the purchase, disposal, maintenance, or preparation for sale of the surplus material.
7. State surplus property manager. The school district may enter into an agreement with the State Surplus Property Manager for the disposition of materials pursuant to Article 8 of the Arizona Procurement Code (A.R.S. § 41-2601 et seq.) and the rules adopted thereunder.
8. Pursuant to A.R.S. § 15-342(35), a school district may offer to sell outdated learning materials, educational equipment or furnishings at a posted price commensurate with the value of the items to pupils who are currently enrolled in that school district before those materials are offered for public sale.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective March 21, 1991 (Supp. 91-1).

Amended effective October 22, 1992 (Supp. 92-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1132. State and Federal Surplus Materials Program

- A. The governing board may acquire surplus materials from the state and the United States government.
- B. The governing board may enter into an agreement with the State Surplus Property Manager for the purpose of acquiring surplus materials from the United States government pursuant to A.R.S. § 41-2603 and the rules adopted thereunder.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended effective March 21, 1991 (Supp. 91-1).

R7-2-1133. Authority for Transfer of Material

Notwithstanding any law to the contrary, the governing board may secure the transfer of surplus materials and obligate its monies to the extent necessary to comply with the laws and conditions of such transfers.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1134. Reserved**R7-2-1135. Reserved****R7-2-1136. Reserved****R7-2-1137. Reserved****R7-2-1138. Reserved****R7-2-1139. Reserved****R7-2-1140. Reserved****PART XVIII. BID PROTESTS****R7-2-1141. Resolution of Bid Protests**

- A. Informal resolution of bid protests. Nothing in Articles 10 and 11 are intended to eliminate the informal resolution of problems by school district personnel.
- B. Formal resolution of bid protests. The governing board pursuant to R7-2-1007 shall designate a district representative, as defined in R7-2-1001, to resolve bid protests. All solicitations issued by the school district shall include the name of the district representative and shall indicate that any bid protest shall be filed with the district representative. Appeal from the decision of the district representative may be made to the hearing officer pursuant to R7-2-1147 and R7-2-1181.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 27 A.A.R. 2342 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1142. Filing of a Protest

- A. Any interested party may protest a solicitation issued by the school district, a determination that a proposal is unacceptable, or the proposed award or the award of a school district contract. Protests shall be filed with the district representative.
- B. Content of protest. The protest shall be in writing and shall include the following information:
 1. The name, address and telephone number of the interested party;
 2. The signature of the interested party or the interested party's representative;
 3. Identification of the solicitation or contract number;
 4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
 5. The form of relief requested.
- C. The interested party shall supply any other information requested by the district representative within 10 days of the request.
- D. The interested party may file a written request with the district representative for an extension of the time limit for providing additional information set forth in subsection (C). The written request shall be filed before the expiration of the time limit set forth in subsection (C) and shall set forth good cause as to the specific reason that the interested party is unable to provide the additional information within the 10 days. The district representative shall approve or deny the request in writing, state the reasons for the determination, and if an extension is granted, set forth a new date for submission of the filing.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1143. Time for Filing Protests

- A. Protests based upon alleged improprieties in a solicitation that are apparent before the due date and time for responses to the solicitation, shall be filed before the due date and time for responses to the solicitation.
- B. In cases other than those covered in subsection (A), the interested party shall file the protest within 10 days after the school district makes the procurement file available for public inspection.

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- C. The interested party may file a written request with the district representative for an extension of the time limit for protest filing set forth in subsection (B). The written request shall be filed before the expiration of the time limit set forth in subsection (B) and shall set forth good cause as to the specific action or inaction of the school district that resulted in the interested party being unable to file the protest within the 10 days. The district representative shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for submission of the filing.
- D. If the interested party shows good cause and it is advantageous to the school district, the district representative may consider any protest that is not filed timely.
- E. The district representative shall immediately give notice of the protest to the successful contractor if award has been made or, if no award has been made, to all interested parties.
- F. At any time the district representative or hearing officer may refer the protest to the governing board for resolution in accordance with R7-2-1152.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1144. Stay of Procurements During the Protest

The district representative may stay all or part of the procurement or contract if it is determined that there is a reasonable probability the protest will be upheld or that a stay is advantageous to the school district. The district representative shall notify the successful contractor if award has been made or, if no award has been made, all interested parties of the stay in writing no later than the time of issuance of the district representative's decision in accordance with R7-2-1145.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1145. Decision by the District Representative

- A. The district representative shall have the authority granted to the district representative by the governing board to settle and resolve a protest.
- B. The district representative shall issue a written decision within 14 days after a protest has been filed, or after additional information requested by the district representative has been submitted, pursuant to R7-2-1142. The decision shall include:
 1. A statement of the decision of the district representative with supporting rationale; and
 2. A paragraph substantially as follows: "This is the decision of the district representative of the _____ School District. The decision may be appealed to a hearing officer. If you appeal, you must file a written notice of appeal with the district representative within 30 days from the date of the decision."
- C. The district representative shall furnish a copy of the decision to the interested party by any method that provides evidence of receipt.
- D. On agreement of all interested parties, the time limit for decisions set forth in subsection (B) may be extended by the dis-

trict representative for good cause for a reasonable time not to exceed an additional 30 days. The district representative shall notify the interested party in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.

- E. If the district representative fails to issue a decision within the time limits set forth in subsections (B) or (D), the interested party may proceed as if the district representative had issued an adverse decision.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1146. Remedies

- A. If the district representative sustains the protest in whole or part and determines that a solicitation, a determination that a proposal is unacceptable, proposed contract award, or contract award does not comply with Articles 10 and 11, the school district shall implement an appropriate remedy.
- B. In determining an appropriate remedy, the district representative shall consider all the circumstances surrounding the procurement or proposed procurement including, but not limited to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, the extent of performance, costs to the school district, the urgency of the procurement, the impact of the relief on the mission of the school district, and other relevant issues.
- C. An appropriate remedy may include one or more of the following:
 1. Decline to exercise an option to renew under the contract;
 2. Terminate the contract;
 3. Amend the solicitation;
 4. Issue a new solicitation;
 5. Award a contract consistent with procurement statutes and regulations; or
 6. Such other relief as is determined necessary to ensure compliance with Articles 10 and 11.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1147. Appeals to a Hearing Officer

- A. An appeal to a hearing officer from a decision entered or deemed to be entered by the district representative shall be filed with the district representative within 30 days from the date of decision.
- B. Content of appeal. The appeal shall contain:
 1. The information set forth in R7-2-1142(B); and
 2. The precise factual or legal error in the decision of the district representative from which an appeal is taken.
- C. All costs associated with conducting a hearing, including the costs of the hearing officer, shall be paid by the school district. If the hearing officer decides in favor of the school district, the other party shall reimburse the school district for the costs of the hearing within 30 days of receipt of a copy of the hearing officer's invoice.

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- D. The Executive Director of the State Board of Education ("Executive Director") shall prepare and maintain a list of individuals who meet the qualifications specified in R7-2-1185 to serve as hearing officers.
- E. A hearing officer may be selected by mutual agreement of both parties. If the parties are unable to mutually agree on a hearing officer, three hearing officers shall be selected randomly by the Executive Director and shall be screened to determine availability and possible bias. Once the Executive Director has selected three hearing officers who are available and show no evidence of bias, the three names shall be provided to both parties. Both parties have the opportunity to strike one name from the list provided, but shall do so within 14 calendar days from the date on which the Executive Director provided the list to the parties. If after the time period for striking a hearing officer has passed and more than one person remains on the list, the Executive Director shall select one of the remaining individuals on the list as the hearing officer unless either party objects for cause and provides such reason in writing to the Executive Director. If after the time period for striking a hearing officer has passed and there is only one person remaining on the list, the remaining individual shall be named as the hearing officer unless either party objects for cause and provides such reason in writing to the Executive Director. Objections for cause shall require specific evidence that the individual does not meet the criteria specified in R7-2-1185. The Executive Director shall review the evidence submitted and determine the qualifications of the individual. If the Executive Director determines that the individual is not qualified to serve as the hearing officer, the Executive Director shall repeat the process and select three additional hearing officers to be provided to the parties.
- F. Issuance of a school district purchase order shall constitute the official selection date of the hearing officer.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1148. Notice of Appeal

The district representative shall within three working days give notice of the filing of the appeal to the governing board and the successful contractor if award has been made.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1149. Stay of Procurement During Appeal

If an appeal is filed and the procurement or contract was stayed by the district representative pursuant to R7-2-1144, the filing of an appeal shall automatically continue the stay unless the hearing officer makes a written determination that the award of the contract without delay is necessary to protect substantial interests of the school district. If no such determination is made, the stay shall automatically end upon written decision of the hearing officer pursuant to R7-2-1151 or R7-2-1181.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R.

1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1150. District Representative's Response

- A. The district representative shall file a complete response to the appeal within 21 days from the date the appeal is filed or within five days after the hearing officer has been selected, whichever is later. At the same time, the district representative shall furnish a copy of the response to the appellant and to any interested party.
- B. The district representative may submit a written request to the hearing officer for an extension of the period for submission of response, identifying the reasons for the extension. The hearing officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of filing a response. The hearing officer shall notify the district representative and the interested party of any extension.
- C. The interested party shall file comments on the district representative's response with the hearing officer within 10 days after receipt of the response. The interested party shall provide copies of the comments to the district representative and other interested parties.
- D. The interested party may submit a written request to the hearing officer for an extension of the period for submission of comments, identifying the reasons for the extension. The hearing officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of filing comments. The hearing officer shall notify the district representative and the interested party of any extension.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1151. Dismissal Before Hearing

- A. The hearing officer shall dismiss, upon a written determination, an appeal before scheduling a hearing if:
1. The appeal does not state a valid basis for protest;
 2. The appeal is untimely pursuant to R7-2-1147(A); or
 3. The appeal attempts to raise issues not raised in the protest.
- B. The hearing officer shall notify the interested party and the district representative in writing of a determination to dismiss an appeal before hearing.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1152. Hearing

Hearings on appeals of bid protest decisions shall be conducted pursuant to R7-2-1181 and A.R.S. § 41-1092.07 as contested cases.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R.

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1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1153. Remedies

If the hearing officer sustains the appeal in whole or part and determines that a solicitation, a determination that a proposal is unacceptable, proposed award, or award does not comply with Articles 10 and 11, remedies shall be implemented pursuant to R7-2-1146.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1154. Reserved**PART XIX. CONTRACT CLAIMS AND CONTROVERSIES****R7-2-1155. Resolution of Contract Claims and Controversies**

- A.** The district representative shall have the authority granted to the district representative by the governing board to settle and resolve contract claims and controversies including claims relating to assignees of the contractor.
- B.** The district representative shall receive prior written approval of the governing board for the settlement or resolution of a claim exceeding the dollar amount specified in A.R.S. § 41-2535.
- C.** Appeals from decisions of the district representative may be made to the hearing officer pursuant to R7-2-1158.
- D.** A claimant shall file a contract claim with the district representative within 180 days after the claim arises. The claim shall include the following:
 1. The name, address, and telephone number of the claimant;
 2. The signature of the claimant or claimant's representative;
 3. Identification of the solicitation or contract number;
 4. A detailed statement of the legal and factual grounds of the claim including copies of the relevant documents; and
 5. The form and dollar amount of the relief requested.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1156. District Representative's Decision

- A.** If a controversy cannot be resolved by mutual agreement, the district representative shall issue a written decision within no more than 60 days from receipt of the contractor's written request for a decision. Before issuing a written decision, the district representative shall review the facts pertinent to the claim and secure any necessary assistance from legal, fiscal, and other advisors.
- B.** Decision of the district representative. The district representative shall furnish a copy of the decision to the contractor by any method that provides evidence of receipt. The decision shall include:
 1. A description of the claim;
 2. A reference to the pertinent contract provision;
 3. A statement of the factual areas of agreement or disagreement;
 4. A statement of the district representative's decision, with supporting rationale; and

- 5.** A paragraph substantially as follows:

"This is the decision of the district representative of the _____ School District. This decision may be appealed to a hearing officer. If you appeal, you must file a written notice of appeal with the district representative within 30 days from the date of decision."

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Amended by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1157. Issuance of a Timely Decision

- A.** On agreement of all interested parties, the time limit for decisions set forth in R7-2-1156(A) may be extended for good cause for a reasonable time not to exceed 14 days. The district representative shall notify the contractor in writing that the time for the issuance of a decision has been extended and the date by which a decision shall be issued.
- B.** If the district representative fails to issue a decision within 60 days after the request is filed or within the time prescribed under subsection (A), the contractor may proceed as if the district representative had issued an adverse decision.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1158. Appeals to a Hearing Officer

- A.** An appeal from a decision entered or deemed to be entered by the district representative on a contract claim or controversy shall be filed with the district representative within 30 days from the date of decision.
- B.** The appeal shall contain the basis for the precise factual or legal error in the decision of the district representative from which an appeal is taken.
- C.** The district representative shall file a complete response to the appeal within 21 days from the date the appeal is filed or within five days after the hearing officer has been selected, whichever is later. At the same time, the district representative shall furnish a copy of the response to the appellant and to any interested party.
- D.** The district representative may submit a written request to the hearing officer for an extension of the period for submission of response, identifying the reasons for the extension. The hearing officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of filing a response. The hearing officer shall notify the district representative and the interested party of any extension.
- E.** The interested party shall file comments on the district representative's response with the hearing officer within 10 days after receipt of the response. The interested party shall provide copies of the comments to the district representative and other interested parties.

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- F. The interested party may submit a written request to the hearing officer for an extension of the period for submission of comments, identifying the reasons for the extension. The hearing officer shall approve or deny the request in writing, state the reasons for the determination, and, if an extension is granted, set forth a new date for the submission of filing comments. The hearing officer shall notify the district representative and the interested party of any extension.
- G. All costs associated with conducting a hearing, including the costs of the hearing officer, shall be paid by the school district. If the hearing officer decides in favor of the school district, the other party shall reimburse the school district for the costs of the hearing within 30 days of receipt of a copy of the hearing officer's invoice.
- H. The Executive Director of the State Board of Education ("Executive Director") shall prepare and maintain a list of individuals who meet the qualifications specified in R7-2-1185 to serve as hearing officers.
- I. A hearing officer may be selected by mutual agreement of both parties. If the parties are unable to mutually agree on a hearing officer, three hearing officers shall be selected randomly by the Executive Director and shall be screened to determine availability and possible bias. Once the Executive Director has selected three hearing officers who are available and show no evidence of bias, the three names shall be provided to both parties. Both parties have the opportunity to strike one name from the list provided, but shall do so within 14 calendar days from the date on which the Executive Director provided the list to the parties. If after the time period for striking a hearing officer has passed and more than one person remains on the list, the Executive Director shall select one of the remaining individuals on the list as the hearing officer unless either party objects for cause and provides such reason in writing to the Executive Director. If after the time period for striking a hearing officer has passed and there is only one person remaining on the list, the remaining individual shall be named as the hearing officer unless either party objects for cause and provides such reason in writing to the Executive Director. Objections for cause shall require specific evidence that the individual does not meet the criteria specified in R7-2-1185. The Executive Director shall review the evidence submitted and determine the qualifications of the individual. If the Executive Director determines that the individual is not qualified to serve as the hearing officer, the Executive Director shall repeat the process and select three additional hearing officers to be provided to the parties.
- J. Issuance of a school district purchase order shall constitute the official selection date of the hearing officer.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1159. Hearing

Hearings on appeals of contract claim and controversy decisions shall be conducted pursuant to R7-2-1181 and A.R.S. § 41-1092.07 as contested cases.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R.

1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1160. Reserved**PART XX. DEBARMENT AND SUSPENSION****R7-2-1161. Authority to Debar or Suspend**

- A. Except as provided in A.R.S. § 41-1279.21(B), the governing board has the sole authority to debar or suspend a person from participating in school district procurements.
- B. The causes for debarment or suspension include the following:
 1. Conviction of any person or any subsidiary or affiliate of any person for commission of a criminal offense arising out of obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
 2. Conviction of any person or any subsidiary or affiliate of any person under any statute of the federal government, this state or any other state for embezzlement, theft, fraudulent schemes and artifices, fraudulent schemes and practices, bid rigging, perjury, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a school district contractor.
 3. Conviction or civil judgment finding a violation by any person or any subsidiary or affiliate of any person under state or federal antitrust statutes.
 4. Violations of contract provisions of a character which are deemed to be so serious as to justify debarment action, such as either of the following:
 - a. Knowingly fails without good cause to perform in accordance with the specification or within the time limit provided in the contract.
 - b. Failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts, except that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.
 5. Any other cause deemed to affect responsibility as a school district contractor, including suspension or debarment of such person or any subsidiary or affiliate of such person by another governmental entity for any cause.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1162. Initiation of Debarment

Upon receipt of information concerning a possible cause for debarment, the school district shall investigate the possible cause. If the school district has a reasonable basis to believe that a cause for debarment exists, the school district may propose debarment under R7-2-1164.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1163. Period of Debarment

- A. The period of time for a debarment shall not exceed three years from the date of the debarment determination.
- B. If debarment is based solely upon debarment by another governmental agency including another school district, the period

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of debarment may run concurrently with the period established by that other debarring agency.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1164. Notice

- A. If the school district proposes debarment, the school district shall notify the person and affected affiliates in writing within seven days of the proposed debarment by any means evidencing receipt, which notice shall indicate that a hearing shall be scheduled, if requested, in accordance with R7-2-1181 as contested cases.
- B. The notice of debarment shall state:
 1. The basis for debarment;
 2. The period, including dates, of the debarment;
 3. That bids or proposals shall not be solicited or accepted from the person and, if received, will not be considered; and
 4. That the person is entitled to a hearing on the suspension if the person files a written request for a hearing with a designated district representative within 10 days after receipt of the notice.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1165. Notice to Affiliates

- A. If the school district proposes to debar an affiliate, the affiliate shall have a right to appear in any hearing on the proposed debarment to show mitigating circumstances.
- B. The affiliate shall in writing advise the school district within 10 days of receipt of the notice under R7-2-1164 of its intention to appear under subsection (A). Failure to provide written notice of appearance within the 10-day period shall be a waiver of the right to appear in the hearing.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1166. Imputed Knowledge

- A. Improper conduct may be imputed to an affiliate for purposes of debarment where the impropriety occurred in connection with the affiliate's duties for or on behalf of, or with the knowledge, approval, or acquiescence of, the contractor.
- B. The improper conduct of a person or its affiliate having a contract with a contractor may be imputed to the contractor for purposes of debarment where the impropriety occurred in connection with the person's duties for or on behalf of, or with the actual or constructive knowledge, approval, or acquiescence of, the contractor.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1167. Reinstatement

- A. The governing board may at any time reinstate a debarred person or rescind the debarment upon a determination that the cause upon which the debarment is based no longer exists or

upon a determination that such reinstatement or rescission is advantageous to the school district. The governing board's determination shall include any limitations on the debarred person's ability to contract with the school district.

- B. Any debarred person may request reinstatement by submitting a petition to the school district supported by documentary evidence showing that the cause for debarment no longer exists or has been substantially mitigated.
- C. The school district may require a hearing on the request for reinstatement.
- D. The school district shall make a written decision on reinstatement within 30 days after the request is filed and specify the factors on which it is based.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1168. Suspension

- A. If adequate grounds for debarment exist, the governing board may suspend a person from participating in any procurement or receiving any award in accordance with the procedures in R7-2-1170.
- B. The governing board shall not suspend a person pending debarment unless compelling reasons require suspension to protect school district interests.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1169. Period and Scope of Suspension

- A. Unless otherwise agreed to by the parties, the period of suspension shall not exceed 35 days without satisfying the notice requirements of R7-2-1170. If the notice requirements are satisfied the period of suspension shall not exceed six months.
- B. For purpose of suspension, a person's conduct may be imputed to an affiliate or another person in accordance with R7-2-1166.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1170. Notice and Hearing

- A. The school district shall notify the person suspended by any means evidencing receipt.
- B. The notice of suspension shall state:
 1. The basis for suspension;
 2. The period, including dates, of the suspension;
 3. That bids or proposals shall not be solicited or accepted from the person and, if received, will not be considered; and
 4. That the person is entitled to a hearing on the suspension if the person files a written request for a hearing, including the basis for the request, with a designated district representative within 10 days after receipt of the notice.
- C. A hearing requested under this Section shall be conducted pursuant to R7-2-1181.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R.

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1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1171. List of Debarments, Suspensions and Voluntary Exclusions

The school district shall maintain a list of debarment, suspensions, and voluntary exclusions. It is recommended that the school district provide notice of any debarments, suspensions and voluntary exclusions to the state purchasing office.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1172. Reserved

R7-2-1173. Reserved

R7-2-1174. Reserved

R7-2-1175. Reserved

R7-2-1176. Reserved

R7-2-1177. Reserved

R7-2-1178. Reserved

R7-2-1179. Reserved

R7-2-1180. Reserved

PART XXI. HEARING PROCEDURES**R7-2-1181. Hearing Procedures**

- A. If a hearing is required or permitted under Articles 10 and 11, this Section shall apply. Hearing officers shall be selected pursuant to R7-2-1147(D) and (E) or R7-2-1158(E) and (F).
- B. The Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) shall apply where the Act is not inconsistent with Articles 10 and 11.
- C. The hearing officer shall arrange for a hearing to be held within 30 days of receiving required responses and comments from both parties and notify the parties in writing of the time and place of the hearing.
- D. The hearing officer may:
 1. Hold pre-hearing conferences to settle, simplify, or identify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding;
 2. Require parties to state their positions concerning the various issues in the proceeding;
 3. Require parties to produce for examination those relevant witnesses and documents under their control;
 4. Rule on motions and other procedural items on matters pending before such officer;
 5. Regulate the course of the hearing and conduct of participants;
 6. Establish time limits for submission of motions or memoranda;
 7. Impose appropriate sanctions against any person failing to obey an order under these procedures, which may include:
 - a. Refusing to allow the person to assert or oppose designated claims or defenses, or prohibiting that person from introducing designated matters in evidence;
 - b. Excluding all testimony of an unresponsive or evasive witness; and
 - c. Expelling person from further participation in the hearing;

8. Take official notice of any material fact not appearing in evidence in the record, if the fact is among the traditional matters of judicial notice; and
9. Administer oaths or affirmations.

E. A transcribed record of the hearing shall be made available at cost to any requesting party.

F. Decision by the hearing officer. A decision by the hearing officer shall be sent within 30 days after the conclusion of the hearing to all parties by any means evidencing receipt. A decision shall contain:

1. A statement of facts;
2. A statement of the decision with supporting rationale; and
3. A statement that the parties may file a motion for rehearing within 15 days from the date a copy of this decision is served upon the party.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

Amended by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2. Amended by final exempt rulemaking at 26 A.A.R. 597, effective July 1, 2020 (Supp. 20-1).

R7-2-1182. Rehearing of Decisions

- A. Procedure; grounds. A decision of the hearing officer may be vacated and new hearing granted on motion of the aggrieved party for any of the following causes materially affecting the party's rights:
 1. Irregularity in the proceedings of the hearing officer or prevailing party, or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing.
 2. Misconduct of the prevailing party.
 3. Accident or surprise not preventable by ordinary prudence.
 4. Material evidence, newly discovered, which despite reasonable diligence was not discovered and produced at the hearing.
 5. Excessive or insufficient damages or penalties.
 6. Error of law occurring at the hearing or during the progress of the proceeding.
 7. That the findings of fact or decision is not justified by the evidence or is contrary to law.
- B. Scope. A rehearing may be granted to all or any of the parties and on all or part of the issues in the proceeding for any of the reasons for which rehearings are authorized by law or rule of court. On a motion for a rehearing, the hearing officer may open the decision, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new decision.
- C. Contents of motion; amendment; rulings reviewable.
 1. The motion for rehearing shall be in writing, shall specify generally the grounds upon which the motion is based, and may be amended at any time before it is ruled upon by the hearing officer.
 2. Upon the general ground that the hearing officer erred in admitting or rejecting evidence, the hearing officer shall review all rulings during the hearing upon objections to evidence.
 3. Upon the general ground that the findings of fact or decision are not justified by the evidence, the hearing officer shall review the sufficiency of the evidence.

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- D. Time for motion for rehearing. A motion for rehearing shall be filed not later than 15 days after service of the decision upon the party.
- E. Time for serving affidavits. When a motion for rehearing is based upon affidavits they shall be served with the motion. The opposing party has 10 days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the hearing officer for good cause shown or by the parties by written stipulation. The hearing officer may permit reply affidavits.
- F. On initiative of hearing officer. Not later than 15 days after the date of the decision, the hearing officer may order a rehearing for any reason for which it might have granted a rehearing on motion of a party. After giving the parties notice and an opportunity to be heard on the matter, the hearing officer may grant a motion for a rehearing, timely served, for a reason not stated in the motion. In either case, the hearing officer shall specify in the order the grounds therefor.
- G. Questions to be considered in rehearing. A rehearing, if granted, shall be only a rehearing of the question or questions with respect to which the decision is found erroneous, if separable. If a rehearing is ordered because the damages or penalties are excessive or inadequate and granted solely for that reason, the decision shall be set aside only in respect of the damages or penalties, and shall stand in all other respects.
- H. Motion on ground of excessive or inadequate damages. When a motion for rehearing is made upon the ground that the damages or penalties awarded are either excessive or insufficient, the hearing officer may grant the rehearing conditionally upon the filing within a fixed period of time, not to exceed 15 days, of a statement by the party adversely affected by reduction or increase of damages or penalties accepting that amount of damages or penalties which the hearing officer shall designate. If such a statement is filed with the prescribed time, the motion for rehearing shall be regarded as denied as of the date of such filing. If no statement is filed, the motion for rehearing shall be regarded as granted as of the date of the expiration of the time period within which a statement may have been filed. No further written order shall be required to make an order granting or denying the rehearing final. If the conditional order of the hearing officer requires a reduction of or increase in damages or penalties, then the rehearing will be granted in respect of the damages or penalties only and the decision shall stand in all other respects.
- I. Number of motions for rehearing. Not more than two motions for rehearing shall be granted to any party in the same action.
- J. Specifications of grounds of rehearing in order. An order granting a motion for rehearing shall specify with particularity the ground or grounds on which the rehearing is granted.
- K. Final decision.
 - 1. If a motion for rehearing is denied, the final decision denying the motion for rehearing shall be sent within five days after the denial to all parties by any means evidencing receipt. A final decision shall contain a paragraph substantially as follows: "This is the final decision of the hearing officer in the matter of _____."
 - 2. If the motion for rehearing was granted, after the rehearing is completed, a final decision shall be made and shall be sent within five days after the conclusion of the rehearing to all parties as required in subsection (K)(1). A final decision shall contain:
 - a. A statement of facts;

- b. A statement of the decision with supporting rationale; and
- c. A paragraph substantially as stated in subsection (K)(1).

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).
Amended by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1183. Judicial Review

Any final decision made as a result of a hearing held pursuant to Articles 10 and 11 are subject to judicial review in accordance with A.R.S. Title 12, Chapter 7, Article 6.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1184. Exclusive Remedy

Articles 10 and 11 (R7-2-1001 et seq.) provide the exclusive procedure for asserting a cause against the school district and its governing board arising in relation to any procurement conducted under Articles 10 and 11.

Historical Note

Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1185. Qualifications for Hearing Officers

- A. A "hearing officer" means a person assigned to preside at a hearing held pursuant to Articles 10 and 11 and whose duty it is to assure that proper procedures are followed and that the rights of the parties are protected.
- B. A hearing officer shall be:
 - 1. Unbiased - not prejudiced for or against any party in the hearing;
 - 2. Disinterested - not having any personal or professional interest which would conflict with his/her objectivity in the hearing; and
 - 3. Independent - may not be an officer, employee or agent of the contractor or governing board, or of any other public agency involved in the dispute to be settled. A person who otherwise qualifies to conduct a hearing is not an employee of the contractor or governing board solely because he or she is paid by the parties to serve as a hearing officer.
- C. A hearing officer shall have:
 - 1. A minimum of three years of verified experience in the practice of law; or
 - 2. A minimum of three years of verified experience in school procurement or school facilities management and a minimum of one year of verified experience in conducting hearings. Completion of a course or program in conducting a hearing or arbitration may substitute for the one year of verified experience in conducting hearings.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 3750, effective September 8, 2000 (Supp. 00-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525,

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effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1186. Reserved

R7-2-1187. Reserved

R7-2-1188. Reserved

R7-2-1189. Reserved

R7-2-1190. Reserved

PART XXII. INTERGOVERNMENTAL PROCUREMENTS

R7-2-1191. Cooperative Purchasing Authorized

A. A school district may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any materials, services, specified professional services, construction, or construction services with one or more eligible procurement units in accordance with an agreement entered into between the participants. An agreement entered into as provided in R7-2-1191 through R7-2-1195 is exempt from A.R.S. § 11-952(D) and (E). Parties under a cooperative purchasing agreement may:

1. Sponsor, conduct, or administer a cooperative purchasing agreement for the procurement or disposal of any materials, services or construction.
2. Cooperatively use materials or services.
3. Commonly use or share warehousing facilities, capital equipment and other facilities.
4. Provide personnel, except that the requesting public procurement unit shall pay the public procurement unit providing the personnel the direct and indirect cost of providing the personnel, in accordance with the agreement.
5. On request, make available to other public procurement units informational, technical or other services or software that may assist in improving the efficiency or economy of procurement. The public procurement unit furnishing the informational, technical, or other services or software has the right to request reimbursement for the reasonable and necessary costs of providing such services or software.

B. The activities described in subsections (A)(1) through (A)(5) do not limit what parties may do under a cooperative purchasing agreement.

C. A nonprofit corporation shall comply with Articles 10 and 11 in any cooperative purchasing agreement the nonprofit corporation administers in which a school district participates.

D. Whether administering or purchasing from the agreement, this Section does not abrogate the responsibility of each school district to perform due diligence in order to ensure compliance with Articles 10 and 11 notwithstanding the fact that the cooperative purchase is administered by another eligible procurement unit.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1192. Contract Provisions in a Cooperative Purchasing Agreement

Any contract entered pursuant to R7-2-1191 shall provide that:

1. Payment for materials and services and inspection and acceptance of materials or services ordered by an eligible

procurement unit under a cooperative purchasing agreement shall be the exclusive obligation of such procurement unit;

2. The exercise of any rights or remedies by a using eligible procurement unit shall be the exclusive obligation of such procurement unit. The administering public procurement unit, as the contract administrator and without subjecting itself to any liability, may join in the resolution of any controversy;
3. Any school district may terminate without notice any cooperative purchasing agreement if another eligible procurement unit fails to comply with the terms of the contract;
4. Failure of an eligible procurement unit to secure performance from the contractor in accordance with the terms and conditions of its purchase order does not necessarily require any other eligible procurement unit to exercise its own rights or remedies; and
5. An eligible procurement unit shall not use a cooperative purchasing contract as a method for obtaining concessions or reduced prices for non-contract purchases of similar materials or services.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1193. Use of Payments Received by a Supplying Public Procurement Unit

All payments received by a public procurement unit supplying personnel or services shall be available to the supplying public procurement unit to defray the cost of the cooperative program.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4).

R7-2-1194. Public Procurement Units in Compliance with Article Requirements

A. If the eligible procurement unit administering a cooperative purchase complies with the requirements of Articles 10 and 11, any public procurement unit participating in such a purchase is deemed to have complied with Articles 10 and 11. Public procurement units may not enter into a cooperative purchasing agreement for the purpose of circumventing Articles 10 and 11.

B. A participating public procurement unit using a contract awarded by another eligible procurement unit shall only purchase awarded materials, services, specified professional services, construction, or construction services in compliance with the terms, conditions and prices in the contract.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1195. Contract Controversies

A. Under a cooperative purchasing agreement in which a school district is a party, controversies arising between an administering public procurement unit and its bidders, offerors or contractors shall be resolved in accordance with Articles 10 and 11.

B. Any local public procurement unit which is not subject to R7-2-1181 through R7-2-1185 may enter into an agreement with a

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school district to establish procedures or use such school district's existing procedures to resolve controversies with contractors, whether or not such controversy arose from a cooperative purchasing agreement.

Historical Note

Adopted effective December 17, 1987 (Supp. 87-4). Section amended by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1196. General Services Administration Contracts

A. The governing board may authorize purchases under a current General Services Administration contract for materials or services without complying with the requirements of Articles 10 and 11 if the governing board determines in writing before proceeding with a General Services Administration contract procurement that all of the following apply:

1. The price for materials or services is equal to or less than the contractor's current federal supply contract price with the General Services Administration and is fair and reasonable.
2. The contractor has indicated in writing that the contractor is willing to extend the current federal supply contract pricing, terms and conditions to the school district.
3. The purchase order adequately identifies the federal supply contract on which the order is based, including the name of the contractor, contract number and procurement description.
4. The purchase contract is cost effective based on price, quality and other relevant factors, and is advantageous to the school district.

B. The school district shall only purchase materials or services awarded under the applicable General Services Administration contract.

C. The governing board shall comply with all federal requirements applicable to state and local government use of General Services Administration contracts.

Historical Note

Section made by final exempt rulemaking at 21 A.A.R. 1525, effective July 1, 2014 (Supp. 15-3); effective year corrected in Supp. 18-2.

R7-2-1197. Reserved

R7-2-1198. Reserved

R7-2-1199. Reserved

R7-2-1200. Reserved

ARTICLE 12. REPEALED

R7-2-1201. Repealed

Historical Note

Adopted effective April 27, 1989 (Supp. 89-2). Repealed effective February 20, 1997 (Supp. 97-1).

ARTICLE 13. CONDUCT**R7-2-1301. Definitions**

In this Article, unless the context otherwise specifies:

1. "Alleging party" means an individual, partnership, corporation, association, governmental subdivision or unit of a governmental subdivision, a public or private organization of any character or other agency who completes a statement alleging immoral or unprofessional conduct against a certificated individual.

2. "Applicant" means a noncertificated person who has been disciplined by the Board and who has submitted an application requesting reinstatement of the person's legal right to work in a public school, or a person who has submitted an application to the Department requesting an evaluation of the requirements set forth in R7-2-601 et seq., requesting issuance of a certificate pursuant to R7-2-601 et seq., requesting renewal of a certificate issued pursuant to R7-2-601 et seq. or requesting changes of coding to existing files or certificates pursuant to R7-2-601 et seq.
3. "Board" means the State Board of Education.
4. "Certificated individual" means an individual who holds or has held an Arizona certificate issued pursuant to R7-2-601 et seq.
5. "Complaint" means the filing of a charge by the Board against a certificated individual alleging immoral or unprofessional conduct.
6. "Department" means the Arizona Department of Education.
7. "Hearing" means an adjudicative proceeding held pursuant to A.R.S. Title 41, Chapter 6 and R7-2-701 et seq.
8. "Noncertificated individual" means a noncertificated person defined in A.R.S. § 15-505, as determined by the Board.
9. "PPAC" means the Professional Practices Advisory Committee established pursuant to R7-2-205.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1302. Statement of Allegations

- A. Any person may file, with the Board, a statement of allegations against a certificated or noncertificated individual on forms provided by the Board.
- B. A statement of allegations shall state the facts under which a party is alleging immoral or unprofessional conduct and shall be signed and notarized.
- C. The facts in a statement of allegations shall clearly state the details of the alleged immoral or unprofessional conduct.
- D. A statement of allegations shall contain the names, addresses and telephone numbers of individuals who can be contacted to provide information regarding the allegations contained in the statement. The list of individuals shall also include a brief summary of the substance and extent of each individual's knowledge regarding the allegations contained in the statement.
- E. The alleging party may attach written or other evidence to a statement of allegations at the time that the statement is filed with the Board.
- F. A statement of allegations may be returned to the alleging party if the statement is not complete or not legible.
- G. The Board shall conduct an investigation of all statements of allegations filed pursuant to this Article.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1). Amended by final exempt rulemaking at 27

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A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1303. Complaint

- A. Upon completion of an investigation resulting from a statement of allegations, the Board may file a complaint against a certificated or noncertificated individual, may issue or deny certification to an applicant, or may reinstate a noncertificated individual's legal right to work in a public school and matters related to immoral or unprofessional conduct, unfitness to teach, and the discipline of noncertificated individuals pursuant to A.R.S. § 15-505.
- B. The Board may, at its own discretion, investigate any matter and file a complaint against a certificated or noncertificated individual upon receiving any information, from any source, indicating immoral or unprofessional conduct has occurred.
- C. A hearing shall be held on a complaint before the PPAC.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Section R7-2-1303 renumbered to R7-2-1304; new Section R7-2-1303 renumbered from R7-2-1304 and amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1304. Notification; Investigation

The certificated or noncertificated individual shall have 20 days from service by U.S. mail and email of the notice of investigation to file a written response with the Board.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Section R7-2-1304 renumbered to R7-2-1303; new Section R7-2-1304 renumbered from R7-2-1303 and amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1305. Investigation

- A. Applicants shall certify on forms that are provided by the Department whether the applicant:
 - 1. Has ever received any disciplinary action, including revocation, suspension or reprimand, involving any professional certification or license;
 - 2. Is currently under investigation or has ever been the subject of any investigation by the Department of Child Safety or a similar department in this state or another jurisdiction;
 - 3. Has ever been convicted of a felony offense;
 - 4. Has ever been arrested, cited and released, or received a criminal summons for any offense, regardless if eventually convicted of a crime or if a conviction was set aside or expunged; or
 - 5. Has ever been arrested, cited and released, or received a criminal summons for any offense involving a child, regardless if eventually convicted of a crime or if a conviction was set aside or expunged.
- B. Upon receipt of notification that an applicant, certificated, or noncertificated individual has engaged in unprofessional or

immoral conduct pursuant to R7-2-1308, conduct that would warrant disciplinary action if the person had been certified at the time that the alleged conduct occurred, or conduct listed in subsections (A)(1) through (5), the Board shall initiate an investigation.

- C. Applicants, certificated, and noncertificated individuals who are alleged to have engaged in unprofessional or immoral conduct pursuant to R7-2-1308, conduct that would warrant disciplinary action if the person had been certified at the time that the alleged conduct occurred, or conduct listed in subsections (A)(1) through (5) shall provide the Board with copies of court records and law enforcement reports pertaining to the offense.

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1306. Repealed**Historical Note**

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Repealed by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1).

R7-2-1307. Criminal Offenses

- A. The Board shall revoke, not issue, or not renew the certification of a person who has been convicted of committing or attempting, soliciting, facilitating or conspiring to commit any of the following criminal offenses in this state or similar offenses in another jurisdiction:
 1. Sexual abuse of a minor;
 2. Incest;
 3. First-degree murder;
 4. Second-degree murder;
 5. Manslaughter;
 6. Sexual assault;
 7. Sexual exploitation of a minor;
 8. Commercial sexual exploitation of a minor;
 9. A dangerous crime against children as defined in A.R.S. § 13-705;
 10. Armed robbery;
 11. Aggravated assault;
 12. Sexual conduct with a minor;
 13. Molestation of a child;
 14. Exploitation of minors involving drug offenses;
 15. Sexual abuse of a vulnerable adult;
 16. Sexual exploitation of a vulnerable adult;
 17. Commercial sexual exploitation of a vulnerable adult;
 18. Child sex trafficking as prescribed in A.R.S. § 13-3212;
 19. Child abuse;
 20. Abuse of a vulnerable adult;
 21. Molestation of a vulnerable adult;
 22. Taking a child for the purpose of prostitution as prescribed in A.R.S. § 13-3206;
 23. Neglect or abuse of a vulnerable adult;
 24. Sex trafficking;
 25. Sexual abuse;
 26. Production, publication, sale, possession and presentation of obscene items as prescribed in A.R.S. § 13-3502;

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27. Furnishing harmful items to minors as prescribed in A.R.S. § 13-3506;
 28. Furnishing harmful items to minors by internet activity as prescribed in A.R.S. § 13-3506.01;
 29. Obscene or indecent telephone communications to minors for commercial purposes as prescribed in A.R.S. § 13-3512;
 30. Luring a minor for sexual exploitation;
 31. Enticement of persons for purposes of prostitution;
 32. Procurement by false pretenses of person for purposes of prostitution;
 33. Procuring or placing persons in a house of prostitution;
 34. Receiving earnings of a prostitute;
 35. Causing one's spouse to become a prostitute;
 36. Detention of persons in a house of prostitution for debt;
 37. Keeping or residing in a house of prostitution or employment in prostitution;
 38. Pandering;
 39. Transporting persons for the purpose of prostitution, polygamy and concubinage;
 40. Portraying adult as a minor as prescribed in A.R.S. § 13-3555;
 41. Admitting minors to public displays of sexual conduct as prescribed in A.R.S. § 13-3558;
 42. Unlawful sale or purchase of children;
 43. Child bigamy; or
 44. Trafficking of persons for forced labor or services.
- B.** Upon notification by the clerk of the court, magistrate or court of competent jurisdiction, the Board shall immediately and permanently revoke the certificate of a person who has been convicted of any of the following offenses:
1. A dangerous crime against children as defined in A.R.S. § 13-705;
 2. Sexual abuse as prescribed in A.R.S. § 13-1404 in which the victim was a minor;
 3. Sexual assault as prescribed in A.R.S. § 13-1406 in which the victim was a minor;
 4. Sexual conduct with a minor as prescribed A.R.S. § 13-1405;
 5. A preparatory offense as prescribed in A.R.S. § 13-1001 of any of the offenses listed in subsections (B)(1), (2), (3), or (4);
 6. Any crime that requires the person to register as a sex offender; or
 7. An act committed in another state or territory that if committed in this state would have been one of the offenses listed in subsections (B)(1), (2), (3), or (4).
- C.** If the Board takes disciplinary action against a noncertificated individual, does not issue, does not renew, or revokes a certificate due to a person's conviction or admission of an offense listed in subsections (A)(1) through (44), but which is not an offense listed in subsections (B)(1) through (7), the notice of non-issuance, non-renewal or revocation shall inform the person of that person's right to request a hearing within 20 days of service of the notice.
- D.** The Board shall prohibit from employment at a public school a noncertificated individual who has been convicted of committing or attempting, soliciting, facilitating or conspiring to commit any of the criminal offenses in this state or similar offenses in another jurisdiction listed in subsections (A)(1) through (44).
- E.** Upon notification by the clerk of the court, magistrate or court of competent jurisdiction, the Board shall immediately and permanently prohibit a noncertificated individual from

employment at a public school if the individual has been convicted of any offense listed in subsections (B)(1) through (7).

Historical Note

Adopted effective December 4, 1998 (Supp. 98-4). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final rulemaking at 6 A.A.R. 1132, effective March 10, 2000 (Supp. 00-1). Amended by final exempt rulemaking at 25 A.A.R. 967, effective March 27, 2019 (Supp. 19-1).

The phrase "paragraphs one, two, three or four" was changed to "subsections (B)(1), (2), (3) or (4)" to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1308. Unprofessional and Immoral Conduct

- A.** Noncertificated individuals and individuals holding certificates issued by the Board pursuant to R7-2-601 et seq. and individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq. shall:
1. Make reasonable efforts to protect pupils from conditions harmful to learning, health, or safety;
 2. Account for all funds collected from pupils, parents, or school personnel;
 3. Adhere to provisions of the Uniform System of Financial Records related to use of school property, resources, or equipment; and
 4. Abide by copyright restrictions, security, or administration procedures for a test or assessment.
- B.** Noncertificated individuals and individuals holding certificates issued by the Board pursuant to R7-2-601 et seq. and individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq. shall not:
1. Discriminate against or harass any pupil or school employee on the basis of race, national origin, religion, sex, including sexual orientation, disability, color or age;
 2. Deliberately suppress or distort information or facts relevant to a pupil's academic progress;
 3. Misrepresent or falsify pupil, classroom, school, or district-level data from the administration of a test or assessment;
 4. Engage in a pattern of conduct for the sole purpose or with the sole intent of embarrassing or disparaging a pupil;
 5. Use professional position or relationships with pupils, parents, or colleagues for improper personal gain or advantage;
 6. Falsify or misrepresent documents, records, or facts related to professional qualifications or educational history or character;
 7. Assist in the professional certification or employment of a person the certificate holder knows to be unqualified to hold a position;
 8. Accept gratuities or gifts that influence judgment in the exercise of professional duties;
 9. Possess, consume, or be under the influence of alcohol on school premises or at school-sponsored activities;
 10. Illegally possess, use, or be under the influence of marijuana, dangerous drugs, or narcotic drugs, as each is defined in A.R.S. § 13-3401;
 11. Make any sexual advance towards a pupil or child, either verbal, written, or physical;

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12. Engage in sexual activity, a romantic relationship, or dating of a pupil or child;
 13. Submit fraudulent requests for reimbursement of expenses or for pay;
 14. Use school equipment to access pornographic, obscene, or illegal materials; or
 15. Engage in conduct which would discredit the teaching profession.
- C. Individuals found to have engaged in unprofessional or immoral conduct shall be subject to, and may be disciplined by, the Board.
- D. Procedures for making allegations, complaints, and investigation of unprofessional or immoral conduct shall be as set forth in this Article.
- E. Application forms and certificates shall include the rules and statutes related to unprofessional and immoral conduct, including resignation from a contracted position without authorization and duties to report as required by law.
- F. Individuals applying for certificates issued by the Board pursuant to R7-2-601 et seq shall certify:
1. That they have read and understood the rules and statutes related to unprofessional and immoral conduct, including resignation from a contracted position without authorization and duties to report as required by law; and
 2. Whether they have been disciplined or are under investigation in another state for engaging in conduct that is immoral or unprofessional.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 1544, effective June 28, 2003 (Supp. 03-2). Amended by final exempt rulemaking at 23 A.A.R. 725, effective January 23, 2017 (Supp. 17-1). Amended by final exempt rulemaking at 27 A.A.R. 2353 (October 22, 2021), effective September 27, 2021 (Supp. 21-4).

R7-2-1309. Summary Suspension

- A. If a certificate holder is arrested, cited and released, or received a criminal summons for an offense listed in R7-2-1307 and if the Board finds the public health, safety or welfare imperatively requires emergency action, the Board may proceed under A.R.S. § 41-1064(C) ordering a summary suspension of a certificate while other proceedings are pending. The Board shall provide notice to the certificate holder of the meeting pursuant to R7-2-703 and R7-2-704.
- B. Summary suspensions issued by the Board shall remain in effect pending a public hearing and final decision by the Board pursuant to Article 7.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 66, effective December 13, 2019 (Supp. 19-4).

R7-2-1400. Reserved**ARTICLE 14. CHARTER SCHOOLS****R7-2-1401. Definitions**

For the purpose of this Article the following definitions shall apply:

1. "Applicant" means a person, public body, or private organization that has applied to the State Board of Education to establish a charter school under the provisions of A.R.S. § 15-181 et seq.
2. "Background check" means a report received related to an applicant and the identified governing board members regarding the status of each person's credit and credit history, and any criminal activity identified by the law

enforcement agency processing the applicant and governing board member's fingerprints.

3. "Committee" means the Charter School Committee established pursuant to this Article.
4. "Charter School" means a school chartered pursuant to A.R.S. § 15-181 et seq. and sponsored by the Board of Education.
5. "Contract" means a document outlining the terms and conditions of an agreement between the parties.
6. "Governing board" means the governing body responsible for the policy and operational decisions of the charter school formed pursuant to A.R.S. § 15-183 et seq.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

R7-2-1402. Charter School Committee

- A. The Board of Education shall establish a Charter School Committee that shall have the responsibility of reviewing applications and preparing a recommendation for the Board of Education's consideration.
- B. The Board of Education shall appoint the members of the committee. The committee shall consist of seven members as follows:
1. An individual knowledgeable in building construction or renovation;
 2. An individual knowledgeable in finance and accounting and in generally accepted accounting practices;
 3. An individual representing a city in this state who is knowledgeable about zoning and operating permit requirements;
 4. An individual knowledgeable about elementary and high school curricula and the development and evaluation of curricula;
 5. An individual knowledgeable about assessments and the administration of assessments;
 6. An individual representing the Board of Education;
 7. A current operator of a charter school sponsored by the Board of Education.
- C. Terms of each member of the committee shall be for three years. Members may be appointed for subsequent terms upon approval by the Board of Education.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

R7-2-1403. Application

- A. Interested parties or individuals may submit an application for approval by the Board of Education pursuant to A.R.S. § 15-181 et seq. Applications shall be on forms approved by the Board of Education.
- B. Applications shall be evaluated by the committee. The committee shall prepare a recommendation for the Board of Education's consideration. The recommendation shall be based upon a review of all aspects of the application, including, for example, completeness of the application, the viability of the school including the financial viability, the projected funding sources, the number and population to be served, including school-aged students who are deemed to be unserved or underserved.
1. The committee may request additional information as needed to assist in evaluating the application and preparing a recommendation for the Board of Education's consideration.

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2. Recommendations of the committee to the Board of Education may include approval of the application, denial of the application, or deferral of the application pending further information or clarification.
 3. Applicants shall be notified in writing at least 10 days prior to the Board of Education meeting of the date, time, and place of the meeting at which the Board of Education shall consider the charter school committee's recommendation related to the application.
 4. Action by the Board of Education may include approval of the application, denial of the application, or deferral of the application pending further information or clarification. The Board of Education shall state the reasons for denial or deferral of the application.
 5. Applicants shall be notified in writing of the decision of the Board of Education. Written notification that the Board of Education has denied an application shall include reasons for denial. Written notification shall be provided to applicants within 15 days following a decision of the Board of Education.
- C. An approved application does not constitute an approved contract, and approval of an application shall not be construed to imply that a contract will be issued.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

R7-2-1404. Contract

- A. A contract shall be on forms approved by the Board of Education.
- B. At least once per year, the Board of Education shall consider issuance of a contract to approved applicants.
- C. Upon review and recommendation from the committee, the Board of Education may approve the issuance of a contract, approve the issuance of a contract pending receipt of specific information or completion of requirements, defer the issuance of a contract, or deny the issuance of a contract. The Board of Education shall state the reasons for denial or deferral of issuance of a contract.
- D. Applicants shall be notified in writing at least 10 days prior to the Board of Education meeting of the date, time, and place of the meeting at which the Board of Education shall consider the charter school committee's recommendation related to issuance of a charter.
- E. Applicants shall be notified in writing of the decision of the Board of Education. Written notification that the Board of Education has denied issuance of a contract shall include reasons for denial. Written notification shall be provided to applicants within 15 days following a decision of the Board of Education.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

R7-2-1405. Execution of a Contract

- A. Contracts shall be signed by the applicant, or a person with signatory authority for the applicant, within six months from the date of approval of issuance of the contract by the Board of Education, unless an extension of time is granted by the Board of Education. If issuance of a contract was approved by the Board of Education pending receipt of additional information, the contract shall be signed by the applicant or a person with signatory authority for the applicant within six months of

receipt of the additional information by the Board of Education.

- B. Contracts which have not been signed pursuant to this Section shall require reapplication and approval during a subsequent application cycle.
- C. The following items shall be submitted to the Board of Education prior to signing of a contract:
 1. Background check, including fingerprint clearance for all authorized signatories and all governing board members approved;
 2. Certificate of Occupancy or a written exemption from the local municipality or county that the certificate is not required for operation of a public school. A set of architectural plans approved by the local planning and zoning office may be submitted in lieu of a certificate of occupancy for the purposes of this subsection for construction of new buildings or renovation of existing buildings. A certificate of occupancy will be required to be submitted prior to opening of the school.
 3. A lease agreement or proof of building availability;
 4. Executed statement of assurances;
 5. Written verification that the facility meets the requirements established by the state and local fire marshal;
 6. Written verification from an insurance company authorized to do business in the state of Arizona that arrangements have been finalized to provide the required amount of insurance;
 7. Proof of local County Health Department approval.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-1406. Amendments to a Contract

- A. Any changes to the contract shall be submitted on forms approved the Board of Education.
- B. All amendments to the contract shall be accompanied by a signed governing board resolution or an official copy of the minutes of a governing board meeting that the amendment was approved by the governing board.
- C. No amendment shall be effective or implemented prior to being approved by the governing board, submitted to and approved by the Board of Education.
- D. Amendments requesting a change in the membership of the governing board shall, in addition to the requirements specified in subsection (B), include a completed fingerprint application and a signed affidavit authorizing a background check.
- E. If an extension of time was granted pursuant to R7-2-1405(A), amendments to update the application shall be submitted at the time the contract is executed.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

R7-2-1407. Revocation of a Contract

- A. The Board of Education may issue a Notice of Intent to Revoke a Contract and Notice of Hearing to any contract holder who is alleged to be in violation of the contract and the governing board.
- B. Within 10 days of receipt of a Notice of Intent to Revoke a Contract and Notice of Hearing, the governing board shall:

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1. Notify the parents or guardians of the students enrolled in the charter school that a Notice of Intent to Revoke a Contract and Notice of Hearing has been received;
 2. Hold a public meeting to inform the public and discuss the specific charges outlined in the Notice of Intent to Revoke a Contract;
 3. Provide the Board of Education with copies of all correspondence and communications used to comply with subsection (B)(1) and minutes of the meeting as evidence of compliance with subsection (B)(2);
 4. Provide the Board of Education with the names and mailing addresses of parents or guardians of all students enrolled in the charter school at the time the Notice of Intent to Revoke a Contract and Notice of Hearing was received.
- C. Hearings held pursuant to a Notice of Intent to Revoke a Contract and Notice of Hearing shall be held in accordance with Sections R7-2-701 through R7-2-709.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4). The word “above” was removed from subsection (3) to reflect current standards in Chapter style and format (Supp. 21-2).

R7-2-1408. Renewal of Contract

When considering renewal of a contract, the following, as a minimum, shall be provided to the Board of Education:

1. Assessment results, including scores of the norm-referenced achievement test, the scores of the Arizona’s Instrument to Measure Standards (AIMS), and scores of any school assessment programs;
2. Results of any audits conducted, including independent audits, Uniform System of Financial Records or Uniform System of Financial Records for Charter Schools compliance audits, or any audits conducted by the Auditor General’s Office;
3. Enrollment reports that include enrollment figures, funding sources, budget updates, and financial reporting of expenditures;
4. All complaints received;
5. Copies of Board of Education minutes where consideration and action was taken on all issues related to the charter school;
6. Any other reports, information, or materials pertinent to the charter school.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 3211, effective August 24, 1999 (Supp. 99-4).

ARTICLE 15. EMPOWERMENT SCHOLARSHIP ACCOUNTS**R7-2-1501. Definitions**

In this Article, unless the context otherwise specifies:

1. “Administratively complete” means an ESA application that contains all components required by statute or this Article.
2. “Board” means the State Board of Education.
3. “Curriculum” means a course of study for content areas or grade levels, including any supplemental materials required or recommended by the curriculum, approved by the Department.
4. “Department” means the Arizona Department of Education.
5. “Eligible postsecondary institution” means a community college as defined in A.R.S. § 15-1401, a university under the jurisdiction of the Arizona Board of Regents, or an accredited private postsecondary institution.
6. “Empowerment scholarship account” or “ESA” means an account administered by the Department and funded by the state to provide options for the education of qualified students pursuant to A.R.S. § 15-2401 et seq.
7. “Hearing Officer” means a non-partial representative with either at least three years of verified experience in the practice of law or at least one year of verified experience in conducting hearings, who oversees hearings pursuant to this Article.
8. “Informal Settlement Conference” means a meeting between the Department and the Parent in an attempt to settle the appeal prior to an appeal hearing. The Board and the Hearing Officer do not attend.
9. “Misuse of funds” means the use of ESA funds on goods or services not permitted by A.R.S. § 15-2402, this Article or the Department pursuant to R7-2-1507.
10. “Parent” means a resident of this state who is the parent, stepparent, legal guardian, or account holder of a qualified student.
11. “Program” means the Empowerment Scholarship Account Program.
12. “Qualified school” means a nongovernmental primary or secondary school or a preschool for pupils with disabilities that is located in this state or, for qualified students who reside within the boundaries of an Indian reservation in this state, and that is located in an adjacent state and that is within two miles of the border of the state in which the qualified student resides, and that does not discriminate on the basis of race, color or national origin.
13. “Qualified student” means a resident of this state who:
 - a. Is any of the following:
 - i. Identified as having a disability under section 504 of the rehabilitation act of 1973 (29 U.S.C. 794);
 - ii. Identified by a school district or by an independent third party pursuant to A.R.S. § 15-2403(J) as a child with a disability as defined in A.R.S. § 15-731 or § 15-761;
 - iii. A child with a disability who is eligible to receive services from a school district under A.R.S. § 15-763;
 - iv. Attending a school or school district that was assigned a letter grade of D or F pursuant to A.R.S. § 15-241 for the most recent year in which letter grades were assigned or is currently eligible to attend kindergarten and who resides within the attendance boundary of a school that was assigned a letter grade of D or F pursuant to A.R.S. § 15-241 for the most recent year in which letter grades were assigned. A child who meets the requirements of this item and who meets the income eligibility requirements for free and reduced-price lunches under the National School Lunch and Child Nutrition Acts (42 U.S.C. 1751 through 1793) is not subject to R7-2-1501(12)(b);
 - v. A previous recipient of a scholarship issued pursuant to A.R.S. § 15-891 or this Section, unless the qualified student’s parent has been removed from eligibility in the Program for

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- failure to comply pursuant to A.R.S. § 15-2403(C);
- vi. A child of a parent who is a member of the armed forces of the United States and who is on active duty or was killed in the line of duty. A child who meets the requirements of this subsection is not subject to R7-2-1501(12)(b);
 - vii. A child who is a ward of the juvenile court and who is residing with a prospective permanent placement pursuant to A.R.S. § 8-862 and the case plan is adoption or permanent guardianship;
 - viii. A child who was a ward of the juvenile court and who achieved permanency through adoption or permanent guardianship;
 - ix. A child who is the sibling of a current or previous ESA recipient or of an eligible qualified student who accepts the terms of and enrolls in an ESA;
 - x. A child who resides within the boundaries of an Indian reservation in this state as determined by the Department or a tribal government; or
 - xi. A child of a parent who is legally blind or deaf or hard of hearing as defined in A.R.S. § 36-1941.
- b. And, except as provided in R7-2-1501(12)(a)(iv) and R7-2-1501(12)(a)(vi), who meets any of the following requirements:
- i. Attended a governmental primary or secondary school as a full-time student as defined in A.R.S. § 15-901 for at least 45 days of the current or prior fiscal year and who transferred from a governmental primary or secondary school under a contract to participate in an ESA. Kindergarten students who are enrolled in Arizona online instruction must receive 100 hours of logged instruction to be eligible pursuant to this subsection. First, second and third grade students who are enrolled in Arizona online instruction must receive 200 hours of logged instruction to be eligible pursuant to this subsection. Fourth, fifth and sixth grade students who are enrolled in Arizona online instruction must receive 250 hours of logged instruction to be eligible pursuant to this subsection. Seventh and eighth grade students who are enrolled in Arizona online instruction must receive 275 hours of logged instruction to be eligible pursuant to this subsection. High school students who are enrolled in Arizona online instruction must receive 250 hours of logged instruction to be eligible pursuant to this subsection. For the purposes of this subsection, students may accumulate days of enrollment and hours of instruction in the current or prior fiscal year, or a combination thereof;
 - ii. Previously participated in an ESA;
 - iii. Received a scholarship under A.R.S. § 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student as defined in A.R.S. § 15-901 for at least 90 days of the prior fiscal year or one full semester before attending a qualified school;
 - iv. Was eligible for an Arizona scholarship for pupils with disabilities and received monies from a school tuition organization pursuant to A.R.S. § 43-1505 or received an Arizona scholarship for pupils with disabilities but did not receive monies from a school tuition organization pursuant to A.R.S. § 43-1505 and who continues to attend a qualified school if the student attended a governmental primary or secondary school as a full-time student as defined in A.R.S. § 15-901 for at least 90 days of the prior fiscal year or one full semester prior to attending a qualified school;
 - v. Attended a nonpublic school for pupils with disabilities in the prior year if placement at the school was approved by the Department and contracted for by a public school district;
 - vi. Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a kindergarten program in a school district or charter school in this state or attended a program for preschool children with disabilities. For the purposes of this item, a child is eligible to enroll in a kindergarten program if the child is at least five years of age on January 1 of the current school year, is under seven years of age, and has not already completed a kindergarten program and is not enrolled in grade one of a private or governmental school in the current year; or
 - vii. Has not previously attended a governmental primary or secondary school but is currently eligible to enroll in a program for preschool children with disabilities in this state.
14. "Stay" means a Parent may have access to a terminated ESA account pending the resolution of their appeal.
 15. "Substantively complete" means an ESA application that meets all substantive criteria required by statute or this Article.
 16. "Supplemental materials" referenced in A.R.S. § 15-2401(2), means relevant materials directly related to the course of study for which they are being used that introduce content and instructional strategies or that enhance, complement, enrich, extend or support the curriculum.
 17. "Treasurer" means the Office of the State Treasurer.
 18. Unless otherwise specifically defined herein, all defined terms shall have the same meaning as those ascribed to them in the A.R.S., Title 41.
- Historical Note**
- New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective November 1, 2020 (Supp. 20-4). Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).
- R7-2-1501.01. Expanded Qualified Student Definition**
- Notwithstanding A.R.S. § 15-2401 and R7-2-1501, beginning in the 2022-2023 school year, unless the context otherwise requires, "Qualified Student" includes a resident of this state who both:
1. Is eligible to enroll in a public school in this state in any of the following:
 - a. A preschool program for children with disabilities,

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- b. A kindergarten program, or
- c. Any of grades 1 through 12.
- 2. Does not otherwise qualify for an Arizona Empowerment Scholarship Account pursuant to this Article.

Historical Note

New Section made by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).

R7-2-1502. General Provisions

- A. This Section is adopted pursuant to A.R.S. § 15-2403.
- B. The Department and the Treasurer shall administer and provide general supervision and oversight of the Program pursuant to A.R.S. § 15-2401 et seq and this Article.
- C. The Department and the Board shall include intermediate Saturday, Sundays, and legal holidays when computing days under this Article. If the final day of a deadline established pursuant to this Article falls on a Saturday, Sunday or legal holiday, the next business day is the final day of the deadline.
- D. Unless otherwise specified, the Department shall serve a notice or decision that removes a parent from the Program, through personal delivery, first class mail, or certified mail to the parent's last address with the Department, and also by any other method or methods that are reasonably determined to give actual notice to the parent, including electronic mail, text message, phone call, or through an online portal. Each parent shall provide the Department with the parent's mailing address, home address, phone number and email and shall inform the Department of any change of mailing address, home address, phone number or email within 30 days of the change. For all other communications that do not contain notice of removal from the Program, the Board and the Department may communicate through any method or methods, including first class mail, certified mail, electronic mail, text message, phone call or through an online portal.
- E. A document is filed with the Board or the Department on the date it is received by the Board or the Department, as established by the Board's or the Department's date stamp on the face of the document. A notice or decision containing an appealable action issued by the Board or the Department pursuant to this Article is served on a party as follows:
 - 1. On the date it is personally served,
 - 2. Five days after it is mailed by first class mail, or
 - 3. On the date of the return receipt if it is mailed by certified mail.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4).

R7-2-1503. Department Responsibilities

The Department shall:

- 1. On or before March 1 of each year, provide the Board with a handbook, developed in consultation with parents of children on the Program, that includes information relating to policies and processes of ESAs and complies with A.R.S. § 15-2401 et seq and this Article. The Board shall adopt the handbook on or before May 1 of each year. The Board shall limit substantive changes to the handbook to once every three years. The Board may

approve changes to the handbook more frequently than every three years to conform and comply with changes to statute or this Article or at the Board's discretion. The handbook shall be posted on the Department's website and distributed to parents and shall clearly identify changes from the prior version, and include the date and time the new handbook was changed:

- a. The yearly handbook, when adopted, shall become effective July 1st of each fiscal year.
- b. If the yearly handbook is adopted after July 1st, the newly adopted handbook would become effective immediately following adoption.
- 2. Establish a dedicated call center for exclusive use for the ESA Program that works in conjunction with the Exceptional Student Services division of the Department or its successor division. Subject to review and approval by the Board, the Department may contract with a third party to operate the call center;
- 3. Implement customer service performance management policies, procedures, and metrics;
- 4. Provide training to parents who use the private financial management firm contracted to assist with financial management of the program;
- 5. Provide a quarterly report to the Board on the ESA Program, including:
 - a. The number of students in the program disaggregated by eligibility, grade level and the school district or charter school associated with each student:
 - i. The total number of special needs students by grade level,
 - ii. The number of special needs students by disability category, and
 - b. The annual award amount associated with each student;
 - c. The number of ESA applications received, approved and denied in the preceding quarter, including the justification for the denied applications;
 - d. The number of applications processed within 30 days of receipt and the number of administratively incomplete applications. Provide the reasons the administratively incomplete applications were not approved;
 - e. A summary of any parent input or feedback collected pursuant to R7-2-1503(6) and how the Department is responding to concerns submitted as part of the process;
 - f. Information on the private financial management firm contracted to assist with financial management of the Program, including:
 - i. The number and eligibility type of accounts utilizing the firm,
 - ii. The number of providers and vendors on the firm's platform,
 - iii. Communications and training provided to parents,
 - iv. Concerns from parents submitted to the Department, the Treasurer and the private financial management firm and how the Department, Treasurer and private financial management firm are addressing the concerns, and
 - g. Information regarding appeals filed with the Board that were resolved prior to a hearing;
 - h. Information related to the audits completed, including:

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- i. Scope of the audit,
- ii. Data and narratives on audit findings from the Quarter,
- iii. Data and narratives of finding outcomes from the Quarter, and
- i. Summary of all outages within the Department, private financial management firm, Department of Treasury, GAO, ADOA, etc. that cause a delay of the ESA program;
- j. Information related to MCC Codes, including:
 - i. Cumulative list of all MCC code expansions requested and specific reason for each denial,
 - ii. Cumulative list of all MCC code expansions and exceptions granted by the Department, and
- k. Data related reimbursement submissions, including:
 - i. The average number of days it takes a reimbursement submission to be assigned to a Department staffer,
 - ii. The average number of days it takes a reimbursement submission to be reviewed by a Department staffer,
 - iii. The average number of days it takes a reimbursements submission to be approved by a Department staffer, and
- l. Provide data related to Help Desk Tickets, including:
 - i. The quantity of help desk tickets not responded to within three business days,
 - ii. The quantity of help desk tickets prematurely closed and reopened, and
- m. Provide data related to the escalation of Help Desk Tickets, including:
 - i. The quantity of escalated help desk tickets by category type,
 - ii. The average number of days to resolution,
 - iii. A summary of resolutions, and
- n. Provide updates on the bidding process for all eligible Department contracts, including:
 - i. A.R.S. § 15-2403(A): The treasurer may contract with private financial management firms to manage Arizona empowerment scholarship accounts,
 - ii. A.R.S. § 15-2403(B): The Department shall conduct or contract for annual audits of Arizona empowerment scholarship accounts to ensure compliance with A.R.S. § 15-2402(B)(4),
 - iii. A.R.S. § 15-2403(B): The Department shall also conduct or contract for random, quarterly and annual audits of Arizona empowerment scholarship accounts as needed to ensure compliance with A.R.S. § 15-2402(B)(4),
 - iv. A.R.S. §15-2403(J): The Department shall contract with an independent third party for the purposes of determining whether a qualified student is eligible to receive educational therapies or services pursuant to A.R.S. § 15-2402(B)(4)(c),
 - v. R7-2-1503(2): Subject to review and approval by the Board, the Department may contract with a third party to operate the call center,
 - vi. Any other eligible Department contracts, and

- o. The date of the most recent update to the online database of approved expenses and disallowed expenses. A summarization of the changes made.
- p. An approximation of the most common award amount. Provide the method or methods and Formula utilized to calculate award amounts.
- q. Any other information the Board requests.
- 6. Establish and provide to the Board a process to collect parent input and feedback regarding the Program.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4). Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).

R7-2-1504. Application and Account Activation

- A. The Department shall accept applications to participate in the Program between July 1 and June 30 of each year.
- B. The Department shall provide information for prospective applicants on eligibility.
- C. The Department shall enroll and issue an award letter to eligible applicants within 30 days after receipt of a completed application and all required documentation. The award letter shall include information on how to activate the account and the amount of ESA funding the student will receive.
- D. Within 30 days of issuing the award letter, the Department shall issue the contract to eligible applicants.
- E. Prior to issuing a notice of a denied application, the Department shall provide notice describing the administrative or substantive incompleteness of the application and provide the applicant 30 days to provide the missing documentation or information. The Department shall include the justification for the denial and, if the application was substantively incomplete, the Department shall include the applicant's right to appeal.
- F. Pursuant to R7-2-1511, a person who has had an application denied due to being substantively incomplete may file a written request for a hearing within 30 days after being served the notice of denial. Administratively incomplete applications are not appealable.
- G. If the Board finds in favor of a parent who appealed a denied application, the Department shall expedite the contract and funding to the parent to the extent possible.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4). Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4).

R7-2-1505. Contract Between Parent and Department

- A. To enroll a qualified student in an ESA, a parent of the qualified student shall sign a contract with the Department. The parent:
 - 1. Shall use a portion of the ESA monies allocated annually to provide an education for the qualified student in at least the subjects of reading, grammar, mathematics, social studies and science, unless the ESA is allocated monies according to a transfer schedule other than quarterly transfers pursuant to A.R.S. § 15-2403(F). This subsection does not require a parent to spend a portion of ESA monies on each subject every quarter;

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2. Shall not enroll the qualified student in a school district or charter school, and shall release the school district from all obligations to educate the qualified student. This subsection does not:
 - a. Relieve the school district or charter school that the qualified student previously attended from the obligation to conduct an evaluation pursuant to A.R.S. § 15-766, or
 - b. Require a qualified student to withdraw from a school district or charter school before enrolling for an ESA if the qualified student withdraws from the school district or charter school before receiving any monies in the qualified student's ESA.
 - c. Prevent a qualified student from applying in advance for an ESA to be funded beginning the following school year.
 3. Shall not accept a scholarship from a school tuition organization pursuant to A.R.S., Title 43 concurrently with an ESA for the qualified student in the same year a parent signs the contract pursuant to this Section;
 4. Shall use the monies deposited in the qualified student's ESA only for the expenses listed in A.R.S. § 15-2402(B)(4);
 5. Shall not file an affidavit of intent to homeschool pursuant to A.R.S. § 15-802(B)(2) or (3);
 6. Shall not use monies deposited in the qualified student's account for any of the following:
 - a. Computer hardware or other technological devices, except as provided in R7-2-1505(B) and A.R.S. § 15-2402(B)(4)(p); or
 - b. Transportation of the pupil, except for transportation services described in A.R.S. § 15-2402(B)(4)(o).
 7. Shall submit expenses and documentation as required in R7-2-1508.
- B.** If a qualified student meets any of the criteria specified in A.R.S. § 15-2401(7)(a)(i), (ii), or (iii), as determined by a school district or by an independent third party under A.R.S. § 15-2403(J), the qualified student may use the following additional services:
1. Educational therapies from a licensed or accredited practitioner or provider including and up to any amount not covered by insurance if the expense is partially paid by a health insurance policy for the qualified students,
 2. A licensed or accredited paraprofessional or educational aide,
 3. Tuition for vocational and life skills education approved by the Department, and
 4. Associated goods and services that include, but are not limited to, educational and psychological evaluations, assistive technology rentals and braille translation goods and services approved by the Department. Associated goods as described in this subsection may include computer hardware or technological devices that assist in accessing educational materials or services and that are associated with the qualified student's needs. Parents that are seeking to use Program funds for an associated good or service pursuant to this subsection shall provide to the Department the special education course of study, service or educational need that the good or service is associated with or may provide the Department with the most current individualized education program, evaluation, or a letter from a qualified service provider. Parents are not advised to contact their districts seeking to update or change their students' individualized education programs or request special education reevaluations in order to make ESA purchases.
5. Pursuant to A.R.S. § 15-2403(J)(2), the Department shall accept independent educational evaluations that are obtained by the parent of a student and performed by a qualified examiner. A "qualified examiner" is defined in A.R.S. § 15-2403(J)(2). A "parent" is defined in R7-2-1501. Such evaluations shall not be denied based solely on the age of the evaluation.
- Historical Note**
- New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective November 1, 2020 (Supp. 20-4). Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).
- R7-2-1506. Contract Renewal**
- A.** A parent is eligible to renew an ESA if:
1. Pursuant to R7-2-1508, the parent submitted expenses and documentation or submitted quarterly attestations;
 2. If required, the Department approved expenses pursuant to R7-2-1508;
 3. The parent spent monies to provide an education in at least reading, grammar, mathematics, social studies, and science for the contract year pursuant to R7-2-1505(A)(1); and
 4. The parent does not owe the Department monies for disallowed expenses. A parent remains eligible to renew an ESA if the parent has an unresolved appeal regarding a disallowed expense.
- B.** A student with a disability as defined in A.R.S. § 15-2401(7)(a)(i), (ii), or (iii), as determined by a school district or by an independent third party under A.R.S. § 15-2403(J), may continue on the Program until the end of the school year in which the student reaches the age of 22, if the student or the parent provides documentation to the Department that demonstrates the student has not finished high school.
- C.** A parent shall renew ESAs on an annual basis as follows:
1. The Department shall provide renewal contracts on or before May 1 to each parent who meets R7-2-1506(A) of this Section;
 2. Each parent shall submit the renewal contract to the Department on or before June 30; and
 3. Within 30 days of receipt, the Department shall notify each parent of the renewal of the contract. The Department may provide notification through an online portal.
- D.** If a parent does not submit a renewal contract pursuant to R7-2-1506(C), the Department shall temporarily close the account and cease funding to the ESA until the parent submits the appropriate signed renewal contract. During the temporary closure, funding shall remain in the account until the parent signs the appropriate renewal contract in a format provided by the Department or the Department closes the ESA pursuant to R7-2-1506(E).
- E.** After an ESA has been temporarily closed for non-renewal pursuant to R7-2-1506(D), a parent may submit the appropriate signed renewal contract in a format provided by the Department to reactivate the ESA. If a parent does not submit a renewal contract for a period of three academic years, the Department shall provide notice through certified mail, email and telephone, if applicable, that the ESA will be closed. To renew the ESA, the parent shall submit a renewal contract

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within 60 days of receipt of the notification. If the parent does not submit a renewal contract within 60 days, the Department shall close the ESA and return any remaining monies in the ESA to the state general fund. Notwithstanding R7-2-1506(C)(1) and (2), a parent may submit the appropriate signed renewal contract between July 1 and June 30 for the purposes of this subsection.

- F. Notwithstanding R7-2-1506(E), on the qualified student's graduation from a postsecondary institution or after any period of four consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary institution, but not before this time as long as the account holder continues using a portion of account monies for eligible expenses each year and is in good standing, the qualified student's Arizona empowerment scholarship account shall be closed and any remaining monies shall be returned to the state general fund.
- G. Pursuant to R7-2-1511, a parent whose contract was not renewed by the Department may file a written request for a hearing within 30 days after being served the notice of the non-renewal.
- H. At the written request of a parent, the Department shall extend the renewal contract timeframe for up to 30 days from the deadline prescribed in this Section if the parent demonstrates hardship, including an act of God or similar circumstance that prevented the parent from responding by the deadline.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4).
Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).

R7-2-1507. Use of Funds

- A. The Department shall establish and maintain a database of approved expenses and disallowed expenses for the current and upcoming fiscal years pursuant to A.R.S. § 15-2401 et seq, and this Article. The Department shall make the database available to parents online and disaggregate the approved expenses by eligibility category.
- B. The Department shall establish a process to review an expense before making an administrative decision to deny the expense. The Department shall provide a copy of the process to the Board and include the process in the handbook adopted pursuant to R7-2-1503.
- C. The Department shall not request repayment for an expense it has approved for a specific ESA. The Department shall treat similar expenditures by similarly situated account holders in the same manner. This Section does not create authorization for an account holder to expend funds in a manner not permitted by statute.
- D. The Department shall consider all account holder requests for MCC Code expansions. Any MCC code exceptions granted to one parent, shall be extended to all parents within five business days.
- E. Pursuant to R7-2-1511, a parent who has had an expense disallowed by the Department may file a written request for a hearing within 30 days after being served the notice of the disallowed expense.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4).

Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).

R7-2-1508. Review of Expenses

- A. The Department may conduct or contract for random or annual audits as needed to ensure monies are used only for expenses that were approved or allowed at the time the expense was made. The Department shall use record retention requirements that were in place at the time the expense was made to determine compliance. The Department may only audit account activity from the last two fiscal years, including the current fiscal year.
- B. The Department shall provide annual notice to each parent of when and how the Department will conduct reviews of expenses and audits. The notice may be provided in the handbook adopted pursuant to R7-2-1503. Notwithstanding any other Section, the Department may review expenses less frequently using a risk-based approach, if the Department provides notice to parents and the Board pursuant to this Section.
- C. Parents shall submit expenses that shall include, but are not limited to, the following:
 1. Invoices for each vendor, individual or product;
 2. Invoices for private schools, which shall include the following:
 - a. The name of the qualified student,
 - b. The name of the private school,
 - c. The transaction date,
 - d. Tuition or fee amounts, and
 - e. Total charged to the card, and for reimbursements, proof of method of payment;
 3. Invoices for tutors, paraprofessionals, service type or therapists which shall include:
 - a. Name of the qualified student,
 - b. The name of one of the following: the vendor, facility, therapist or tutor,
 - c. A description of the services,
 - d. The transaction date,
 - e. The rate amounts,
 - f. Any processing fees, and
 - g. Total charged to the card, and for reimbursements, proof of method of payment.
- D. For debit card transactions, a parent shall submit all debit card transaction expense receipts to the Department as follows:
 1. On or before October 31 for quarter one,
 2. On or before January 31 for quarter two,
 3. On or before April 30 for quarter three, and
 4. On or before July 31 for quarter four.
- E. The Department shall review and approve expenses and make its next quarterly disbursement of funds within 30 days of the deadlines prescribed in R7-2-1508(D).
- F. On receipt and approval of debit card transaction expense receipts or reimbursements, the Department shall notify the parent through electronic mail or through an online portal. The Department shall not withhold funds for a subsequent quarter if it fails to review expenses, debit card transaction expense receipts or reimbursements within 30 days of the deadline. A parent may submit corrected debit card transaction expense receipts any time prior to the quarterly submission deadline.
- G. If a parent fails to submit debit card transaction expense receipts, if required, by the deadlines prescribed in R7-2-1508(D) or submits incomplete debit card transaction expense receipts or reimbursements, the Department shall:

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1. Serve notice to the parent of the deficiencies,
 2. Provide the parent 15 days from the date of receipt of the notice to submit complete debit card transaction expense receipts or reimbursements, and
 3. Review debit card transaction expense receipts or reimbursements submitted pursuant to this subsection within five days of receipt from the parent.
- H.** Following the 15 day period provided in R7-2-1508(G)(2), the Department may remove a parent from the Program for failing to submit required debit card transaction expense receipts or failing to correct the deficiencies of a debit card transaction expense receipt.
- I.** Pursuant to R7-2-1511, a parent that has been removed from the Program may file a written request for a hearing within 30 days after being served the notice of removal. Except in cases in which the Board has found misuse of funds or fraud pursuant to R7-2-1509, the Department shall not withhold funding to one qualified student's ESA due to deficiencies in the expense reporting of a sibling's account.
- J.** At the written request of a parent, the Department shall extend the deadlines prescribed in R7-2-1508(D) for up to 30 days from the deadlines prescribed in this Section if the parent demonstrates hardship, including an act of God or similar circumstance that prevented the parent from responding by the deadline.
- K.** If a parent does not make any expenses in a quarter, the parent shall submit attest to that fact in a format provided by the Department.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).

R7-2-1509. Misuse of Funds

- A.** Based on a finding that a parent knowingly misuses funds, the Department shall temporarily suspend the account and provide notice to the parent. The notice shall:
1. Include the reason for the temporary suspension and a detailed description of the disallowed expense; and
 2. Provide the parent 15 days, not including weekends, to either:
 - a. Present documentation that demonstrates the expense is allowable or that the parent was victim to identity theft or fraud; or
 - b. Agree to repay the amount.
- B.** The Department shall review the documentation submitted pursuant to R7-2-1509(A)(2)(a) within five days of receipt to determine if the expense is allowable or if the parent was victim to identity theft or fraud. If the Department determines the expense is allowable or that the parent was victim to identity theft or fraud, the Department shall lift the temporary suspension, reinstate the account and make any disbursements that were withheld during the suspension.
- C.** If the Department determines the documentation fails to demonstrate the expense is allowable or that the parent was victim to identity theft or fraud, the Department shall provide notification to the parent that the amount must be repaid. The Department shall withhold the disbursement of any additional

ESA funds until repayment is made. The Department may agree to a gradual repayment plans at the request of the parent and shall reinstate additional ESA funding once repayment has begun. The Department may remove a parent from the Program that fails to repay an amount or agree to a repayment plan.

- D.** Once a parent agrees to a gradual repayment plan or repays an amount pursuant to R7-2-1509(A)(2)(b) or R7-2-1509(C), the Department shall lift the temporary suspension, reinstate the account and make any disbursements that were withheld during the suspension as follows:
1. Within one day, if the repayment is made by cashier's check or money order; or
 2. Within seven days, if repayment is made by personal check.
- E.** Except in cases which the Attorney General determines that a parent or account holder has committed fraud, any expenditure from an Arizona Empowerment Scholarship Account for a purchase that is deemed ineligible pursuant to A.R.S. § 15-2402 and that is subsequently repaid by the parent or account holder shall be credited back to the Arizona Empowerment Scholarship Account balance within 30 days after the receipt of payment.
- F.** Pursuant to R7-2-1511, a parent who has been removed from the Program pursuant to this Section may file a written request for a hearing within 30 days after being served the notice of removal.
- G.** The Department shall refer a case to the Board if a parent does not file an appeal pursuant to R7-2-1511 and either:
1. Fails to repay the amount of a disallowed expense; or
 2. Fails to make a payment on a gradual repayment plan.
- H.** On a finding of misuse of monies, the Board may refer the case to the Attorney General who may bring an action to recover the monies. Upon obtaining evidence of fraudulent use of an account, the Board may refer the case to the Attorney General for the purpose of a criminal investigation.
- I.** A parent or qualified student is not eligible to enroll a qualified student in the ESA Program if that parent was an account holder on an account that was referred to the Attorney General for misuse of monies unless the parent's expense was subsequently found to be allowable or the parent was the victim of identity theft or fraud.
- J.** If a parent commits fraud, the Department shall withhold funds from all accounts in the parent's name and close the accounts.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4). Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).

R7-2-1510. Corrective Action

- A.** Except for misuse of funds or failing to submit debit card transaction expense receipts pursuant to R7-2-1508, if the Department finds that a parent violated A.R.S. § 15-2401 et seq, this Article or the terms and conditions set forth by the Department in the contract signed by the parent, the Department shall:
1. Temporarily suspend the account;
 2. Provide notice to the parent of the violation, including an explanation of the violation; and

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3. Provide the parent 15 days to correct the violation.
- B. The Department may remove a parent or qualified student from the Program for failing to correct a violation pursuant to this Section.
- C. Pursuant to R7-2-1511, a parent or qualified student who has been removed from the Program pursuant to this Section may file a written request for a hearing within 30 days after being served the notice of removal.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4).
 Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective December 13, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).

R7-2-1511. Appeals

- A. A parent may appeal to the Board any administrative decision the Department makes pursuant to A.R.S. Title 15, Chapter 19, Article 1, including determinations of allowable expenses, removal from the Program or enrollment eligibility.
- B. Stay
 1. Pending the resolution of an appeal during which an account is suspended, a parent may request a stay on the account suspension.
 - a. Included in the request for a hearing filed pursuant to R7-2-1511(F), a parent may file a request to the Board to stay an account suspension. Such request shall be in writing and shall address the matters stated in the Department's notice in R7-2-1511(E).
 - b. The Department may file a response to the parent's request to stay the suspension of the account. Such response shall be filed with the Board within five business days of receipt of the parent's request to stay the suspension. Such response shall be in writing and shall address the matters stated in the parent's request.
 - c. Within 10 business days after receipt of the Department's response, the executive director of the Board or the executive director's designee shall make a written determination to either:
 - i. Proceed with suspension of the account, or
 - ii. Stay all or part of the suspension of the account if there is a reasonable probability that the appeal will be upheld or that the stay is in the best interest of the State. If a stay is issued, the Department may not withhold funding or contract renewal for the account holder on account of the appealed administrative decision during the stay unless directed by the Board to do so.
 - d. The executive director or the executive director's designee shall provide the parent and the Department with a written copy of the stay determination including the basis for the determination.
- C. Notwithstanding any other Section, the Department may, with the agreement of the account holder on the resolution, informally resolve a disputed administrative action at any time without a formal appeal pursuant to this Article.
- D. The Department, on its website and in the parent handbook, shall provide information on the Board's appeals process.
- E. The Department shall provide parents with written notice of an appealable action taken by the Department. Such written notice shall inform the parents of his/her right to request a hearing on the action and shall include the following:
 1. The statute or rule that is alleged to have been violated or on which the action is based;
 2. Identify, with reasonable particularity, the nature of any alleged violation or action;
 3. Include a description of the parent's right to request a hearing on the appealable agency action; and
 4. Include a description of the parent's right to request an informal settlement conference.
- F. Within 30 days after being served with notice of an appealable action, a parent may file a request for a hearing. The notice must be in writing and shall state the following:
 1. The identity of the party requesting the hearing,
 2. The mailing address of the party requesting the hearing,
 3. The agency that rendered the decision related to the appealable action,
 4. Identification of the action being appealed,
 5. A concise statement of the reasons for the request for hearing,
 6. A copy of the administrative decision issued by the Department, and
 7. Any other information or documentation requested by the Board applicable to the appeal process.
- G. If good cause is submitted, the Board may accept a request for a hearing that is not filed in a timely manner. Such request must be made in writing and state the basis for not filing the request on time.
- H. If a parent requests a hearing pursuant to R7-2-1511(F) and includes all of the items listed in R7-2-1511(F)(1) through (7), the Board shall schedule a hearing.
- I. The Board shall provide all parties with a written notice at least 20 days prior to the date set for the hearing. The notice shall include:
 1. A statement of the time, place and nature of the hearing;
 2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
 3. A reference to the particular sections of the statutes and rules involved; and
 4. A short and plain statement of the matters asserted. If a party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon application a more definite and detailed statement shall be furnished.
- J. All notices shall be served via personal delivery or certified mail, return receipt requested or by any other method reasonably calculated to effect actual notice on the agency and all parties to the action at each party's last address of record.
- K. A hearing on the appealable action shall be held after a complete appeal is filed and may be advanced or delayed on the agreement of the parties or on a showing of good cause.
- L. Informal Settlement Conference
 1. A parent may request an informal settlement conference be held with the Department. The request shall be in writing and shall be filed with the Department, and a copy provided to the Board, no later than 10 days after the Board provides notice that the appeal is complete. The Department shall hold an informal settlement conference within seven days after receiving the request. The Department shall notify the Board of the result of the informal settlement conference within five days of the conclusion of the informal settlement conference or prior to the hearing date, whichever is first. The request for an informal

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settlement conference does not alter the date the hearing is to be held.

2. If an informal settlement conference is held, a person with the authority to act on behalf of the Department must represent the Department at the conference. The Department representative shall notify the parent in writing that statements, either written or oral, made at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations are inadmissible in any subsequent administrative hearing.

M. Informal disposition may be made by stipulation, agreed settlement, consent order or default.

N. Hearing Process

1. All hearings shall be conducted before a hearing officer pursuant to this Section.
2. The parties to the appealable agency action have the right to be represented by legal counsel or to proceed without counsel, to submit evidence and to cross-examine witnesses.
 - a. Pursuant to A.R.S. § 15-2403(E), a parent may designate a representative, not necessarily an attorney, before any hearing held pursuant to this Section. Any designated representative who is not an attorney admitted to practice may not charge for any services rendered in connection with such a hearing.
 - b. The fact that a representative participated in the hearing or assisted the account holder is not grounds for reversing any administrative decision or order if the evidence supporting the decision or order is substantial, reliable and probative.
3. The Board shall schedule a prehearing conference on request of any party. A prehearing conference may be held for the following purposes:
 - a. Clarify or limit procedural, legal or factual issues;
 - b. Consider amendments to any pleading;
 - c. Identify and exchange lists of witnesses and exhibits intended to be introduced at the hearing;
 - d. Obtain stipulations or rulings regarding testimony, exhibits, facts or law;
 - e. Schedule deadlines, hearing dates and locations if not previously set; or
 - f. Allow the parties opportunity to discuss settlement.
4. The record in a contested case shall include:
 - a. All pleadings, motions and interlocutory rulings.
 - b. Evidence received or considered.
 - c. A statement of matters officially noticed.
 - d. Objections and offers of proof and rulings thereon.
 - e. Proposed findings of fact and conclusions of law and exceptions thereto.
 - f. Any decision, opinion, recommendation or report of the hearing officer.
 - g. All staff memoranda, other than privileged communications, or data submitted to the hearing officer in connection with its consideration of the case.
5. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.
6. A participant of record shall not communicate, either directly or indirectly, with the Hearing Officer about any substantive issue in a pending matter unless:
 - a. All participants of record are present;
 - b. Communication is during a scheduled proceeding, where an absent participant of record fails to appeal after proper notice; or

c. Communication is by written motion with copies to all participants of record.

7. The Hearing Officer may postpone, continue, or cancel a hearing for good cause upon the written request of either party. The participant of record must establish good cause for the written request.
8. For good cause shown, the hearing officer may grant continuances and extensions of time for filing notices or other documents.
9. The Hearing Officer may direct a party to submit additional memorandum or information within a reasonable period of time. The Hearing Officer shall grant the opposing party a reasonable period of time to respond to the additional memorandum or information.
10. Upon written request, any party may request an opportunity to compare a document copy with the original. The Hearing Officer may grant the request if the record establishes good cause.

O. Conduct of Hearing

1. All hearings shall be recorded. The Board shall secure either a court reporter or an electronic means of producing a clear and accurate record of the proceeding.
2. A hearing may be conducted in an informal manner and without adherence to the rules of evidence required in judicial proceedings. Neither the manner of conducting the hearing nor the failure to adhere to the rules of evidence required in judicial proceedings shall be grounds for reversing any administrative decision or order if the evidence supporting the decision or order is substantial, reliable and probative.
3. The parties may submit proposed findings of fact and conclusions of law prior to the hearing. The hearing officer may require that the parties submit proposed findings of fact and conclusions of law prior to the hearing or at the close of evidence.
4. All interested parties shall be ready and present with all witnesses and documents at the time and place specified in the notice of hearing and shall be prepared at such time to dispose of all issues and questions involved in the appeal. An interested party shall arrange for the presence of that party's witnesses at a hearing.
5. If a party fails to appear at a hearing, the hearing body may proceed with the presentation of the evidence of the appearing party.
6. The Hearing Officer conducting the hearing may close the hearing to other than interested parties to the extent necessary to protect the interests and rights of the interested parties, within the requirements of A.R.S. §§ 38-431.01, and 38-431.03.
7. The Hearing Officer may conduct all or part of the hearing by telephone other electronic means, as long as each party has an opportunity to participate in the entire proceeding as it takes place.
8. Conduct at any hearing that is disruptive or shows contempt for the proceeding shall be grounds for exclusion from further participation.

P. Evidence

1. All witnesses shall testify under oath or affirmation. The hearing officer shall administer oaths and affirmations.
2. The hearing officer shall afford interested parties an opportunity either to present oral or documentary evidence, or both, and to conduct such cross-examination as may be required for a full and fair disclosure of the facts. The hearing officer may limit the time of oral argument.

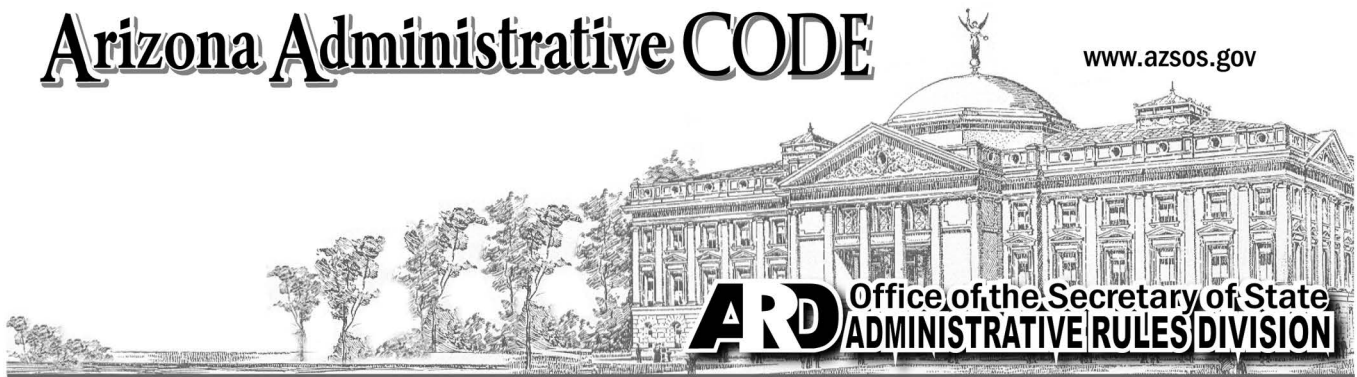
TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

3. The hearing officer may choose to admit evidence, a witness' deposition, or a witness' affidavit and determine evidentiary weight of all submitted evidence. The party taking a witness' deposition or affidavit shall bear all deposition-related or affidavit-related costs. The hearing officer shall make rulings necessary to prevent argumentative, repetitive, or irrelevant questioning, to exclude evidence the hearing officer determines to be irrelevant, immaterial or unduly repetitious, and to expedite the examination to the extent consistent with the disclosure of all relevant testimony and information.
- Q.** Stipulations. Parties to any contested case may stipulate, in writing, agreement upon any matter involved in the proceeding. If approved by the hearing officer, agreement on matters of procedure shall be binding upon the parties to the stipulation. No substantive matter agreed to by the parties shall be binding upon the Board unless incorporated into the decision of the Board.
- R.** Final Administrative Decision
1. The hearing officer shall issue a written recommendation within 20 days after the hearing is concluded. The written recommendation shall contain a concise explanation of the reasons supporting the recommendation, including the findings of fact and conclusions of law.
 2. The hearing officer shall serve a copy of the recommendation on the Board. On request of the Board, the hearing officer shall also transmit to the Board the record of the hearing as described in A.R.S. § 12-904.
 3. At one of the following two regularly scheduled meetings of the Board after the hearing officer sends a copy of the recommendation to the Board, the Board may review the recommendation and accept, reject or modify it.
 - a. If the Board declines to review the hearing officer's recommendation, the Board shall serve a copy of the recommendation on all parties.
 - b. If the Board rejects or modifies the recommendation, the Board shall serve on all parties, a copy of the hearing officer's recommendation with the rejection or modification and a written justification setting forth the reasons for the rejection or modification of each finding of fact or conclusion of law.
 4. The Board shall provide all parties with at least 20 days written notice of the date, time and location of the public meeting at which the Board will consider the hearing officer's recommendation.
- S.** Rehearing and Review of Decisions
1. A party may file a motion for rehearing or review within 10 days after service of the final administrative decision. The motion shall be in writing and state the basis upon which the rehearing or review is requested. The motion shall be filed with the Board and a copy provided to the opposing party. When a motion of rehearing is based on new evidence, the new evidence shall be served to the Board with the written motion.
 2. The opposing party may file a response to the motion for rehearing within 15 days after the date the motion for rehearing is filed. The response shall be in writing and address the basis upon which the rehearing or review is requested. The motion shall be filed with the Board and a copy provide to the moving party.
 3. A rehearing of a final administrative decision by the Board may be granted for any of the following causes materially affecting the moving party's rights:
 - a. Except as provided for in R7-2-1511(O)(2), irregularity in the administrative proceedings of the hearing, or abuse of discretion, whereby the moving party was deprived of a fair hearing;
 - b. Misconduct of the hearing officer; or
 - c. Newly discovered materials which could not with reasonable diligence have been discovered and produced at the hearing.
 4. The filed motion shall be considered at one of the following two regularly scheduled meetings of the Board.
 5. Service is complete on personal service or five days after the date the final administrative decision is mailed to the party's last known address.
 6. After a hearing has been held and a final administrative decision has been entered a party is not required to file a motion for rehearing or review of the decision in order to exhaust the party's administrative remedies.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2900, effective January 1, 2021 (Supp. 20-4). The word "rule" has been changed to "Section" to reflect current standards in Chapter style and format (Supp. 21-2). Amended by final exempt rulemaking at 28 A.A.R. 187 (January 14, 2022), effective January 1, 2022 (Supp. 21-4). Amended by final exempt rulemaking at 29 A.A.R. 542 (February 10, 2023), effective January 23, 2023 (Supp. 23-1).



9 A.A.C. 7

Supp. 24-3

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
July 1, 2024 through September 30, 2024

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The release of this Chapter in Supp. 24-3 replaces Supp. 24-1, 1-274 pages.

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

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

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

THE ADMINISTRATIVE CODE

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

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

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

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

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

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

RULE HISTORY

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

AUTHENTICATION OF PDF CODE CHAPTERS

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

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

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

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

EXEMPTIONS FROM THE APA

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

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

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

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

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

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

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Administrative Rules Division

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TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Authority: A.R.S. §§ 30-654(B)(5), 36-132(A)(1), 36-136(G)

Supp. 24-3

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Laws 1980, Chapter 206, abolished the Commission, and created the Arizona Radiation Regulatory Agency (ARRA) and the Radiation Regulatory Hearing Board.

Laws 2017, Ch. 313, transferred the Radiation Regulatory Agency to the Arizona Department of Health Services and renamed it the Bureau of Radiation Control. The rules in this Chapter (9 A.A.C. 7) were originally promulgated under 12 A.A.C. 1 and were recodified at 24 A.A.R. 813 with Section and agency references revised under Laws 2017, Ch. 313. The historical notes of the rules as codified in 12 A.A.C. 1 remain in the Chapter; therefore 12 A.A.C. 1 as released in Supp. 18-1 should be archived with this Chapter (Supp. 18-1).

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

ARTICLE 1. GENERAL PROVISIONS

R9-7-101. Scope and Incorporated Materials

- A. Except as otherwise specifically provided, this Chapter applies to all persons who receive, possess, use, transfer, own, or acquire any source of radiation.
- B. This Chapter does not apply to any person that is subject to regulation by the Nuclear Regulatory Commission.
- C. State control of source material, byproduct material, and special nuclear material in quantities not sufficient to form a critical mass is subject to the provisions of the agreement between the state and the U.S. Nuclear Regulatory Commission, signed March 30, 1967 and incorporated by reference. This incorporated material contains no later editions or amendments, and together with all other incorporated materials in this Chapter, is available on the Arizona Department of Health Services, Bureau of Radiation Control website at <https://www.azdhs.gov/documents/licensing/radiation-regulatory/arizona-agreement.pdf>.
- D. Federal regulations incorporated by reference in this Chapter are available from the U.S. Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 and <https://www.govinfo.gov/app/collection/CFR>.

Historical Note

New Section R9-7-101 recodified from R12-1-101 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-101.01. Interpretations

Except as specifically authorized by the Department in writing, no interpretations of the meaning of the rules in this Chapter by any officer or employee of the Department other than a written interpretation by the Arizona Assistant Attorney General counsel assigned to the Department will be recognized as binding upon the Department.

Historical Note

New Section renumbered from R9-7-1909 and amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-102. Definitions

Terms defined in A.R.S. § 30-651 have the same meanings when used in this Chapter, unless the context otherwise requires. Additional subject-specific definitions are used in other Articles.

“A1” means the maximum activity of special form radioactive material permitted in a type A package. These values are either listed in 10 CFR 71, Appendix A, Table A-1, or may be derived in accordance with the procedures prescribed in 10 CFR 71, Appendix A.

“A2” means the maximum activity of radioactive material, other than special form radioactive material, low specific activity (LSA) material, and surface contaminated object (SCO) material, permitted in a Type A package. These values are either listed in 10 CFR 71, Appendix A, Table A-1, or may be derived in accordance with the procedure prescribed in 10 CFR 71, Appendix A.

“Absorbed dose” means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

“Accelerator” means any machine capable of accelerating electrons, protons, deuterons, or other charged particles in a

vacuum and of discharging the resultant particulate or other radiation into a medium. For purposes of this definition, “particle accelerator” is an equivalent term.

“Accelerator produced material” means any material made radioactive by irradiating it in a particle accelerator.

“Act” means A.R.S. Title 30, Chapter 4.

“Activity” means the rate of disintegration, transformation, or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

“Adult” means an individual 18 or more years of age.

“Agreement State” means any state with which the United States Nuclear Regulatory Commission has entered into an effective agreement under Section 274(b) of the Atomic Energy Act of 1954, as amended (73 Stat. 689). “Nonagreement State” means any other state.

“Airborne radioactive material” means any radioactive material dispersed in the air in the form of aerosols, dusts, fumes, mists, vapors, or gases.

“Airborne radioactivity area” means a room, enclosure, or area in which airborne radioactive materials, composed wholly or partly of licensed radioactive material, exist in concentrations:

In excess of the derived air concentrations (DACs) specified in Appendix B, Table I of Article 4 of these rules; or

That an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

“ALARA” means as low as is reasonably achievable, making every reasonable effort to maintain exposures to radiation as far below the dose limits in these rules as is practical, consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to state of technology, the economics of improvements in relation to benefits to the public health and safety, and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

“Analytical x-ray equipment” means equipment used for x-ray diffraction or x-ray-induced fluorescence analysis.

“Analytical x-ray system” means a group of components utilizing x-rays to determine the elemental composition or to examine the microstructure of materials.

“Annual” means done or performed yearly. For purposes of Chapter 1, any required activity done or performed within plus or minus two weeks of the annual due date is considered done or performed in a timely manner.

“Approved individual” means an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with subpart B of this part and who has completed the training required by 10 CFR 37.43(c).

“Associate Radiation Safety Officer” means an individual who:

Meets the requirements in 10 CFR 35.50 and 10 CFR 35.59; and

Is currently identified as an Associate Radiation Safety Officer for the types of use of byproduct material for

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which the individual has been assigned duties and tasks by the Radiation Safety Officer on:

A specific medical use license issued by the Commission or an Agreement State, or

A medical use permit issued by a Commission master material licensee.

“Authorized medical physicist” means an individual who meets the requirements in R9-7-711; or is identified as an authorized medical physicist or teletherapy physicist on:

A specific medical use license issued by the Department, the NRC, or another Agreement State;

A medical use permit issued by a NRC master material licensee;

A permit issued by the Department, the NRC, or another Agreement State broad scope medical use licensee; or

A permit issued by a NRC master material license broad scope medical use permittee.

“Authorized nuclear pharmacist” means a pharmacist who meets the requirements in R9-7-712; or is:

Identified as an authorized nuclear pharmacist on a specific license issued by the Department, the NRC, or another Agreement State that authorizes medical use or the practice of nuclear pharmacy;

Identified as an authorized nuclear pharmacist on a permit issued by a NRC master material licensee that authorizes medical use or the practice of nuclear pharmacy;

Identified as an authorized nuclear pharmacist on a permit issued by the Department, the NRC, or another Agreement State broad scope medical use licensee that authorizes medical use or the practice of nuclear pharmacy;

Identified as an authorized nuclear pharmacist on a permit issued by a NRC master material license broad scope medical use permittee that authorizes medical use or the practice of nuclear pharmacy;

Identified as an authorized nuclear pharmacist by a commercial nuclear pharmacy that has been authorized to identify authorized nuclear pharmacists; or

Designated as an authorized nuclear pharmacist in accordance with R9-7-311(G).

“Authorized user” means a physician, dentist, or podiatrist who meets the requirements in R9-7-719, R9-7-723, R9-7-727, R9-7-728, or R9-7-744; or is identified as an authorized user on:

The Department, NRC, or another Agreement State license that authorizes the medical use of radioactive material;

A permit issued by a NRC master material licensee that is authorized to permit the medical use of radioactive material;

A permit issued by the Department, the NRC, or another Agreement State specific licensee of broad scope that is authorized to permit the medical use of radioactive material; or

A permit issued by a NRC master material license broad scope permittee that is authorized to permit the medical use of radioactive material.

“Background investigation” means an assessment of an individual’s prior actions and experience conducted by a licensee or applicant, to support the determination of the individual’s trustworthiness and reliability in accordance with 10 CFR 37.25.

“Background radiation” means radiation from cosmic sources; not technologically enhanced naturally occurring radioactive material, including radon (except as a decay product of source or special nuclear material); and global fallout as it exists in the environment from the testing of nuclear explosive devices or from past nuclear accidents, such as Chernobyl, that contribute to background radiation and are not under the control of a licensee. “Background radiation” does not include sources of radiation regulated by the Department.

“Becquerel” (Bq) means the International System (SI) unit for activity and is equal to 1 disintegration per second (dps or tps).

“Bioassay” means the determination of kinds, quantities, or concentrations, and in some cases, the locations of radioactive material in the human body, whether by direct measurement, in vivo counting, or by analysis and evaluation of materials excreted or removed from the human body. For purposes of these rules, “radiobioassay” is an equivalent term.

“Brachytherapy” means a method of radiation therapy in which an encapsulated source or group of sources is utilized to deliver beta or gamma radiation at a distance of up to a few centimeters, by surface, intracavitary or interstitial application.

“Byproduct material” means:

Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material;

The tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute “byproduct material” within this definition;

Any discrete source of radium-226 that is produced, extracted, or converted after extraction, for use for a commercial, medical, or research activity; or any material that, has been made radioactive by use of a particle accelerator; and is produced, extracted, or converted after extraction, for use for a commercial, medical, or research activity; and

Any discrete source of naturally occurring radioactive material, other than source material, that the NRC, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security and; before, on, or after August 8, 2005, is extracted or converted after extraction for use in a commercial, medical, or research activity.

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“Calendar quarter” means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. A licensee or registrant shall not change the method of determining calendar quarters for purposes of this Chapter except at the beginning of a calendar year.

“Calibration” means the determination of:

The response or reading of an instrument relative to a series of known radiation values over the range of the instrument, or

The strength of a source of radiation relative to a standard.

“Carrier” means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

“Certifiable cabinet x-ray system” means an existing uncertified x-ray system that meets or has been modified to meet the certification requirements specified in 21 CFR 1020.40, revised April 1, 2019, incorporated by reference, available under R9-7-101, and containing no future editions or amendments.

“Certificate holder” means a person who has been issued a certificate of compliance or other package approval by the Department or NRC.

“Certificate of Compliance” (CoC) means the certificate issued by the NRC under 10 CFR 71, Subpart D, which authorizes the design of a package for the transportation of radioactive material.

“Certified cabinet x-ray system” means an x-ray system that has been certified in accordance with 21 CFR 1010.2, revised January 20, 2023, as being manufactured and assembled on or after April 10, 1975, in accordance with the provisions of 21 CFR 1020.40, revised April 10, 1974, both incorporated by reference, available under R9-7-101, and containing no future editions or amendments.

“CFR” means Code of Federal Regulations.

“Chelating agent” means amine polycarboxylic acids, hydroxycarboxylic acids, gluconic acid, and polycarboxylic acids.

“Civil penalty” means the monetary fine which may be imposed on licensees by the Department, pursuant to A.R.S. § 30-687, for violations of the Act, this Chapter, or license conditions.

“Collective dose” means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

“Committed dose equivalent” (HT,50) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

“Committed effective dose equivalent” (HE,50) is the sum of the products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues (HE,50 = $\sum w_T HT,50$).

“Consortium” means an association of medical use licensees and a PET radionuclide production facility in the same geographical area that jointly own or share in the operation and maintenance cost of the PET radionuclide production facility that produces PET radionuclides for use in producing radioactive drugs within the consortium for noncommercial distributions among its associated members for medical use. The PET radionuclide production facility within the consortium must be located at an educational institution or a federal facility or a medical facility.

“Contamination” means the presence of a radioactive substance on a surface in quantities in excess of 0.4 Bq/cm² (1×10^{-5} µCi/cm²) for beta and gamma emitters and low toxicity alpha emitters, or 0.04 Bq/cm² (1×10^{-6} µCi/cm²) for all other alpha emitters.

“Fixed contamination” means contamination that cannot be removed from a surface during normal conditions of transport.

“Non-fixed contamination” means contamination that can be removed from a surface during normal conditions of transport.

“Criticality Safety Index (CSI)” means the dimensionless number (rounded up to the next tenth) assigned to and placed on the label of a fissile material package, to designate the degree of control of accumulation of packages, overpacks or freight containers containing fissile material during transportation. Determination of the criticality safety index is described in 10 CFR 71.22, 10 CFR 71.23, and 10 CFR 71.59. The criticality safety index for an overpack, freight container, consignment or conveyance containing fissile material packages is the arithmetic sum of the criticality safety indices of all the fissile material packages contained within the overpack, freight container, consignment or conveyance.

“Curie” means a unit of quantity of radioactivity. One curie (Ci) is that quantity of radioactive material which decays at the rate of 3.7×10^{10} transformations per second (tps).

“Current license or registration” means a license or registration issued by the Department and for which the licensee has paid the license or registration fee for the current year according to R9-7-1304.

“Deep-dose equivalent” (Hd), which applies to external whole body exposure, is the dose equivalent at a tissue depth of 1 centimeter (1000 mg/cm²).

“Depleted uranium” means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

“Discrete source” means a radionuclide that has been processed so that its concentration within a material has been purposely increased for use for commercial, medical, or research activities.

“Dose” is a generic term that means absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent, or total effective dose equivalent. For purposes of these rules, “radiation dose” is an equivalent term.

“Dose equivalent” (HT) means the product of the absorbed dose in tissue, quality factor, and all other necessary modifying factors at the location of interest. The units of dose equivalent are the sievert (Sv) and rem.

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“Dose limits” means the permissible upper bound of radiation doses established in accordance with these rules. For purposes of these rules, “limits” is an equivalent term.

“Dosimeter” (See “Individual monitoring device”).

“Effective dose equivalent” (HE) means the sum of the products of the dose equivalent to each organ or tissue (HT) and the weighting factor (wT) applicable to each of the body organs or tissues that are irradiated ($HE = \sum w_T HT$).

“Effluent release” means any disposal or release of radioactive material into the ambient atmosphere, soil, or any surface or subsurface body of water.

“Embryo/fetus” means the developing human organism from conception until the time of birth.

“Enclosed beam x-ray system” means an analytical x-ray system constructed in such a way that access to the interior of the enclosure housing the x-ray source during operation is precluded except through bypassing of interlocks or other safety devices to perform maintenance or servicing.

“Enclosed radiography” means industrial radiography conducted by using cabinet radiography or shielded room radiography.

“Cabinet radiography” means industrial radiography conducted by using an x-ray machine in an enclosure not designed for human admittance and which is so shielded that every location on the exterior meets the conditions for an “unrestricted area.”

“Shielded room radiography” means industrial radiography conducted using an x-ray machine in an enclosure designed for human admittance and which is so shielded that every location of the exterior meets the conditions for an “unrestricted area.”

“Entrance or access point” means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

“Exhibit” for purposes of these rules, is equivalent in meaning to the word “Schedule” as found in previously issued rules, current license conditions, and regulation guide.

“Explosive material” means any chemical compound, mixture, or device which produces a substantial instantaneous release of gas and heat spontaneously or by contact with sparks or flame.

“Exposure” means:

Being subjected to ionizing radiation or radioactive materials.

The quotient of dQ by dm where “dQ” is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass “dm” are completely stopped in air. The special unit of exposure is the roentgen (R).

“Exposure rate” means the exposure per unit of time.

“External dose” means that portion of the dose equivalent received from any source of radiation outside the body.

“Extremity” means the hand, elbow, arm below the elbow, foot, knee, and leg below the knee.

“Fail-safe characteristics” means a design feature which causes beam port shutters to close, or otherwise prevents emergence of the primary beam, upon the failure of a safety or warning device.

“FDA” means the United States Food and Drug Administration.

“Field radiography” means industrial radiography, utilizing a portable or mobile x-ray system, which is not conducted in a shielded enclosure.

“Field station” means a facility where radioactive sources may be stored or used and from which equipment is dispatched to temporary job sites.

“Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities” means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

“Generally applicable environmental radiation standards” means standards issued by the U.S. Environmental Protection Agency (EPA), 40 CFR 190, revised December 1, 1979, and 40 CFR 191, revised December 20, 1993, incorporated by reference, available under R9-7-101, and containing no future editions or amendments, under the authority of the Atomic Energy Act of 1954, as amended, that impose limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

“Gray” (Gy) means the International System (SI) unit of absorbed dose and is equal to 1 joule per kilogram. One gray equals 100 rad.

“Hazardous waste” means those wastes designated as hazardous in A.R.S. § 49-921(5).

“Healing arts” means the practice of medicine, dentistry, osteopathy, podiatry, chiropractic, and veterinary medicine.

“Health care institution” means every place, institution, or building which provides facilities for medical services or other health-related services, not including private clinics or offices which do not provide overnight patient care.

“High radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in one hour at 30 centimeters from the radiation source or 30 centimeters from any surface that the radiation penetrates.

“Human use” means the internal or external administration of radiation or radioactive materials to human beings.

“Impound” means to abate a radiological hazard. Actions which may be taken by the Department in impounding a source of radiation include seizing the source of radiation, controlling access to an area, and preventing a radiation machine from being utilized.

“Indian Tribe” means an Indian or Alaska native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

“Individual” means any human being.

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“Individual monitoring” means the assessment of:

Dose equivalent:

By the use of individual monitoring devices, or

By the use of survey data, or

Committed effective dose equivalent:

By bioassay; or

By determination of the time-weighted air concentrations to which an individual has been exposed, that is, DAC-hours. (See the definition of DAC-hours in Article 4).

“Individual monitoring device” means a device designed to be worn by a single individual for the assessment of dose equivalent. For purposes of this Chapter, “dosimeter” and “personnel dosimeter,” are equivalent terms. Examples of individual monitoring devices are film badges, thermoluminescence dosimeters (TLDs), pocket ionization chambers, optical stimulation devices, and personal (“lapel”) air sampling devices.

“Individual monitoring equipment” means one or more individual monitoring devices. For purposes of this Chapter, “personnel monitoring equipment” is an equivalent term.

“Industrial radiography” means the examination of the macroscopic structure of materials by non-destructive methods utilizing sources of ionizing radiation.

“Injection tool” means a device used for controlled subsurface injection of radioactive tracer material.

“Inspection” means an examination or observation by a representative of the Department, including but not limited to tests, surveys, and monitoring to determine compliance with rules, orders, requirements and conditions of the License or certificate of registration.

“Interlock” means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

“Internal dose” means that portion of the dose equivalent received from radioactive material taken into the body.

“Irradiate” means to expose to radiation.

“Laser” (light amplification by the stimulated emission of radiation) means any device which can produce or amplify electromagnetic radiation with wavelengths in the range of 180 nanometers to 1 millimeter primarily by the process of controlled stimulated emission.

“Lens dose equivalent” (LDE) means the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeters (300 mg/cm²).

“License” means the grant of authority, issued pursuant to Articles 3 and 14 of this Chapter and A.R.S. §§ 30-671, 30-672, and 30-721 et seq., to acquire, possess, transfer, and use sources of radiation. The types of licenses issued by the Department are described in R9-7-1302.

“Licensed material” means radioactive material received, possessed, used, transferred, or disposed of under a general or specific license issued by the Department.

“Licensed practitioner” means a person licensed or otherwise authorized by law to practice medicine, dentistry, osteopathy, chiropractic, podiatry, or naturopathy in this state.

“Licensee” means any person who is licensed by the Department under this Chapter to acquire, possess, transfer, or use sources of radiation.

“Licensing State” means any state having regulations equivalent to this Chapter relating to, and an effective program for the regulation of, naturally occurring and accelerator-produced radioactive material (NARM).

“Limits” (See “Dose limits”)

“Local components” means those parts of an analytical x-ray system that are struck by x-rays, including radiation source housings, port and shutter assemblies, collimator, sample holders, cameras, goniometer, detectors and shielding but not including power supplies, transformers, amplifiers, readout devices, and control panels.

“Logging supervisor” means the individual who provides personal supervision of the utilization of sources of radiation at the well site.

“Logging tool” means a device used subsurface to perform well logging.

“Lost or missing licensed or registered source of radiation” means licensed or registered source of radiation the location of which is unknown. Included are licensed radioactive material or a registered radiation source that has been shipped but has not reached its planned destination and whose location cannot be readily traced or ascertained in the transportation system.

“Low-level waste” means waste material which contains radioactive nuclides in concentrations or quantities which exceed applicable standards for unrestricted release but does not include:

High-level waste, such as irradiated reactor fuel, liquid waste from reprocessing irradiated reactor fuel, or solids into which any such liquid waste has been converted;

Waste material containing transuranic elements with contamination levels greater than 10 nanocuries per gram (370 kilobecquerels per kilogram) of waste material; or

The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

“Low Specific Activity (LSA) material” means radioactive material with limited specific activity which is nonfissile or is excepted under 10 CFR 71.15, and which satisfies the descriptions and limits set forth in the following section. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. The LSA material must be in one of three groups:

LSA—I.

Uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides that are intended to be processed for the use of these radionuclides;

Natural uranium, depleted uranium, natural thorium or their compounds or mixtures, provided they are unirradiated and in solid or liquid form;

Radioactive material other than fissile material, for which the A2 value is unlimited; or

Other radioactive material in which the activity is distributed throughout and the estimated average

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specific activity does not exceed 30 times the value for exempt material activity concentration determined in accordance with appendix A.

LSA—II.

Water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or

Other radioactive material in which the activity is distributed throughout and the estimated average specific activity does not exceed 10–4 A2/g for solids and gases, and 10–5 A2/g for liquids.

LSA—III. Solids (e.g., consolidated wastes, activated materials), excluding powders, that satisfy the requirements of 10 CFR 71.77, in which:

The radioactive material is distributed throughout a solid or a collection of solid objects, or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ceramic, etc.);

The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for 7 days will not exceed 0.1 A2; and

The estimated average specific activity of the solid, excluding any shielding material, does not exceed 2×10^{-3} A2/g.

“Major processor” means a user processing, handling, or manufacturing radioactive material exceeding Type A quantities as unsealed sources or material or exceeding four times Type B quantities as sealed sources but does not include nuclear medicine programs, universities, industrial radiographers, or small industrial programs. Type A and B quantities are defined in 10 CFR 71.4.

“Medical dose” means a radiation dose intentionally delivered to an individual for medical examination, diagnosis, or treatment.

“Member of the public” means any individual except when that individual is receiving an occupational dose.

“MeV” means Mega Electron Volt which equals 1 million volts (106 eV).

“Mineral logging” means any well logging performed in a borehole drilled for the purpose of exploration for minerals other than oil or gas.

“Minor” means an individual less than 18 years of age.

“Monitoring” means the measurement of radiation, radioactive material concentrations, surface area activities, or quantities of radioactive material, and the use of the results of these measurements to evaluate potential exposures and doses. For purposes of these rules, “radiation monitoring” and “radiation protection monitoring” are equivalent terms.

“Multiplier” means a letter representing a number. The use of a multiplier is based on the code given below:

Prefix	Multiplier Symbol	Value
eka	E	10^{18}
peta	P	10^{15}
tera	T	10^{12}

giga	G	10^9
mega	M	10^6
kilo	k	10^3
milli	m	10^{-3}
micro	u	10^{-6}
nano	n	10^{-9}
pico	p	10^{-12}
femto	f	10^{-15}
atto	a	10^{-18}

“NARM” means any naturally occurring or accelerator-produced radioactive material. It does not include byproduct, source, or special nuclear material. This term should not be confused with “NORM” which is defined as naturally occurring radioactive material.

“Natural radioactivity” means the radioactivity of naturally occurring radioactive substances.

“Normal operating procedures” means the entire set of instructions necessary to accomplish the intended use of the source of radiation. These procedures shall include, but are not limited to, sample insertion and manipulation, equipment alignment, routine maintenance by the licensee, and data recording procedures which are related to radiation safety.

“NRC” means Nuclear Regulatory Commission, the U.S. Nuclear Regulatory Commission, or its duly authorized representatives.

“NRC Document Control Desk” means the Nuclear Regulatory Document Control Desk. ATTN: Document Control Desk, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

“Nuclear waste” means any highway route-controlled quantity (defined in 49 CFR 173.403, revised January 8, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments) of source, byproduct, or special nuclear material required to be in NRC-approved packaging while transported to, through, or across state boundaries to a disposal site, or to a collection point for transport to a disposal site. Additional requirements associated with transportation of radioactive material can be found in Article 15.

“Occupational dose” means the dose received by an individual in the course of employment in which the individual’s assigned duties involve exposure to sources of radiation, whether in the possession of a licensee, registrant, or other person. Occupational dose does not include a dose received from background radiation, medical administration of radiation to the individual, exposure to an individual who has been administered radioactive material and released in accordance with R9-7-717, voluntary participation in a medical research program, or as a member of the public.

“Open beam system” means an analytical x-ray system in which an individual could place some body part in the primary beam path during normal operation.

“Ophthalmic physicist” means an individual who:

Meets the requirements in 10 CFR 35.433(a)(2) and 10 CFR 35.59; and

Is identified as an ophthalmic physicist on a:

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Specific medical use license issued by the Department, the NRC, or another Agreement State;

Permit issued by a Department, NRC, or another Agreement State broad scope medical use licensee;

Medical use permit issued by a NRC master material licensee; or

Permit issued by a NRC master material licensee broad scope medical use permittee.

“Package” means the packaging together with its radioactive contents as presented for transport.

“Particle accelerator” (See “Accelerator”)

“Permanent radiographic installation” means a fixed, shielded installation or structure designed or intended for industrial radiography and in which industrial radiography is regularly performed.

“Personal supervision” means supervision in which the supervising individual is physically present at the site where sources of radiation and associated equipment are being used, watching the performance of the supervised individual and in such proximity that immediate assistance can be given if required.

“Personnel dosimeter” (See “Individual monitoring device”)

“Personnel monitoring equipment” (See “Individual monitoring device”)

“PET” (See Positron Emission Tomography (PET))

“Pharmacist” means an individual licensed by this state to compound and dispense drugs, prescriptions, and poisons.

“Physician” means an individual licensed pursuant to A.R.S. Title 32, Chapters 13 or 17.

“Positron Emission Tomography (PET)” means an imaging technique using radionuclides to produce high resolution images of the body’s biological functions.

“Positron Emission Tomography radionuclide production facility” means a facility operating a cyclotron or accelerator for the purpose of producing PET radionuclides.

“Preceptor” means an individual who provides, directs, or verifies training and experience required for an individual to become an authorized user, an authorized medical physicist, an authorized nuclear pharmacist, a Radiation Safety Officer, or an Associate Radiation Safety Officer.

“Primary beam” means radiation which passes through an aperture of the source housing by a direct path from the x-ray tube or a radioactive source located in the radiation source housing.

“Public dose” means the dose received by a member of the public from radiation from radioactive material released by a licensee or registrant, or exposure to a source of radiation used in a licensed or registered operation. It does not include an occupational dose or a dose received from background radiation, medical administration of radiation to the individual, exposure to an individual who has been administered radioactive material and released in accordance with R9-7-717, or voluntary participation in a medical research program.

“Pyrophoric liquid” means any liquid that ignites spontaneously in dry or moist air at or below 130° F (54.4° C).

“Pyrophoric solid” means any solid material, other than one classed as an explosive, which under normal conditions is liable

to cause fires through friction, retained heat from manufacturing or processing, or which can be ignited readily and, when ignited, burns so vigorously and persistently that it creates a serious transportation, handling, or disposal hazard. Included are spontaneously combustible and water-reactive materials.

“Qualified expert” means an individual certified in the appropriate field by the American Board of Radiology or the American Board of Health Physics, or having equivalent qualifications that provide the knowledge and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs; or an individual certified in Therapeutic Radiological Physics or X-ray and Radium Physics by the American Board of Radiology, or having equivalent qualifications that provide training and experience in the clinical applications of radiation physics to radiation therapy, to calibrate radiation therapy equipment. The detailed requirements for a particular qualified expert may be provided in the respective Articles of this Chapter. For clarification purposes, a qualified expert is not always an authorized medical physicist; however, an authorized medical physicist is included within the definition of “qualified expert.”

“Quality Factor” (Q) means the modifying factor, listed in Tables I and II of this Article, that is used to derive dose equivalent from absorbed dose.

“Quarter” (See “Calendar quarter”)

“Rad” means the special unit of absorbed dose. One rad equals 100 ergs per gram, or 0.01 gray.

“Radiation” means alpha particles, beta particles, gamma rays, x-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. For purposes of these rules, this term is synonymous with ionizing radiation. Equivalent terminology for non-ionizing radiation is defined in Article 14.

“Radiation area” means any area accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in one hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

“Radiation dose” (See “Dose”).

“Radiation machine” means any device capable of producing radiation except those devices with radioactive material as the only source of radiation.

“Radiation Safety Officer” (RSO) means the individual who:

For license conditions:

Meets the requirements in 10 CFR 35.50(a) or (c)(1), revised July 16, 2018, and 10 CFR 35.59, revised March 27, 2006, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; or

Is identified as a Radiation Safety Officer on a specific medical use license issued by the Department, the NRC or another Agreement State; or a medical use permit issued by a NRC master material licensee; or

For registration conditions, is designated by the registrant as the individual who has the knowledge, authority, and responsibility to apply appropriate radiation protection

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principles to ensure radiation safety and compliance with the Act, this Chapter, and any registration conditions.

“Radiation Safety Officer” (RSO) means the individual who:

For license conditions:

Meets the requirements of R9-7-407, and for a medical license meets the training requirements of R9-7-710;

Is identified as a Radiation Safety Officer on a specific medical use license issued by the Department, the NRC, or another Agreement State; or a medical use permit issued by a NRC master material licensee; or

Meets the requirements in R9-7-512 on a specific industrial license issued by the Department, the NRC, or another Agreement State; or an industrial use permit issued by a NRC master material licensee; or

For registration conditions, is designated by the registrant as the individual who has the knowledge, authority, and responsibility to apply appropriate radiation protection principles to ensure radiation safety and compliance with the Act, this Chapter and any registration conditions.

“Radioactive marker” means radioactive material placed subsurface or on a structure intended for subsurface use for the purpose of depth determination or direction orientation.

“Radioactive material” means any solid, liquid, or gas which emits radiation spontaneously.

“Radioactivity” means emission of electromagnetic energy or particles or both during the transformation of unstable atomic nuclei.

“Radiographer” means any individual who performs or personally supervises industrial radiographic operations and who is responsible to the licensee or registrant for assuring compliance with the requirements of this Chapter and all conditions of the license or certificate of registration.

“Radiographer’s assistant” means any individual who, under the personal supervision of a radiographer, uses sources of radiation, radiographic exposure devices, related handling tools, or survey instruments in industrial radiography.

“Registrant” means any person who is registered with the Department and is legally obligated to register with the Department pursuant to these rules and the Act.

“Registration” is the process by which a person becomes a registrant pursuant to Article 2 or 14 of this Chapter. With the exception of registration of persons who install or service radiation machines, the types of registrations issued by the Department are described in R9-7-1302.

“Regulations of the U.S. Department of Transportation” means the federal regulations in 49 CFR 107, revised December 27, 2022; 49 CFR 171, revised December 21, 2022; 49 CFR 172, revised December 27, 2022; 49 CFR 173, revised December 27, 2022; 49 CFR 174, revised December 27, 2022; 49 CFR 175, revised December 27, 2022; 49 CFR 176, December 21, 2020; 49 CFR 177, revised December 27, 2022; 49 CFR 178, revised July 26, 2022; 49 CFR 179, revised December 21, 2020; and 49 CFR 180, revised July 26, 2022, incorporated by reference, available under R9-7-101, and containing no future editions or amendments.

“Rem” means the special unit of dose equivalent (see “Dose equivalent”). The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 sievert).

“Research and Development” means exploration, experimentation, or the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and Development does not include the internal or external administration of radiation or radioactive material to human beings.

“Restricted area” means any area where the licensee or registrant controls access for purposes of protecting individuals from exposure to radiation and radioactive material. A restricted area does not include any areas used for residential quarters, although a room or separate rooms in a residential building may be set apart as a restricted area.

“Roentgen” (R) means the special unit of exposure and is equal to the quantity of x or gamma radiation which causes ionization in air equal to 258 microcoulomb per kilogram (see “Exposure”).

“Safety system” means any device, program, or administrative control designed to ensure radiation safety.

“Sealed source” means radioactive material that is permanently bonded or fixed in a capsule or matrix designed to prevent release and dispersal of the radioactive material under the most severe conditions which are likely to be encountered in normal use and handling.

“Sealed Source and Device Registry” means the national registry that contains all the registration certificates, generated by both the NRC and the Agreement States, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for each source or device.

“Shallow dose equivalent” (HS), which applies to the external exposure of the skin of the whole body or the skin of an extremity, is taken as the dose equivalent at a tissue depth of 0.007 centimeter (7 mg/cm²).

“Shielded position” means the location within a radiographic exposure device or storage container which, by manufacturer’s design, is the proper location for storage of the sealed source.

“Sievert” means the SI unit of dose equivalent (see “Dose equivalent”). The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

“Site boundary” means that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee or registrant.

“Source changer” means a device designed and used for replacement of sealed sources in radiographic exposure devices, including those also used for transporting and storage of sealed sources.

“Source holder” means a housing or assembly into which a radioactive source is placed for the purpose of facilitating the handling and use of the source in well-logging operations.

“Source material” means:

Uranium or thorium, or any combination of uranium or thorium, in any physical or chemical form; or

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Ores that contain by weight 1/20 of 1 percent (0.05 percent) or more of uranium, thorium, or any combination of uranium and thorium.

Source material does not include special nuclear material.

“Source material milling” means any activity that results in the production of byproduct material as defined by the second subsection under the definition of “Byproduct material.”

“Source of radiation” or “source” means any radioactive material or any device or equipment emitting, or capable of producing, radiation.

“Special form radioactive material” means radioactive material that satisfies all of the following conditions:

It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

The piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch); and

It satisfies the test requirements specified in 10 CFR 71.75. A special form encapsulation designed in accordance with the U.S. Nuclear Regulatory Commission requirements in effect on June 30, 1983, and constructed prior to July 1, 1985, may continue to be used. A special form encapsulation designed in accordance with the requirements of 10 CFR 71.4 in effect on March 31, 1996 (see 10 CFR part 71, revised as of January 1, 1996), and constructed before April 1, 1998; and special form material that was successfully tested before September 10, 2015 in accordance with the requirements of 10 CFR 71.75(d) in effect before September 10, 2015 may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

“Special nuclear material in quantities not sufficient to form a critical mass” means Uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; Uranium-233 in quantities not exceeding 200 grams; Plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: for each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed one. For example, the following quantities in combination would not exceed the limitation and are within the formula:

$$\frac{X\text{gmsU}235}{350} + \frac{Y\text{gmsU}233}{200} + \frac{Z\text{gmsPu}}{200} \leq 1$$

“Storage area” means any location, facility, or vehicle which is used to store, transport, or secure a radiographic exposure device, storage container, sealed source, or other source of radiation when it is not in use.

“Storage container” means a device in which sealed sources are transported or stored.

“Subsurface tracer study” means the release of a substance tagged with radioactive material for the purpose of tracing the movement or position of the tagged substance in the well-bore or adjacent formation.

“Survey” means an evaluation of the production, use, release, disposal, or presence of sources of radiation or any combina-

tion thereof under a specific set of conditions to determine actual or potential radiation hazards. Such evaluations include, but are not limited to, tests, physical examination and measurements of levels of radiation or concentration of radioactive material present.

“TEDE” (See “Total Effective Dose Equivalent”).

“Teletherapy” means therapeutic irradiation in which the source of radiation is at a distance from the body.

“Temporary job site” means any location where sources of radiation are used other than the specified locations listed on a license document. Storage of sources of radiation at a temporary jobsite shall not exceed six months unless the Department has granted an amendment authorizing storage at that jobsite.

“Test” means the process of verifying compliance with an applicable rule, order, or license condition.

“These rules” means all Articles of 9 A.A.C. 7.

“Total Effective Dose Equivalent” (TEDE) means the sum of the effective dose equivalent (for external exposures) and the committed effective dose equivalent (for internal exposures).

“Total Organ Dose Equivalent” (TODE) means the sum of the deep-dose equivalent and the committed dose equivalent to the organ receiving the highest dose. Determination of TODE is described in R9-7-411.

“Tribal official” means the highest ranking individual that represents Tribal leadership, such as the Chief, President, or Tribal Council leadership.

“Unrefined and unprocessed ore” means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating, or refining. Processing does not include sieving or encapsulation of ore or preparation of samples for laboratory analysis.

“Unrestricted area” means any area access to which is not controlled by the licensee for purposes of protection of individuals from exposure to radiation and radioactive material. Any area used for residential quarters is an unrestricted area.

“Uranium - natural, depleted, enriched.”

Natural uranium means uranium (which may be chemically separated) with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent uranium-235, and the remainder by weight essentially uranium-238).

Depleted uranium means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

Enriched uranium means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

“U.S. Department of Energy” means the Department of Energy established by P.L. 95-91, August 4, 1977, 91 Stat. 565, 42 U.S.C. 7101 et seq., to the extent that the Department of Energy exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers, and components; and transferred to the U.S. Energy Research and Development Administration and to the administrator of that agency under sections 104(b), (c), and (d) of the Energy Reorganization Act of 1974 (P.L. 93-438, October 11, 1974, 88 Stat. 1233 at 1237, 42 U.S.C. 5814, effective January 19, 1975) and retransferred to the Secretary of Energy under Sec-

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tion 301(a) of the Department of Energy Organization Act (P.L. 95-91, August 4, 1977, 91 Stat. 565 at 577-578, 42 U.S.C. 7151, effective October 1, 1977).

“Very high radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving an absorbed dose that exceeds 5 grays (500 rads) in one hour at one meter from a radiation source or one meter from any surface that the radiation penetrates.

“Waste” (See “Low-level waste”).

“Waste handling licensees” means persons licensed to receive and store radioactive wastes prior to disposal and persons licensed to dispose of radioactive waste.

“Week” means seven consecutive days starting on Sunday.

“Well-bore” means a drilled hole in which wireline service operations and subsurface tracer studies are performed.

“Well-logging” means the lowering and raising of measuring devices or tools which may contain sources of radiation into well-bores or cavities for the purpose of obtaining information about the well and adjacent formations.

“Whole body” means, for purposes of external exposure, head, trunk including male gonads, arms above the elbow, or legs above the knee.

“Wireline” means an armored cable containing one or more electrical conductors which is used to lower and raise logging tools in the well-bore.

“Wireline service operation” means any evaluation or mechanical service which is performed in the well-bore using devices on a wireline.

“Worker” means any individual engaged in work under a license or registration issued by the Department and controlled by employment or contract with a licensee or registrant.

“WL” means working level, any combination of short-lived radon daughters in 1 liter of air that will result in the ultimate emission of $1.3E + 5$ MeV of potential alpha particle energy. The short-lived radon daughters are – for radon-222: polonium-218, lead-214, bismuth-214, and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212, and polonium-212.

“WLM” means working level month, an exposure to one working level for 170 hours (2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month).

“Workload” means the degree of use of an x-ray or gamma-ray source per unit time.

“Year” means the period of time beginning in January used to determine compliance with the provisions of these rules. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

Historical Note

New Section R9-7-102 recodified from R12-1-102 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

When the Department recodified Section R9-7-102 it inadvertently left out the definition for “Tribal Official;” the definition has been added; the definitions of “Extremity” “Registration” and “Worker” were also corrected

with language as originally codified in 12 A.A.C. 1 (Supp. 18-2). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). An amendment to the definition “Extremity” was inadvertently omitted when codifying changes to this Section by final expedited rulemaking in Supp 18-3. The definition has been listed as filed at 24 A.A.R. 2151 and is effective July 12, 2018 (Supp. 19-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4). Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-103. Exemptions

- A. Common and contract carriers, freight forwarders, and warehousemen who are subject to 49 CFR 107.109, 107.111, 107.113, 171.2, 171.3, 172.200, 173.1, 173.3, 173.4, 173.401, 175.3, 175.10, 176.3, 176.5, 176.11, 176.24, 176.27, and 177.801, revised October 1, 2007, of the U.S. Department of Transportation, or 39 CFR 111.1 of the U.S. Postal Service, revised July 1, 2007, incorporated by reference, and available under R9-7-101, and who if need be, store radioactive material, for periods of less than 72 hours, in the regular course of their carriage for another, are exempt from this Chapter. The incorporated materials above contain no future editions or amendments.
- B. Any U.S. Department of Energy contractor or subcontractor and any U.S. Nuclear Regulatory Commission contractor or subcontractor of the following categories operating within this state are exempt from this Chapter to the extent that such contractor or subcontractor under the contract receives, possesses, uses, transfers, or acquires sources of radiation:
 1. Prime contractors performing work for the Department of Energy at U.S. Government-owned or controlled sites, including the transportation of sources of radiation to or from such sites and the performance of contract services during temporary interruptions of such transportation;
 2. Prime contractors of the Department of Energy performing research or development, manufacture, storage, testing or transportation of nuclear weapons or components thereof;
 3. Prime contractors of the Department of Energy using or operating nuclear reactors or other nuclear devices in a United States Government-owned vehicle or vessel; and
 4. Any other prime contractor or subcontractor of the Department of Energy or of the Nuclear Regulatory Commission when the state and the Nuclear Regulatory Commission jointly determine:
 - a. That the exemption of the prime contractor or subcontractor is authorized by law; and
 - b. That under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety.
- C. Any licensee who delivers to a carrier for transport any package which contains radioactive material having a specific activity of 74 kBq/kg (2 nanocuries per gram) or less, is exempt from the provisions of this Chapter with respect to that package.
- D. Any physician licensed by a State to dispense drugs in the practice of medicine is exempt from 10 CFR 71.5 with respect to transport by the physician of licensed material for use in the practice of medicine. However, any physician operating under

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this exemption must be licensed under 10 CFR part 35 and/or R9-7-703.

Historical Note

New Section R9-7-103 recodified from R12-1-103 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-104. Prohibited Uses

- A.** A person shall not use the following fluoroscopic devices:
1. Hand-held fluoroscopic screens,
 2. Shoe-fitting fluoroscopic devices.
- B.** Except as specifically authorized by law, a person shall not use sources of ionizing radiation for the purpose of screening an individual or inspecting an individual for:
1. Concealed weapons,
 2. Hazardous materials,
 3. Stolen property, or
 4. Contraband.
- C.** Unless there is a medical or dental indication for the exposure and the exposure is prescribed by a licensed practitioner, a person shall not deliberately expose an individual to the useful beam from:
1. An ionizing radiation machine; or
 2. A non-ionizing radiation source, having a radiation beam known to be harmful to human tissue.

Historical Note

New Section R9-7-104 recodified from R12-1-104 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-105. Quality Factors for Converting Absorbed Dose to Dose Equivalent

- A.** As used in these rules, the quality factors for converting absorbed dose to dose equivalent are shown in Table I.

TABLE I. QUALITY FACTORS AND ABSORBED DOSE EQUIVALENCIES

TYPE OF RADIATION	Quality Factor (Q)	Absorbed Dose Equal to a Unit Dose Equivalent ^a
X, gamma, or beta radiation and high-speed electrons		1
Alpha particles, multiple-charged particles, fission fragments, and heavy particles of unknown charge	20	0.05
Neutrons of unknown energy	10	0.1
High-energy protons	10	0.1

^a The absorbed dose in gray is equal to 1 Sv or the absorbed dose in rad is equal to 1 rem.

- B.** If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in sievert per hour or rem per hour, 0.01 Sv (1 rem) of neutron radiation of unknown energies may, for purposes of these rules, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee or registrant may use the flu-

ence rate per unit dose equivalent or the appropriate Q value from Table II to convert a measured tissue dose in gray or rad to dose equivalent in sievert or rem.

TABLE II. MEAN QUALITY FACTORS, Q, AND FLUENCE PER UNIT DOSE EQUIVALENT FOR MONOENERGETIC NEUTRONS

Neutron Energy (meV)	Quality Factor (Q)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² rem ⁻¹)	Fluence per Unit Dose Equivalent ^b (neutrons cm ⁻² Sv ⁻¹)
(thermal)			
2.5E-8	2	980E+6	980E+8
1E-7	2	980E+6	980E+8
1E-6	2	810E+6	810E+8
1E-5	2	810E+6	810E+8
1E-4	2	840E+6	840E+8
1E-3	2	980E+6	980E+8
1E-2	2.5	1010E+6	1010E+8
1E-1	7.5	170E+6	170E+8
5E-1	11	39E+6	39E+8
1	11	27E+6	27E+8
2.5	9	29E+6	29E+8
5	8	23E+6	23E+8
7	7	24E+6	24E+8
10	6.5	24E+6	24E+8
14	7.5	17E+6	17E+8
20	8	16E+6	16E+8
40	7	14E+6	14E+8
60	5.5	16E+6	16E+8
1E+2	4	20E+6	20E+8
2E+2	3.5	19E+6	19E+8
3E+2	3.5	16E+6	16E+8
4E+2	3.5	14E+6	14E+8

^a Value of quality factor (Q) at the point where the dose equivalent is maximum in a 30-centimeter diameter cylinder tissue-equivalent phantom.

^b Monoenergetic neutrons incident normally on a 30-centimeter diameter cylinder tissue-equivalent phantom.

Historical Note

New Section R9-7-105 and Tables 1 and 2 recodified from R12-1-105, Tables 1 and 2 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-106. Units of Activity

For purposes of these rules, activity is expressed in the SI unit of becquerel (Bq) or in the special unit of curie (Ci), or their multiples, or disintegrations or transformations per unit of time. The definitions for these units are located in R9-7-102.

Historical Note

New Section R9-7-106 recodified from R12-1-106, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-107. Misconduct

- A.** A licensee, registrant, applicant for a license or certificate of registration, or employee of a licensee, registrant, or applicant; or any contractor (including a supplier or consultant), subcontractor, or employee of a contractor or subcontractor of any licensee or certificate of registration holder who provides to any licensee, registrant, applicant, contractor, or subcontractor, any components, equipment, materials, or other goods or ser-

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vices that relate to a licensee's, registrant's, or applicant's activities in this Chapter, shall not:

1. Knowingly engage in conduct that violates or will result in a violation by a licensee, registrant, or applicant, of any statute, rule, regulation, or order; or any term, condition, or limitation of any license or registration issued by the Department; or
 2. Knowingly submit to the Department, or a licensee, registrant, or applicant, or a licensee's, registrant's, or applicant's contractor or subcontractor, information that is incomplete or inaccurate.
- B.** The Board shall impose the applicable civil penalty listed in R9-7-1216 on a person who violates subsection (A)(1) or (A)(2). For this purpose the person is classified as a Division II licensee and the violation is classified as a Severity II violation.
- C.** For the purposes of this Section, "misconduct" means conduct prohibited under subsection (A).
- D.** A person who is not a licensee, registrant, or applicant and knowingly violates a rule for the safe use of radiation sources in 9 A.A.C. 7 is subject to the enforcement actions in 9 A.A.C. 7, Article 12.

Historical Note

New Section R9-7-107 recodified from R12-1-107, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 2. REGISTRATION, INSTALLATION, AND SERVICE OF IONIZING RADIATION-PRODUCING MACHINES; AND CERTIFICATION OF MAMMOGRAPHY FACILITIES

R9-7-201. Exemptions

- A.** Electronic equipment that produces X-radiation incidental to its operation for other purposes is exempt from the registration and notification requirements of this Article, provided that an exposure rate, from any accessible surface, averaged over an area of 10 centimeters squared (1.55 inches squared) does not exceed 5 microsieverts (0.5 milliroentgen) per hour at 5 centimeters (2.0 inches).
- B.** The production, testing, or factory servicing of the electronic equipment in subsection (A) is not exempt from the requirements of this Article.
- C.** Radiation machines in storage or in transit to or from storage are exempt from the requirements of this Article.
- D.** Radiation machines rendered incapable of producing radiation are exempt from the requirements of this Article.

Historical Note

New Section R9-7-201 recodified from R12-1-201, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-202. Application for Registration of Ionizing Radiation Producing Machines

- A.** A person shall not use a radiation machine except as authorized in this Article.
- B.** A person possessing a nonexempt radiation machine shall apply for registration of the machine with the Department within 30 days after its installation. The person applying for registration of a radiation-producing machine shall use the application forms provided by the Department. The applicant shall provide the information identified in Appendix A of this Article.
- C.** In addition to the application form or forms, the applicant shall remit the appropriate registration or licensing fee in R9-7-1306 and provide other information required by R9-7-208.
- D.** Each applicant that applies for registration of a stationary x-ray system, with the exception of applicants from bone densi-

tometry, cabinet radiography, podiatry, dental, bone mineral analyzer and mammography facilities, shall provide a scale drawing of the room in which the x-ray system is located, or provide measurements from the radiation source to the surrounding barrier surfaces. The drawing shall denote the type of materials and the thickness (or lead equivalence) of each barrier of the room (walls, ceilings, floors, doors, windows). The drawing shall also denote the type and frequency of occupancy in adjacent areas, including those above and below the x-ray room of concern (e.g., hallways, offices, parking lots, and lavatories). Estimates of workload shall also be provided with the drawing.

- E.** An applicant proposing to use a particle accelerator for medical purposes shall not use the particle accelerator until the Department inspection required in R9-7-914 has been completed.

Historical Note

New Section R9-7-202 recodified from R12-1-202, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-203. Application for Registration of Servicing and Installation

- A.** Each person who is engaged in the business of installing or offering to install radiation machines shall apply for registration. For purposes of this Chapter, install includes selling and servicing, or offering to sell or service, x-ray machines in Arizona.
- B.** The applicant shall complete the application for registration on forms that request information required by A.R.S. § 30-672.01, provided by the Department.

Historical Note

New Section R9-7-203 recodified from R12-1-203, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-204. Issuance of Notice of Registration

- A.** Upon determining that the application meets the requirements of the Act and this Article, the Department shall issue a Notice of Registration.
- B.** All radiation machines located at the same facility may be registered using one Notice of Registration.

Historical Note

New Section R9-7-204 recodified from R12-1-204, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-205. Expiration of Notice of Registration or Certification

- A.** Except as provided in subsection (B), a Notice of Registration, issued according to R9-7-204, or a certificate issued according to R9-7-208, expires at the end of the day on the expiration date stated in the Notice of Registration or certificate.
- B.** If an application for renewal is filed by the registrant or certificate holder not less than 30 days prior to the expiration of the Notice of Registration or certificate, the Notice of Registration or certificate does not expire until a final determination is made by the Department on the renewal application.

Historical Note

New Section R9-7-205 recodified from R12-1-205, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-206. Assembly, Installation, Removal from Service, and Transfer

- A.** A person who assembles, or installs ionizing radiation machines in this state shall notify the Department in writing within 15 days of:

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1. The name and address of the person possessing the machine that was assembled or installed;
 2. The manufacturer, model, and serial number of each radiation machine with the tube housing model number and serial number, maximum kVp, and maximum mA, assembled or installed; and
 3. The date each machine was assembled or installed, or the first clinical procedure is performed.
- B.** Any person who possesses a radiation machine registered by the Department shall notify the Department within 15 days of the machine being taken out of service. The written notification shall contain the name and address of the person receiving the machine, if it is sold, leased, or transferred to another person; the manufacturer, model, and serial number of the machine; and the date the machine was taken out of service.
- C.** In the case of diagnostic x-ray systems that contain certified components, an assembler shall, within 15 days following completion of the assembly, submit to the Department a copy of the assembler's report (FDA Report No. 2579) prepared in compliance with requirements in 21 CFR 1020.30(d), revised April 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. The report shall suffice in lieu of any other report by the assembler, if it contains the information required in subsection (A).
- D.** A person shall not make, sell, lease, transfer, lend, assemble, service, or install radiation machines or the supplies used in connection with radiation machines unless the supplies and equipment when properly placed in operation and used, meet the requirements of these rules.

Historical Note

New Section R9-7-206 recodified from R12-1-206, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-207. Reciprocal Recognition of Out-of-state Radiation Machines

- A.** If any radiation machine is to be brought into the state for temporary use, the person proposing to bring the radiation machine into the state shall provide written notice to the Department at least three working days before the radiation machine is to be used in the state. The notice shall include the type of radiation machine; the nature, duration, and scope of use; and the exact location where the radiation machine is to be used. If, for a specific case, the three working-day period would impose an undue hardship, the person may upon application to the Department, obtain permission to proceed sooner.
- B.** In addition, the owner of the radiation machine and the person possessing the machine while in the state shall:
1. Comply with all applicable rules of the Department;
 2. Upon request, supply the Department with a copy of the machine's registration and other information regarding the safe operation of the machine while it is in the state; and
 3. Upon request, supply the Department with the work authorization from the Department, machine registration, operating and emergency procedures, utilization log, survey instrument and associated calibration record, and training records for all users.
- C.** A radiation machine shall not be operated within the state on a temporary basis in excess of 180 calendar days per year.

Historical Note

New Section R9-7-207 recodified from R12-1-207, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-208. Certification of Mammography Facilities

An applicant seeking certification of a facility according to A.R.S. § 30-672(J) shall:

1. Provide evidence with the application that a quality assurance program has been established and is in use under R9-7-614(B)(1) and (2).
2. Provide evidence with the application that physicians reading mammographic images have the training and experience required in A.R.S. § 32-2842, and
3. Provide evidence with the application that physicians reading mammographic images have met the minimum criteria established by their respective licensing boards, as required in A.R.S. § 32-2842(C).

Historical Note

New Section R9-7-208 recodified from R12-1-208, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-209. Notifications

- A.** A registrant shall notify the Department within 30 days of any change to the information contained in the notice of registration or a certificate issued according to R9-7-208.
- B.** A person who possesses a radiation machine registered by the Department shall notify the Department within 15 days if the machine is discarded or transferred to another person. In the notice, the person shall provide the name and address of the person who receives the machine, if it is sold, leased, or transferred to another person; the manufacturer, model, and serial number of the machine; and the date the machine was taken out of service.

Historical Note

New Section R9-7-209 recodified from R12-1-209, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Application Information

An application shall contain the following information as required in R9-7-202(B), before a registration will be issued. The Department shall provide an application form to an applicant with a guide, if available, or shall assist the applicant to ensure that only correct information is provided on the application.

Name and mailing address of applicant	Use location
Person responsible for radiation safety program	Telephone number
Type of facility	Facility subtype
Legal structure and ownership	Signature of certifying agent
Radiation machine information	Equipment identifiers
Shielding information	Scale drawing, if applicable
Equipment operator instructions and restrictions	Physicist name and training, if applicable
Classification of professional in charge	
Record of calibration for therapy units	Type of request: amendment, new, or renewal
Protection survey results, if applicable	
Type of industrial radiography program, if applicable	
Radiation Safety Officer name, if applicable	Contact person
Other registration requirements listed in Articles 2, 6, 8, 9, and 11	Appropriate fee listed in Article 13 schedule

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Historical Note

New Article 2, Appendix A recodified from 12 A.A.C. 1, Article 2, Appendix A, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 3. RADIOACTIVE MATERIAL LICENSING**R9-7-301. Ownership, Control, or Transfer of Radioactive Material**

- A. In addition to the requirements of this Article, all licensees are subject to the requirements of 9 A.A.C. 7, Article 1, Article 4, and Article 10. Licensees engaged in industrial radiographic operations are subject to the requirements of 9 A.A.C. 7, Article 5; licensees using radioactive material in the practice of medicine are subject to the requirements of 9 A.A.C. 7, Article 7; licensees transporting radioactive material are subject to the requirements contained in 9 A.A.C. 7, Article 15; and licensees using radioactive material in well logging operations are subject to the requirements in 9 A.A.C. 7, Article 17.
- B. Notwithstanding any other provisions of this Article, any person may own radioactive material, provided that the ownership does not include the actual possession, custody, use, or physical transfer of radioactive material or the manufacture or production of any article that contains radioactive material without the applicable certification, license, or registration.
- C. A manufacturer, processor, or producer of any equipment, device, commodity, or other product that contains source material or radioactive material whose subsequent possession, use, transfer, or disposal by all other persons is exempt from regulatory requirements may only obtain authority to transfer possession or control of the material from the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Historical Note

New Section R9-7-301 recodified from R12-1-301, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-302. Source Material; Exemptions

- A. Any person is exempt from this Article to the extent the person receives, possesses, uses, delivers or transfers source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than 1/20th of 1 percent (0.0005) of the mixture, compound, solution, or alloy.
- B. Any person is exempt from this Article to the extent the person receives, possesses, uses, or transfers unrefined and unprocessed ore containing source material, provided that, the person does not refine or process the ore except as authorized in a specific license.
- C. Any person is exempt from the requirements for a license set forth in this Article if the person receives, possesses, uses, or transfers:
 1. Any quantities of thorium contained in:
 - a. Incandescent gas mantles;
 - b. Vacuum tubes;
 - c. Welding rods;
 - d. Electric lamps for illuminating purposes provided that each lamp does not contain more than 50 milligrams of thorium;
 - e. Germicidal lamps, sunlamps, and lamps for outdoor or industrial lighting, provided that each lamp does not contain more than 2 grams of thorium;
 - f. Rare earth metals, compounds, mixtures, or products containing not more than 0.25 percent by weight thorium, uranium, or any combination of thorium and uranium; or
 - g. Individual neutron dosimeters, provided that each dosimeter does not contain more than 50 milligrams of thorium;
 2. Source material contained in the following products:
 - a. Glazed ceramic tableware manufactured before August 27, 2013, provided that the glaze contains not more than 20 percent by weight source material;
 - b. Glassware containing not more than 2 percent by weight source material or, for glassware manufactured before August 27, 2013, 10 percent by weight source material, but not including commercially manufactured glass brick, pane glass, ceramic tile or other glass or ceramic used in construction; or
 - c. Piezoelectric ceramic containing not more than 2 percent by weight source material;
 3. Photographic film, negatives, and prints containing uranium or thorium;
 4. Any finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed 4 percent by weight and that the exemption contained in this subsection does not authorize the chemical, physical, or metallurgical treatment or processing of the finished product or part;
 5. Uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of counterweights, provided that:
 - a. Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "DEPLETED URANIUM";
 - b. Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED";
 - c. The exemption contained in subsection (C)(5) does not authorize the chemical, physical, or metallurgical treatment or processing of any counterweight other than repair or restoration of any plating or other covering; and
 - d. The requirements specified in subsections (C)(5)(a) and (b) need not be met by counterweights manufactured prior to December 31, 1969; provided, that these counterweights were manufactured under a specific license issued by the Atomic Energy Commission and were impressed with the legend, "UNAUTHORIZED ALTERATIONS PROHIBITED";
 6. Natural or depleted uranium metal used as shielding and constituting part of any shipping container; provided that:
 - a. The shipping container is conspicuously and legibly impressed with the legend "CAUTION – RADIOACTIVE SHIELDING – URANIUM," and
 - b. The uranium metal is encased in mild steel or equally fire resistant metal with minimum wall thickness of 1/8 inch (3.2 mm);
 7. Thorium or uranium contained in or on finished optical lenses or mirrors, provided that each lens or mirror does not contain more than 10 percent by weight thorium or uranium or, for lenses manufactured before August 27, 2013, 30 percent by weight of thorium; and that the exemption contained in this Section does not authorize either:
 - a. The shaping, grinding, or polishing of such lens or mirror or manufacturing processes other than the assembly of such lens or mirror into optical systems and devices without any alteration of the lens or mirror; or

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- b. The receipt, possession, use, or transfer of uranium or thorium contained in contact lenses, spectacles, or the eyepieces of binoculars or other optical instruments;
- 8. Uranium contained in detector heads of fire detection units, provided that each detector head contains not more than 5 nanocuries (185 Bq) of uranium; or
- 9. Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:
 - a. The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thorium (thorium dioxide), and
 - b. The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.
- D. No person may initially transfer for sale or distribution a product containing source material to persons exempt under subsection (C), or equivalent regulations of the NRC or another Agreement State, unless authorized by a license issued under R9-7-318 to initially transfer such products for sale or distribution.
- E. Persons authorized to manufacture, process, or produce these materials or products containing source material by another Agreement State, and persons who import finished products or parts, for sale or distribution must be authorized by a license issued under R9-7-318 for distribution only and are exempt from the requirements of Articles 4 and 10 of this Chapter, and R9-7-309(1) and (2).
- F. The exemptions in subsections (C), (D), and (E) do not authorize the manufacture of any of the products described.

Historical Note

New Section R9-7-302 recodified from R12-1-302, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
 Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).
 Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-303. Radioactive Material Other Than Source Material; Exemptions**A. Exempt concentrations**

- 1. Except as provided in subsection (A)(3) and (A)(4), any person is exempt from this Article if the person receives, possesses, uses, transfers, owns, or acquires products or materials containing radioactive material in concentrations not in excess of those listed in Exhibit A.
- 2. This Section shall not be deemed to authorize the import of radioactive material or products containing radioactive material.
- 3. A manufacturer, processor, or producer of a product or material is exempt from the requirements for a license issued under R9-7-311(A) or the requirements of this Article to the extent that this person transfers radioactive material contained in a product or material in concentrations not in excess of those specified in Exhibit A of this Article and introduced into the product or material by a licensee holding a specific license issued by the NRC expressly authorizing such introduction. This exemption does not apply to the transfer of radioactive material contained in any food, beverage, cosmetic, drug, or other commodity or product designed for ingestion or inhalation by, or application to, a human being.
- 4. A person shall not introduce radioactive material into a product or material knowing or having reason to believe

that it will be transferred to persons exempt under subsection (A)(1) or equivalent Regulations of the U.S. Nuclear Regulatory Commission or any Agreement State or Licensing State, except in accordance with a license issued under 10 CFR 32.11.

B. Exempt items

- 1. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, or persons who initially transfer for sale or distribution the following products, a person is exempt from this Chapter to the extent that the person receives, possesses, uses, transfers, owns, or acquires the following products:
 - a. Timepieces, hands, or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:
 - i. 925 megabecquerels (25 millicuries) of tritium per timepiece;
 - ii. 185 megabecquerels (5 millicuries) of tritium per hand;
 - iii. 555 megabecquerels (15 millicuries) of tritium per dial (bezels when used shall be considered part of the dial);
 - iv. 3.7 megabecquerels (100 microcuries) of promethium-147 per watch or 7.4 megabecquerels (200 microcuries) of promethium-147 per any other timepiece;
 - v. 740 kBq (20 microcuries) of promethium-147 per watch hand or 1.48 megabecquerels (40 microcuries) of promethium-147 per other timepiece hand;
 - vi. 2.22 megabecquerels (60 microcuries) of promethium-147 per watch dial or 4.44 MBq (120 microcuries) of promethium-147 per other timepiece dial (bezels, when used, shall be considered part of the dial);
 - vii. The levels of radiation from hands and dials containing promethium-147 shall not exceed, when measured through 50 milligrams per square centimeter of absorber:
 - (1) For wrist watches, 1.0 μ Gy (0.1 millirad) per hour at 10 centimeters from any surface of the watch;
 - (2) For pocket watches, (0.1 millirad) per hour at 1 centimeter from any surface;
 - (3) For any other timepiece, 2.0 μ Gy (0.2 millirad) per hour at 10 centimeters from any surface;
 - viii. 37 kBq (1 microcurie) of radium-226 per timepiece in intact timepieces manufactured prior to November 30, 2007;
 - b. Static elimination devices which contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 MBq (500 μ Ci) of polonium-210 per device.
 - i. Ion generating tubes designed for ionization of air that contain, as a sealed source or sources, radioactive material consisting of a total of not more than 18.5 MBq (500 μ Ci) of polonium-210 per device or of a total of not more than 1.85 GBq (50 mCi) of hydrogen-3 (tritium) per device.
 - ii. Such devices authorized before October 23, 2012 for use under the general license then provided in R9-7-306 and equivalent regulations

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- of the NRC or Agreement State and manufactured, tested, and labeled by the manufacturer in accordance with the specifications contained in a specific license issued by the NRC.
- c. Balances of precision containing not more than 37 megabecquerels (1 millicurie) of tritium per balance or not more than 18.5 megabecquerels (0.5 millicurie) of tritium per balance part manufactured before December 17, 2007;
 - d. Marine compasses containing not more than 27.75 gigabecquerels (750 millicuries) of tritium gas and other marine navigational instruments containing not more than 9.25 gigabecquerels (250 millicuries) of tritium gas manufactured before December 17, 2007;
 - e. Ionization chamber smoke detectors containing not more than 37 kBq (1 microcurie) of americium-241 per detector in the form of a foil and designed to protect life and property from fires;
 - f. Electron tubes: Provided that each tube does not contain more than one of the following specified quantities of radioactive material:
 - i. 5.55 GBq (150 millicuries) of tritium per microwave receiver protector tube or 370 megabecquerels (10 millicuries) of tritium per any other electron tube;
 - ii. 37 kBq (1 microcurie) of cobalt 60;
 - iii. 185 kBq (5 microcuries) of nickel 63;
 - iv. 1.11 megabecquerels (30 microcuries) of krypton 85;
 - v. 185 kBq (5 microcuries) of cesium 137;
 - vi. 1.11 megabecquerels (30 microcuries) of promethium-147;
 - vii. And provided further, that the level of radiation due to radioactive material contained in each electron tube does not exceed 10 μ Gy (1 millirad) per hour at 1 centimeter from any surface when measured through 7 milligrams per square centimeter of absorber. The term "electron tubes" includes spark gap tubes, power tubes, gas tubes, including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical current;
 - g. Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one or more sources of radioactive material provided that:
 - i. Each source contains no more than one exempt quantity set forth in Exhibit B of this Article; and
 - ii. Each instrument contains no more than 10 exempt quantities. For the purposes of this subsection, an instrument's source or sources may contain either one type or different types of radionuclide and an individual exempt quantity may be composed of fractional parts of one or more of the exempt quantities in Exhibit B of this Article, provided the sum of the fractions do not exceed unity;
 - iii. For the purposes of subsection (B)(1)(h) only, 185 kBq (50 nanocurie) of americium-241 is considered an exempt quantity under Exhibit B of this Article;
 - h. Any person who desires to apply radioactive material to, or to incorporate radioactive material into, the products exempted in subsection (B)(1)(a), or who desires to initially transfer for sale or distribution such products containing radioactive material, should apply for a specific license pursuant to R9-7-311 of this Article, which license states that the product may be distributed by the licensee to persons exempt from the rules pursuant to subsection (A)(1).
2. Self-luminous products containing tritium, krypton-85, or promethium-147:
 - a. Except for persons who manufacture, process, initially transfer for sale or distribution, or produce self-luminous products containing tritium, krypton-85, or promethium-147, and except as provided in subsection (B)(2)(c), a person is exempt from this Chapter if the person receives, possesses, uses, owns, transfers or acquires tritium, krypton-85 or promethium-147 in self-luminous products manufactured, processed, produced, imported, initially transferred for sale or distribution, or transferred under a specific license issued by the U.S. Nuclear Regulatory Commission and described in 10 CFR 32.22, and the license authorizes the transfer of the products to persons who are exempt from regulatory requirements.
 - b. Any person who desires to manufacture, process, or produce, or initially transfer for sale or distribution self-luminous products containing tritium, krypton-85, or promethium-147 for use under subsection (B)(2)(a), should apply for a license:
 - i. Under 10 CFR 32 and for a certificate of registration in accordance with 10 CFR 32.210, and
 - ii. As described in R9-7-311.
 - c. A person is exempt from this Chapter if the person receives, possesses, uses, or transfers articles containing less than 3.7 kBq (100 nanocuries) of radium-226, manufactured prior to October 1, 1978.
 3. Gas and aerosol detectors containing byproduct material
 - a. Except for persons who manufacture, process, initially transfer for sale or distribution, or produce gas and aerosol detectors containing radioactive material, a person is exempt from this Chapter if the person receives, possesses, uses, transfers, owns, or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards, provided that detectors containing radioactive material shall be manufactured, imported, or transferred according to a specific license issued by the U.S. Nuclear Regulatory Commission and described in 10 CFR 32.26, or equivalent regulations of an Agreement or Licensing State, this exemption also covers gas and aerosol detectors manufactured or distributed before November 30, 2007 in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or equivalent regulations of an Agreement or Licensing State and the license authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.
 - b. Gas and aerosol detectors previously manufactured and distributed to general licensees in accordance with a specific license issued by an Agreement State are exempt under subsection (B)(3)(a), provided that the device is labeled in accordance with the specific

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license authorizing distribution of the general licensed device, and that the detectors meet the requirements of the regulations of the U.S. Nuclear Regulatory Commission.

- c. Any person who desires to manufacture, process, or produce gas and aerosol detectors containing byproduct material, or to initially transfer such products for use under subsection (B)(3)(a), should apply for a license under 10 CFR 32.26 and for a certificate of registration in accordance with 10 CFR 32.210.

4. Certain industrial devices

- a. Except for persons who manufacture, process, produce, or initially transfer for sale or distribution industrial devices containing byproduct material designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing an ionized atmosphere, any person is exempt from the requirements for a license set forth in this Chapter to the extent that such person receives, possesses, uses, transfers, owns, or acquires byproduct material, in these certain detecting, measuring, gauging, or controlling devices and certain devices for producing an ionized atmosphere, and manufactured, processed, produced, or initially transferred in accordance with a specific license issued under R9-7-311 of this Article, which license authorizes the initial transfer of the device for use under this Section. This exemption does not cover sources not incorporated into a device, such as calibration and reference sources.
- b. Any person who desires to manufacture, process, produce, or initially transfer, for sale or distribution, industrial devices containing byproduct material for use under subsection (B)(4)(a), shall apply for a license described in R9-7-311 and for a certificate of registration in accordance with 10 CFR 32.210.

- C. Exempt quantities

1. Except as provided in subsections (C)(2), (3), and (7), a person is exempt from this Chapter if the person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities each of which does not exceed the applicable quantity set forth in Exhibit B of this Article.
2. This subsection does not authorize the production, packaging, or repackaging or transfer of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.
3. Except as specified in this subsection, a person shall not, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in Exhibit B of this Article, knowing or having reason to believe the described quantities of radioactive material will be transferred to persons exempt under subsection (C) or equivalent regulations of the U.S. Nuclear Regulatory Commission or any Agreement State or Licensing State. A person may transfer radioactive material for commercial distribution under a specific license issued by the U.S. Nuclear Regulatory Commission under 10 CFR 32.18 which license states that the radioactive material may be transferred by the licensee to persons exempt under this subsection or the equivalent regulations of the

U.S. Nuclear Regulatory Commission or any Agreement State or Licensing State.

4. Sources containing exempt quantities of radioactive material shall not be bundled or placed in close proximity for the purpose of using the radiation from the combined sources in place of a single source, containing a licensable quantity of radioactive material.
5. Possession and use of bundled or combined sources containing exempt quantities of radioactive material in unregistered devices by persons exempt from licensing is prohibited.
6. Any person, who possesses radioactive material received or acquired before September 25, 1971, under the general license issued under R9-7-311(A) of this Article or similar general license of an Agreement State or the NRC, is exempt from the requirements for a license issued under R9-7-311(A) of this Article to the extent that this person possesses, uses, transfers, or owns radioactive material.
7. No person may, for purposes of producing an increased radiation level, combine quantities of radioactive material covered by the exemption described in subsection (C)(6) so that the aggregate quantity exceeds the limits set forth in Exhibit B, except for radioactive material combined within a device placed in use before May 3, 1999, or as otherwise permitted by the rules in this Section.

Historical Note

New Section R9-7-303 recodified from R12-1-303, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-304. License Types

- A. Activities requiring license. Except as provided in 10 CFR 30.3 (revised January 1, 2013, incorporated by reference, and available under R9-7-101; this incorporated material contains no future editions or amendments), in subsection (B)(1), and for persons exempt as provided in R9-7-302 and R9-7-303 of this Article, no person shall manufacture, produce, transfer, receive, acquire, own, possess, or use byproduct material except as authorized in a specific or general license issued in accordance with the regulations in this chapter and in accordance with 10 CFR 30.3.
- B. Licenses for radioactive materials are of two types: general and specific.
 1. A general license is provided by rule, grants authority to a person for certain activities involving radioactive material, and is effective without the filing of an application with the Department or the issuance of a licensing document to a particular person. However, registration with the Department may be required by the particular general license.
 2. The Department issues a specific license to a named person who has filed an application for a license under the applicable provision of this Chapter. A specific licensee is subject to all of the applicable rules in this Chapter and any limitation contained in the license document.

Historical Note

New Section R9-7-304 recodified from R12-1-304, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-305. General Licenses – Source Material

- A. A general license is hereby issued authorizing commercial and industrial firms; research, educational, and medical institutions; and Federal, State, and local government agencies to

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receive, possess, use, and transfer uranium and thorium, in their natural isotopic concentrations and in the form of depleted uranium, for research, development, educational, commercial, or operational purposes in the following forms and quantities.

1. No more than 1.5 kg (3.3 lb) of uranium and thorium in dispersible forms (e.g., gaseous, liquid, powder, etc.) at any one time. Any material processed by the general licensee that alters the chemical or physical form of the material containing source material must be accounted for as a dispersible form. A person authorized to possess, use, and transfer source material under this subsection may not receive more than a total of 7 kg (15.4 lb) of uranium and thorium in any one calendar year.
2. As applicable:
 - a. No more than a total of 7 kg (15.4 lb) of uranium and thorium at any one time. A person authorized to possess, use, and transfer source material under this subsection may not receive more than a total of 70 kg (154 lb) of uranium and thorium in any one calendar year. A person may not alter the chemical or physical form of the source material possessed under this subsection unless it is accounted for under the limits of subsection (A)(1);
 - b. No more than 7 kg (15.4 lb) of uranium, removed during the treatment of drinking water, at any one time. A person may not remove more than 70 kg (154 lb) of uranium from drinking water during a calendar year under this subsection; or
 - c. No more than 7 kg (15.4 lb) of uranium and thorium at laboratories for the purpose of determining the concentration of uranium and thorium contained within the material being analyzed at any one time. A person authorized to possess, use, and transfer source material under this subsection may not receive more than a total of 70 kg (154 lb) of source material in any one calendar year.
- B. Any person who receives, possesses, uses, or transfers source material in accordance with a general license granted under subsection (A):
 1. Is prohibited from administering source material, or the radiation therefrom, either externally or internally, to human beings, except as may be authorized by the Department in a specific license;
 2. Shall not abandon such source material, but source material may be disposed of as follows:
 - a. A cumulative total of 0.5 kg (1.1 lb) of source material in a solid, non-dispersible form may be transferred each calendar year, by a person authorized to receive, possess, use, and transfer source material under this general license to persons receiving the material for permanent disposal. The recipient of source material transferred under the provisions of this subsection is exempt from the requirements to obtain a license under this Article to the extent the source material is permanently disposed. This provision does not apply to any person who is in possession of source material under a specific license issued under this Chapter; or
 - b. In accordance with R9-7-434.
 3. Is subject to the provisions in 10 CFR 40.56 and R9-7-101, R9-7-101.01, R9-7-102, R9-7-107, R9-7-308, R9-7-313(A) through (E), R9-7-313(I), R9-7-318, R9-7-405, R9-7-443, R9-7-444, R9-7-445, and R9-7-1213 through R9-7-1220; and
 4. Shall not export such source material except in accordance with 10 CFR 110.
- C. Any person who receives, possesses, uses, or transfers source material in accordance with subsection (A) shall conduct activities so as to minimize contamination of the facility and the environment. When activities involving such source material are permanently ceased at any site, if evidence of significant contamination is identified, the general licensee shall notify the Department about such contamination and may consult with the Department as to the appropriateness of sampling and restoration activities to ensure that any contamination or residual source material remaining at the site where source material was used under this general license is not likely to result in exposures that exceed the limits in R9-7-452.
- D. Any person who receives, possesses, uses, or transfers source material in accordance with a general license granted under subsection (A) is exempt from the provisions of Article 4 and Article 10 of this Chapter, provided the receipt, possession, use, or transfer is within the terms of the general license, except that such person shall comply with the provisions of R9-7-434 and R9-7-452. This exemption does not apply to any person who is also in possession of source material under a specific license issued under this Article.
- E. No person may initially transfer or distribute source material to persons generally licensed under subsection (A)(1) or (2), or equivalent regulations of the NRC or another Agreement State, unless authorized by a specific license issued in accordance with R9-7-318 or equivalent provisions of the NRC or another Agreement State. This prohibition does not apply to analytical laboratories returning processed samples to the client who initially provided the sample.
- F. This subsection grants a general license that authorizes a person to receive, acquire, possess, use, or transfer, in accordance with subsections (G) through (J), depleted uranium contained in industrial products and devices provided the depleted uranium is contained in the industrial product or device for the purpose of providing a concentrated mass in a small volume of the product or device.
- G. The general license in subsection (F) applies only to industrial products or devices have been manufactured or initially transferred in accordance with a specific license governed by R9-7-311(J), or in accordance with a specific license issued by the NRC or another Agreement State that authorizes manufacture of the products or devices for distribution to persons generally licensed by the NRC or an Agreement State.
- H. Persons who receive, acquire, possess, or use depleted uranium pursuant to the general license established by subsection (F) shall file an ARRA 23 "Registration Certificate -- Use of Depleted Uranium Under General License" with the Department. The person shall provide the information requested on the certificate and listed in Exhibit E. The person shall submit the information within 30 days after first receipt or acquisition of the depleted uranium, returning the completed registration certificate to the Department. The person shall report in writing to the Department any change in information originally submitted to the Department on ARRA 23. The person shall submit the change report within 30 days after the effective date of the described change.
- I. A person who receives, acquires, possesses, or uses depleted uranium according to the general license provided under subsection (F) shall:
 1. Not introduce depleted uranium, in any form, into a chemical, physical, or metallurgical treatment or process, except a treatment or process for repair or restoration of any plating or other covering of the depleted uranium;
 2. Not abandon the depleted uranium;

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3. Transfer the depleted uranium as prescribed in R9-7-318. If the transferee receives the depleted uranium under a general license established by subsection (F), the transferor shall furnish the transferee with a copy of this subsection and a copy of the registration certificate. If the transferee receives the depleted uranium under a general license governed by a regulation of the NRC or another Agreement State that is equivalent to subsection (F), the transferor shall furnish the transferee a copy of the equivalent rule and a copy of the registration certificate, accompanied by a letter explaining that use of the product or device is regulated by the NRC or an Agreement State under requirements substantially similar to those in this Section; and
 4. Within 30 days of any transfer, report in writing to the Department the name and address of the person receiving the depleted uranium.
- J.** A person who receives, acquires, possesses, uses, or transfers depleted uranium in accordance with a general license granted under subsection (F) is exempt from the requirements in Articles 4 and 10 of this Chapter with respect to the depleted uranium covered by that general license.

Historical Note

New Section R9-7-305 recodified from R12-1-305, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-306. General License – Radioactive Material Other Than Source Material

- A.** Certain measuring, gauging or controlling devices and certain devices for producing light or an ionized atmosphere.
1. This subsection grants a general license to a commercial or industrial firm; a research, educational or medical institution; an individual conducting business; or a state or local government agency to receive, acquire, possess, use, or transfer radioactive material contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere, according to the provisions of 10 CFR 31.5(b), (c), and (d), (Revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.
 2. A general licensee shall receive a device from one of the specific licensees described in this Section or through a transfer made under subsection (A)(4)(k).
 3. A general license in subsection (A)(1) applies only to radioactive material contained in devices that have been manufactured or initially transferred and labeled in accordance with the requirements contained in:
 - a. A specific license issued under R9-7-311(A), or
 - b. An equivalent specific license issued by the NRC or another Agreement State.
 - c. An equivalent specific license issued by a State with rules or regulations comparable to this Section.
 4. A person who acquires, receives, possesses, uses, or transfers radioactive material in a device licensed under subsection (A)(1) or through a transfer made under subsection (A)(4)(h), shall:
 - a. Ensure that all labels and safety statements affixed to a device at the time of receipt and bearing a statement that removal of the label is prohibited are maintained and not removed, and comply with all instructions and precautions on the labels.
 - b. Ensure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at other intervals as specified on the label.
 - i. A general licensee need not test a device that contains only krypton for leakage of radioactive material; and
 - ii. A general licensee need not test a device for leakage of radioactive material if the device contains only tritium, not more than 3.7 megabecquerels (100 microcuries) of other beta and/or gamma emitting material, or 370 kilobecquerels (10 microcuries) of alpha emitting material, or the device is held in storage, in the original shipping container, before initial installation.
 - c. Ensure that the tests required by subsection (A)(4)(b) and other testing, installation, servicing, and removal from installation involving the radioactive material or its shielding or containment, are performed:
 - i. In accordance with the device label instructions, or
 - ii. By a person holding a specific license under R9-7-311(A) or in accordance with the provisions of a specific license issued by the NRC or an Agreement State which authorizes distribution of devices to persons generally licensed by the NRC or an Agreement State.
 - d. Maintain records of compliance with the requirements in subsections (A)(4)(b) and (c) that show the results of tests; the dates that required activities were performed, and the names of persons performing required activities involving radioactive material from the installation and its shielding or containment. The records shall be maintained for three years from the date of the recorded event or until transfer or disposal of the device.
 - e. Immediately suspend operation of a device if there is a failure of, or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 185 becquerel (0.005 microcurie) or more of removable radioactive material.
 - i. A general licensee shall not operate the device until it has been repaired by the manufacturer or another person holding a specific license to repair this type of device that was issued by the Department under R9-7-311(A), the NRC, or an Agreement State which authorizes distribution of devices to persons generally licensed by the NRC or an Agreement State.
 - ii. If necessary the general licensee shall dispose of the device and any radioactive material from the device by transfer to a person authorized by a specific license to receive the radioactive

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- material in the device or as otherwise approved by the Department.
- iii. Within 30 days of an event governed by subsection (A)(4)(e) the general licensee shall furnish a report that contains a brief description of the event and the remedial action taken and, in the case of detection of 185 Becquerel (0.005 microcurie) or more of removable radioactive material or failure of or damage to a source likely to result in contamination of the general licensee's facility or the surrounding area, if applicable, a plan for ensuring that the general licensee's facility and surrounding area, if applicable, are acceptable for unrestricted use. The radiological criteria for unrestricted use in R9-7-452 may be used to prepare the plan, as determined by the Department, on a case-by-case basis.
 - f. Not abandon a device that contains radioactive material.
 - g. Not export a device that contains radioactive material except in accordance with 10 CFR 110, revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.
 - h. Transfer or dispose of a device that contains radioactive material only by export as authorized in subsection (A)(4)(g), transfer to another general licensee as authorized in subsection (A)(4)(k) or a person who is authorized to receive the device by a specific license issued by the Department, the NRC, or an Agreement State, or collection as waste if authorized by equivalent regulations of an Agreement State, or the NRC, or as otherwise approved under subsection (A)(4)(j).
 - i. Within 30 days after the transfer or export of a device to a specific licensee, furnish a report to the Department. The report shall:
 - i. Identify the device by manufacturer's (or initial transferor's) name, model number, and serial number;
 - ii. Provide the name, address, and license number of the person receiving the device (license number not applicable if exported); and
 - iii. Provide the date of transfer or export.
 - j. Obtain written Department approval before transferring a device to any other specific licensee that is not authorized in accordance with subsection (A)(4)(h).
 - k. Transfer a device to another general licensee only:
 - i. If the device remains in use at a particular location. The transferor shall provide the transferee with a copy of this Section, a copy of R9-7-443, R9-7-445, and R9-7-448 and any safety documents identified on the device label. Within 30 days of the transfer, the transferor shall report to the Department the manufacturer's (or initial transferor's) name; the model number and the serial number of the device transferred; the transferee's name and mailing address for the location of use; and the name, title, and telephone number of the responsible individual appointed by the transferee in accordance with subsection (A)(4)(n); or
 - ii. If the device is held in storage in the original shipping container at its intended location of use before initial use by a general licensee, and by a person that is not a party to the transaction.
 - l. Comply with the provisions of R9-7-443, R9-7-444, R9-7-445, R9-7-447, and R9-7-448 for reporting and notification of radiation incidents, theft or loss of licensed material, and is exempt from the other requirements of 9 A.A.C. 7, Articles 4 and 10.
 - m. Respond to written requests from the Department to provide information relating to the general license within 30 days from the date on the request, or a longer time period specified in the request. If the general licensee cannot provide the requested information within the specified time period, the general licensee shall request a longer period to supply the information before expiration of the time period, providing the Department with a written justification for the request.
 - n. Appoint an individual responsible for knowledge of applicable laws and possessing the authority to take actions required to comply with applicable radiation safety laws. The general licensee, through this individual, shall ensure the day-to-day compliance with applicable radiation safety laws. This provision does not relieve the general licensee of responsibility.
 - o. Register, in accordance with subsections (A)(4)(p) and (q), any device that contains at least 370 megabecquerels (10 millicuries) of cesium-137, 3.7 megabecquerels (0.1 millicuries) of strontium-90, 37 megabecquerels (1 millicurie) of cobalt-60, or 37 megabecquerels (1 millicurie) of americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label. Each address for a location of use, as described under subsection (A)(4)(q)(iv), represents a separate general licensee and requires a separate registration and fee.
 - p. Register each device annually with the Department and pay the fee required by R9-7-1306, Category D4, if in possession of a device that meets the criteria in subsection (A)(4)(o). The general licensee shall register by verifying, correcting, and adding to the information provided in a request for registration received from the Department. The registration information shall be submitted to the Department within 30 days from the date on the request for registration. In addition, a general licensee holding devices meeting the criteria of subsection (A)(4)(o) is subject to the bankruptcy notification requirements in R9-7-313(D).
 - q. In registering a device, furnish the following information and any other registration information specifically requested by the Department:
 - i. Name and mailing address of the general licensee;
 - ii. Information about each device, including the manufacturer (or initial transferor), model number, serial number, radioisotope, and activity (as indicated on the label);
 - iii. Name, title, and telephone number of the responsible individual appointed by the general licensee under subsection (A)(4)(n);
 - iv. Address or location at which each device is used and stored. For a portable device, the address of the primary place of storage;
 - v. Certification by the responsible individual that the information concerning each device has

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- been verified through a physical inventory and review of label information; and
- vi. Certification by the responsible individual that the individual is aware of the requirements of the general license.
 - r. Report a change in mailing address for the location of use or a change in the name of the general licensee to the Department within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage.
 - s. Not use a device if the device has not been used for a period of two years. If a device with shutters is not being used, the general licensee shall ensure that the shutters are locked in the closed position. The testing required by subsection (A)(4)(b) need not be performed during a period of storage. However, if a device is put back into service or transferred to another person, and has not been tested during the required test interval, the general licensee shall ensure that the device is tested for leakage before use or transfer and that the shutter is tested before use. A device kept in standby for future use is excluded from the two-year time limit in this subsection if the general licensee performs a quarterly physical inventory regarding the standby devices.
5. A person that is generally licensed by an Agreement State with respect to a device that meets the criteria in subsection (A)(4)(o) is exempt from registration requirements if the device is used in an area subject to Department jurisdiction for a period less than 180 days in any calendar year. The Department does not request registration information from a general licensee if the device is exempted from licensing requirements in subsection (A)(4)(o).
 6. The general license granted under subsection (A)(1) is subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 12, and 15, and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689.
 7. The general license in subsection (A)(1) does not authorize the manufacture or import of devices containing byproduct material.
- B. Luminous safety devices for aircraft**
1. This subsection grants a general license that authorizes a person to own, receive, acquire, possess, and use tritium or promethium-147 contained in luminous safety devices for use in aircraft, provided that each device contains not more than 370 gigabecquerels (10 curies) of tritium or 11.1 gigabecquerels (300 millicuries) of promethium-147; and each device has been manufactured, assembled, initially transferred, or imported according to a specific license issued by the U.S. Nuclear Regulatory Commission, or each device has been manufactured or assembled according to the specifications contained in a specific license issued to the manufacturer or assembler of the device by the Department or any Agreement State or Licensing State in accordance with licensing requirements equivalent to those in 10 CFR 32.53.
 2. A person who owns, receives, acquires, possesses, or uses a luminous safety device according to the general license granted in subsection (B)(1) is:
 - a. Exempt from the requirements of 9 A.A.C. 7, Article 4 and Article 10 except that the person shall comply with the reporting and notification provisions of R9-7-443, R9-7-444, R9-7-445, R9-7-447, and R9-7-448;
 - b. Not authorized to manufacture, assemble, repair, or import a luminous safety device that contains tritium or promethium-147;
 - c. Not authorized to export luminous safety devices containing tritium or promethium-147;
 - d. Not authorized to own, receive, acquire, possess, or use radioactive material contained in instrument dials; and
 - e. Subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 12, and 15 and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689.
- C. This subsection grants a general license that authorizes a person who holds a specific license to own, receive, possess, use, and transfer radioactive material if the Department issues the license; or special nuclear material if the NRC issues the license. For americium-241, radium-226, and plutonium contained in calibration or reference sources, this subsection grants a general license in accordance with the provisions of subsections (C)(1), (2), and (3). For plutonium, ownership is included in the licensed activities.**
1. This subsection grants a general license for calibration or reference sources that have been manufactured according to the specifications contained in a specific license issued to the manufacturer or importer of the sources by the U.S. Nuclear Regulatory Commission under 10 CFR 32.57 or 10 CFR 70.39. This general license also governs calibration or reference sources that have been manufactured according to specifications contained in a specific license issued to the manufacturer by the Department, an Agreement State, or a Licensing State, according to licensing requirements equivalent to those contained in 10 CFR 32.57 or 10 CFR 70.39, revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.
 2. A general license granted under subsection (C) or (C)(1) is subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 4, 10, 12, and 15 and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689. In addition, a person who owns, receives, acquires, possesses, uses, or transfers one or more calibration or reference sources under a general license granted under subsection (C) or (C)(1) shall:
 - a. Not possess at any one time, at any location of storage or use, more than 185 kBq (5 microcuries) of americium-241, plutonium, or radium-226 in calibration or reference sources;
 - b. Not receive, possess, use, or transfer a calibration or reference source unless the source, or the storage container, bears a label that includes one of the following statements, as applicable, or a substantially similar statement that contains the same information:
 - i. The receipt, possession, use and transfer of this source, Model ____, Serial No. ____, are subject to a general license and the regulations of the U.S. Nuclear Regulatory Commission or a state with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.
CAUTION – RADIOACTIVE MATERIAL – THIS SOURCE CONTAINS (name of the appropriate material) – DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

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- ii. Name of manufacturer or importer
The receipt, possession, use and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of any Licensing State. Do not remove this label.
CAUTION – RADIOACTIVE MATERIAL – THIS SOURCE CONTAINS RADIUM-226. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.
- _____
Name of manufacturer or importer
- c. Not transfer, abandon, or dispose of a calibration or reference source except by transfer to a person authorized to receive the source by a license from the Department, the U.S. Nuclear Regulatory Commission, an Agreement State, or a Licensing State;
- d. Store a calibration or reference source, except when the source is being used, in a closed container designed, constructed, and approved for containment of americium-241, plutonium, or radium-226 which might otherwise escape during storage; and
- e. Not use a calibration or reference source for any purpose other than the calibration of radiation detectors or the standardization of other sources.
3. The general license granted under subsection (C) or (C)(1) does not authorize the manufacture or import of calibration or reference sources that contain americium-241, plutonium, or radium-226.
4. The general license granted under subsections (C) or (C)(1) does not authorize the manufacture or export of calibration or reference sources that contain americium-241, plutonium, or radium-226.
- D. This subsection grants a general license that authorizes a person to receive, possess, use, transfer, own, or acquire carbon-14 urea capsules, which contain one microcurie of carbon-14 urea for “in vivo” human diagnostic use:
1. Except as provided in subsections (D)(2) and (3), a physician is exempt from the requirements for a specific license, provided that each carbon-14 urea capsule for “in vivo” diagnostic use contains no more than 1 microcurie.
 2. A physician who desires to use the capsules for research involving human subjects shall obtain a specific license issued according to the specific licensing requirements in this Article.
 3. A physician who desires to manufacture, prepare, process, produce, package, repack, or transfer carbon-14 urea capsules for commercial distribution shall obtain a specific license from the Department, issued according to the requirements in 10 CFR 32.21, (Revised January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.)
 4. Nothing in this subsection relieves physicians from complying with applicable FDA and other federal and state requirements governing receipt, administration, and use of drugs.
- E. This subsection grants a general license that authorizes any physician, clinical laboratory, or hospital to use radioactive material for certain “in vitro” clinical or laboratory testing.
1. The general licensee is authorized to receive, acquire, possess, transfer, or use, for any of the following stated tests, the following radioactive materials in prepackaged units:
 - a. Iodine-125, in units not exceeding 370 kilobecquerel (10 microcuries) each for use in “in vitro” clinical or laboratory tests not involving internal or external administration of radioactive material, or radiation from such material, to human beings or animals.
 - b. Iodine-131, in units not exceeding 370 kilobecquerel (10 microcuries) each for use in “in vitro” clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 - c. Carbon-14, in units not exceeding 370 kilobecquerel (10 microcuries) each for use in “in vitro” clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 - d. Hydrogen-3 (tritium), in units not exceeding 1.85 megabecquerel (50 microcuries) each for use in “in vitro” clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 - e. Iron-59, in units not exceeding 740 kilobecquerel (20 microcuries) each for use in “in vitro” clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 - f. Cobalt-57 or selenium-75, in units not exceeding 370 kilobecquerels (10 microcuries) each for use in “in vitro” clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 - g. Mock iodine-125 reference or calibration sources, in units not exceeding 1.85 kBq (50 nanocurie) of iodine-129 and 185 becquerel (5 nanocurie) of americium-241 each, for use in “in vitro” clinical or laboratory tests not involving internal or external administration of radioactive material, or the radiation from such material, to human beings or animals.
 2. A person shall not acquire, receive, possess, use, or transfer radioactive material according to the general license established by this subsection until the person has filed with the Department ARRA-9, “Certificate -- “In Vitro” Testing with Radioactive Material Under General License,” provided the information listed in Exhibit E, and received a validated copy of ARRA-9, which indicates the assigned certification number. The physician, clinical laboratory, or hospital shall furnish on ARRA-9 the following information:
 - a. Name, telephone number, and address of the physician, clinical laboratory, or hospital; and
 - b. A statement that the physician, clinical laboratory, or hospital has radiation measuring instruments to carry out “in vitro” clinical or laboratory tests with radioactive material and that tests will be performed only by personnel competent to use the instruments and handle the radioactive material.
 3. A person who receives, acquires, possesses, or uses radioactive material according to the general license granted under this subsection shall:
 - a. Not possess at any one time, in storage or use, a combined total of not more than 7.4 megabecquerels (200 microcuries) of iodine-125, iodine-131, iron-59, cobalt-57, or selenium-75 in excess of 7.4 megabecquerels (200 microcuries), or acquire or use in any one calendar month more than 18.5 megabecquerels (500 microcuries) of these radionuclides.

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- b. Store the radioactive material, until used, in the original shipping container or in a container that provides equivalent radiation protection.
 - c. Use the radioactive material only for the uses authorized by subsection (E).
 - d. Not transfer radioactive material to a person who is not authorized to receive it according to a license issued by the Department, the U.S. Nuclear Regulatory Commission, or any Agreement State or Licensing State, or in any manner other than in an unopened, labeled shipping container received from the supplier.
 - e. Not dispose of a mock iodine-125 reference or calibration source described subsection (E)(1) except as authorized by R9-7-434.
 - f. Package or prepackage a unit bearing a durable, clearly visible label: identifying the radioactive contents as to chemical form and radionuclide, and indicating that the amount of radioactivity does not exceed 0.37 megabecquerel (10 microcuries) of iodine-131, iodine-125, selenium-75, or carbon-14; 1.85 megabecquerels (50 microcuries) of hydrogen-3 (tritium); or 0.74 megabecquerel (20 microcuries) of iron-59; or Mock Iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 0.185 kilobecquerel (0.005 microcurie) of americium-241 each; or cobalt-57 in units not exceeding 0.37 megabecquerel (10 microcuries).
 - g. Package to display the radiation caution symbol and the words, "Caution, Radioactive Material", and "Not for Internal or External Use in Humans or Animals."
4. The general licensee shall not receive, acquire, possess, transfer, or use radioactive material according to subsection (E)(1):
- a. Except as prepackaged units that are labeled according to the provisions of a specific license issued by the U.S. Nuclear Regulatory Commission, or any Agreement State that authorizes the manufacture and distribution of iodine-125, iodine-131, carbon-14, hydrogen-3 (tritium), iron-59, cobalt-57, selenium-75, or mock iodine-125 for distribution to persons generally licensed under subsection (E) or its equivalent federal law; and
 - b. Unless one of the following statements, or a substantially similar statement that contains the same information, appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure that accompanies the package:
 - i. This radioactive material may be acquired, received, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from such material, to human beings or animals. The acquisition, receipt, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.
- Name of manufacturer
- ii. This radioactive material shall be acquired, received, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from such material, to human beings or animals. The receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of a Licensing State.
- Name of manufacturer
- 5. A physician, clinical laboratory or hospital that possesses or uses radioactive material under a general license granted by subsection (E):
 - a. Shall report to the Department in writing, any change in the information furnished on the ARRA-9. The report shall be furnished within 30 days after the effective date of the change; and
 - b. Is exempt from the requirements of 9 A.A.C. 7, Article 4 and Article 10 with respect to radioactive material covered by the general license, except that a person using mock iodine-125 sources, described in subsection (E)(1)(g), shall comply with the provisions of R9-7-434, R9-7-443, and R9-7-444 of this Chapter.
 - 6. For the purposes of subsection (E), a licensed veterinary care facility is considered a "clinical laboratory."
- F. This subsection grants a general license that authorizes a person to own, receive, acquire, possess, use, and transfer strontium-90, contained in ice detection devices, provided each device contains not more than 1.85 megabecquerels (50 microcuries) of strontium-90 and each device has been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission or each device has been manufactured according to the specifications contained in a specific license issued by the Department or any Agreement State to the manufacturer of the device under licensing requirements equivalent to those in 10 CFR 32.61. A person who receives, owns, acquires, possesses, uses, or transfers strontium-90 contained in ice detection devices under a general license in accordance with subsection (F):
- 1. Shall, upon occurrence of visually observable damage, such as a bend or crack or discoloration from overheating, discontinue use of the device until it has been inspected, tested for leakage, and repaired by a person who holds a specific license from the U.S. Nuclear Regulatory Commission or an Agreement State to manufacture or service ice detection devices; or dispose of the device according to the provisions of R9-7-434;
 - 2. Shall assure that each label, affixed to the device at the time of receipt, which bears a statement that prohibits removal of the labels, maintained on the device; and
 - 3. Is exempt from the requirements of 9 A.A.C. 7, Article 4 and Article 10, except that the user of an ice detection device shall comply with the provisions of R9-7-434, R9-7-443, and R9-7-444.
 - 4. Shall not manufacture, assemble, disassemble, repair, or import an ice detection device that contains strontium-90.
 - 5. Is subject to the provisions of 9 A.A.C. 7, Articles 1, 3, 12, and 15, and A.R.S. §§ 30-654(B), 30-657(A) and (B), 30-681, and 30-685 through 30-689.
- G. This subsection grants a general license that authorizes a person to acquire, receive, possess, use, or transfer, in accordance with the provisions of subsections (H) and (I), radium-226 contained in the following products manufactured prior to November 30, 2007.

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1. Antiquities originally intended for use by the general public. For the purposes of this subsection, antiquities mean products originally intended for use by the general public and distributed in the late 19th and early 20th centuries, such as radium emanator jars, revigators, radium water jars, radon generators, refrigerator cards, radium bath salts, and healing pads.
 2. Intact timepieces containing greater than 0.037 megabecquerel (1 microcurie), nonintact timepieces, and timepiece hands and dials no longer installed in timepieces.
 3. Luminous items installed in air, marine, or land vehicles.
 4. All other luminous products, provided that no more than 100 items are used or stored at the same location at any one time.
 5. Small radium sources containing no more than 0.037 megabecquerel (1 microcurie) of radium-226. For the purposes of this subsection, "small radium sources" means discrete survey instrument check sources, sources contained in radiation measuring instruments, sources used in educational demonstrations (such as cloud chambers and spinthariscopes), electron tubes, lightning rods, ionization sources, static eliminators, or as designated by the NRC.
- H.** Persons who acquire, receive, possess, use, or transfer byproduct material under the general license issued in subsection (G) are exempt from the provisions 9 A.A.C. 7, Articles 1, 3, 4, 7, 10, 12, and 15 and A.R.S. §§ 30-654(B)(13), 30-657(A) and (B), 30-681, and 30-685 through 30-689, to the extent that the receipt, possession, use, or transfer of byproduct material is within the terms of the general license; provided, however, that this exemption shall not be deemed to apply to any such person specifically licensed under this chapter. Any person who acquires, receives, possesses, uses, or transfers byproduct material in accordance with the general license in subsection (G):
1. Shall notify the Department should there be any indication of possible damage to the product so that it appears it could result in a loss of the radioactive material. A report containing a brief description of the event, and the remedial action taken, must be furnished to the Department within 30 days.
 2. Shall not abandon products containing radium-226. The product, and any radioactive material from the product, may only be disposed of according to Article 4 or by transfer to a person authorized by a specific license to receive the radium-226 in the product or as otherwise approved by the Department.
 3. Shall not export products containing radium-226 except in accordance with 10 CFR 110 revised January 1, 2013, incorporated by reference, and available under R9-7-101. The incorporated material contains no future editions or amendments.
 4. Shall dispose of products containing radium-226 at a disposal facility authorized to dispose of radioactive material in accordance with any federal or state solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005, by transfer to a person authorized to receive radium-226 by a specific license issued under Article 3, equivalent regulations of an Agreement State, or the NRC.
 5. Shall respond to written requests from the Department to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by providing the Department Director a written justification for the request.
- I.** The general license in subsection (G) does not authorize the manufacture, assembly, disassembly, repair, or import of products containing radium-226, except that timepieces may be disassembled and repaired.
- Historical Note**
New Section R9-7-306 recodified from R12-1-306, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).
- R9-7-307. Reserved**
- Historical Note**
Section R9-7-307 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).
- R9-7-308. Filing Application for Specific Licenses**
- A.** An applicant for a specific license shall file a Department application. The applicant shall prepare the application in duplicate, one copy for the Department and the other for the applicant.
 - B.** The Department may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Department to determine whether the application should be granted or denied or whether a license should be modified or revoked.
 - C.** Each application shall contain the information specified in Exhibit (E) of this Article and be signed by the applicant, licensee, or person duly authorized to act for the applicant or licensee.
 - D.** Unless R9-7-1302 precludes combination with a license of another category, an application for a specific license may include a request for a license that authorizes more than one activity.
 - E.** In the application, the applicant may incorporate by reference information contained in previous applications, statements, or reports filed with the Department provided the references are clear and specific.
 - F.** The Department shall make applications and documents submitted to the Department available for public inspection, but may withhold any document or part of a document from public inspection if disclosure of its content is not required in the public interest and would adversely affect the interest of a person concerned.
 - G.** Except as provided in subsections (G)(1), (2), and (3), an application for a specific license to use byproduct material in the form of a sealed source or in a device that contains the sealed source must either identify the source or device by manufacturer and model number as registered with the Department, with the NRC, or with an Agreement State, or, for a source or a device containing radium-226 or accelerator-produced radioactive material, with the Department, the NRC, or an Agreement State under 10 CFR 32.210 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 1. For sources or devices manufactured before October 23, 2012, that are not licensed under R9-7-306, R9-7-310, R9-7-311 or registered with the NRC or with an Agreement State, and for which the applicant is unable to provide all categories of information specified in 10 CFR 32.210(c) the application must include:

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- a. All available information identified in 10 CFR 32.210(c) concerning the source, and, if applicable, the device; and
 - b. Sufficient additional information to demonstrate that there is reasonable assurance that the radiation safety properties of the source or device are adequate to protect health and minimize danger to life and property. Such information must include a description of the source or device, a description of radiation safety features, the intended use and associated operating experience, and the results of a recent leak test.
2. For sealed sources and devices allowed to be distributed without registration of safety information, the applicant may supply only the manufacturer, model number, and radionuclide and quantity.
3. If it is not feasible to identify each sealed source and device individually, the applicant may propose constraints on the number and type of sealed sources and devices to be used and the conditions under which they will be used, in lieu of identifying each sealed source and device.
- H.** A certificate holder or licensee who no longer manufactures or initially transfers any of the sealed source(s) or device(s) covered by a particular certificate issued with the Department, with the NRC, or with an Agreement State shall request inactivation of the registration or license with the Department, with the NRC, or with an Agreement State program that the device is currently registered by in accordance with 10 CFR 32.211 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

Historical Note

New Section R9-7-308 recodified from R12-1-308, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-309. General Requirements for Issuance of Specific Licenses

A license application shall be approved if the Department determines that:

- 1. The applicant is qualified by reason of training and experience to use the material in question for the purpose requested according to these rules, in a manner that will minimize danger to public health and safety or property;
- 2. The applicant's proposed equipment, facilities, and procedures are adequate to minimize danger to public health and safety or property;
- 3. The issuance of the license will not be inimical to the health and safety of the public;
- 4. The applicant satisfies all applicable special requirements in R9-7-310, R9-7-311, R9-7-322, R9-7-323, and 9 A.A.C. 7, Articles 5, 7, and 17; and
- 5. The applicant demonstrates that a letter has been sent, return receipt requested, to the Mayor's office of the city, town, or, if not within an incorporated community, to the County Board of Supervisors of the county in which the applicant proposes to operate which describes:
 - a. The nature of the proposed activity involving radioactive material; and
 - b. The facility, including use and storage areas.

Historical Note

New Section R9-7-309 recodified from R12-1-309, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-310. Special Requirements for Issuance of Specific Broad Scope Licenses

A. The Department shall issue three classes of academic and industrial broad scope licenses, and only a single class A medical broad scope license.

- 1. The license may authorize the radioactive materials in multi-curie quantities, and may authorize other radioactive materials and forms in addition to those listed in subsection (A)(1)(a). A license is a broad scope class A license if it:
 - a. Contains the exact wording "Any radioactive material with Atomic Number 3 through 83" or "Any radioactive material with Atomic Number 84 through 92" in License Item 6; and
 - b. Contains the word "any" to authorize the chemical or physical form of the materials in License Item 7;
- 2. A broad scope class B license is any specific license which authorizes the acquisition, possession, use, and transfer of the radioactive materials specified in Exhibit C of 9 A.A.C. 7, Article 3 in any chemical or physical form and in quantities determined as follows:
 - a. The possession limit, if only one radionuclide is possessed, is the quantity specified for that radionuclide in Exhibit C, Column I; or
 - b. The possession limit for multiple radionuclides is determined as follows: The sum of the ratios for all radionuclides possessed under the license shall not exceed unity (1). The ratio for each radionuclide is determined by dividing the quantity possessed by the applicable quantity in Exhibit C, Column I.
- 3. A broad scope class C license is any specific license authorizing the possession and use of the radioactive materials specified in Exhibit C of 9 A.A.C. 7, Article 3 in any chemical or physical form and in quantities determined as follows:
 - a. The possession limit, if only one radionuclide is possessed, is the quantity specified for that radionuclide in Exhibit C, Column II; or
 - b. The possession limit for multiple radionuclides is determined as follows: The sum of the ratios for all radionuclides possessed under the license shall not exceed unity (1). The ratio for each radionuclide is determined by dividing the quantity possessed by the applicable quantity in Exhibit C, Column II.

B. The Department shall approve:

- 1. An application for a class A broad scope license if:
 - a. The applicant satisfies the general requirements specified in R9-7-309;
 - b. The applicant has engaged in a reasonable number of activities involving the use of radioactive material. For purposes of this subsection, the requirement of "reasonable number of activities" can be satisfied by showing that the applicant has five years of experience in the use of radioactive material. The Department may accept less than five years of experience if the applicant's qualifications are adequate for the scope of the proposed license; and
 - c. The applicant has established administrative controls and provisions relating to organization, management, procedures, recordkeeping, material control, accounting, and management review that are necessary to assure safe operations, including:
 - i. Establishment of a radiation safety committee composed of a radiation safety officer, a representative of management, and persons trained and experienced in the safe use of radioactive material;

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- ii. Appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and who is available for advice and assistance on radiation safety matters; and
 - iii. Establishment of appropriate administrative procedures to assure:
 - (1) Control of procurement and use of radioactive material;
 - (2) Completion of safety evaluations of proposed uses of radioactive material which take into consideration matters such as the adequacy of facilities and equipment, training and experience of the user, and operating or handling procedures; and
 - (3) Review, approval, and recording by the radiation safety committee of safety evaluations of proposed uses prepared in accordance with this subsection prior to use of the radioactive material.
2. An application for a class B broad scope license if:
- a. The applicant satisfies the general requirements specified in R9-7-309; and
 - b. The applicant has established administrative controls and provisions relating to organization, management, procedures, recordkeeping, material control, accounting, and management review that are necessary to assure safe operations, including:
 - i. Appointment of a radiation safety officer who is qualified by training and experience in radiation protection, and available for advice and assistance on radiation safety matters; and
 - ii. Establishment of appropriate administrative procedures to assure:
 - (1) Control of procurement and use of radioactive material;
 - (2) Completion of safety evaluations of proposed uses of radioactive material which take into consideration matters such as the adequacy of facilities and equipment, training and experience of the user, and the operating or handling procedures; and
 - (3) Review, approval, and recording by the radiation safety officer of safety evaluations of proposed uses prepared according to subsection (B)(2)(b)(ii) prior to use of the radioactive material.
3. An application for a class C broad scope license if:
- a. The applicant satisfies the general requirements specified in R9-7-309; and
 - b. The applicant submits a statement that radioactive material will be used only by, or under the direct supervision of, individuals who have received:
 - i. A college degree at the bachelor level, or equivalent training and experience, in the physical or biological sciences or in engineering; and
 - ii. At least 40 hours of training and experience in the safe handling of radioactive material, the characteristics of ionizing radiation, units of dose and quantities, radiation detection instrumentation, and biological hazards of exposure to radiation appropriate to the type and forms of radioactive material to be used; and
 - c. The applicant has established administrative controls and provisions relating to procurement of radioactive material, procedures, recordkeeping, material control and accounting, and management review necessary to assure safe operations.
- C. Unless specifically authorized, broad-scope licensees shall not:
- 1. Conduct tracer studies in the environment involving direct release of radioactive material;
 - 2. Acquire, receive, possess, use, own, import, or transfer devices containing 3.7 petabecquerels (100,000 curies) or more of radioactive material in sealed sources used for irradiation of materials;
 - 3. Conduct activities for which a specific license is issued under R9-7-311 and 9 A.A.C. 7, Articles 5, 7, or 17; or
 - 4. Add or cause the addition of radioactive material to any food, beverage, cosmetic, drug, or other product designed for ingestion or inhalation by, or application to, a human being.
- D. Radioactive material possessed under the class A broad scope license shall only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety committee.
- E. Radioactive material possessed under the class B broad scope license shall only be used by, or under the direct supervision of, individuals approved by the licensee's radiation safety officer.
- F. Radioactive material possessed under the class C broad scope license shall only be used by, or under the direct supervision of, individuals who satisfy the requirements of R9-7-310(B)(3)(b).

Historical Note

New Section R9-7-310 recodified from R12-1-310, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-311. Special Requirements for a Specific License to Manufacture, Assemble, Repair, or Distribute Commodities, Products, or Devices that Contain Radioactive Material

- A. Licensing the manufacture and distribution of devices to persons generally licensed under R9-7-306(A).
- 1. The Department shall grant a specific license to manufacture or distribute each device that contains radioactive material, excluding special nuclear material, to persons generally licensed under R9-7-306(A) or equivalent regulations of the NRC, an Agreement State, or the Licensing State if:
 - a. The applicant satisfies the requirements of R9-7-309;
 - b. The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control, labels, proposed uses, installation, servicing, leak testing, operating and safety instructions, and potential hazards of the device to provide reasonable assurance that:
 - i. The device can be safely operated by persons not having training in radiological protection;
 - ii. Under ordinary conditions of handling, storage, and use of the device, the radioactive material contained in the device will not be released or inadvertently removed from the device, and it is unlikely that any person will receive a dose in excess of 10 percent of the limits specified in R9-7-408; and
 - iii. Under accident conditions (such as fire and explosion) associated with handling, storage, and use of the device, it is unlikely that any person would receive an external radiation dose or dose commitment in excess of the following organ doses:

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- (1) Whole body; head and trunk; active blood-forming organs; gonads; or lens of eye: 150 mSv (15 rem);
 - (2) Hands and forearms; feet and ankles; localized areas of skin averaged over areas no larger than 1 square centimeter; 2 Sv (200 rem);
 - (3) Other organs: 500 mSv (50 rem);
 - c. Each device bears a durable, legible, clearly visible label or labels that contain in a clearly identified and separate statement:
 - i. Instructions and precautions necessary to assure safe installation, operating, and servicing of the device (documents such as operating and service manuals may be identified in the label and used to provide this information);
 - ii. The requirement, or lack of requirement, for leak testing, or for testing any on-off mechanism and indicator, including the maximum time interval for the testing, and the identification of radioactive material by isotope, quantity of radioactivity, and date of determination of the quantity; and
 - iii. The information called for in one of the following statements in the same or substantially similar form:
 The receipt, possession, use, and transfer of this device, Model _____, Serial No. _____, are subject to a general license or the equivalent and the regulations of the U.S. Nuclear Regulatory Commission or a state with which the Nuclear Regulatory Commission has entered into an agreement for the exercise of regulatory authority. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.
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 (name of manufacturer or distributor)
 The receipt, possession, use and transfer of this device, Model _____, Serial No. _____, are subject to a general license or the equivalent, and the regulations of a Licensing State. This label shall be maintained on the device in a legible condition. Removal of this label is prohibited.
CAUTION – RADIOACTIVE MATERIAL

 (name of manufacturer or distributor)
 - d. The model, serial number, and name of manufacturer or distributor may be omitted from the label if the information location is specified in labeling affixed to the device;
 - e. Each device with a separable source housing that provides the primary shielding for the source also bears, on the source housing, a durable label that provides the device model number and serial number, the isotope and quantity, the words, "Caution-Radioactive Material," the radiation symbol described in R9-7-428, and the name of the manufacturer or initial distributor;
 - f. Each device meets the criteria in 10 CFR 31.5(c)(13)(i) (revised December 19, 2014, incorporated by reference, available under R9-7-101, and containing no future editions or amendments.) and bears a permanent (e.g., embossed, etched, stamped, or engraved) label affixed to the source housing, if separable, or the device if the source housing is not separable, that includes the words, "Caution-Radioactive Material," and, if practicable, the radiation symbol described in R9-7-428; and
 - g. The device has been registered in the Sealed Source and Device Registry.
2. In the event the applicant desires that the device undergo mandatory testing at intervals longer than six months, either for proper operation of the on-off mechanism and indicator, if any, or for leakage of radioactive material or for both, the application shall contain sufficient information to demonstrate that the longer interval is justified by performance characteristics of the device or similar devices and by design features which have a significant bearing on the probability or consequences of leakage of radioactive material from the device or failure of the on-off mechanism and indicator. In determining the acceptable interval for the test for leakage of radioactive material, the Department shall consider information which includes, but is not limited to:
 - a. Primary containment (source capsule),
 - b. Protection of primary containment,
 - c. Method of sealing containment,
 - d. Containment construction materials,
 - e. Form of contained radioactive material,
 - f. Maximum temperature withstood during prototype tests,
 - g. Maximum pressure withstood during prototype tests,
 - h. Maximum quantity of contained radioactive material,
 - i. Radiotoxicity of contained radioactive material, and
 - j. Operating experience with identical devices or similarly designed and constructed devices.
 3. In the event the applicant desires that the general licensee under R9-7-306(A), or under equivalent regulations of the NRC or an Agreement State or Licensing State, be authorized to install the device, collect the sample to be analyzed by a specific licensee for leakage of radioactive material, service the device, test the on-off mechanism and indicator, or remove the device from installation, the application shall include written instructions to be followed by the general licensee, estimated calendar quarter doses associated with the activity or activities, and bases for the estimates. The submitted information shall demonstrate that performance of the activity or activities by an individual untrained in radiological protection, in addition to other handling, storage, and use of devices under the general license, is unlikely to cause that individual to receive a dose in excess of 10 percent of the limits specified in R9-7-408.
 4. A licensee authorized under subsection (A) to distribute a device to a generally licensed person shall provide, if a device that contains radioactive material is to be transferred for use under the general license granted in R9-7-306(A), the name of each person that is licensed under subsection (A) and the information specified in this subsection for each person to whom a device will be transferred. The licensee shall provide this information before the device may be transferred. In the case of transfer through another person, the licensee shall provide the listed information to the intended user before initial transfer to the other person.
 - a. The licensee shall provide:

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- i. A copy of the general license, issued under R9-7-306(A);
 - ii. A copy of R9-7-443 and R9-7-445;
 - iii. A list of the services that can only be performed by a specific licensee;
 - iv. Information on authorized disposal options, including estimated costs of disposal; and
 - v. A list of civil penalties for improper disposal.
 - b. The licensee shall:
 - i. Report on a quarterly basis to the responsible Agreement State or NRC all transfers of devices to persons for use under a general license in accordance with 10 CFR 32.52, revised December 19, 2014, incorporated by reference, available under R9-7-101, and containing no future editions or amendments;
 - ii. Maintain all information concerning transfers and receipts of devices that supports the reports required by subsection (A)(4)(b)(i); and
 - iii. Maintain records required by subsection (A)(4)(b)(i) for a period of at least three years following the date of the recorded event.
5. If radioactive material is to be transferred in a device for use under an equivalent general license of the NRC or another Agreement State, each person that is licensed under R9-7-304(B) shall provide the information specified in this subsection to each person to whom a device will be transferred. The licensee shall provide this information before the device is transferred. In the case of transfer through another person, the licensee shall provide the listed information to the intended user before initial transfer to the other person. The licensee shall provide:
- a. A copy of the Agreement State's requirements that are equivalent to R9-7-306(A), R9-7-443, and R9-7-445, and to A.R.S. § 30-657. If a copy of NRC regulations is provided to a prospective general licensee in lieu of the Agreement State's requirements, the licensee shall explain in writing that use of the device is regulated by the Agreement State. If certain requirements do not apply to a particular device, the licensee may omit the requirement from the material provided;
 - b. A list of the services that can only be performed by a specific licensee;
 - c. Information on authorized disposal options, including estimated costs of disposal; and
 - d. The name, title, address, and telephone number of the individual at the Agreement State regulatory agency who can provide additional information.
6. A licensee may propose to the Department an alternate method of informing the customer.
7. If a licensee has notified the Department of bankruptcy under R9-7-313(E) or is terminating under R9-7-319, the licensee shall provide, upon request, to the Department, the NRC, or another Agreement State, records of the disposition as required under A.R.S. § 30-657.
8. A licensee authorized to transfer a device to a generally licensed person, shall comply with the following requirements:
- a. The person licensed under subsection (A) shall report all transfers of devices to persons for use under a general license obtained under R9-7-306(A), and all receipts of devices from persons licensed under R9-7-306(A) to the Department, the NRC, or other affected Agreement State. The report shall be submitted on a quarterly basis, in a clear and legible form, and contain the following information:
 - i. The identity of each general licensee by name and mailing address for the location of use. If there is no mailing address for the location of use, the person licensed under subsection (A) shall submit an alternate address for the general licensee, along with information on the actual location of use;
 - ii. The name, title, and telephone number of a person identified by the general licensee as having knowledge of and authority to take required actions to ensure compliance with the applicable laws;
 - iii. The date of transfer;
 - iv. The type, model number, and serial number of the device transferred; and
 - v. The quantity and type of radioactive material contained in the device.
 - b. If one or more intermediaries will temporarily possess the device at the intended place of use before its possession by the intended user, the report shall include the information required of the general licensee in subsection (A)(4) for both the intended user and each intermediary, clearly identifying the intended user and each intermediary.
 - c. For devices received from a general licensee, licensed under R9-7-306(A), the report shall include:
 - i. The identity of the general licensee by name and address;
 - ii. The type, model number, and serial number of the device received;
 - iii. The date of receipt; and
 - iv. In the case of a device not initially transferred by the reporting licensee, the name of the manufacturer or initial transferor.
 - d. If the person licensed under subsection (A) makes a change to a device possessed by a general licensee so that the label must be changed to update required information, the report shall identify the general licensee, the device, and the changes to information on the device label.
 - e. The report shall cover a calendar quarter, be filed within 30 days of the end of each calendar quarter, and clearly indicate the period covered by the report.
 - f. The report shall clearly identify the person licensed under subsection (A) submitting the report and include the license number of the licensee.
 - g. If no transfers are made to or from persons generally licensed under R9-7-306(A) during a reporting period, the person licensed under subsection (A) shall submit a report indicating the lack of activity.
9. The licensee shall maintain records of all transfers for Department inspection. Records shall be maintained for at least three years after termination of the license to manufacture the generally licensed devices regulated under R9-7-306(A).
- B.** The Department shall grant a specific license to manufacture, assemble, repair, or initially transfer luminous safety devices that contain tritium or promethium-147 for use in aircraft, for distribution to persons generally licensed under R9-7-306(B), if the applicant satisfies:
1. The general requirements specified in R9-7-309; and
 2. The requirements of 10 CFR 32.53 through 32.56, revised July 25, 2012, incorporated by reference, avail-

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able under R9-7-101, and containing no future editions or amendments.

- C. The Department shall grant a specific license to manufacture or initially transfer calibration or reference sources that contain americium-241, radium-226, or plutonium for distribution to persons generally licensed under R9-7-306(C) if the applicant satisfies:
 1. The general requirements of R9-7-309; and
 2. The requirements of 10 CFR 32.57, 32.58, 32.59, and 70.39, revised July 25, 2012, incorporated by reference, available under R9-7-101, and containing no future editions or amendments.
- D. The Department shall grant a specific license to distribute radioactive material for use by a physician under the general license in R9-7-306(D) if:
 1. The general requirements of R9-7-309; and
 2. The requirements of 10 CFR 32.57, 32.58, 32.59, and 70.39, revised July 25, 2012, incorporated by reference, available under R9-7-101, and containing no future editions or amendments.
- E. The Department shall grant for a specific license to manufacture or distribute radioactive material for use under the general license of R9-7-306(E) if:
 1. The applicant satisfies the general requirements specified in R9-7-309.
 2. The radioactive material is to be prepared for distribution in prepackaged units of:
 - a. Iodine-125 in units not exceeding 370 kBq (10 microcuries) each;
 - b. Iodine-131 in units not exceeding 370 kBq (10 microcuries) each;
 - c. Carbon-14 in units not exceeding 370 kBq (10 microcuries) each;
 - d. Hydrogen-3 (tritium) in units not exceeding 1.85 MBq (50 microcuries) each;
 - e. Iron-59 in units not exceeding 740 kBq (20 microcuries) each;
 - f. Cobalt-57 or selenium-75 in units not exceeding 370 kilobecquerels (10 microcuries) each;
 - g. Mock iodine-125 in units not exceeding 1.85 kBq (50 nanocuries) of iodine-129 and 185 Bq (5 nanocuries) of americium-241 each.
 3. Each prepackaged unit bears a durable, clearly visible label:
 - a. Identifying the radioactive contents as to chemical form and radionuclide and indicating that the amount of radioactivity does not exceed 370 kilobecquerels (10 microcuries) of iodine-125, iodine-131, cobalt-57, selenium-75, or carbon-14; 1.85 mega-becquerels (50 microcuries) of hydrogen-3 (tritium); 740 kilobecquerels (20 microcuries) of iron-59; or mock iodine-125 in units not exceeding 1.85 kilobecquerels (0.05 microcurie) of iodine-129 and 185 becquerels (0.005 microcurie) of americium-241 each; and
 - b. Displaying the radiation caution symbol described in R9-7-428, the words, "CAUTION, RADIOACTIVE MATERIAL," and the phrase "Not for Internal or External Use in Humans or Animals."
 4. One of the following statements, or a substantially similar statement that contains the information called for in the following statements appears on a label affixed to each prepackaged unit or appears in a leaflet or brochure that accompanies the package:
 - a. This radioactive material may be received, acquired, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from the radioactive material, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

oratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from the radioactive material, to human beings or animals. Its receipt, acquisition, possession, use, and transfer are subject to the regulations and a general license of the U.S. Nuclear Regulatory Commission or of a state with which the Commission has entered into an agreement for the exercise of regulatory authority.

Name of Manufacturer

- b. This radioactive drug may be received, acquired, possessed, and used only by physicians, clinical laboratories or hospitals and only for in vitro clinical or laboratory tests not involving internal or external administration of the material, or the radiation from the radioactive material, to human beings or animals. Its receipt, acquisition, possession, use and transfer are subject to the regulations and a general license of a Licensing State.

Name of Manufacturer

- 5. The label affixed to the unit, or the leaflet or brochure that accompanies the package, contains adequate information about the precautions to be observed in handling and storing the specified radioactive material. In the case of the mock iodine-125 reference or calibration source, the information accompanying the source must also contain directions to the licensee regarding the waste disposal requirements set out in R9-7-434.
- F. The Department shall grant for a specific license to manufacture and distribute ice detection devices to persons generally licensed under R9-7-306(F) if the applicant satisfies:
 1. The general requirements of R9-7-309; and
 2. The criteria of 10 CFR 32.61 and 32.62, revised July 25, 2012, incorporated by reference, available under R9-7-101, and containing no future editions or amendments.
- G. The Department shall grant a specific license to manufacture, prepare, or transfer for commercial distribution radioactive drugs that contain radioactive material for use by a person authorized in accordance with Article 7 of this Chapter, if the applicant meets all of the requirements in 10 CFR 30.32(j), revised November 21, 2023, or 10 CFR 32.72, revised August 24, 2023, both incorporated by reference, available under R9-7-101, and containing no future editions or amendments.
 1. Authorization under this Section to produce Positron Emission Tomography (PET) radioactive drugs for non-commercial transfer to medical use licensees in its consortium does not relieve the licensee from complying with applicable FDA, other federal, and state requirements governing radioactive drugs.
 2. Each licensee authorized under this Section to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall:
 - a. Satisfy the labeling requirements in R9-7-431 for each PET radioactive drug transport radiation shield and each syringe, vial, or other container used to hold a PET radioactive drug intended for noncommercial distribution to members of its consortium; and
 - b. Possess and use instrumentation to measure the radioactivity of the PET radioactive drugs intended for noncommercial distribution to members of its consortium and meet the procedural, radioactivity

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measurement, instrument test, instrument check, and instrument adjustment requirements in R9-7-449.

3. A licensee that is a pharmacy authorized under this Section to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium shall require that any individual who prepares PET radioactive drugs be an:
 - a. Authorized nuclear pharmacist that meets the requirements in R9-7-712, or
 - b. Individual under the supervision of an authorized nuclear pharmacist as specified in R9-7-706.
 4. A pharmacy, authorized under this Section to produce PET radioactive drugs for noncommercial transfer to medical use licensees in its consortium that allows an individual to work as an authorized nuclear pharmacist, shall meet the requirements of R9-7-712.
- H.** The Department shall grant a specific license to manufacture and distribute generators or reagent kits that contain radioactive material for preparation of radiopharmaceuticals by persons licensed according to 9 A.A.C. 7, Article 7 if:
1. The applicant satisfies the general requirements of R9-7-309;
 2. The applicant submits evidence that:
 - a. The generator or reagent kit is to be manufactured, labeled and packaged according to the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act, a new drug application (NDA) approved by the Food and Drug Administration (FDA), a biologic product license issued by FDA, or a "Notice of Claimed Investigational Exemption for a New Drug" (IND) that has been accepted by the FDA; or
 - b. The manufacture and distribution of the generator or reagent kit are not subject to the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act;
 3. The applicant submits information on the radionuclide; chemical and physical form, packaging including maximum activity per package, and shielding provided by the packaging of the radioactive material contained in the generator or reagent kit;
 4. The label affixed to the generator or reagent kit contains information on the radionuclide, including quantity, and date of assay; and
 5. The label affixed to the generator or reagent kit, or the leaflet or brochure that accompanies the generator or reagent kit, contains:
 - a. Adequate information, from a radiation safety standpoint, on the procedures to be followed and the equipment and shielding to be used in eluting the generator or processing radioactive material with the reagent kit; and
 - b. A statement that this generator or reagent kit (as appropriate) is approved for use by persons licensed by the Department under 9 A.A.C. 7, Article 7, or equivalent licenses of the U.S. Nuclear Regulatory Commission or an Agreement State or Licensing State. The labels, leaflets, or brochures required by this subsection supplement the labeling required by FDA, and they may be separate from or, with the approval of FDA, combined with the labeling required by FDA.
- I.** The Department shall grant a specific license to manufacture and distribute sources and devices that contain radioactive material to a person licensed in accordance with Article 7 of this Chapter for use as a calibration, transmission, or reference source or for medical purposes, if the applicant meets all of the requirements in 10 CFR 32.74, revised July 25, 2012, incorporated by reference, available under R9-7-101, and containing no future editions or amendments.
- J.** Requirements for license to manufacture and distribute industrial products containing depleted uranium for mass volume applications.
1. The Department shall grant a specific license to manufacture industrial products and devices that contain depleted uranium for use under R9-7-305(F) or equivalent regulations of the NRC or another Agreement State if:
 - a. The applicant satisfies the general requirements in R9-7-309;
 - b. The applicant submits sufficient information relating to the design, manufacture, prototype testing, quality control procedures, labeling or marking, proposed uses, and potential hazards of the industrial product or device to provide reasonable assurance that possession, use, or transfer of the depleted uranium in the product or device is not likely to cause any individual to receive a radiation dose in excess of 10 percent of the limits specified in R9-7-408; and
 - c. The applicant submits sufficient information regarding the industrial product or device and the presence of depleted uranium for a mass volume application in the product or device to provide reasonable assurance that unique benefits will accrue to the public because of the usefulness of the product or device.
 2. In the case of an industrial product or device whose unique benefits are questionable, the Department shall approve an application for a specific license under this subsection only if the product or device is found to combine a high degree of utility and low probability of uncontrolled disposal and dispersal of significant quantities of depleted uranium into the environment.
 3. The Department may deny any application for a specific license under this subsection if the end use or uses of the industrial product or device cannot be reasonably foreseen.
 4. Each person licensed under subsection (J)(1) shall:
 - a. Maintain the level of quality control required by the license in the manufacture of the industrial product or device and the installation of the depleted uranium into the product or device;
 - b. Label or mark each unit to:
 - i. Identify the manufacturer of the product or device, the number of the license under which the product or device was manufactured or initially transferred, the fact that the product or device contains depleted uranium, and the quantity of depleted uranium in each product or device; and
 - ii. State that the receipt, possession, use, and transfer of the product or device are subject to a general license or the equivalent regulations of the U.S. Nuclear Regulatory Commission or an Agreement State;
 - c. Assure that the depleted uranium, before being installed in each product or device, has been impressed with the following legend, clearly legible through any plating or other covering: "Depleted Uranium";
 - d. Furnish a copy of the general license contained in R9-7-305(F) and a copy of ARRA-23 to each person to whom depleted uranium in a product or device is transferred for use under a general license contained in R9-7-305(F); or

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- e. Furnish a copy of the general license contained in the NRC's or Agreement State's regulation equivalent to R9-7-305(F) and a copy of the NRC's or Agreement State's certificate, or alternatively, furnish a copy of the general license contained in R9-7-305(F) and a copy of ARRA-23 to each person to whom depleted uranium in a product or device is transferred for use under a general license of the NRC or an Agreement State, with a document explaining that use of the product or device is regulated by the NRC or an Agreement State under requirements substantially the same as those in R9-7-305(F);
- f. Report to the Department all transfers of industrial products or devices to persons for use under the general license in R9-7-305(F). The report shall identify each general licensee by name and address, an individual by name or position who serves as the point of contact person for the general licensee, the type and model number of device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which a product or device is transferred to the generally licensed person. If no transfers have been made to persons generally licensed under R9-7-305(F) during the reporting period, the report shall so indicate;
 - i. Report to the U.S. Nuclear Regulatory Commission all transfers of industrial products or devices to persons for use under the NRC general license in 10 CFR 40.25; or
 - ii. Report to the responsible state agency all transfers of devices manufactured and distributed under subsection (J)(4)(f) for use under a general license in that state's regulations equivalent to R9-7-305(F);
 - iii. The report required in subsection (J)(4)(f)(i) or (ii) shall identify each general licensee by name and address, an individual by name or position who serves as the contact person for the general licensee, the type and model number of the device transferred, and the quantity of depleted uranium contained in the product or device. The report shall be submitted within 30 days after the end of each calendar quarter in which a product or device is transferred to the generally licensed person;
 - iv. If no transfers have been made to NRC licensees during the reporting period, this information shall be reported to the NRC;
 - v. If no transfers have been made to general licensees within a particular Agreement State during the reporting period, this information shall be reported to the responsible Agreement state agency; and
 - vi. Records showing the name, address, and contact person for each general licensee to whom depleted uranium in industrial products or devices is transferred for use under a general license provided in R9-7-305(F) or equivalent regulations of the NRC or of another Agreement State shall be maintained for a period of at least three years and show the date of each transfer, the quantity of depleted uranium in each product or device transferred, and compliance with the reporting requirements of this Section.
- K. A licensee who manufactures nationally tracked sources, as defined in Article 4, shall:
 - 1. Serialize the sources in accordance with 10 CFR 32.201, revised November 8, 2006, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; and
 - 2. Report manufacturing activities in accordance with R9-7-454.

Historical Note

New Section R9-7-311 recodified from R12-1-311, at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-312. Issuance of Specific Licenses

- A. Upon determination that a license application meets the requirements of the Act and Department rules, the Department shall grant a specific license that may contain conditions or limitations if the Department has determined that additional requirements regarding the proposed activity will protect health and safety.
- B. The Department may incorporate in any license at the time of issuance, or thereafter by rule or order, additional requirements and conditions with respect to the licensee's receipt, possession, use, and transfer of radioactive material in order to:
 - 1. Minimize danger to public health and safety or property;
 - 2. Require reports and recordkeeping, and provide for inspections of activities under the license as may be necessary to protect health and safety; and
 - 3. Prevent loss or theft of material subject to this Article.
- C. The Department may verify information contained in an application and secure additional information necessary to make a determination on issuance of a license and whether any special conditions should be attached to the license. The Department may inspect the facility or location where radioactive materials would be possessed or used, and discuss details of the proposed possession or use of the radioactive materials with the applicant or representatives designated by the applicant.

Historical Note

New Section R9-7-312 recodified from R12-1-312, at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-313. Specific Terms and Conditions

- A. Each license issued under this Article is subject to all provisions of A.R.S. Title 30, Chapter 4 and to all rules, regulations, and orders of the Department.
- B. A licensee shall not transfer, assign, or in any manner dispose of a license issued or granted under this Article or a right to possess or utilize radioactive material granted by any license issued under this Article unless the Department finds that the transfer is consistent with the Department's statutes and rules, and gives its consent in writing. An application for transfer of license must include:
 - 1. The identity, technical and financial qualifications of the proposed transferee; and
 - 2. Financial assurance for decommissioning information required by R9-7-323.
- C. Each person licensed by the Department under this Article shall confine the use and possession of the material licensed to the locations and purposes authorized in the license.

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- D.** Each license issued pursuant to the rules in Articles 3, 5, 7, and 15 of this Chapter shall be deemed to contain the provisions set forth in the Act, whether or not these provisions are expressly set forth in the license.
- E.** The Department may incorporate, in any license issued pursuant to the rules in this Chapter, at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of byproduct material as it deems appropriate or necessary in order to:
1. Promote the common defense and security;
 2. Protect health or to minimize danger to life or property;
 3. Protect restricted data; or
 4. Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be necessary or appropriate to effectuate the purposes of the Act and rules thereunder.
- F.** Licensees required to submit emergency plans in accordance with R9-7-322 shall follow the emergency plan approved by the Department. The licensee may change the approved plan without Department approval only if the changes do not reduce the commitment of the plan. The licensee shall furnish the change to the Department and to affected offsite response organizations within six months after the change is made. Proposed changes that reduce, or potentially reduce, the commitment of the approved emergency plan may not be implemented without prior application to and prior approval by the Department.
- G.** Each person licensed under this Section and each general licensee that is required to register under R9-7-306(A)(4)(o) shall notify the Department in writing if the licensee decides to permanently discontinue any or all activities involving materials authorized under the license. A specific licensee or general licensee shall notify the Department, in writing:
1. Immediately following the filing of a petition for bankruptcy under any Chapter of Title 11 of the United States Code if the petition for bankruptcy is by or against:
 - a. The licensee;
 - b. An entity (as defined in the bankruptcy code) controlling the licensee or listing the license or licensee as property of the estate; or
 - c. An affiliate (as defined in the bankruptcy code) of the licensee; and
 2. Providing the following information:
 - a. The bankruptcy court in which the petition for bankruptcy was filed, and
 - b. The bankruptcy case title and number, and
 - c. The date the petition was filed.
- H.** Each licensee preparing technetium-99m radiopharmaceuticals from molybdenum-99/technetium-99m generators or rubidium-82 from strontium-82/rubidium-82 generators shall test the generator eluates for molybdenum-99 breakthrough or strontium-82 and strontium-85 contamination, respectively, in accordance with R9-7-720. The licensee shall record the results of each test and retain each record for at least three years after the record is made. The licensee shall report the results of any test that exceeds the permissible concentration listed in R9-7-720 at the time of generator elution, in accordance with R9-7-720(E) and (F).
- I.** Inalienability of Licenses
1. No license issued or granted pursuant to the regulations in this part shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Department, after securing full

information, finds that the transfer is in accordance with the provisions of this Act and gives its consent in writing.

2. An application for transfer of license must include:
 - a. The identity, technical and financial qualifications of the proposed transferee; and
 - b. Financial assurance for decommissioning information required by R9-7-323, 10 CFR 40.3 and 10 CFR 70.25.

Historical Note

New Section R9-7-313 recodified from R12-1-313, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2). Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-314. Expiration of License

Except as provided in R9-7-315(B), each specific license expires at the end of the day, in the month and year stated on the license.

Historical Note

New Section R9-7-314 recodified from R12-1-314, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-315. Renewal of License

- A.** An applicant shall file an application for renewal of a specific license according to R9-7-308.
- B.** If a licensee files a renewal application not less than 30 days before the license expiration date and the existing license and associated renewal application is in proper form, the existing license does not expire until a final renewal determination is made by the Department.

Historical Note

New Section R9-7-315 recodified from R12-1-315, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-316. Amendment of Licenses at Request of Licensee

An applicant shall file an application for amendment of a specific license by complying with R9-7-308 and specifying the grounds for the amendment.

Historical Note

New Section R9-7-316 recodified from R12-1-316, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-317. Department Action on Applications to Renew or Amend

In considering an application by a licensee to renew or amend a specific license, the Department shall apply the criteria set forth in R9-7-309, R9-7-310, or R9-7-311, as applicable.

Historical Note

New Section R9-7-317 recodified from R12-1-317, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-318. Transfer of Radioactive Material

- A.** A licensee shall not transfer radioactive material except as authorized under this Section.
- B.** Except as otherwise provided in the license and subject to the provisions of subsections (C) and (D), any licensee may transfer radioactive material:
 1. To the Department, after receiving prior approval from the Department;
 2. To the Department of Energy;

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3. To any person exempt from the rules in this Article to the extent permitted under the exemption;
 4. To any person authorized to receive radioactive material under terms of a general license or its equivalent, or a specific license or equivalent licensing document, issued by the Department, the NRC, or any Agreement State or Licensing State, or to any person otherwise authorized to receive radioactive material by the Federal Government or any agency of the Federal Government, the Department, any Agreement State or Licensing State; or
 5. As otherwise authorized by the Department in writing.
- C.** Before transferring radioactive material to a specific licensee of the Department, the NRC, or another Agreement State or Licensing State, or to a general licensee who is required to register with the Department, the NRC, or another Agreement State or Licensing State prior to receipt of the radioactive material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred.
- D.** The transferor shall use one or more of the following methods for the verification required by subsection (C):
1. The transferor shall possess, and read, a current copy of the transferee's specific license or registration certificate;
 2. The transferor shall possess a written certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date;
 3. For emergency shipments the transferor shall accept oral certification by the transferee that the transferee is authorized by license or registration certificate to receive the type, form, and quantity of radioactive material to be transferred, specifying the license or registration certificate number, issuing agency, and expiration date; provided the oral certification is confirmed in writing within 10 days;
 4. The transferor shall obtain information equivalent to that in subsection (D)(1) to (3) compiled by a reporting service from official records of the Department, the NRC, or the licensing agency of another Agreement State or Licensing State regarding the identity of any licensee and the scope and expiration date of any license, registration, or certificate; or
 5. When none of the methods of verification described in subsections (D)(1) to (4) are readily available or when a transferor desires to verify that information received by one of the above methods is correct or up-to-date, the transferor shall obtain and record confirmation from the Department, the NRC, or the licensing agency of another Agreement State or Licensing State that the transferee is licensed to receive the radioactive material.
- E.** A transferor shall prepare and transport radioactive material as prescribed in the provisions of 9 A.A.C. 7, Article 15.
- F.** The Department shall approve an application for a specific license to initially transfer source material for use under R9-7-305, or equivalent regulations of the NRC or another Agreement State, if:
1. The applicant satisfies the general requirements specified in R9-7-309; and
 2. The applicant submits adequate information on, and the Department approves, the methods to be used for quality control, labeling, and providing safety instructions to recipients.
- G.** Each person licensed under subsection (F) shall label the immediate container of each quantity of source material with the type of source material and quantity of material and the words, "RADIOACTIVE MATERIAL."
- H.** Each person licensed under subsection (F) shall ensure that the quantities and concentrations of source material are as labeled and indicated in any transfer records.
- I.** Each person licensed under subsection (F) shall provide the information specified in subsections (I)(1) and (2) to each person to whom source material is transferred for use under R9-7-305 or equivalent provisions in the NRC or Agreement State regulations. This information must be transferred before the source material is transferred for the first time in each calendar year to the particular recipient. The required information includes:
1. A copy of R9-7-305 and this Section, or relevant equivalent regulations of the NRC or another Agreement State; and
 2. Appropriate radiation safety precautions and instructions relating to handling, use, storage, and disposal of the source material.
- J.** Each person licensed under subsection (F) shall report transfers as follows:
1. File a report with the Department, as specified in R9-7-1907(1) through (3), that includes the following information:
 - a. The name, address, and license number of the person who transferred the source material;
 - b. For each general licensee under R9-7-305 or equivalent NRC or Agreement State regulations to whom greater than 50 grams (0.11 lb) of source material has been transferred in a single calendar quarter, the name and address of the general licensee to whom source material is distributed; a responsible agent, by name and/or position and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and
 - c. The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients.
 2. File a report with the Department and each responsible NRC and/or Agreement State agency that identifies all persons, operating under provisions equivalent to R9-7-305, to whom greater than 50 grams (0.11 lb) of source material has been transferred within a single calendar quarter. The report shall include the following information specific to those transfers made to the NRC or another Agreement State being reported to:
 - a. The name, address, and license number of the person who transferred the source material;
 - b. For each general licensee under R9-7-305 or equivalent NRC or Agreement State regulations to whom greater than 50 grams (0.11 lb) of source material has been transferred in a single calendar quarter, the name and address of the general licensee to whom source material is distributed; a responsible agent, by name and/or position and phone number, of the general licensee to whom the material was sent; and the type, physical form, and quantity of source material transferred; and
 - c. The total quantity of each type and physical form of source material transferred in the reporting period to all such generally licensed recipients with the NRC or another Agreement State.
 3. Submit each report by January 31 of each year covering all transfers for the previous calendar year. If no transfers were made to persons generally licensed under R9-7-305

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or equivalent NRC or another Agreement State provisions during the current period, a report shall be submitted to the Department indicating so. If no transfers have been made to general licensees in NRC jurisdiction or a particular Agreement State during the reporting period, this information shall be reported to the NRC or responsible Agreement State upon request of the Agency.

- K. Each person licensed under subsection (F) shall maintain all information that supports the reports required by this Section concerning each transfer to a general licensee for a period of one year after the event is included in a report to the Department, the NRC, or another Agreement State.

Historical Note

New Section R9-7-318 recodified from R12-1-318, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2). Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-319. Modification, Revocation, or Termination of a License

- A. The terms and conditions of all licenses are subject to amendment, revision, or modification, and a license may be suspended or revoked by reason of amendments to the Department's statutes or rules and orders issued by the Department.
- B. The Department may revoke, suspend, or modify any license, in whole or in part, for any material false statement in the application; any omission or misstatement of fact required by statute, rule, or order, or because of conditions revealed by the application or any report, record, or inspection or other means that would cause the Department to refuse to grant a license; or any violation of license terms and conditions, or the Department's statutes, rules, or orders.
- C. Except in cases of willfulness or those in which the public health, interest, or safety requires otherwise, the Department shall not modify, suspend, or revoke a license unless, before the institution of proceedings, facts or conduct that may warrant action have been called to the attention of the licensee in writing and the licensee has been accorded an opportunity to demonstrate or achieve compliance.
- D. The Department may terminate a specific license upon a written request by the licensee that provides evidence the licensee has met the termination criteria in R9-7-451 and R9-7-452, and the decommissioning requirements in R9-7-323.
- E. Specific licenses, including expired licenses, continue in effect until terminated by written notice to the licensee, when the Department determines that the licensee has:
1. Properly disposed of all radioactive material;
 2. Made a reasonable effort to eliminate residual radioactive contamination, if present;
 3. Performed an accurate radiation survey that demonstrates the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-323;
 4. Submitted other information that is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-323.
 5. Provided records to the Department that detail the disposal of all radioactive material in unsealed form with a half-life greater than 120 days, and copies of the records required by 10 CFR 30.35(g), January 1, 2004, which is incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-319 recodified from R12-1-319, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-320. Reciprocal Recognition of Licenses

- A. This subsection grants a general license to perform specific licensed activities in Arizona for a period not to exceed 180 days in any calendar year to any person who holds a specific license from an Agreement State, where the licensee maintains an office for directing the licensed activity and retaining radiation safety records, is granted a general license to conduct the same activity involving the use of radioactive material from the U.S. Nuclear Regulatory Commission, Licensing State, or any Agreement State, provided that:
1. The license does not limit the activity to specific installations or locations;
 2. Following the first notification, application, and payment of fees, the licensee shall notify the Department three days prior to entering the state and prior to each non-consecutive visit while reciprocity remains in effect.
 3. The out-of-state licensee complies with all applicable statutes, now or hereafter in effect, rules, and orders of the Department and with all the terms and conditions of the license, except those terms and conditions inconsistent with applicable statutes, rules and orders of the Department;
 4. The out-of-state licensee supplies any other information the Department requests; and
 5. The out-of-state licensee does not transfer or dispose of radioactive material possessed or used under the general license provided in this Section except by transfer to a person:
 - a. Specifically licensed by the Department or by the U.S. Nuclear Regulatory Commission to receive the radioactive material; or
 - b. Exempt under R9-7-303(A).
- B. Notwithstanding the provisions of subsection (A)(1), this subsection grants a general license to manufacture, install, transfer, demonstrate, or service a device described in R9-7-306(A)(1) to any person who holds a specific license issued by the U.S. Nuclear Regulatory Commission, Licensing State, or an Agreement State authorizing the same activities within areas subject to the jurisdiction of the licensing body, provided that:
1. The person files a report with the Department within 30 days after the end of each calendar quarter in which any device is transferred to or installed in this State. Each report shall identify the general licensee to whom the device is transferred by name and address, the type of device transferred, and the quantity and type of radioactive material contained in the device;
 2. The device has been manufactured, labeled, installed, and serviced according to the applicable provisions of the specific license issued to the person by the U.S. Nuclear Regulatory Commission or an Agreement State;
 3. The person entering the state ensures that any labels required to be affixed to the device under rules of the authority which licensed manufacture of the device bear the following statement: "Removal of this label is prohibited"; and
 4. The holder of the specific license furnishes a copy of the general license contained in R9-7-306(A)(1), or equivalent rules of the agency having jurisdiction over the manufacture or distribution of the device, to each general licensee to whom the licensee transfers the device or on whose premises the device is installed.

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- C. The Department may withdraw, limit, or qualify the acceptance of any specific license or equivalent licensing document issued by another agency, or any product distributed under a license, upon determining that an action is necessary to prevent undue hazard to public health and safety, or property.
- D. Before radioactive material can be used at a temporary job site within the state at any federal facility, a specific licensee shall determine the jurisdictional status of the job site. If the jurisdictional status is unknown, the specific licensee shall contact the controlling federal agency to determine whether the job site is under exclusive federal jurisdiction.
- E. Before using radioactive material at a job site under exclusive federal jurisdiction, a specific licensee shall:
 1. Obtain authorization from the NRC; and
 2. Use the radioactive material in accordance with applicable NRC regulations and orders, and be able to demonstrate to the Department that the correct license fee was paid to the NRC.
- F. Before radioactive material can be used at a temporary job site in another state, a specific licensee shall obtain authorization from the state, if it is an Agreement State, or from the NRC for any non-Agreement State, either by filing for reciprocity or applying for a specific license.
- 6. Operating restrictions or procedures would prevent a release fraction as large as that shown in Exhibit D; or
- 7. Other factors appropriate for the specific facility.
- D. An emergency plan for responding to a release of radioactive material submitted under subsection (B)(2) shall include the following information:
 1. A brief description of the licensee's facility and areas near the site that could expose a member of the public to a dose equal to or greater than the levels expressed in subsection (B)(1).
 2. An identification of each type of radioactive materials accident for which protective actions may be needed.
 3. A classification system for classifying accidents as alerts or site area emergencies.
 4. Identification of the means of detecting each type of accident in a timely manner.
 5. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.
 6. A brief description of the methods and equipment to assess releases of radioactive materials.
 7. A brief description of the responsibilities of licensee personnel responsible for promptly notifying offsite response organizations and the Department; also responsibilities for developing, maintaining, and updating the plan.
 8. A commitment to and a brief description of the means to promptly notify offsite response organizations and request off-site assistance, including medical assistance for the treatment of contaminated and injured onsite workers when appropriate. A control point shall be established. The notification and coordination shall be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the Department immediately after notification of the appropriate off-site response organizations and not later than one hour after the licensee declares an emergency.
 9. A brief description of the types of information on facility status, radioactive releases, and recommended protective actions, if necessary, to be given to off-site response organizations and to the Department.
 10. A brief description of the frequency, performance objectives, and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee would offer to fire, police, medical, and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. Also, the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.
 11. A brief description of the means of restoring the facility to a safe condition after an accident.
 12. Provisions for conducting quarterly communications checks with off-site response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with off-site response organizations shall include the verifying and updating of all necessary telephone numbers. The licensee shall invite off-site response organizations to participate in the biennial exercises. Their participation is

Historical Note

New Section R9-7-320 recodified from R12-1-320, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-321. Reserved**Historical Note**

Section R9-7-321 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-322. The Need for an Emergency Plan for Response to a Release of Radioactive Material

- A. For purposes of this Section, "Emergency Plan" means a procedure that will be followed when an accident occurs involving licensed radioactive materials for which an offsite response may be needed from organizations, such as police, fire, or medical organizations.
- B. Each application to possess radioactive materials in unsealed form, on foils or plated sources, or sealed in glass in excess of the quantities in Exhibit D, "Radioactive Material Quantities Requiring Consideration for an Emergency Plan" shall contain either:
 1. An evaluation showing that the maximum dose to a person off-site due to a release of radioactive materials would not exceed 1 rem effective dose equivalent or 5 rems to the thyroid; or
 2. An emergency plan for responding to a release of radioactive material.
- C. One or more of the following factors may be used to support an evaluation submitted under subsection (B)(1):
 1. The radioactive material is physically separated so that only a portion could be involved in an accident.
 2. All or part of the radioactive material is not subject to release during an accident because of the way it is stored or packaged;
 3. The release fraction in the respirable size range would be lower than the release fraction shown in Exhibit D due to the chemical or physical form of the material;
 4. The solubility of the radioactive material would reduce the dose received;
 5. Facility design or engineered safety features in the facility would cause the release fraction to be lower than shown in Exhibit D;

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not required. Exercises shall use accident scenarios postulated as most probable for the specific site and the scenarios shall not be known to most exercise participants. The licensee shall critique each exercise, using individuals without direct implementation responsibility for the plan. Critiques of exercises shall evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques shall be corrected.

13. A certification that the applicant has met its responsibilities in A.R.S. §§ 26-341 through 26-353 (Emergency Planning and Community Right-to-Know Act of 1986), if applicable to the applicant's activities at the proposed place of use of the radioactive material.

- E. The licensee shall allow 60 days for the off-site response organizations, expected to respond in case of an accident, to comment on the licensee's emergency plan before submitting it to the Department. The licensee shall provide any comments received within the 60 days to the Department with the emergency plan.

Historical Note

New Section R9-7-322 recodified from R12-1-322, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-323. Financial Assurance and Recordkeeping for Decommissioning

- A. For purposes of terminating specific licensed activities:

1. "Decommissioning" means to remove a radioactive material use facility safely from service and to reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the radioactive material use license.
2. "Byproduct material" as used in 10 CFR 30, means "radioactive material" which is defined in A.R.S. § 30-651.
3. "Facility" means the entire site of radioactive material use, or any separate building or outdoor area where it is used.
4. "Appendix B to Part 30" as used in 10 CFR 30, means Appendix E in 9 A.A.C. 7, Article 4.
5. "Financial security" means having a net worth of not less than \$10,000.

- B. When applying, each non-government applicant for a specific license that authorizes the possession and use of radioactive material, and each non-government holder of a license to possess and use radioactive material issued before the effective date of this Section, shall submit to the Department a decommissioning funding plan or certification of financial security, as required in A.R.S. § 30-672(H). A licensee required to meet the requirements in subsection (C) is exempt from the requirements in this subsection.

- C. When applying, each applicant for a specific license that authorizes the possession and use of radioactive material, and each holder of a license to possess and use radioactive material issued before the effective date of this Section, shall submit to the Department a decommissioning funding plan or certification of financial assurance that meets the requirements in 10 CFR 30.35, 40.36, and 70.25, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. Each decommissioning funding plan shall be submitted to the Department for review and approval and shall contain a detailed cost estimate for decommissioning, in an amount reflecting:

1. The cost of an independent contractor to perform all decommissioning activities;
2. The cost of meeting the R9-7-452(B) criteria for unrestricted use, provided that, if the applicant or licensee can demonstrate its ability to meet the provisions of R9-7-452(C), the cost estimate may be based on meeting the R9-7-452(C) criteria;
3. The volume of onsite subsurface material containing residual radioactivity that will require remediation to meet the criteria for license termination;
4. The ability to meet the provisions of this Section, for which the cost estimate may be based on meeting the criteria specified in this Section; and
5. An adequate contingency factor, including:
 - a. Identification of and justification for using the key assumptions contained in the DCE;
 - b. A description of the method of assuring funds for decommissioning including means for adjusting cost estimates and associated funding levels periodically over the life of the facility;
 - c. A certification by the licensee that financial assurance for decommissioning has been provided in the amount of the cost estimate for decommissioning; and
 - d. An original signed copy of the financial instrument obtained to satisfy the requirements of subsection (F) unless a previously submitted and accepted financial instrument continues to cover the cost estimate for decommissioning.

- D. Each licensee required to provide financial assurance for decommissioning a radioactive material facility under this Section shall maintain records of information important to the safe and effective decommissioning of the facility in an identified location until the license is terminated by the Department. The licensee shall maintain the following records during the decommissioning process:

1. Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, and site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. The licensee shall keep records identifying the involved radionuclides and associated quantities, forms, and concentrations.
2. As-built drawings showing modifications of structures and equipment in restricted areas where radioactive materials are used and stored, and locations of possible inaccessible contamination. If drawings are not available, the licensee shall provide appropriate records describing each location of possible contamination.
3. Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.

- E. Decommissioning procedures:

1. Upon expiration or termination of principal activities a licensee shall notify the Department in writing whether the licensee is discontinuing licensed activities. The licensee shall begin decommissioning its facility within 60 days after the Department receives notice of the decision to permanently terminate principal activities, or within 12 months after receipt of notice, submit to the Department a decommissioning plan, as prescribed in 10

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CFR 30.36(g)(1), 40.42(g)(1), and 70.38(g)(1), revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. The licensee shall begin decommissioning upon approval of the plan if the license has expired or no licensed activities have been conducted at the licensee's facility for a period of 24 months.

2. In addition to the notification requirements in subsection (E)(1), the licensee shall maintain in effect all decommissioning financial assurances required by this Section. The financial assurances shall be increased or may be decreased as appropriate to cover the cost estimate established for decommissioning in subsection (E)(1). The licensee may reduce the amount of the financial assurance following approval of the decommissioning plan, provided the radiological hazard is decreasing and the licensee has the approval of the Department.
 3. The Department shall extend the time periods established in subsection (E)(1) if a new time period is in the best interest of public health and safety.
 - a. The licensee shall submit a request for an extension no later than 30 days after the Department receives the notice required in subsection (E)(1).
 - b. If a licensee has requested an extension, the licensee is not required to commence decommissioning activities required in subsection (E)(1), until the Department has made a determination on the request submitted to the Department under subsection (E)(3)(a).
 4. Except as provided in subsection (E)(5), the licensee shall complete decommissioning of a facility as soon as practicable but no later than 24 months following the initiation of decommissioning; and except as provided in subsection (E)(5), when decommissioning involves the entire facility, the licensee shall request license termination as soon as practicable but no later than 24 months following initiation of decommissioning.
 5. The Department shall approve a request for an alternate schedule for completion of decommissioning and license termination if the Department determines that the alternative is warranted by consideration of the conditions specified in 10 CFR 30.36(i), 40.42(i), and 70.38(i), revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 6. As a final step in decommissioning, the licensee shall meet the requirements specified in 10 CFR 30.36(j), 40.42(j), and 70.38(j), revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- F.** Each person licensed under this Article shall keep records of information important to the decommissioning of a facility in an identified location until the site is released for unrestricted use. Before licensed activities are transferred or assigned in accordance with R9-7-318, licensees shall transfer all records described in subsections (F)(1) through (F)(4) to the new licensee. In this case, the new licensee will be responsible for maintaining these records until the license is terminated. If records important to the decommissioning of a facility are kept for other purposes, reference to these records and their locations may be used. Information the Department considers important to decommissioning consists of:
1. Records of spills or other unusual occurrences involving the spread of contamination in and around the facility, equipment, or site. These records may be limited to instances when contamination remains after any cleanup procedures or when there is reasonable likelihood that contaminants may have spread to inaccessible areas as in the case of possible seepage into porous materials such as concrete. These records must include any known information on identification of involved nuclides, quantities, forms, and concentrations.
 2. As-built drawings and modifications of structures and equipment in restricted areas where radioactive materials are used and/or stored, and of locations of possible inaccessible contamination such as buried pipes which may be subject to contamination. If required drawings are referenced, each relevant document need not be indexed individually. If drawings are not available, the licensee shall substitute appropriate records of available information concerning these areas and locations.
 3. Except for areas containing depleted uranium used only for shielding or as penetrators in unused munitions, a list contained in a single document and updated every 2 years, of the following:
 - a. All areas designated and formerly designated as restricted areas as defined under R9-7-102;
 - b. All areas outside of restricted areas that require documentation under subsection (F)(1);
 - c. All areas outside of restricted areas where current and previous wastes have been buried as documented under R9-7-441; and
 - d. All areas outside of restricted areas that contain material such that, if the license expired, the licensee would be required to either decontaminate the area to meet the criteria for decommissioning in R9-7-451 or R9-7-452; or apply for approval for disposal under R9-7-435.
 4. Records of the cost estimate performed for the decommissioning funding plan or of the amount certified for decommissioning, and records of the funding method used for assuring funds if either a funding plan or certification is used.
- G.** In providing financial assurance under this Section, each licensee shall use the financial assurance funds only for decommissioning activities and each licensee shall monitor the balance of funds held to account for market variations. The licensee shall replenish the funds, and report such actions to the Department, as follows:
1. If, at the end of a calendar quarter, the fund balance is below the amount necessary to cover the cost of decommissioning, but is not below 75 percent of the cost, the licensee shall increase the balance to cover the cost, and shall do so within 30 days after the end of the calendar quarter.
 2. If, at any time, the fund balance falls below 75 percent of the amount necessary to cover the cost of decommissioning, the licensee shall increase the balance to cover the cost, and shall do so within 30 days of the occurrence.
 3. Within 30 days of taking the actions required by subsection (G)(1) or (G)(2), the licensee shall provide a written report of such actions to the Director of the Department, and state the new balance of the fund.
- H.** The financial instrument must include the licensee's name, license number, and docket number, and the name, address, and other contact information of the issuer, and, if a trust is used, the trustee. When any of the foregoing information changes, the licensee must, within 30 days, submit financial instruments to the Department reflecting such changes. The financial instrument submitted must be a signed original or signed original duplicate, except where a copy of the signed

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original is specifically permitted. Financial assurance for decommissioning must be provided by one or more of the following methods:

1. Prepayment. Prepayment is the deposit before the start of operation into an account segregated from licensee assets and outside the licensee's administrative control of cash or liquid assets such that the amount of funds would be sufficient to pay decommissioning costs. Prepayment must be made into a trust account, and the trustee and the trust must be acceptable to the Department.
2. A surety method, insurance, or other guarantee method. These methods guarantee that decommissioning costs will be paid. A surety method may be in the form of a surety bond, or letter of credit. A parent company guarantee of funds for decommissioning costs based on a financial test may be used if the guarantee and test are approved by the Department. For commercial corporations that issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs based on a financial test may be used if the guarantee and test are approved by the Department. For commercial companies that do not issue bonds, a guarantee of funds by the applicant or licensee for decommissioning costs may be used if the guarantee and test are approved by the Department. For nonprofit entities, such as colleges, universities, and nonprofit hospitals, a guarantee of funds by the applicant or licensee may be used if the guarantee and test are approved by the Department. Except for an external sinking fund, a parent company guarantee or a guarantee by the applicant or licensee may not be used in combination with any other financial methods used to satisfy the requirements of this Section. A guarantee by the applicant or licensee may not be used in any situation where the applicant or licensee has a parent company holding majority control of the voting stock of the company. Any surety method or insurance used to provide financial assurance for decommissioning must contain the following conditions:
 - a. The surety method or insurance must be open-ended or, if written for a specified term, such as five years, must be renewed automatically unless 90 days or more prior to the renewal date, the issuer notifies the Department, the beneficiary, and the licensee of its intention not to renew. The surety method or insurance must also provide that the full face-value amount be paid to the beneficiary automatically prior to the expiration without proof of forfeiture if the licensee fails to provide a replacement acceptable to the Department within 30 days after receipt of notification of cancellation.
 - b. The surety method or insurance must be payable to a trust established for decommissioning costs. The trustee and trust must be acceptable to the Department. An acceptable trustee includes an appropriate State or Federal government agency or an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or State agency.
 - c. The surety method or insurance must remain in effect until the Department has terminated the license.
3. An external sinking fund in which deposits are made at least annually, coupled with a surety method, insurance, or other guarantee method, the value of which may reduce by the amount being accumulated in the sinking fund. An external sinking fund is a fund established and

maintained by setting aside funds periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning costs at the time termination of operation is expected. An external sinking fund must be in the form of a trust. If the other guarantee method is used, no surety or insurance may be combined with the external sinking fund. The surety, insurance, or other guarantee provisions must be as stated in subsection (H)(2).

4. In the case of Federal, State, or local government licensees, a statement of intent containing a cost estimate for decommissioning, and indicating that funds for decommissioning will be obtained when necessary.
5. When a governmental entity is assuming custody and ownership of a site, an arrangement that is deemed acceptable by such governmental entity.

Historical Note

New Section R9-7-323 recodified from R12-1-323, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-324. Public Notification and Public Participation

Upon the receipt of a license termination plan (LTP) or decommissioning plan from a licensee, or a proposal by a licensee for decommissioning of a site in accordance with R9-7-452(C) and (D) or for other events when the Department deems a notice to be in the public interest, the Department shall:

1. Notify and solicit comments from:
 - a. State and local governments and any Indian Nation or other indigenous people who have legal rights that could be affected by the decommissioning, and
 - b. The Arizona Department of Environmental Quality for cases in which the licensee proposes to decommission a site in accordance with R9-7-452(D).
2. Publish the notice in the Arizona Administrative Register and use other methods of publication such as local newspapers, letters to local organizations, or any other method that is reasonably calculated to provide notice, and solicit comments from affected parties.

Historical Note

New Section R9-7-324 recodified from R12-1-324, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-325. Timeliness in Decommissioning Facilities

- A. "Principal activities," as used in this Section, means activities authorized by the license that are essential to achieving the purposes for which the license was issued or amended. Storage, during which licensed material is not accessed for use, or disposal and other activities incidental to decontamination or decommissioning are not principal activities.
- B. Each specific license revoked by the Department expires at midnight on the date of the Department's final determination to revoke the license, the expiration date stated in the determination, or as otherwise provided by Department order.
- C. Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of radioactive material, until the Department notifies the licensee in writing that the license is terminated. During this time, the licensee shall:
 1. Limit actions involving radioactive material to those related to decommissioning;
 2. Continue to control entry to restricted areas until they are suitable for release in accordance with NRC requirements; and

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3. Pay the applicable annual fee for the license category listed in R9-7-1306.
- D. Within 60 days of the occurrence of any of the following, each licensee shall notify the Department in writing of the occurrence and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, so that the building or outdoor area is suitable for release in accordance with Department requirements, or submit within 12 months of notification a decommissioning plan, if required by R9-7-323, and begin decommissioning upon approval of that plan if:
 1. The license expires in accordance with subsection (B) or R9-7-314, unless the licensee submits a renewal application in accordance with R9-7-315;
 2. The licensee decides to permanently terminate principal activities at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Department requirements;
 3. No principal activities under the license have been conducted for a period of 24 months; or
 4. No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with Department requirements.

Historical Note

New Section R9-7-325 recodified from R12-1-325, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Exhibit A. Exempt Concentrations

Element (atomic number)	Isotope	Column I Gas Concentration ($\mu\text{Ci/ml}$) ^{1/}	Column II Liquid and Solid Concentration ($\mu\text{Ci/ml}$) ^{2/}	Element (atomic number)	Isotope	Column I Gas Concentration ($\mu\text{Ci/ml}$) ^{1/}	Column II Liquid and Solid Concentration ($\mu\text{Ci/ml}$) ^{2/}
Antimony (51)	Sb-122		3X10 ⁻⁴	Gold (79)	Au-196		2X10 ⁻³
	Sb-124		2X10 ⁻⁴		Au-198		5X10 ⁻⁴
	Sb-125		1X10 ⁻³		Au-199		2X10 ⁻³
Argon (18)	Ar-37	1X10 ⁻³		Hafnium (72)	Hf-181		7X10 ⁻⁴
	Ar-41	4X10 ⁻⁷					
Arsenic (33)	As-73		5X10 ⁻³	Hydrogen (1)	H-3	5X10 ⁻⁶	3X10 ⁻²
	As-74		5X10 ⁻⁴				
	As-76		2X10 ⁻⁴	Indium (49)	In-113m		1X10 ⁻²
	As-77		8X10 ⁻⁴		In-114m		2X10 ⁻⁴
Barium (56)	Ba-131		2X10 ⁻³	Iodine	I-126	3X10 ⁻⁹	2X10 ⁻⁵
	Ba-140		3X10 ⁻⁴		I-131	3X10 ⁻⁹	2X10 ⁻⁵
Beryllium (4)	Be-7		2X10 ⁻²		I-132	8X10 ⁻⁸	6X10 ⁻⁴
					I-133	1X10 ⁻⁸	7X10 ⁻⁵
Bismuth (83)	Bi-206		4X10 ⁻⁴		I-134	2X10 ⁻⁷	1X10 ⁻³
Bromine (35)	Br-82	4X10 ⁻⁷	3X10 ⁻³	Iridium (77)	Ir-190		2X10 ⁻³
					Ir-192		4X10 ⁻⁴
Cadmium (48)	Cd-109		2X10 ⁻³		Ir-194		3X10 ⁻⁴
	Cd-115m		3X10 ⁻⁴	Iron (26)	Fe-55		8X10 ⁻³
	Cd-115		3X10 ⁻⁴		Fe-59		6X10 ⁻⁴
Calcium (20)	Ca-45		9X10 ⁻⁵	Krypton (36)	Kr-85m	1X10 ⁻⁶	
	Ca-47		5X10 ⁻⁴		Kr-85	3X10 ⁻⁶	
Carbon (6)	C-14	1X10 ⁻⁶	8X10 ⁻³	Lanthanum (57)	La-140		2X10 ⁻⁴
Cerium (58)	Ce-141		9X10 ⁻⁴	Lead (82)	Pb-203		4X10 ⁻³
	Ce-143		4X10 ⁻⁴	Lutetium (71)	Lu-177		1X10 ⁻³
	Ce-144		1X10 ⁻⁴	Manganese (25)	Mn-52		3X10 ⁻⁴
Cesium (55)	Cs-131		2X10 ⁻²		Mn-54		1X10 ⁻³
	Cs-134m		6X10 ⁻²		Mn-56		1X10 ⁻³
	Cs-134		9X10 ⁻⁵	Mercury (80)	Hg-197m		2X10 ⁻³
Chlorine (17)	Cl-38	9X10 ⁻⁷	4X10 ⁻³		Hg-197		3X10 ⁻³
Chromium (24)	Cr-51		2X10 ⁻²		Hg-203		2X10 ⁻⁴
				Molybdenum (42)	Mo-99		2X10 ⁻³
Cobalt (27)	Co-57		5X10 ⁻³				
	Co-58		1X10 ⁻³	Neodymium (60)	Nd-147		6X10 ⁻⁴
	Co-60		5X10 ⁻⁴		Nd-149		3X10 ⁻³
Copper (29)	Cu-64		3X10 ⁻³	Nickel (28)	Ni-65		1X10 ⁻³
Dysprosium (66)	Dy-165		4X10 ⁻³	Niobium (Columbium)(41)	Nb-95	1X10 ⁻³	
	Dy-166		4X10 ⁻⁴		Nb-97		9X10 ⁻³
Erbium (68)	Er-169		9X10 ⁻⁴	Osmium (76)	Os-185		7X10 ⁻⁴
	Er-171		1X10 ⁻⁴		Os-191m		3X10 ⁻²
Europium (63)	Eu-152 (T _r =9.2 h)		6X10 ⁻⁴		Os-191		2X10 ⁻³
	Eu-155		2X10 ⁻³		Os-193		6X10 ⁻⁴
Fluorine (9)	F-18	2X10 ⁻⁶	8X10 ⁻³	Palladium (46)	Pd-103		3X10 ⁻³
					Pd-109		9X10 ⁻⁴
Gadolinium (64)	Gd-153		2X10 ⁻³	Phosphorus (15)	P-32		2X10 ⁻⁴
	Gd-159		8X10 ⁻⁴				
Gallium (31)	Ga-72		4X10 ⁻⁴	Platinum (78)	Pt-191		1X10 ⁻³
					Pt-193m		1X10 ⁻²
					Pt-197m		1X10 ⁻²
Germanium (32)	Ge-71		2X10 ⁻²		Pt-197		1X10 ⁻³
				Potassium (19)	K-42		3X10 ⁻³

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Exhibit A. Exempt Concentration (Continued)

Element (atomic number)	Isotope	Column I Gas Concentration ($\mu\text{Ci/ml}$) ^{1/}	Column II Liquid and Solid Concentration ($\mu\text{Ci/ml}$) ^{2/}	Element (atomic number)	Isotope	Column I Gas Concentration ($\mu\text{Ci/ml}$) ^{1/}	Column II Liquid and Solid Concentration ($\mu\text{Ci/ml}$) ^{2/}
Praseodymium (59)	Pr-142		3×10^{-4}	Tellurium (52)	Te-125m		2×10^{-3}
	Pr-143		5×10^{-4}		Te-127m		6×10^{-4}
Promethium (61)	Pm-147		2×10^{-3}		Te-127		3×10^{-3}
	Pm-149		4×10^{-4}		Te-129m		3×10^{-4}
Rhenium (75)	Re-183		6×10^{-3}		Te-131m		6×10^{-4}
	Re-186		9×10^{-4}		Te-132		3×10^{-4}
	Re-188		6×10^{-4}	Terbium (65)	Tb-160		4×10^{-4}
Rhodium (45)	Rh-103m		1×10^{-1}	Thallium (81)	Tl-200		4×10^{-3}
	Rh-105		1×10^{-3}		Tl-201		3×10^{-3}
Rubidium (37)	Rb-86		7×10^{-4}		Tl-202		1×10^{-3}
Ruthenium (44)	Ru-97		4×10^{-3}		Tl-204		1×10^{-3}
	Ru-103		8×10^{-4}	Thulium (69)	Tm-170		5×10^{-4}
	Ru-105		1×10^{-3}		Tm-171		5×10^{-3}
	Ru-106		1×10^{-4}	Tin (50)	Sn-113		9×10^{-4}
Samarium (62)	Sm-153		8×10^{-4}		Sn-125		2×10^{-4}
Scandium (21)	Sc-46		4×10^{-4}	Tungsten (Wolfram) (74)	W-181		4×10^{-3}
	Sc-47		9×10^{-4}		W-187		7×10^{-4}
	Sc-48		3×10^{-4}	Vanadium (23)	V-48		3×10^{-4}
Selenium (34)	Se-75		3×10^{-3}	Xenon (54)	Xe-131m	4×10^{-6}	
Silicon (14)	Si-31		9×10^{-3}		Xe-133	3×10^{-6}	
					Xe-135	1×10^{-6}	
Silver (47)	Ag-105		1×10^{-3}	Ytterbium (70)	Yb-175		1×10^{-3}
	Ag-110m		3×10^{-4}	Yttrium (39)	Y-90		2×10^{-4}
	Ag-111		4×10^{-4}		Y-91m		3×10^{-2}
Sodium (11)	Na-24		2×10^{-3}		Y-91		3×10^{-4}
Strontium (38)	Sr-85		1×10^{-3}		Y-92		6×10^{-4}
	Sr-89		1×10^{-4}		Y-93		3×10^{-4}
	Sr-91		7×10^{-4}	Zinc (30)	Zn-65		1×10^{-3}
	Sr-92		7×10^{-4}		Zn-69m		7×10^{-4}
Sulfur (16)	S-35	9×10^{-8}	6×10^{-4}		Zn-69		2×10^{-2}
Tantalum (73)	Ta-182		4×10^{-4}	Zirconium (40)	Zr-95		6×10^{-4}
Technetium (43)	Tc-96m		1×10^{-1}		Zr-97		2×10^{-4}
	Tc-96		1×10^{-3}	Beta and/or gamma emitting radioactive material not listed above with half-life less than three years		1×10^{-10}	1×10^{-6}

NOTE 1: Many radioisotopes disintegrate into isotopes which are also radioactive. In expressing the concentrations in Schedule A the activity stated is that of the parent isotope and takes into account the daughters.

^{1/} Values are given in Column I only for those materials normally used as gases

^{2/} $\mu\text{Ci/gm}$ are for solids

NOTE 2: For purposes of Section 303 where there is involved a combination of isotopes, the limit for the combination should be derived as follows: Determine for each isotope in the product the ratio between the concentration present in the product and the exempt concentration established in Schedule A for the specific isotope when not in combination. The sum of such ratios may not exceed "1" (i.e., unity).

EXAMPLE:

$$\frac{\text{Concentration of Isotope A in Product}}{\text{Exempt concentration of Isotope A}} + \frac{\text{Concentration of Isotope B in Product}}{\text{Exempt concentration of Isotope B}} \leq 1$$

Historical Note

New Article 3, Exhibit A recodified from 12 A.A.C. 1, Article 3, Exhibit A, effective March 22, 2018 (Supp. 18-1).

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit B. Exempt Quantities

<u>Material</u>	<u>Microcuries</u>	<u>Material</u>	<u>Microcuries</u>
Antimony-122 (Sb-122)	100	Indium-113m (In-113m)	100
Antimony-124 (Sb-124)	10	Indium-114m (In-114m)	10
Antimony-125 (Sb-125)	10	Indium-115m (In-115m)	100
Arsenic-73 (As-73)	100	Indium-115 (In-115)	10
Arsenic-74 (As-74)	10	Iodine-123 (I-123)	100
Arsenic-76 (As-76)	10	Iodine-125 (I-125)	1
Arsenic-77 (As-77)	100	Iodine-126 (I-126)	1
Barium-131 (Ba-131)	10	Iodine-129 (I-129)	0.1
Barium-133 (Ba-133)	10	Iodine-131 (I-131)	1
Barium-140 (Ba-140)	10	Iodine-132 (I-132)	10
Bismuth-210 (Bi-210)	1	Iodine-133 (I-133)	1
Bromine-82 (Br-82)	10	Iodine-134 (I-134)	10
Cadmium-109 (Cd-109)	10	Iodine-135 (I-135)	10
Cadmium-115m (Cd-115m)	10	Iridium-192 (Ir-192)	10
Cadmium-115 (Cd-115)	100	Iridium-194 (Ir-194)	100
Calcium-45 (Ca-45)	10	Iron-52 (Fe-52)	10
Calcium-47 (Ca-47)	10	Iron-55 (Fe-55)	100
Carbon-14 (C-14)	100	Iron-59 (Fe-59)	10
Cerium-141 (Ce-141)	100	Krypton-85 (Kr-85)	100
Cerium-143 (Ce-143)	100	Krypton-87 (Kr-87)	10
Cerium-144 (Ce-144)	1	Lanthanum-140 (La-140)	10
Cesium-129 (Cs-129)	100	Lutetium-177 (Lu-177)	100
Cesium-131 (Cs-131)	1,000	Manganese-52 (Mn-52)	10
Cesium-134m (Cs-134m)	100	Manganese-54 (Mn-54)	10
Cesium-134 (Cs-134)	1	Manganese-56 (Mn-56)	10
Cesium-135 (Cs-135)	10	Mercury-197m (Hg-197m)	100
Cesium-136 (Cs-136)	10	Mercury-197 (Hg-197)	100
Cesium-137 (Cs-137)	10	Mercury-203 (Hg-203)	10
Chlorine-36 (Cl-36)	10	Molybdenum-99 (Mo-99)	100
Chlorine-38 (Cl-38)	10	Neodymium-147 (Nd-147)	100
Chromium-51 (Cr-51)	1,000	Neodymium-149 (Nd-149)	100
Cobalt-57 (Co-57)	100	Nickel-59 (Ni-59)	100
Cobalt-58m (Co-58m)	10	Nickel-63 (Ni-63)	10
Cobalt-58 (Co-58)	10	Nickel-65 (Ni-65)	100
Cobalt-60 (Co-60)	1	Niobium-93m (Nb-93m)	10
Copper-64 (Cu-64)	100	Niobium-95 (Nb-95)	10
Dysprosium-165 (Dy-165)	10	Niobium-97 (Nb-97)	10
Dysprosium-166 (Dy-166)	100	Osmium-185 (Os-185)	10
Erbium-169 (Er-169)	100	Osmium-191m (Os-191m)	100
Erbium-171 (Er-171)	100	Osmium-191 (Os-191)	100
Europium-152 (Eu-152) (9.2 h)	100	Osmium-193 (Os-193)	100
Europium-152 (Eu-152) (13 yr)	1	Palladium-103 (Pd-103)	100
Europium-154 (Eu-154)	1	Palladium-109 (Pd-109)	100
Europium-155 (Eu-155)	10	Phosphorus-32 (P-32)	10
Fluorine-18 (F-18)	1,000	Platinum-191 (Pt-191)	100
Gadolinium-153 (Gd-153)	10	Platinum-193m (Pt-193m)	100
Gadolinium-159 (Gd-159)	100	Platinum-193 (Pt-193)	100
Gallium-67 (Ga-67)	100	Platinum-197m (Pt-197m)	100
Gallium-72 (Ga-72)	10	Platinum-197 (Pt-197)	100
Germanium-68 (Ge-68)	10	Polonium-210 (Po-210)	0.1
Germanium-71 (Ge-71)	100	Potassium-42 (K-42)	10
Gold-195 (Au-195)	10	Potassium-43 (K-43)	10
Gold-198 (Au-198)	100	Praseodymium-142 (Pr-142)	100
Gold-199 (Au-199)	100	Praseodymium-143 (Pr-143)	100
Hafnium-181 (Hf-181)	10	Promethium-147 (Pm-147)	10
Holmium-166 (Ho-166)	100	Promethium-149 (Pm-149)	10
Hydrogen-3 (H-3)	1,000	Rhenium-186 (Re-186)	100
Indium-111 (In-111)	100	Rhenium-188 (Re-188)	100

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit B. Exempt Quantities (Continued)

<u>Material</u>	<u>Microcuries</u>	<u>Material</u>	<u>Microcuries</u>
Rhodium-103m (Rh-103m)	100	Tellurium-129m (Te-129m)	10
Rhodium-105 (Rh-105)	100	Tellurium-129 (Te-129)	100
Rubidium-81 (Rb-81)	10	Tellurium-131m (Te-131m)	10
Rubidium-86 (Rb-86)	10	Tellurium-132 (Te-132)	10
Rubidium-87 (Rb-87)	10	Terbium-160 (Tb-160)	10
Ruthenium-97 (Ru-97)	100	Thallium-200 (Tl-200)	100
Ruthenium-103 (Ru-103)	10	Thallium-201 (Tl-201)	100
Ruthenium-105 (Ru-105)	10	Thallium-202 (Tl-202)	100
Ruthenium-106 (Ru-106)	1	Thallium-204 (Tl-204)	10
Samarium-151 (Sm-151)	10	Thulium-170 (Tm-170)	10
Samarium-153 (Sm-153)	100	Thulium-171 (Tm-171)	10
Scandium-46 (Sc-46)	10	Tin-113 (Sn-113)	10
Scandium-47 (Sc-47)	100	Tin-125 (Sn-125)	10
Scandium-48 (Sc-48)	10	Tungsten-181 (W-181)	10
Selenium-75 (Se-75)	10	Tungsten-185 (W-185)	10
Silicon-31 (Si-31)	100	Tungsten-187 (W-187)	100
Silver-105 (Ag-105)	10	Vanadium-43 (V-43)	10
Silver-110m (Ag-110m)	1	Xenon-131m (Xe-131m)	1,000
Silver-111 (Ag-111)	100	Xenon-133 (Xe-133)	100
Sodium-22 (Na-22)	10	Xenon-135 (Xe-135)	100
Sodium-24 (Na-24)	10	Ytterbium-175 (Yb-175)	100
Strontium-85 (Sr-85)	10	Yttrium-87 (Y-87)	10
Strontium-89 (Sr-89)	1	Yttrium-88 (Y-88)	10
Strontium-90 (Sr-90)	0.1	Yttrium-90 (Y-90)	10
Strontium-91 (Sr-91)	10	Yttrium-91 (Y-91)	10
Strontium-92 (Sr-92)	10	Yttrium-92 (Y-92)	100
Sulfur-35 (S-35)	100	Yttrium-93 (Y-93)	100
Tantalum-182 (Ta-182)	10	Zinc-65 (Zn-65)	10
Technetium-96 (Tc-96)	10	Zinc-69m (Zn-69m)	100
Technetium-97m (Tc-97m)	100	Zinc-69 (Zn-69)	1,000
Technetium-97 (Tc-97)	100	Zirconium-93 (Zr-93)	10
Technetium-99m (Tc-99m)	100	Zirconium-95 (Zr-95)	10
Technetium-99 (Tc-99)	10	Zirconium-97 (Zr-97)	10
Tellurium-125m (Te-125m)	10	Any radionuclide material not	
Tellurium-127m (Te-127m)	10	listed above other than alpha-	
Tellurium-127 (Te-127)	100	emitting radioactive material	0.1

Historical Note

New Article 3, Exhibit B recodified from 12 A.A.C. 1, Article 3, Exhibit B, effective March 22, 2018 (Supp. 18-1).

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit C. Limits for Class B and C Broad Scope Licenses (R9-7-310)

Radioactive Material	Col. I curies	Col. II curies	Radioactive Material	Col. I curies	Col. II curies
Antimony-122	1	0.01	Iodine-134	10	0.1
Antimony-124	1	0.01	Iodine-135	1	0.1
Antimony-125	1	0.01	Iridium-192	1	0.1
Arsenic-73	10	0.1	Iridium-194	10	0.1
Arsenic-74	1	0.01	Iron-55	10	0.1
Arsenic-76	1	0.01	Iron-59	1	0.1
Arsenic-77	10	0.1	Krypton-85	100	1.
Barium-131	10	0.1	Krypton-87	10	0.1
Barium-140	1	0.01	Lanthanum-140	1	0.1
Beryllium-7	10	0.1	Lutetium-177	10	0.1
Bismuth-210	0.1	0.001	Manganese-52	1	0.1
Bromine-82	10	0.1	Manganese-54	1	0.1
Cadmium-109	1	0.01	Manganese-56	10	0.1
Cadmium-115m	1	0.01	Mercury-197m	10	0.1
Cadmium-115	10	0.1	Mercury-197	10	0.1
Calcium-45	1	0.01	Mercury-203	1	0.1
Calcium-47	10	0.1	Molybdenum-99	10	0.1
Carbon-14	100	1.	Neodymium-147	10	0.1
Cerium-141	10	0.1	Neodymium-149	10	0.1
Cerium-143	10	0.1	Nickel-59	10	0.1
Cerium-144	0.1	0.001	Nickel-63	1	0.1
Cesium-131	100	1.	Nickel-65	10	0.1
Cesium-134m	100	1.	Niobium-93m	1	0.1
Cesium-134	0.1	0.001	Niobium-95	1	0.1
Cesium-135	1	0.01	Niobium-97	100	1.
Cesium-136	10	0.1	Osmium-185	1	0.1
Cesium-137	0.1	0.001	Osmium-191m	100	1.
Chlorine-36	1	0.01	Osmium-191	10	0.1
Chlorine-38	100	1.	Osmium-193	10	0.1
Chromium-51	100	1.	Palladium-103	10	0.1
Cobalt-57	10	0.1	Palladium-109	10	0.1
Cobalt-58m	100	1.	Phosphorus-32	1	0.01
Cobalt-58	1	0.01	Platinum-191	10	0.1
Cobalt-60	0.1	0.001	Platinum-193m	100	1.
Copper-64	10	0.1	Platinum-193	10	0.1
Dysprosium-165	100	1.	Platinum-197m	100	1.
Dysprosium-166	10	0.1	Platinum-197	10	0.1
Erbium-169	10	0.1	Polonium-210	0.01	0.0001
Erbium-171	10	0.1	Potassium-42	1	0.01
Europium-152 (9.2 h)	10	0.1	Praseodymium-142	10	0.1
Europium-152 (13 yr)	0.1	0.001	Praseodymium-143	10	0.1
Europium-154	0.1	0.001	Promethium-147	1	0.01
Europium-155	1	0.01	Promethium-149	10	0.1
Fluorine-18	100	1.	Radium-226	0.01	0.0001
Gadolinium-153	1	0.1	Rhenium-186	10	0.1
Gadolinium-159	10	0.1	Rhenium-188	10	0.1
Gallium-72	10	0.1	Rhodium-103m	1,000	10
Germanium-71	100	1.	Rhodium-105	10	0.1
Gold-198	10	0.1	Rubidium-86	1	0.01
Gold-199	10	0.1	Rubidium-87	1	0.01
Hafnium-181	1	0.1	Ruthenium-97	100	1.
Holmium-166	10	0.1	Ruthenium-103	1	0.01
Hydrogen-3	100	1.	Ruthenium-105	10	0.1
Indium-113m	100	1.	Ruthenium-106	0.1	0.001
Indium-114m	1	0.1	Samarium-151	1	0.01
Indium-115m	100	1.	Samarium-153	10	0.1
Indium-115	1	0.1	Scandium-46	1	0.01
Iodine-125	0.1	0.001	Scandium-47	10	0.1
Iodine-126	0.1	0.001	Scandium-48	1	0.01
Iodine-129	0.1	0.001	Selenium-75	1	0.01
Iodine-131	0.1	0.001	Silicon-31	10	0.1
Iodine-132	10	0.1	Silver-105	1	0.01
Iodine-133	1	0.1	Silver-110m	0.1	0.001

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit C. Limits for Class B and C Broad Scope Licenses (R9-7-310) (Continued)

Radioactive Material	Col. I curies	Col. II curies	Radioactive Material	Col. I curies	Col. II curies
Silver-111	10	0.1	Thulium-170	1	0.01
Sodium-22	0.1	0.001	Thulium-171	1	0.01
Sodium-24	1	0.01	Tin-113	1	0.01
Strontium-85	1,000	10	Tin-125	1	0.01
Strontium-85	1	0.01	Tungsten-181	1	0.01
Strontium-89	1	0.01	Tungsten-185	1	0.01
Strontium-90	0.01	0.0001	Tungsten-197	10	0.1
Strontium-91	10	0.1	Vanadium-43	1	0.01
Strontium-92	10	0.1	Xenon-131m	1,000	10
Sulfur-35	100	0.1	Xenon-133	100	1.
Tantalum-182	1	0.01	Xenon-135	100	1.
Technetium-96	10	0.1	Ytterbium-175	10	0.1
Technetium-97m	10	0.1	Yttrium-90	1	0.01
Technetium-97	10	0.1	Yttrium-91	1	0.01
Technetium-99m	100	1.	Yttrium-92	10	0.1
Technetium-99	1	0.01	Yttrium-93	1	0.01
Tellurium-125m	1	0.01	Zinc-65	1	0.01
Tellurium-127m	1	0.01	Zinc-69m	10	0.1
Tellurium-127	10	0.1	Zinc-69	100	1.
Tellurium-129m	1	0.01	Zirconium-93	1	0.01
Tellurium-129	100	1.	Zirconium-95	1	0.01
Tellurium-131m	10	0.1	Zirconium-97	1	0.01
Tellurium-132	1	0.01	Any radioactive material other than source material, special nuclear material, or alpha emitting radioactive material not listed above.	0.1	0.001
Terbium-160	1	0.01			
Thallium-200	10	0.1			
Thallium-201	10	0.1			
Thallium-202	10	0.1			
Thallium-204	1	0.01			

Historical Note

New Article 3, Exhibit C recodified from 12 A.A.C. 1, Article 3, Exhibit C, effective March 22, 2018 (Supp. 18-1).

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Exhibit D. Radioactive Material Quantities Requiring Consideration for an Emergency Plan (R9-7-322)

<u>Radioactive Material</u>	<u>Release Fraction</u>	<u>Quantity (Ci)</u>	<u>Radioactive Material</u>	<u>Release Fraction</u>	<u>Quantity (Ci)</u>
Actinium-228	0.001	4,000	Polonium-210	.01	10
Americium-241	.001	2	Potassium-42	.01	9,000
Americium-242	.001	2	Promethium-145	.01	4,000
Americium-243	.001	2	Promethium-147	.01	4,000
Antimony-124	.01	4,000	Radium-226	.001	100
Antimony-126	.01	6,000	Ruthenium-106	.01	200
Barium-133	.01	10,000	Samarium-151	.01	4,000
Barium-140	.01	30,000	Scandium-46	.01	3,000
Bismuth-207	.01	5,000	Selenium-75	.01	10,000
Bismuth-210	.01	600	Silver-110m	.01	1,000
Cadmium-109	.01	1,000	Sodium-22	.01	9,000
Cadmium-113	.01	80	Sodium-24	.01	10,000
Calcium-45	.01	20,000	Strontium-89	.01	3,000
Californium-252	.001	9 (20 mg)	Strontium-90	.01	90
Carbon-14 (Non CO)	.01	50,000	Sulfur-35	.5	900
Cerium-141	.01	10,000	Technetium-99	.01	10,000
Cerium-144	.01	300	Technetium-99m	.01	400,000
Cesium-134	.01	2,000	Tellurium-127m	.01	5,000
Cesium-137	.01	3,000	Tellurium-129m	.01	5,000
Chlorine-36	.5	100	Terbium-160	.01	4,000
Chromium-51	.01	300,000	Thulium-170	.01	4,000
Cobalt-60	.001	5,000	Tin-113	.01	10,000
Copper-64	.01	200,000	Tin-123	.01	3,000
Curium-242	.001	60	Tin-126	.01	1,000
Curium-243	.001	3	Titanium-44	.01	100
Curium-244	.001	4	Vanadium-48	.01	7,000
Curium-245	.001	2	Xenon-133	1.0	900,000
Europium-152	.01	500	Yttrium-91	.01	2,000
Europium-154	.01	400	Zinc-65	.01	5,000
Europium-155	.01	3,000	Zirconium-93	.01	400
Gadolinium-153	.01	5,000	Zirconium-95	.01	5,000
Germanium-68	.01	2,000	Any other beta-gamma emitter	.01	10,000
Gold-198	.01	30,000	Mixed fission products	.01	1,000
Hafnium-172	.01	400	Mixed corrosion products	.01	10,000
Hafnium-181	.01	7,000	Contaminated equipment		
Holmium-166m	.01	100	beta-gamma	.001	10,000
Hydrogen-3	.5	20,000	Irradiated material, any form		
Indium-114m	.01	1,000	other than solid non-		
Iodine-125	.5	10	combustible	.01	1,000
Iodine-131	.5	10	Irradiated material, solid non-		
Iridium-192	.001	40,000	combustible	.001	10,000
Iron-55	.01	40,000	Mixed radioactive waste,		
Iron-59	.01	7,000	beta-gamma	.01	1,000
Krypton-85	1.0	6,000,000	Packaged mixed waste, beta gamma	.001	10,000
Lead-210	.01	8	Any other alpha emitter	.001	2
Manganese-56	.01	60,000	Contaminated equipment, alpha	.0001	20
Mercury-203	.01	10,000	Packaged waste, alpha	.0001	20
Molybdenum-99	.01	30,000	Combinations of radioactive materials listed above:		
Neptunium-237	.001	2	For combinations of radioactive materials, consideration of the		
Nickel-63	.01	20,000	need for an emergency plan is required if the sum of the ratios		
Niobium-94	.01	300	of the quantity of each radioactive material authorized to the		
Phosphorus-32	.5	100	quantity listed for that material in Exhibit D exceeds 1.		
Phosphorus-33	.5	1,000	NOTE: Waste packaged in Type B containers does not require an		
			emergency plan.		

Historical Note

New Article 3, Exhibit D recodified from 12 A.A.C. 1, Article 3, Exhibit D, effective March 22, 2018 (Supp. 18-1).

Exhibit E. Application Information**1. Radioactive Material (RAM) Specific License Application Information**

An applicant shall provide the following information in a specific license application before a license is issued to the applicant. The Department shall provide an application form to an applicant with a

guide, when possible, to ensure that correct information is provided in the application:

Name and mailing address of applicant	Use location
Contact person	Telephone number
Users of RAM	Training of users

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Radiation Safety Officer identity (RSO)	Duties of RSO
Description of RAM and uses	Description of radiation detection/measurement instruments and their calibration
Personnel monitoring	Bioassay program
Facility description	Survey program
Leak test program	Records management program
Instruction to personnel	Waste disposal program
Emergency procedures	Procedures for ordering, receiving, and opening packages
Description of animal use	Licensing fee provided with application
Copy of letter-of-intent programs	Description of ALARA and quality management to local governing body
Description of transportation procedures	Certifying signature
Legal structure of licensee's operation	
Other licensing requirements listed in: R9-7-310, R9-7-311, R9-7-312, R9-7-511, R9-7-703, and R9-7-1721	
2. Radioactive Material (RAM) General License Application Information	
An applicant shall provide the following information on a registration certificate. The certificate will be validated and returned to the applicant if the information provided is complete.	
Name and address	Telephone number
Where will the radioactive material be used	Address of use location
Description of radioactive material use	Date
Authorizing signature and printed name	Position of person signing the form

Historical Note

New Article 3, Exhibit E recodified from 12 A.A.C. 1, Article 3, Exhibit E, effective March 22, 2018 (Supp. 18-1).

ARTICLE 4. STANDARDS FOR PROTECTION AGAINST IONIZING RADIATION**R9-7-401. Purpose**

- A. Article 4 establishes standards for protection against ionizing radiation resulting from activities conducted according to licenses or registrations issued by the Department. These rules are issued according to A.R.S. Title 30, Chapter 4, as amended.
- B. The requirements of Article 4 are designed to control the receipt, possession, use, transfer, and disposal of sources of

radiation by any licensee or registrant so the total dose equivalent to an individual, including radiation exposure resulting from all sources of radiation other than radiation prescribed by a physician in the practice of medicine, radiation received while voluntarily participating in a medical research program, and background radiation, does not exceed the standards for protection against radiation prescribed in this Article. However, this Article does not limit actions that may be necessary to protect health and safety.

Historical Note

New Section R9-7-401 recodified from R12-1-401, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-402. Scope

Except as specifically provided in other Articles, Article 4 applies to persons licensed or registered by the Department to receive, possess, use, transfer, or dispose of sources of ionizing radiation.

Historical Note

New Section R9-7-402 recodified from R12-1-402, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-403. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

“Air-purifying respirator” means respiratory protective equipment with an air-purifying filter, cartridge, or canister that removes specific air contaminants by passing ambient air through the air-purifying element.

“ALI” means annual limit on intake, the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the Reference Man that would result in a committed effective dose equivalent of 0.05 Sv (5 rem) or a committed dose equivalent of 0.5 Sv (50 rem) to any individual organ or tissue. ALI values for intake by ingestion and by inhalation of selected radionuclides are given in Appendix B, Table I, Columns 1 and 2.

“Assigned protection factor” or “APF” means the expected workplace level of respirator protection that would be provided by a properly functioning respirator or a class of respirators to properly fitted and trained users. Operationally, the inhaled concentration can be estimated by dividing the ambient airborne concentration by the APF.

“Atmosphere-supplying respirator” means respiratory protective equipment that supplies the equipment user with breathing air from a source independent of the ambient atmosphere, and includes supplied-air respirators (SARs) and self-contained breathing apparatus (SCBA) units.

“Class” means a classification scheme for inhaled material according to the material’s rate of clearance from the lung. Materials are classified as D, W, or Y, which applies to a range of clearance half-times: for Class D, days, of less than 10 days, for Class W, weeks, from 10 to 100 days, and for Class Y, years, of greater than 100 days (see Introduction, Appendix B). For purposes of these rules, “lung class” and “inhalation class” are equivalent terms.

“Constraint” or “dose constraint” means a value above which specified licensee or registrant actions are required.

“Critical group” means the group of individuals reasonably expected to receive the greatest exposure to residual radioactivity for any applicable set of circumstances.

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“DAC” means derived air concentration, the concentration of a given radionuclide in air which, if breathed by Reference Man for a working year of 2,000 hours under conditions of light work, results in an intake of one ALI. For purposes of these rules, the condition of light work is an inhalation rate of 1.2 cubic meters of air per hour for 2,000 hours in a year. DAC values are given in Appendix B, Table I, Column 3.

“DAC-hour” means derived air concentration-hour, the product of the concentration of radioactive material in air, expressed as a fraction or multiple of the derived air concentration for each radionuclide, and the time of exposure to that radionuclide, in hours. A licensee or registrant may take 2,000 DAC-hours to represent one ALI, equivalent to a committed effective dose equivalent of 0.05 Sv (5 rem).

“Declared pregnant woman” means a woman who has voluntarily informed the licensee or registrant in writing of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

“Decommission” means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits release of the property for unrestricted use and termination of the license or release of the property under restricted conditions and the termination of the license.

“Demand respirator” means an atmosphere-supplying respiratory protective equipment that admits breathing air to the face piece only when a negative pressure is created inside the face piece by inhalation.

“Deterministic effect” (See “Nonstochastic effect”)

“Disposable respirator” means respiratory protective equipment for which maintenance is not intended and that is designed to be discarded after excessive breathing resistance, sorbent depletion, physical damage, or end-of-service-life renders it unsuitable for use. Examples of this type of device include a disposable half-mask respirator or a disposable, escape-only, self-contained breathing apparatus (SCBA).

“Distinguishable from background” means that the detectable concentration of a radionuclide is statistically greater than the background concentration of that radionuclide in the vicinity of a site or, in the case of structures, in similar materials using accepted measurement, survey, and statistical techniques.

“Dosimetry processor” means an individual or an organization that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to the monitoring devices.

“Filtering face piece (dust mask)” means a particulate respirator that operates under a negative pressure with a filter as an integral part of the face piece or with the entire face piece composed of the filtering medium, not equipped with elastomeric sealing surfaces and adjustable straps.

“Fit factor” means a quantitative estimate of the fit of a particular respirator to a specific individual, and typically estimates the ratio of the concentration of a substance in ambient air to its concentration inside the respirator when worn.

“Fit test” means the use of protocol to qualitatively or quantitatively evaluate the fit of a respirator on an individual.

“Helmet” means a rigid respiratory inlet covering that also provides head protection against impact and penetration.

“Hood” means a respiratory inlet covering that completely covers the head, neck, and may also cover portions of the shoulders and torso.

“Inhalation class” (See “Class”)

“Loose-fitting face piece” means a respiratory inlet covering that is designed to form a partial seal with the face.

“Lung class” (See “Class”)

“Nationally tracked source” means a sealed source that contains a quantity equal to or greater than Category 1 or Category 2 levels of radioactive material listed in 10 CFR 20, Appendix E, revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. In this context sealed source does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, sub-assembly, fuel rod, or fuel pellet.

“Negative pressure respirator (tight fitting)” means respiratory protective equipment in which the air pressure inside the face piece is negative during inhalation with respect to the ambient air pressure outside the respirator.

“Nonstochastic effect” means a health effect, the severity of which varies with the dose and for which a threshold is believed to exist. Radiation-induced cataract formation is an example of a nonstochastic effect. For purposes of these rules, “deterministic effect” is an equivalent term and “threshold” means that which if not exceeded, poses no risk or likelihood of an effect to occur.

“Planned special exposure” means an infrequent exposure to radiation received while employed, but separate from and in addition to the annual occupational dose limits.

“Positive pressure respirator” means respiratory protective equipment in which the pressure inside the respiratory inlet covering exceeds the ambient air pressure outside the respirator.

“Powered air-purifying respirator” or “PAPR” means an air-purifying respirator that uses a blower to force the ambient air through air-purifying elements to the inlet covering.

“Pressure demand respirator” means a positive pressure, atmosphere-supplying respirator that admits breathing air to the face piece when the positive pressure is reduced inside the face piece by inhalation.

“Probabilistic effect” (See “Stochastic effect”)

“Qualitative fit test” or “QLFT” means a pass or fail fit test to assess the adequacy of respirator fit that relies on the individual’s response to the test agent.

“Quantitative fit test” or “QNFT” means an assessment of the adequacy of respirator fit by numerically measuring the amount of leakage into the respirator.

“Reference Man” means a hypothetical aggregation of human physical and physiological characteristics determined by international consensus. These characteristics may be used by researchers and public health workers to standardize results of experiments and to relate biological insult to a common base. A description of Reference Man is contained in the International Commission on Radiological Protection report, ICRP Publication 23, “Report of the Task Group on Reference Man,” published in 1975 by Pergamon Press, incorporated by reference and on file with the Department and the Office of

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the Secretary of State. This incorporation by reference contains no future editions or amendments.

“Residual radioactivity” means radioactivity in structures, materials, soils, groundwater, or other media at a site, resulting from activities under a licensee’s control. This includes radioactivity from all licensed and unlicensed sources used by the licensee, but excludes background radiation. It also includes radioactive materials that remain at the site because of routine or accidental release of radioactive material at the site or a previous burial at the site, even if the licensee complied with reagent provisions of 9 A.A.C. 7.

“Respiratory protective equipment” means an apparatus, such as a respirator, used to reduce an individual’s intake of airborne radioactive materials.

“Sanitary sewerage” means a system of public sewers for carrying off waste water and refuse, but excluding sewage treatment facilities, septic tanks, and leach fields owned or operated by the licensee or registrant.

“Self-contained breathing apparatus” or “SCBA” means an atmosphere-supplying respirator for which the breathing air source is designed to be carried by the user.

“Stochastic effect” means a health effect that occurs randomly and for which the probability of the effect occurring, rather than its severity, is assumed to be a linear function of dose without a threshold. Hereditary effects and cancer incidence are examples of stochastic effects. For purposes of these rules, “probabilistic effect” is an equivalent term.

“Supplied-air respirator” or “SAR” or “airline respirator” means an atmosphere-supplying respirator for which the source of breathing air is not designed to be carried by the user.

“Tight-fitting face piece” means a respiratory inlet covering that forms a complete seal with the face.

“User seal check” or “fit check” means an action conducted by the respirator user to determine if the respirator is properly seated to the face. Examples include negative pressure check, positive pressure check, irritant smoke check, or isoamyl acetate check.

“Very-high radiation area” means an area, accessible to individuals, in which radiation levels from radiation sources external to an individual’s body could result in the individual receiving an absorbed dose in excess of 5 Gy (500 rad) in one hour at one meter from a radiation source or one meter from any surface that the radiation penetrates. (At very high doses received at high dose rates, units of absorbed dose, the gray and rad should be used, rather than units of dose equivalent, the sievert and rem).

“Weighting factor” w_T for an organ or tissue (T) means the proportion of the risk of stochastic effects resulting from irradiation of that organ or tissue to the total risk of stochastic effects when the whole body is irradiated uniformly. For calculating the effective dose equivalent, the values of w_T are:

ORGAN DOSE WEIGHTING FACTORS	
Organ or Tissue	w_T
Gonads	0.25
Breast	0.15
Red bone marrow	0.12
Lung	0.12

Thyroid	0.03
Bone surfaces	0.03
Remainder	0.30 ^a
Whole Body	1.00 ^b

^a 0.30 results from 0.06 for each of five “remainder” organs, excluding the skin and the lens of the eye, that receive the highest doses.

^b For the purpose of weighting the external whole body dose, for adding it to the internal dose, a single weighting factor, $w_T = 1.0$, has been specified. The use of other weighting factors for external exposure will be approved by the Department on a case-by-case basis.

Historical Note

New Section R9-7-403 recodified from R12-1-403, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-404. Units and Quantities

- A. Each licensee or registrant shall use the Standard International (SI) units becquerel, gray, sievert, and coulomb per kilogram, or the special units curie, rad, rem, and roentgen, including multiples and subdivisions, and shall clearly indicate the units of all quantities on records required by this Article.
- B. The licensee or registrant shall make a clear distinction among the quantities entered on the records required by this Article, such as, total effective dose equivalent, total organ dose equivalent, shallow dose equivalent, lens dose equivalent, deep dose equivalent, or committed effective dose equivalent.

Historical Note

New Section R9-7-404 recodified from R12-1-404, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-405. Form of Records

- A. A licensee or registrant shall ensure that each record required by this Article is legible throughout the specified retention period. The record shall be the original, a reproduced copy, or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. As an alternative the record may be stored in electronic media capable of producing legible records during the required retention period. Records, such as letters, drawings, and specifications, shall include all pertinent information, such as stamps, initials, and signatures. A licensee or registrant shall maintain adequate safeguards against tampering with and loss of records.
- B. In the records required by this Article, a licensee or registrant may record quantities in SI units in parentheses following each of the required units, curie, rad, and rem, and include multiples and subdivisions.
- C. Notwithstanding subsection (B), the licensee or registrant shall ensure that information is recorded in the International System of Units (SI) or in SI and the units specified in subsection (B) on each shipment manifest as required in R9-7-439(A).
- D. A licensee or registrant shall make a clear distinction among the quantities entered on the records required by this Section (e.g., total effective dose equivalent, shallow-dose equivalent, lens dose equivalent, deep-dose equivalent, committed effective dose equivalent).

Historical Note

New Section R9-7-405 recodified from R12-1-405, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-406. Implementation

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Any existing license or registration condition that is more restrictive than this Article remains in force until amendment or renewal of the license or registration.

Historical Note

New Section R9-7-406 recodified from R12-1-406, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-407. Radiation Protection Programs

- A. Each licensee or registrant shall develop, document, and implement a radiation protection program sufficient to ensure compliance with the provisions of Article 4.
- B. The licensee or registrant shall use, to the extent practical, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and public doses that are as low as is reasonably achievable (ALARA).
- C. The licensee or registrant shall, at intervals not to exceed 12 months, review the radiation protection program content and implementation.
- D. To implement the ALARA requirements in subsection (B), and notwithstanding the requirements in R9-7-416, each licensee or registrant governed by 9 A.A.C. 7, Article 3 shall limit air emissions of radioactive material to the environment so that individual members of the public likely to receive the highest dose will not receive a total effective dose equivalent in excess of 0.1mSv (10 mrem) per year from the emissions. If a licensee or registrant subject to this requirement exceeds this limit, the licensee or registrant shall report the incident to the Department, in accordance with R9-7-444, and take prompt corrective action to prevent additional violations.
- E. Records.
 1. Each licensee or registrant shall maintain records of the radiation protection program, including:
 - a. The provisions of the program; and
 - b. Audits and other reviews of program content and implementation.
 2. A licensee or registrant shall retain the records required by subsection (E)(1)(a) for three years after the termination of the license or registration. The licensee or registrant shall retain the records required by subsection (E)(1)(b) for three years after the record is made.
 3. The following licensees and registrants are exempt from the record requirements contained in this subsection:
 - a. B6-General Medical,
 - b. C9-Gas Chromatograph,
 - c. C10-General Industrial,
 - d. D15-Possession Only,
 - e. E2-X-ray Machine class B, and
 - f. E3-X-ray Machine class C.

Historical Note

New Section R9-7-407 recodified from R12-1-407, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-408. Occupational Dose Limits for Adults

- A. Each licensee or registrant shall control the occupational dose to individual adults, except for planned special exposures required in R9-7-413, to the following dose limits:
 1. An annual limit, which is the more limiting of:
 - a. The total effective dose equivalent being equal to 0.05 Sv (5 rem); or
 - b. The sum of the deep-dose equivalent and the committed dose equivalent to any individual organ or tissue other than the lens of the eye being equal to 0.5 Sv (50 rem).
 2. The annual limits to the lens of the eye, to the skin, and to the extremities which are:
 - a. A lens dose equivalent of 0.15 Sv (15 rem), and

- b. A shallow dose equivalent of 0.5 Sv (50 rem) to the skin of the whole body or to the skin of any extremity.
- B. Doses received in excess of the annual limits, including doses received during accidents, emergencies, and planned special exposures, shall be subtracted from the limits for planned special exposures that the individual may receive during the current year and during the individual's lifetime. See R9-7-413.
- C. The assigned deep-dose equivalent and shallow-dose equivalent are, for the portion of the body receiving the highest exposure, determined as follows:
 1. The deep-dose equivalent, lens dose equivalent, and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable.
 2. If a protective apron is worn and monitoring is conducted as specified in R9-7-419(B), the effective dose equivalent for external radiation shall be determined as follows:
 - a. If only one individual monitoring device is used and it is located at the neck outside the protective apron, and the reported dose exceeds 25% of the limit specified in subsection (A), the reported deep-dose equivalent value multiplied by 0.3 is the effective dose equivalent for external radiation; or
 - b. When individual monitoring devices are worn, both under the protective apron at the waist and outside the protective apron at the neck, the effective dose equivalent for external radiation is assigned the value of the sum of the deep-dose equivalent reported for the individual monitoring device located at the waist under the protective apron multiplied by 1.5 and the deep-dose equivalent reported for the individual monitoring device located at the neck outside the protective apron multiplied by 0.04.
 3. When the external exposure is determined by measurement with an external personal monitoring device, the deep-dose equivalent must be used in place of the effective dose equivalent, unless the effective dose equivalent is determined by a dosimetry method approved by the Department. The assigned deep-dose equivalent shall be determined for the part of the body that receives the highest exposure. The assigned shallow-dose equivalent is the dose averaged over the contiguous 10 square centimeters of skin that receives the highest exposure. The deep-dose equivalent, lens-dose equivalent, and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable.
- D. Derived air concentration (DAC) and annual limit on intake (ALI) values are presented in Table I of Appendix B and may be used to determine the individual's dose and to demonstrate compliance with the occupational dose limits.
- E. Notwithstanding the annual dose limits, the licensee shall limit the soluble Uranium intake by an individual to 10 milligrams in a week in consideration of chemical toxicity. See footnote 3 of Appendix B.
- F. The licensee or registrant shall reduce the dose that an individual may receive in the current year by the amount of occupational dose received while employed occupationally as a radiation worker by all previous employers. See R9-7-412.

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Historical Note

New Section R9-7-408 recodified from R12-1-408, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-409. Summation of External and Internal Doses

- A.** If a licensee or registrant is required to monitor according to both R9-7-419(B) and (C), the licensee or registrant shall add external and internal doses, and use the sum to demonstrate compliance with dose limits. If the licensee or registrant is required to monitor only according to R9-7-419(B) or only according to R9-7-419(C), summation is not required to demonstrate compliance with dose limits. The licensee or registrant may demonstrate compliance with the requirements for summation of external and internal doses according to subsections (B), (C), and (D). The dose equivalents for the lens of the eye, the skin, and the extremities are not included in the summation but are subject to separate limits (See R9-7-408(A)(2)).
- B.** If the only intake of radionuclides is by inhalation, the total effective dose equivalent limit is not exceeded if the sum of the deep-dose equivalent divided by the total effective dose equivalent limit, and one of the following, does not exceed unity (1):
1. The sum of the fractions of the inhalation ALI for each radionuclide, or
 2. The total number of derived air concentration-hours (DAC-hours) for all radionuclides divided by 2,000, or
 3. The sum of the calculated committed effective dose equivalents to all significantly irradiated organs or tissues (T) calculated from bioassay data using applicable biological models and expressed as a fraction of the annual limit. For purposes of this requirement, an organ or tissue is deemed to be significantly irradiated if, for that organ or tissue, the product of the weighting factors, W_T , and the committed dose equivalent, $H_{T,50}$, per unit intake is greater than 10% of the maximum weighted value of $H_{T,50}$, that is, $W_T H_{T,50}$, per unit intake for any organ or tissue.
- C.** If the occupationally exposed individual also receives an intake of radionuclides by oral ingestion greater than 10% of the applicable oral ALI, the licensee or registrant shall account for this intake and include it in demonstrating compliance with the limits.
- D.** The licensee or registrant shall evaluate and, to the extent practical, account for intakes through wounds or skin absorption. The intake through intact skin has been included in the calculation of DAC for Hydrogen-3 and does not need to be evaluated or accounted for according to this subsection.

Historical Note

New Section R9-7-409 recodified from R12-1-409, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-410. Determination of External Dose from Airborne Radioactive Material

- A.** Each licensee shall, when determining the dose from airborne radioactive material, include the contribution to the deep-dose equivalent, lens dose equivalent, and shallow dose equivalent from external exposure to the radioactive cloud. See Appendix B, footnotes 1 and 2.
- B.** Airborne radioactivity measurements and DAC values shall not be used as the primary means to assess the deep-dose equivalent when the airborne radioactive material includes radionuclides other than noble gases or if the cloud of airborne radioactive material is not relatively uniform. The determination of the deep-dose equivalent to an individual shall be based

upon measurements using instruments or individual monitoring devices.

Historical Note

New Section R9-7-410 recodified from R12-1-410, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-411. Determination of Internal Exposure

- A.** For purposes of assessing dose used to determine compliance with occupational dose equivalent limits, each licensee or registrant shall, when required according to R9-7-419, take suitable and timely measurements of:
1. Concentrations of radioactive materials in air in work areas,
 2. Quantities of radionuclides in the body,
 3. Quantities of radionuclides excreted from the body, or
 4. Combinations of these measurements,
- B.** Unless respiratory protective equipment is used, as provided in R9-7-425, or the assessment of intake is based on bioassays, the licensee or registrant shall assume that an individual inhales radioactive material at the airborne concentration in which the individual is present.
- C.** When specific information on the physical and biochemical properties of the radionuclides taken into the body or the behavior of the material in an individual is known, the licensee or registrant may:
1. Use that information to calculate the committed effective dose equivalent, and, if used, the licensee or registrant shall document that information in the individual's record;
 2. Upon prior approval of the Department, adjust the DAC or ALI values to reflect the actual physical and chemical characteristics of airborne radioactive material, for example, aerosol size distribution or density; and
 3. Separately assess the contribution of fractional intakes of Class D, W, or Y compounds of a given radionuclide to the committed effective dose equivalent. See Appendix B.
- D.** If the licensee or registrant chooses to assess intakes of Class Y material using the measurements given in subsection (A)(2) or (3), the licensee or registrant may delay the recording and reporting of the assessments for periods up to seven months, unless otherwise required by R9-7-444 or R9-7-445. This delay permits the licensee or registrant to make additional measurements basic to the assessments.
- E.** If the identity and concentration of each radionuclide in a mixture are known, the fraction of the DAC applicable to the mixture for use in calculating DAC-hours is either:
1. The sum of the ratios of the concentration to the appropriate DAC value, that is, D, W, or Y from Appendix B for each radionuclide in the mixture; or
 2. The ratio of the total concentration for all radionuclides in the mixture to the most restrictive DAC value for any radionuclide in the mixture.
- F.** If the identity of each radionuclide in a mixture is known, but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture is the most restrictive DAC of any radionuclide in the mixture.
- G.** If a mixture of radionuclides in air exists, a licensee may disregard certain radionuclides in the mixture if:
1. The licensee uses the total activity of the mixture to demonstrate compliance with the dose limits in R9-7-408 and complies with the monitoring requirements in R9-7-419;
 2. The concentration of any radionuclide disregarded is less than 10% of its DAC; and

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3. The sum of these percentages for all of the radionuclides disregarded in the mixture does not exceed 30%.
- H.** When determining the committed effective dose equivalent, the following information may be considered:
1. In order to calculate the committed effective dose equivalent, the licensee may assume that the inhalation of 1 ALI, or an exposure of 2,000 DAC-hours, results in a committed effective dose equivalent of 0.05 Sv (5 rem) for radionuclides that have their ALIs or DACs based on the committed effective dose equivalent.
 2. For an ALI and the associated DAC determined by the nonstochastic organ dose limit of 0.5 Sv (50 rem), the intake of radionuclides that would result in a committed effective dose equivalent of 0.05 Sv (5 rem), that is, the stochastic ALI, is listed in parentheses in Table I of Appendix B. The licensee may, as a simplifying assumption, use the stochastic ALI to determine committed effective dose equivalent. However, if the licensee or registrant uses the stochastic ALI, the licensee shall also demonstrate that the limit in R9-7-408(A)(1)(b) is met.

Historical Note

New Section R9-7-411 recodified from R12-1-411, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-412. Determination of Prior Occupational Dose

- A.** For each individual who is likely to receive in a year an occupational dose that requires monitoring according to R9-7-419 the licensee shall:
1. Determine the occupational radiation dose received during the current year, and
 2. Attempt to obtain the records of lifetime cumulative occupational radiation dose.
- B.** Before permitting an individual to participate in a planned special exposure, the licensee or registrant shall determine:
1. The internal and external doses from all previous planned special exposures; and
 2. All doses in excess of the limits received during the lifetime of the individual, including doses received during accidents and emergencies; and
 3. All lifetime, cumulative, occupational radiation doses.
- C.** In complying with the requirements of subsection (A), a licensee or registrant shall:
1. Accept, as a record of the occupational dose that the individual received during the current year, a written and signed statement from the individual, or from the individual's most recent employer for work involving radiation exposure, that discloses the nature and the amount of any occupational dose that the individual received during the current year; and
 2. Accept, as the record of lifetime cumulative radiation dose, an up-to-date Department Form Y (available from the Department) or equivalent, signed by the individual and countersigned by an appropriate official of the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant; and
 3. Obtain reports of the individual's dose equivalent from the most recent employer for work involving radiation exposure, or the individual's current employer, if the individual is not employed by the licensee or registrant, by telephone, telegram, facsimile, or letter. The licensee or registrant shall request a written verification of the dose data if the authenticity of the transmitted report cannot be established.
- D.** Records.

1. The licensee or registrant shall record the exposure history, as required by subsection (A), on Department Form Y (available from the Department) or a similar clear and legible record of all the information required by this subsection. The form or record shall show each period in which the individual received occupational exposure to radiation or radioactive material and shall be signed by the individual who received the exposure. For each period for which the licensee or registrant obtains reports, the licensee or registrant shall use the dose shown in the report for preparing Department Form Y or its equivalent. For any period in which the licensee or registrant does not obtain a report, the licensee or registrant shall place a notation on Department Form Y or its equivalent indicating each period of time for which there is no data.
2. The licensee or registrant is not required to reevaluate the separate external dose equivalents and internal committed dose equivalents or intakes of radionuclides assessed according to the rules in Article 4 in effect before January 1, 1994. Occupational exposure histories obtained and recorded on Department Form Y or its equivalent before January 1, 1994, would not have included effective dose equivalent but may be used in the absence of specific information on the intake of radionuclides by the individual.
3. If the licensee or registrant is unable to obtain a complete record of an individual's current and previously accumulated occupational dose, the licensee or registrant shall:
 - a. In establishing administrative controls under R9-7-408(F) for the current year, reduce the allowable dose limit for the individual by 12.5 mSv (1.25 rem) for each quarter for which records were unavailable and the individual was engaged in activities that could have resulted in occupational radiation exposure; and
 - b. Not subject the individual to planned special exposures.
4. The licensee or registrant shall retain current and prior records on Department Form Y or its equivalent for three years after the Department terminates each pertinent license or registration requiring this record. The licensee or registrant shall retain records used in preparing Department Form Y or its equivalent for three years after the record is made.

Historical Note

New Section R9-7-412 recodified from R12-1-412, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-413. Planned Special Exposures

- A.** A licensee or registrant may authorize an adult worker to receive doses in addition to and accounted for separately from the doses received under the limits specified in R9-7-408, provided that each of the following conditions is satisfied:
1. The licensee or registrant authorizes a planned special exposure only in an exceptional situation when alternatives that might avoid the dose estimated from the planned special exposure are unavailable or impractical.
 2. The licensee or registrant, and employer if the employer is not the licensee or registrant, specifically authorizes the planned special exposure, in writing, before the exposure occurs.
 3. Before a planned special exposure, the licensee or registrant ensures that each individual involved is:
 - a. Informed in writing of the purpose of the planned special exposure;

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- b. Informed in writing of the estimated doses, associated potential risks, and specific radiation levels or other conditions that might be involved in performing the task; and
 - c. Instructed in the measures to be taken to keep the dose ALARA, considering other risks that may be present.
 - 4. Before permitting an individual to participate in a planned special exposure, the licensee or registrant shall ascertain prior doses as required by R9-7-412(B) for each individual involved.
 - 5. Subject to R9-7-408(B), the licensee or registrant shall not authorize a planned special exposure that would cause an individual to receive a dose from all planned special exposures and all doses that exceed:
 - a. The numerical value of any of the dose limits in R9-7-408(A) in any year, and
 - b. Five times the annual dose limits in R9-7-408(A) during the individual's lifetime.
 - 6. The licensee or registrant shall maintain records of a planned special exposure in accordance with subsections (B) and (C) and submit a written report to the Department within 30 days after the date of any planned special exposure conducted in accordance with this Section, informing the Department that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by subsection (B).
 - 7. The licensee or registrant shall record the best estimate of the dose resulting from the planned special exposure in the individual's record and inform the individual, in writing, of the dose within 30 days after the date of the planned special exposure. The dose from a planned special exposure shall not be considered in controlling future occupational dose of the individual according to R9-7-408(A) but shall be included in evaluations required by subsections (A)(4) and (A)(5).
- B. Records.**
- 1. For each planned special exposure, the licensee or registrant shall maintain records that describe:
 - a. The exceptional circumstances requiring the use of a planned special exposure,
 - b. The name of the management official who authorized the planned special exposure and a copy of the signed authorization,
 - c. What actions were necessary,
 - d. Why the actions were necessary,
 - e. What precautions were taken to assure that doses were minimized in accordance with R9-7-407(B),
 - f. What individual and collective doses were expected,
 - g. The doses actually received in the planned special exposure, and
 - h. The process through which the employee involved in the planned special exposure has been informed in writing of the information contained in subsection (A)(3).
 - 2. The licensee or registrant shall retain the records for three years after the Department terminates each pertinent license or registration.
- C.** A licensee shall submit a report to the Department no later than 30 days after a planned special exposure conducted in accordance with subsection (A). The report shall contain the date of the planned exposure and the information required by subsection (B).

Historical Note

New Section R9-7-413 recodified from R12-1-413, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-414. Occupational Dose Limits for Minors

The annual occupational dose limits for minors are 10% of the annual occupational dose limits specified for adult workers in R9-7-408.

Historical Note

New Section R9-7-414 recodified from R12-1-414, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-415. Dose Equivalent to an Embryo or Fetus

- A.** A licensee or registrant shall ensure that the dose equivalent to an embryo or fetus during the entire pregnancy, due to occupational exposure of a declared pregnant woman, does not exceed 5 mSv (0.5 rem). Records shall be maintained according to R9-7-419(E)(4) and (5).
- B.** The licensee or registrant shall make efforts to avoid substantial variation above a uniform monthly exposure rate to a declared pregnant woman to satisfy the limit in subsection (A).
- C.** For purposes of this Section, the dose equivalent to the embryo or fetus is the sum of:
 - 1. The deep-dose equivalent to the declared pregnant woman; and
 - 2. The dose equivalent to the embryo or fetus resulting from radionuclides in the embryo or fetus and radionuclides in the declared pregnant woman.
- D.** If the dose equivalent to the embryo or fetus is found to have exceeded 5 mSv (0.5 rem) or is within 0.5 mSv (0.05 rem) of this dose by the time the woman declares the pregnancy to the licensee or registrant, the licensee or registrant shall be deemed to be in compliance with subsection (A) if the additional dose equivalent to the embryo or fetus does not exceed 0.5 mSv (0.05 rem) during the remainder of the pregnancy.

Historical Note

New Section R9-7-415 recodified from R12-1-415, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-416. Dose Limits for Individual Members of the Public

- A.** Each licensee or registrant shall conduct operations so that:
 - 1. The total effective dose equivalent to any individual member of the public from the licensed or registered operation does not exceed 1 mSv (0.1 rem) in a year, excluding the dose contribution from background radiation, medical administration of radiation, exposure to an individual who has been administered radioactive material and released in accordance with R9-7-719, voluntary participation in a medical research program, and the licensee's or registrant's disposal of radioactive material into sanitary sewerage in accordance with R9-7-436; and
 - 2. The dose in any unrestricted area from an external source excluding the dose contribution from an individual who has been administered radioactive material and released in accordance with R9-7-719, does not exceed 0.02 mSv (0.002 rem) in any one hour.
- B.** Registrants possessing radiation machines in operation before August 10, 1994, are exempt from the requirement in subsection (A)(1). Operation of these machines shall be conducted so that the total effective dose equivalent to any individual member of the public does not exceed 5 mSv (0.5 rem) in a year.
- C.** A licensee, registrant, or an applicant for a license or registration may apply for Department authorization to operate with

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an annual dose limit of 5 mSv (0.5 rem) for an individual member of the public. The application shall include the following information:

1. An explanation of the need for and the expected duration of operations in excess of the limit in subsection (A), and
 2. The licensee's or registrant's program to assess and control dose within the 5 mSv (0.5 rem) annual limit; and
 3. The procedures to be followed to maintain the dose in accordance with R9-7-407(B).
- D.** A licensee or registrant shall comply with the U.S. Environmental Protection Agency's applicable environmental radiation standards in 40 CFR 190, 2003 edition, published July 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which are incorporated by reference, on file with the Department and contain no future editions or amendments.
- E.** The Department may impose additional restrictions on radiation levels in unrestricted areas and on the total quantity of radionuclides that a licensee or registrant may release in effluents in order to restrict the collective dose.
- F.** Each licensee or registrant shall make or cause to be made surveys of radiation levels in unrestricted areas and radioactive materials contained in effluents released to unrestricted areas.
- G.** Each licensee or registrant shall:
1. Demonstrate by measurement or calculation that the total effective dose equivalent to the individual likely to receive the highest dose from the licensed or registered operation does not exceed the annual dose limit; or
 2. Demonstrate that:
 - a. The annual average concentrations of radioactive material released in gaseous and liquid effluents at the boundary of the unrestricted area do not exceed the values specified in Appendix B, Table II; and
 - b. If an individual were continually present in an unrestricted area, the dose from external sources would not exceed 0.02 mSv (0.002 rem) in an hour and 0.5 mSv (0.05 rem) in a year.
- H.** Upon approval from the Department, the licensee or registrant may adjust the effluent concentration values in Appendix B, Table II for members of the public, to take into account the actual physical and chemical characteristics of the effluents, such as aerosol size distribution, solubility, density, radioactive decay equilibrium, and chemical form.
- I.** Each licensee or registrant shall maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public and shall retain the records for three years after the Department terminates each pertinent license or registration.

Historical Note

New Section R9-7-416 recodified from R12-1-416, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-417. Testing for Leakage or Contamination of Sealed Sources

- A.** A licensee in possession of any sealed source shall ensure that:
1. Each sealed source, except as specified in subsection (B), is tested for leakage or contamination and the test results are received before the sealed source is put into use unless the licensee has a certificate from the transferor indicating that the sealed source was tested within six months before transfer to the licensee or registrant.
 2. Each sealed source that is not designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed six months or at alternative intervals approved by the Department, after evaluation of information specified by R9-7-311(D)(2) or equivalent information specified by an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission.
- 3.** Each sealed source that is designed to emit alpha particles is tested for leakage or contamination at intervals not to exceed three months or at alternative intervals approved by the Department, after evaluation of information specified by R9-7-311(D)(2) or equivalent information specified by an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission.
- 4.** Each sealed source suspected of damage or leakage is tested for leakage or contamination before further use.
- 5.** Tests for leakage for all sealed sources, except brachytherapy sources manufactured to contain radium, are capable of detecting the presence of 185 Bq (0.005 μ Ci) of radioactive material on a test sample. The person conducting the test shall take test samples from the sealed source or from the surfaces of the container in which the sealed source is stored or mounted on which contamination could accumulate. For a sealed source contained in a device, the person conducting the test shall obtain test samples when the source is in the "off" position.
- 6.** The test for leakage from brachytherapy sources containing radium is capable of detecting an absolute leakage rate of 37 Bq (0.001 μ Ci) of Radon-222 in a 24-hour period when the collection efficiency for Radon-222 and its daughters has been determined with respect to collection method, volume, and time.
- 7.** Tests for contamination from radium daughters are taken on the interior surface of brachytherapy source storage containers and are capable of detecting the presence of 185 Bq (0.005 μ Ci) of a radium daughter which has a half-life greater than four days.
- B.** A licensee need not perform tests for leakage or contamination on the following sealed sources:
1. Sealed sources containing only radioactive material with a half-life of less than 30 days;
 2. Sealed sources containing only radioactive material as a gas;
 3. Sealed sources containing 3.7 MBq (100 μ Ci) or less of beta or photon-emitting material or 370 kBq (10 μ Ci) or less of alpha-emitting material;
 4. Sealed sources containing only Hydrogen-3;
 5. Seeds of Iridium-192 encased in nylon ribbon; and
 6. Sealed sources, except teletherapy and brachytherapy sources, which are stored, not being used, and identified as in storage. The licensee shall test each sealed source for leakage or contamination and receive the test results before any use or transfer unless it has been tested for leakage or contamination within six months before the date of use or transfer.
- C.** Persons specifically authorized by the Department, an Agreement State, a Licensing State, or the U.S. Nuclear Regulatory Commission shall perform tests for leakage or contamination from sealed sources.
- D.** A licensee shall maintain for Department inspection test results in units of becquerel or microcurie.
- E.** The following is considered evidence that a sealed source is leaking:
1. The presence of 185 Bq (0.005 μ Ci) or more of removable contamination on any test sample.
 2. Leakage of 37 Bq (0.001 μ Ci) of Radon-222 per 24 hours for brachytherapy sources manufactured to contain radium.
 3. The presence of removable contamination resulting from the decay of 185 Bq (0.005 μ Ci) or more of radium.

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- F. A licensee shall immediately withdraw a leaking sealed source from use and shall take action to prevent the spread of contamination. The leaking sealed source shall be repaired or disposed of in accordance with this Article.
- G. A licensee shall file a report with the Department within five days if the test for leakage or contamination indicates a sealed source is leaking or contaminated. The report shall include the equipment involved, the test results, and the corrective action taken.
- H. A licensee shall maintain records of the tests for leakage required in subsection (A) for three years after the records are made.

Historical Note

New Section R9-7-417 recodified from R12-1-417, at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R.

2151, effective July 12, 2018 (Supp. 18-3).

R9-7-418. Surveys and Monitoring

- A. Each licensee or registrant shall make, or cause to be made, surveys if surveys are:
 - 1. Necessary for the licensee or registrant to comply with Article 4, and
 - 2. Reasonable under the circumstances to evaluate:
 - a. The magnitude and extent of radiation levels, and
 - b. Concentrations or quantities of residual radioactivity, and
 - c. The potential radiological hazards of the radiation levels and residual radioactivity detected.
- B. All personnel dosimeters, except for direct and indirect reading pocket ionization chambers and those dosimeters used to measure the dose to any extremity, that require processing to determine the radiation dose and that are used by licensees and registrants to comply with R9-7-408, with other applicable provisions of these rules, or with conditions specified in a license or registration shall be processed and evaluated by a dosimetry processor:
 - 1. Holding current personnel dosimetry accreditation from the National Voluntary Laboratory Accreditation Program (NVLAP) of the National Institute of Standards and Technology, according to NVLAP procedures published March 1994 as NIST Handbook 150, and NIST Handbook 150-4, published August 1994, which is incorporated by reference, published by the U.S. Government Printing Office, Washington D.C. 20402-9325, and on file with the Department. The material incorporated by reference contains no future editions or amendments;
 - 2. Approved in this accreditation process for the type of radiation or radiations included in the NVLAP program that most closely approximates the type of radiation or radiations for which the individual wearing the dosimeter is monitored; and
 - 3. Film badges must be replaced at periods not to exceed one month; other personnel dosimeters processed and evaluated by an accredited NVLAP processor must be replaced at periods not to exceed three months.
- C. The licensee or registrant shall ensure that adequate precautions are taken to prevent a deceptive exposure of an individual monitoring device and that personnel monitoring devices are issued to, and used by only the individual to whom the monitoring device has been first issued during any reporting period.
- D. A licensee shall ensure that survey instruments and personnel dosimeters that are used to make quantitative measurements are calibrated in accordance with R9-7-449.
- E. Records.

- 1. Each licensee or registrant shall maintain records showing the results of surveys required by this Section and R9-7-433(B). The licensee or registrant shall retain these records for three years after the record is made.
- 2. The licensee or registrant shall retain each of the following records for three years after the Department terminates the license or registration:
 - a. Records of the survey results used to determine the dose from external sources of radiation, in the absence of or in combination with individual monitoring data, and provide an assessment of individual dose equivalents;
 - b. Records of the results of measurements and calculations used to determine individual intakes of radioactive material and to assess an internal dose;
 - c. Records showing the results of air sampling, surveys, and bioassays required according to R9-7-425(A)(3)(a) and (b);
 - d. Records of the measurement and calculation results used to evaluate the release of radioactive effluents to the environment; and
 - e. Notwithstanding subsection (A) of this part, records from surveys describing the location and amount of subsurface residual radioactivity identified at the site must be kept with records important for decommissioning, and such records must be retained in accordance with R9-7-323, as applicable.

Historical Note

New Section R9-7-418 recodified from R12-1-418, at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R.

2151, effective July 12, 2018 (Supp. 18-3).

R9-7-419. Conditions Requiring Individual Monitoring of External and Internal Occupational Dose

- A. Each licensee or registrant shall monitor exposures from sources of radiation at levels sufficient to demonstrate compliance with the occupational dose limits of this Article.
- B. At minimum each licensee or registrant shall supply and require the use of individual monitoring devices by the following personnel:
 - 1. Adults likely to receive, in one year, an intake in excess of 10% of the applicable ALI in Table I, Columns 1 and 2, of Appendix B;
 - 2. Minors and declared pregnant women likely to receive, in one year, a committed effective dose equivalent in excess of 0.5 mSv (0.05 rem);
 - 3. Adults likely to receive, in one year from radiation sources external to the body, a dose in excess of 10 percent of the limits in R9-7-408(A);
 - 4. Minors likely to receive, in one year, from radiation sources external to the body, a deep dose equivalent in excess of 1 mSv (0.1 rem), a lens dose equivalent in excess of 1.5 mSv (0.15 rem), or a shallow dose equivalent to the skin or to the extremities in excess of 5 mSv (0.5 rem);
 - 5. Declared pregnant women likely to receive during the entire pregnancy, from radiation sources external to the body, a deep dose equivalent in excess of 1 mSv (0.1 rem) (Note: All of the occupational doses in R9-7-408 continue to be applicable to the declared pregnant worker as long as the embryo/fetus dose limit is not exceeded.);
 - 6. Individuals entering a high or very high radiation area;
 - 7. Individuals operating mobile x-ray equipment as described in R9-7-608;

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8. Individuals holding animals for diagnostic x-ray procedures, as described in R9-7-613;
 9. Individuals servicing enclosed beam x-ray systems with bypassed interlocks, as described in R9-7-803;
 10. Individuals operating open beam fluoroscopic systems and ancillary personnel working in the room when the fluoroscopic system is in use, except when relieved of this requirement by registration condition;
 11. Individuals performing well logging, as described in Article 17;
 12. Individuals, wearing a finger or wrist individual monitoring device, during the operation of an open-beam or hand held analytical x-ray system or equipment with no safety devices as described in R9-7-806(C) and (F); and
 13. Individuals, wearing a finger or wrist individual monitoring device, performing repairs that require the presence of a primary beam of the analytical x-ray system or equipment, as described in R9-7-806(C) and (F).
- C.** Each licensee shall monitor the occupational intake of radioactive material by and assess the committed effective dose equivalent to:
1. Adults likely to receive, in one year, an intake in excess of 10 percent of the applicable ALI in Table 1, Columns 1 and 2, of Appendix B;
 2. Minors likely to receive, in one year, a committed effective dose equivalent in excess of 1 mSv (0.1 rem); and
 3. Declared pregnant women likely to receive, during the entire pregnancy, a committed effective dose equivalent in excess of 1 mSv (0.1 rem).
- D.** Each licensee or registrant shall require that all individual monitoring devices be located on individuals according to the following requirements:
1. An individual monitoring device, used to obtain the dose equivalent to an embryo or fetus of a declared pregnant woman according to R9-7-415, shall be located under the protective apron at the waist. A qualified expert shall be consulted to determine the dose equivalent to the embryo or fetus if this individual monitoring device has a monthly reported dose equivalent value that exceeds 0.5 millisieverts (50 millirem). For purposes of this subsection, the value for determining the dose equivalent to an embryo or fetus under R9-7-415(C), for occupational exposure to radiation from medical fluoroscopic equipment, is the value reported by the individual monitoring device worn at the waist underneath the protective apron, which has been corrected for the particular individual and the work environment by a qualified expert.
 2. An individual monitoring device used for lens dose equivalent shall be located at the neck or an unshielded location closer to the eye, outside the protective apron.
 3. If only one individual monitoring device is used to determine the effective dose equivalent for external radiation, according to R9-7-408(C)(2)(a), the device shall be located at the neck outside the protective apron. If a second individual monitoring device is used for the same purpose, it shall be located under the protective apron at the waist. A second individual monitoring device is required for a declared pregnant woman.
 4. An individual, wearing an extremity personnel monitoring device, during the operation of an open-beam or hand-held analytical x-ray system with no safety devices or an individual performing repairs in the presence of a primary beam of the analytical x-ray system or equipment, as described in R9-7-806(C) and (F), shall wear the device on the individual's finger or wrist.
- E.** Records.
1. Each licensee or registrant shall maintain records of doses received by all individuals for whom monitoring is required according to this Section, and records of doses received during planned special exposures, accidents, and emergency conditions. Assessments of dose equivalent and records made using units in effect before January 1, 1994, need not be changed. These records shall include, when applicable:
 - a. The deep-dose equivalent to the whole body, lens dose equivalent, shallow-dose equivalent to the skin, and shallow-dose equivalent to the extremities;
 - b. The estimated intake of radionuclides;
 - c. The committed effective dose equivalent assigned to the intake of radionuclides;
 - d. The specific information used to assess the committed effective dose equivalent according to R9-7-411(A) and (C), and when required R9-7-419;
 - e. The total effective dose equivalent when required by R9-7-409; and
 - f. The total of the deep-dose equivalent and the committed dose to the organ receiving the highest total dose;
 2. The licensee or registrant shall make entries of the records specified in subsection (D)(1), at intervals not to exceed one year;
 3. The licensee or registrant shall maintain at the inspection site the records specified in subsection (D)(1) in a clear and legible method that contains all the information required by this subsection;
 4. The licensee or registrant shall maintain the records of dose to an embryo or fetus with the records of dose to the declared pregnant woman. The declaration of pregnancy, including the estimated date of conception, shall also be kept on file but may be maintained separately from the dose records; and
 5. The licensee or registrant shall retain each required form or record for three years after the Department terminates each pertinent license or registration requiring the record.

Historical Note

New Section R9-7-419 recodified from R12-1-419, at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R.

2151, effective July 12, 2018 (Supp. 18-3).

R9-7-420. Control of Access to High Radiation Areas

- A.** A licensee or registrant shall ensure that each entrance or access point to a high radiation area has one or more of the following features:
1. A control device that, upon entry into the area, causes the level of radiation to be reduced below the level at which an individual might receive a deep-dose equivalent of 1 mSv (0.1 rem) in one hour at 30 centimeters from the source from any surface that the radiation penetrates;
 2. A control device that energizes a conspicuous visible or audible alarm signal so that the individual entering the high radiation area and the supervisor of the activity are made aware of the entry; or
 3. Entryways that are locked, except during periods when access to the areas is required, with positive control over each individual entity.
- B.** In place of the controls required by subsection (A) for a high radiation area, the licensee or registrant may substitute continuous direct or electronic surveillance that is capable of preventing unauthorized entry.

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- C. The licensee or registrant may apply to the Department for approval of alternative methods for controlling access to high radiation areas.
- D. The licensee or registrant shall establish the controls required by subsections (A) and (C) in a way that does not prevent individuals from leaving a high radiation area.
- E. The licensee or registrant is not required to control each entrance or access point to a room or other area that is a high radiation area solely because of the presence of radioactive materials prepared for transport and packaged and labeled in accordance with the regulations of the U.S. Department of Transportation, provided that:
 - 1. The packages do not remain in the area longer than three days, and
 - 2. The dose rate at 1 meter from the external surface of any package does not exceed 0.1 mSv (0.01 rem) per hour.
- F. The licensee or registrant is not required to control entrance or access to rooms or other areas in hospitals solely because of the presence of patients containing radioactive material, provided that there are personnel in attendance who are taking the necessary precautions to prevent the exposure of individuals to radiation or radioactive material in excess of the established limits in Article 4 and operate in accordance with R9-7-407(B) and the provisions of the licensee's or registrant's radiation protection program.
- G. The registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a high radiation area if the registrant has met all the specific requirements for access and control specified in other applicable Articles, such as Article 5 for industrial radiography, Article 6 for x-rays in the healing arts, and Article 9 for particle accelerators.

Historical Note

New Section R9-7-420 recodified from R12-1-420, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-421. Control of Access to Very-high Radiation Areas

- A. In addition to the requirements in R9-7-420, a licensee or registrant shall institute measures to ensure that an individual is not able to gain unauthorized or inadvertent access to areas in which radiation levels could be encountered at 5 Gy (500 rad) or more in one hour at 1 meter from a source or from any surface that the radiation penetrates. This requirement does not apply to rooms or areas in which diagnostic x-ray systems are the only source of radiation or non-self-shielded irradiators.
- B. The registrant is not required to control entrance or access to rooms or other areas containing sources of radiation capable of producing a very high radiation area, described in subsection (A), if the registrant has met all requirements for access and control specified in other applicable Articles, such as Article 5 for industrial radiography, Article 6 for x-rays in the healing arts, and Article 9 for particle accelerators.
- C. Each licensee or registrant shall maintain records of tests made according to R9-7-422(B)(9) on entry control devices for very-high radiation areas. These records shall include the date, time, and results of each test of function.
- D. The licensee or registrant shall retain the records required by this Section for three years after the record is made.

Historical Note

New Section R9-7-421 recodified from R12-1-421, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-422. Control of Access to Irradiators (Very-high Radiation Areas)

- A. This Section applies to licensees or registrants with sources of radiation in non-self-shielded irradiators. This Section does

not apply to sources of radiation that are used in teletherapy, industrial radiography, or completely self-shielded irradiators in which the source of radiation is both stored and operated within the same shielding radiation barrier and, in the designed configuration of the irradiator, is always physically inaccessible to any individual and cannot create high levels of radiation in an area that is accessible to any individual.

- B. A licensee or registrant shall ensure that each area in which radiation levels may exceed 5 Gy (500 rad) in one hour at 1 meter from a source that is used to irradiate materials meets the following requirements:

1. Each entrance or access point shall be equipped with entry control devices that:
 - a. Function automatically to prevent any individual from inadvertently entering a very high radiation area;
 - b. Permit deliberate entry into the area only after a control device is actuated that causes the radiation level within the area, from the source of radiation, to be reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour; and
 - c. Prevent operation of the source of radiation if it would produce radiation levels in the area that could result in a deep-dose equivalent to an individual in excess of 1 mSv (0.1 rem) in one hour.
2. If the control devices required in subsection (B)(1) fail to function, additional control devices shall be provided so that:
 - a. The radiation level within the area, from the source of radiation, is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour; and
 - b. Conspicuous visible and audible alarm signals are generated so that an individual entering the area is aware of the hazard. The individual who enters the very-high radiation area after an alarm signals shall be familiar with the process and equipment. Before entering, the individual shall ensure that a second individual is present and aware of the first person's actions.
3. The licensee or registrant shall provide control devices so that, upon failure or removal of physical radiation barriers other than the sealed source's shielded storage container:
 - a. The radiation level from the source of radiation is reduced below that at which it would be possible for an individual to receive a deep-dose equivalent in excess of 1 mSv (0.1 rem) in one hour, and
 - b. Conspicuous visible and audible alarm signals are generated so that potentially affected individuals are aware of the hazard. Potentially affected individuals shall notify the licensee or registrant of the failure or removal of the physical barriers.
4. When the shield for stored sealed sources is a liquid, the licensee or registrant shall provide means to monitor the integrity of the shield and to signal, automatically, loss of adequate shielding.
5. Physical radiation barriers that comprise permanent structural components, such as walls, that have no credible probability of failure or removal in ordinary circumstances need not meet the requirements of subsections (B)(3) and (4).
6. The licensee or registrant shall equip each area with devices that will automatically generate conspicuous visi-

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ble and audible alarm signals to alert personnel in the area before the source of radiation can be put into operation and in time for any individual in the area to operate a clearly identified control device, installed in the area, and which can prevent the source of radiation from being put into operation.

7. The licensee or registrant shall control each area by use of administrative procedures and devices necessary to ensure that the area is cleared of personnel before each use of the source of radiation.
 8. The licensee or registrant shall check each area by radiation measurement to ensure that, before the first individual's entry into the area after any use of the source of radiation, the radiation level from the source of radiation in the area will not expose an individual to a deep-dose equivalent in excess of 1 millisievert (0.1 rem) in one hour.
 9. The licensee or registrant shall test the entry control devices required in subsection (B)(1) for proper functioning and keep records according to R9-7-421.
 - a. Testing shall be conducted before initial operation with the source of radiation on any day, unless operations were continued uninterrupted from the previous day;
 - b. Testing shall be conducted before resumption of operation of the source of radiation after any unintentional interruption;
 - c. The licensee or registrant shall submit to the Department a schedule of testing; and
 - d. The licensee or registrant shall include in the schedule a listing of the periodic testing that will be followed.
 10. The licensee or registrant shall not conduct operations, other than those necessary to place the source of radiation in a safe condition or effect repairs on controls, unless control devices are functioning properly.
 11. The licensee or registrant shall control entry and exit portals that are used in transporting materials to and from the irradiation area, and that are not intended for use by personnel, with devices and administrative procedures necessary to physically protect and warn against inadvertent entry by an individual through one of the portals. Exit portals for irradiated materials shall be equipped to detect and signal the presence of any uncontained radioactive material that is carried toward an exit and automatically prevent contained radioactive material from being carried out of the area.
- C.** A licensee, registrant, or applicant seeking a license or registration for a source of radiation within the purview of subsection (B) that will be used in a variety of positions or in locations, such as open fields or forests, that make it impractical to comply with certain requirements of subsection (B) may apply to the Department for approval of alternative safety measures. Alternative safety measures shall provide personnel protection at least equivalent to that specified in subsection (B). At least one of the alternative measures shall be an entry-preventing interlock control, based on a measurement of the radiation that ensures the absence of high radiation levels before an individual can gain access to the area where the sources of radiation are used.
- D.** A licensee or registrant shall provide the entry control devices required by subsections (B) and (C) in such a way that no individual will be prevented from leaving the area.
- E.** Records.
1. Each licensee or registrant shall maintain records of tests made according to subsection (B)(9) on entry control

devices for very-high radiation areas. These records shall include the date and results of each test of function.

2. The licensee or registrant shall retain the records for three years from the date the record is made.

Historical Note

New Section R9-7-422 recodified from R12-1-422, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-423. Use of Process or Other Engineering Controls

A licensee shall use, to the extent practicable, process or other engineering controls, such as containment, decontamination, or ventilation, to control the concentration of radioactive material in air.

Historical Note

New Section R9-7-423 recodified from R12-1-423, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-424. Use of Other Controls

- A.** If it is not practical to apply process or other engineering controls to control concentrations of radioactive material in the air to values below those that define an airborne radioactivity area, the licensee shall, consistent with maintaining the total effective dose equivalent according to R9-7-407(B), increase monitoring and limit intakes by one or more of the following means:
1. Control access,
 2. Limit exposure times,
 3. Use respiratory protection equipment, or
 4. Use other controls.
- B.** If the licensee performs an ALARA analysis to determine whether or not respirators should be used, the licensee may consider safety factors other than radiological factors. The licensee shall also consider the impact of respirator use on workers' industrial health and safety.

Historical Note

New Section R9-7-424 recodified from R12-1-424, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-425. Use of Individual Respiratory Protection Equipment

- A.** If a licensee assigns or permits the use of respiratory protection equipment to limit the intake of radioactive material,
1. Except as provided in subsection (A)(2), the licensee shall use only respiratory protection equipment that is tested and certified by the National Institute for Occupational Safety and Health (NIOSH).
 2. If the licensee wishes to use equipment that has not been tested or certified by NIOSH, or for which there is no schedule for testing or certification, the licensee shall submit an application to the Department and request authorization for use of this equipment, except as otherwise provided in this Section. The licensee shall provide evidence with the application that the material and performance characteristics of the equipment provide the asserted degree of protection under anticipated conditions of use. The licensee shall demonstrate the degree of protection by providing reliable test information.
 3. The licensee shall implement and maintain a respiratory protection program that includes:
 - a. Air sampling sufficient to identify the potential hazard, permit proper equipment selection, and estimate doses;
 - b. Surveys and bioassays, as necessary, to evaluate actual intakes;

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- c. Testing of respirators for operability (user seal check for face sealing devices and functional check for other devices) immediately before each use;
 - d. Written procedures regarding:
 - i. Monitoring, including air sampling and bioassays;
 - ii. Supervision and training of respirator users;
 - iii. Fit testing;
 - iv. Respirator selection;
 - v. Breathing air quality;
 - vi. Inventory and control;
 - vii. Storage, issuance, maintenance, repair, testing, and quality assurance of respiratory protection equipment;
 - viii. Recordkeeping; and
 - ix. Limitations on periods of respirator use and relief from respirator use;
 - e. Determination by a physician that each individual user is able to use respiratory protection equipment:
 - i. Before the initial fitting of a face-sealing respirator;
 - ii. Before the first field use of a non-face-sealing respirator, and
 - iii. Every 12 months after initial fitting or first use, or periodically at a frequency determined by a physician; and
 - f. Fit testing, with a fit factor ≥ 10 times the APF for a negative pressure device and a fit factor ≥ 500 for any positive pressure, continuous flow, and pressure-demand device, before the first field use of tight-fitting, face-sealing respirators and periodically after first use at least yearly. The licensee shall perform fit testing with the face piece operating in the negative pressure mode.
4. The licensee shall advise each respirator user that the user may leave the area at any time for relief from respirator use, in the event of equipment malfunction, physical or psychological distress, procedural or communication failure, significant deterioration of operating conditions, or any other condition that might require relief.
 5. The licensee shall consider manufacturer limitations regarding respirator type and mode of use. When selecting a respiratory device, the licensee shall provide for vision correction, adequate communication, low temperature work environments, and the concurrent use of other safety or radiological protection equipment. The licensee shall use equipment in a manner that does not interfere with the proper operation of the respirator.
 6. The licensee shall provide standby rescue persons whenever one-piece atmosphere-supplying suits, or any combination of supplied air respiratory protection device and personnel protective equipment are used from which an unaided individual would have difficulty extricating himself or herself. The licensee shall equip standby rescue persons with respiratory protection devices or other apparatus designed for potential hazards and anticipated conditions of use. The standby rescue persons shall observe or otherwise maintain continuous communication with the workers (visual, voice, signal line, telephone, radio, or other suitable means), and be immediately available to assist them in case of a failure of the air supply or for any other reason that requires relief from distress. The licensee shall provide at least one standby rescue person for every five workers, who is immediately available to assist any worker using this type of equipment and provide effective emergency rescue if needed.
 7. The licensee shall supply atmosphere-supplying respirators with respirable air of grade D quality or better as defined by the Compressed Gas Association in publication G-7.1, "Commodity Specification for Air," 1997 and included in the regulations of OSHA (29 CFR 1910.134(i)(1)(ii)(A) through (E), July 1, 2003, incorporated by reference and on file with the Department, containing no future editions or amendments). Grade D quality air criteria include:
 - a. Oxygen content (v/v) of 19.5-23.5%;
 - b. Hydrocarbon (condensed) content of 5 milligrams per cubic meter of air or less;
 - c. Carbon monoxide (CO) content of 10 ppm or less;
 - d. Carbon dioxide content of 1,000 ppm or less; and
 - e. Lack of noticeable odor.
 8. The licensee shall ensure that no objects, materials, or substances, such as facial hair, or any conditions that interfere with the face-to-face piece seal or valve function, and that are under the control of the respirator wearer, are present between the skin of the wearer's face and the sealing surface of a tight-fitting respirator face piece.
 9. In estimating the dose to individuals from intake of airborne radioactive materials, the licensee shall use the concentration of radioactive material in the air that is inhaled when respirators are worn, which is determined by dividing the ambient concentration in air without respiratory protection by the assigned protection factor. If the dose is later found to be greater than the estimated dose, the licensee shall modify the calculation using the corrected value. If the dose is later found to be less than the estimated dose, the licensee may modify the calculation using the corrected value.
- B. The licensee shall use Appendix A to select equipment and associated assigned protection factors.
 - C. A licensee shall apply to the Department for authorization to use assigned protection factors in excess of those specified in Appendix A. To apply for authorization the licensee shall:
 1. State the reason for the higher protection factors; and
 2. Demonstrate that the requested respiratory protective equipment provides the higher protection factors under the proposed conditions of use.
 - D. The licensee shall notify the Department in writing at least 30 days before the date that respiratory protective equipment is first used according to subsection (A) or (C).

Historical Note

New Section R9-7-425 recodified from R12-1-425, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-426. Security of Stored Sources of Radiation

A licensee or registrant shall secure from unauthorized removal or access licensed or registered sources of radiation that are stored in unrestricted areas.

Historical Note

New Section R9-7-426 recodified from R12-1-426, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-427. Control of Sources of Radiation Not in Storage

- A. A licensee shall control and maintain constant surveillance of licensed radioactive material that is in an unrestricted area and is not in storage or in a patient.
- B. A registrant shall maintain control of radiation machines that are in an unrestricted area and not in storage.

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Historical Note

New Section R9-7-427 recodified from R12-1-427, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-428. Caution Signs

- A. Unless otherwise authorized by the Department, a licensee or registrant shall use the symbol prescribed by this Section with the colors magenta, or purple, or black on yellow background as the standard radiation symbol. The symbol prescribed is the three-bladed design as follows:

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1. Cross-hatched area is to be magenta, purple, or black; and
2. The background is to be yellow.



- B. Notwithstanding the requirements of subsection (A), licensees or registrants are authorized to label sources of radiation, source holders, or device components containing sources of radiation that are subjected to high temperatures, with conspicuously etched or stamped radiation caution symbols that lack the color scheme required in subsection A.
- C. In addition to the contents of signs and labels prescribed in this Article, the licensee or registrant shall provide, on or near the required signs and labels, additional information to make individuals aware of potential radiation exposures and to minimize the exposures.

Historical Note

New Section R9-7-428 recodified from R12-1-428, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-429. Posting

- A. A licensee or registrant shall post each radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIATION AREA."
- B. The licensee or registrant shall post each high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, HIGH RADIATION AREA" or "DANGER, HIGH RADIATION AREA."
- C. The licensee or registrant shall post each very-high radiation area with a conspicuous sign or signs bearing the radiation symbol and the words "GRAVE DANGER, VERY HIGH RADIATION AREA."
- D. The licensee shall post each airborne radioactivity area with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, AIRBORNE RADIOACTIVITY AREA" or "DANGER, AIRBORNE RADIOACTIVITY AREA."
- E. The licensee shall post each area or room in which there is used or stored an amount of licensed material exceeding 10 times the quantity of licensed material specified in Appendix C with a conspicuous sign or signs bearing the radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL(S)" or "DANGER, RADIOACTIVE MATERIAL(S)."

Historical Note

New Section R9-7-429 recodified from R12-1-429, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-430. Exceptions to Posting Requirements

- A. A licensee or registrant is not required to post caution signs in areas or rooms containing sources of radiation for periods of less than eight hours, if each of the following conditions is met:
1. The sources of radiation are constantly attended during these periods by an individual who takes precautions necessary to prevent exposure of individuals to sources of radiation in excess of limits established in this Article; and
 2. The area or room is subject to the licensee's or registrant's control.
- B. A licensee or registrant is not required to post a caution sign in a room or other area in a hospital that is occupied by an individual who has been administered radioactive material, if the individual meets the criteria for release in R9-7-719.
- C. A licensee or registrant is not required to post a caution sign in a room or area because of the presence of a sealed source, provided the radiation level at 30 centimeters from the surface of the sealed source container or housing does not exceed 0.05 mSv (0.005 rem) per hour.
- D. A hospital or clinic licensee is exempt from the posting requirements in R9-7-429 for a teletherapy room if:
1. Access to the room is controlled according to R9-7-731; and
 2. Personnel in attendance take necessary precautions to prevent the inadvertent exposure of workers, other patients, and members of the public to radiation that exceeds the limits established in this Chapter.
- E. A registrant is not required to post a caution sign in a room or area because of the presence of radiation machines used solely for diagnosis in the healing arts.

Historical Note

New Section R9-7-430 recodified from R12-1-430, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-431. Labeling Containers and Radiation Machines

- A. A licensee shall ensure that each container of licensed material is labeled with a durable, clearly visible radiation symbol and the words "CAUTION, RADIOACTIVE MATERIAL" or "DANGER, RADIOACTIVE MATERIAL." The label shall also provide information, such as the radionuclides present, an estimate of the quantity of radioactivity, the date for which the radioactivity is estimated, radiation level, kind of material, and mass enrichment, to permit an individual handling or using a container, or working in the vicinity of a container, to take precautions to avoid or minimize exposure.
- B. Before removal or disposal of an empty, uncontaminated container to an unrestricted area, each licensee shall remove or deface the radioactive material label or otherwise clearly indicate that the container no longer contains radioactive materials.
- C. Each registrant shall ensure that each radiation machine is labeled in a conspicuous manner to caution an individual that radiation is produced when it is energized.
- D. A licensee shall label each syringe and vial that contains a radiopharmaceutical used in the practice of medicine with the radiopharmaceutical content. Each syringe shield and vial shield shall be labeled, unless the label on the syringe or vial is visible when shielded. The label shall contain the radiopharmaceutical name or its abbreviation, the clinical procedure to be performed, or the name of the person being administered the radiopharmaceutical. Color-coding syringe shields and vial shields does not meet the labeling requirement.

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Historical Note

New Section R9-7-431 recodified from R12-1-431, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-432. Labeling Exemptions

A licensee is not required to label:

1. Containers holding licensed material in quantities less than the quantities listed in Appendix C;
2. Containers holding licensed material in concentrations less than those specified in Table III of Appendix B;
3. Containers attended by an individual who takes precautions necessary to prevent exposure of individuals to radiation in excess of the limits established in this Article;
4. Containers holding radioactive material that do not exceed the limits for excepted quantity or article as defined and limited in 49 CFR 173.403, and 173.421 through 173.424, and are transported, packaged, and labeled in accordance with 49 CFR 172.436 through 172.440 (Revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);
5. Containers that are accessible only to individuals authorized to handle, use, or work in the vicinity of the containers, if the contents are identified to these individuals by a readily available written record, retained as long as the container is in use for the purpose indicated on the record. (Examples of containers of this type are containers in locations such as water-filled canals, storage vaults, or hot cells.); or
6. Installed manufacturing or process equipment, such as piping and tanks.

Historical Note

New Section R9-7-432 recodified from R12-1-432, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-433. Procedures for Receiving and Opening Packages

- A.** Each licensee who expects to receive a package containing quantities of radioactive material in excess of a Type A quantity, as defined in 10 CFR 71.4, January 1, 2005, which is incorporated by reference, published by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. The material incorporated by reference contains no future editions or amendments. The licensee shall make arrangements to receive:
1. The package when the carrier offers it for delivery; or
 2. The notification of the arrival of the package at the carrier's terminal and to take possession of the package expeditiously.
- B.** Each licensee shall:
1. Monitor the external surfaces of a package, labeled with a Radioactive White I, Yellow II, or Yellow III as specified in 49 CFR 172.403 and 172.436 through 172.440, October 1, 2004, which are incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. The material incorporated by reference contains no future editions or amendments. The licensee shall test the package for radioactive contamination, unless the package contains only radioactive material in the form of gas or in special form, as defined in R9-7-102; and
 2. Monitor the external surfaces of a package, labeled with a Radioactive White I, Yellow II, or Yellow III as specified in subsection (B)(1), for radiation levels unless the package contains quantities of radioactive material that are

less than or equal to the Type A quantity, defined in 10 CFR 71, and referenced in subsection (A); and

3. Monitor all packages known to contain radioactive material for radioactive contamination and radiation levels if there is evidence of degradation of package integrity, such as packages that are crushed, wet, or damaged.
- C.** The licensee shall perform the monitoring required by subsection (B) as soon as practical after receipt of the package, but not later than three hours after the package is received at the licensee's facility if it is received during the licensee's normal working hours, or not later than three hours from the beginning of the next working day if it is received after working hours.
- D.** The licensee shall immediately notify by telephone the final delivery carrier and the Department at 480-202-4982:
1. When:
 - a. Removable radioactive surface contamination exceeds 22 dpm/cm² for beta-gamma emitting radionuclides or 2.2 dpm/cm² for alpha-emitting radionuclides, wiping a minimum surface area of 300 square centimeters (46 square inches), or the entire surface if less than 300 square centimeters (46 square inches); or
 - b. External radiation levels exceed the limits of 2 millisieverts (200 millirem) per hour; and
 2. Include in the notification the following information:
 - a. The caller's name, official title, and call back telephone number;
 - b. The date and time of monitoring;
 - c. A description of how the limits in subsection (D)(1) were exceeded, including the amount of radiation detected;
 - d. The isotopes, quantities, and chemical and physical form of the licensed material in the package; and
 - e. Any personnel radiation exposure data available.
- E.** Each licensee shall:
1. Establish, maintain, and retain written procedures for safely opening packages that contain radioactive material, and
 2. Ensure that the procedures are followed and that due consideration is given to special instructions for the type of package being opened.
- F.** Licensees transferring special form sources in vehicles owned or operated by the licensee to and from a work site are exempt from the contamination monitoring requirements of subsection (B) but are not exempt from the monitoring requirement in subsection (B) for measuring radiation levels that ensures that the source of radiation is still properly lodged in its shield.

Historical Note

New Section R9-7-433 recodified from R12-1-433, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-434. General Requirements for Waste Disposal

- A.** A licensee shall dispose of licensed material only:
1. By transfer to an authorized recipient as provided in R9-7-439 or in Article 3, or to the U.S. Department of Energy;
 2. By decay in storage, according to R9-7-438(C);
 3. By release in effluents within the limits in R9-7-416; or
 4. As authorized according to R9-7-435, R9-7-436, R9-7-437, R9-7-438, or R9-7-438.01;
- B.** To receive waste that contains licensed material from other persons, a person shall be specifically licensed for:

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1. Treatment prior to disposal,
2. Treatment or disposal by incineration,
3. Decay in storage,
4. Disposal at a land disposal facility licensed according to Article 3, or
5. Storage until transferred to a storage or disposal facility authorized to receive the waste.

Historical Note

New Section R9-7-434 recodified from R12-1-434, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-435. Method for Obtaining Approval of Proposed Disposal Procedures

For disposal of licensed material generated in the licensee's operations, a licensee or applicant for a license may apply to the Department for approval of proposed disposal procedures, not otherwise authorized in this Chapter. Each application shall include:

1. A description of the waste containing licensed material to be disposed of, including the physical and chemical properties that have an impact on risk evaluation;
2. The proposed manner and conditions of waste disposal;
3. An analysis and evaluation of pertinent information on the nature of the environment;
4. The nature and location of other potentially affected facilities; and
5. An analysis and procedure to ensure that doses comply with R9-7-407(B), and are within the dose limits in this Article.

Historical Note

New Section R9-7-435 recodified from R12-1-435, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-436. Disposal by Release into Sanitary Sewerage System

- A. A licensee may discharge licensed material into sanitary sewerage if each of the following conditions is satisfied:
 1. The material is readily soluble or is readily dispersible biological material, in water;
 2. The quantity of licensed radioactive material that the licensee releases into the sewer in one month divided by the average monthly volume of water released into the sewer by the licensee or registrant does not exceed the concentration listed in Appendix B, Table III; and
 3. If more than one radionuclide is released, the following conditions shall also be satisfied:
 - a. The licensee shall determine the fraction of the limit in Appendix B, Table III represented by discharges into sanitary sewerage by dividing the actual monthly average concentration of each radionuclide released by the licensee or registrant into the sewer by the concentration of that radionuclide listed in Appendix B, Table III;
 - b. The sum of the fractions for each radionuclide required by subsection (A)(3)(a) does not exceed unity; and
 - c. The total quantity of licensed radioactive material that the licensee releases into the sanitary sewerage in a year does not exceed 185 GBq (5 Ci) of Hydrogen-3, 37 GBq (1 Ci) of Carbon-14, and 37 GBq (1 Ci) of all other radioactive materials combined.
- B. Excreta from individuals undergoing medical diagnosis or therapy with radioactive material are not subject to the limitations contained in subsection (A).

Historical Note

New Section R9-7-436 recodified from R12-1-436, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-437. Treatment or Disposal by Incineration

A licensee shall treat or dispose of licensed material by incineration only in the amounts and forms specified in R9-7-438 or as specifically approved by the Department according to R9-7-435.

Historical Note

New Section R9-7-436 recodified from R12-1-436, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-438. Disposal of Specific Wastes

- A. A licensee may dispose of the following licensed material as if it were not radioactive:
 1. 1.85 kBq (0.05 μ Ci), or less, of Hydrogen-3 or Carbon-14 per gram of medium used for liquid scintillation counting; and
 2. 1.85 kBq (0.05 μ Ci), or less, of Hydrogen-3 or Carbon-14 per gram of animal tissue, averaged over the weight of the entire animal.
 3. 1.85 kBq (0.05 μ Ci), or less, of Iodine-125 per gram of medium used in analyzing in vitro laboratory samples and associated sample holders contaminated during the laboratory procedure.
- B. A licensee shall not dispose of tissue, contaminated with radioactive material, according to subsection (A)(2) in a manner that would permit its use either as food for humans or as animal feed.
- C. A licensee may hold radioactive material with a physical half-life of less than or equal to 120 days for decay in storage before disposal without regard to its radioactivity, and is exempt from the requirements of R9-7-434, provided:
 1. The licensee monitors the radioactive material at the surface before disposal and determines that its radioactivity cannot be distinguished from the background radiation level with an appropriate radiation detection survey meter set on its most sensitive scale and with no interposed shielding; and
 2. The licensee removes or obliterates all radiation labels, except for radiation labels on materials that are within containers and that will be managed as biomedical waste after they have been released from the licensee.
- D. The licensee shall maintain records in accordance with R9-7-441.

Historical Note

New Section R9-7-438 recodified from R12-1-438, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-438.01. Disposal of Certain Radioactive Material

- A. Licensed material as defined in the definition of radioactive material in R9-7-102 may be disposed of in accordance with this Article, even though it is not defined as low-level radioactive waste. Therefore, any licensed radioactive material being disposed of at a facility, or transferred for ultimate disposal at a facility licensed by the Department, must meet the requirements of R9-7-439.
- B. A licensee may dispose of radioactive material, as defined in the definition of radioactive material in R9-7-102, at a disposal facility authorized to dispose of such material in accordance with any federal or state solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005.

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Historical Note

New Section R9-7-438.01 recodified from R12-1-438.01, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-439. Transfer for Disposal and Manifests

- A. Any licensee shipping radioactive waste intended for ultimate disposal at a licensed land disposal facility (for purposes of this rule “land disposal facility” means the land, buildings, structures, and equipment that are intended to be used for the disposal of radioactive waste. A geologic repository is not a land disposal facility) shall comply with 10 CFR 20.2006 and 10 CFR 20 Appendix G, published January 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B. An authorized representative of the waste generator shall provide the certification required in 10 CFR 20, Appendix G, Section II, which is incorporated by reference in subsection (A).

Historical Note

New Section R9-7-439 recodified from R12-1-439, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-440. Compliance with Environmental and Health Protection Regulations

Nothing in R9-7-434, R9-7-435, R9-7-436, R9-7-437, R9-7-438, or R9-7-439 relieves the licensee from complying with other applicable federal, state, and local rules or regulations governing any other toxic or hazardous properties of materials that may be disposed of according to the rules listed in Article 4 of this Chapter.

Historical Note

New Section R9-7-440 recodified from R12-1-440, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-441. Records of Waste Disposal

- A. Each licensee shall maintain records of the disposal of licensed materials made in accordance with R9-7-435, R9-7-436, R9-7-437, R9-7-438, and disposal by burial in soil, including burials authorized before February 25, 1985.
- B. The licensee shall retain the records required by subsection (A) until the Department terminates each pertinent license requiring the record. The licensee shall provide for the disposition of these records prior to license termination.

Historical Note

New Section R9-7-441 recodified from R12-1-441, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-442. Department Inspection of Shipments of Waste

Each shipment of waste to a disposal facility, licensed under R9-7-1302(D)(11), is subject to inspection by the Department before shipment or transportation. The waste shipper shall notify the Department not less than five working days before the scheduled shipment or transportation of waste to a licensed disposal facility.

Historical Note

New Section R9-7-442 recodified from R12-1-442, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-443. Reports of Stolen, Lost, or Missing Licensed or Registered Sources of Radiation

- A. Each licensee or registrant shall report to the Department by telephone, as specified in R9-7-448(C), as follows:
 1. Immediately after it becomes known to the licensee that licensed radioactive material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in Appendix C is stolen, lost, or missing under circumstances that indicate to the licensee that an exposure could result to individuals in unrestricted areas;

2. Within 30 days after it becomes known to the licensee that licensed radioactive material in an aggregate quantity greater than 10 times the quantity specified in Appendix C is stolen, lost, or missing, and is still missing; and
 3. Immediately after it becomes known to the registrant that a radiation machine is stolen, lost, or missing.
- B. Each licensee or registrant required to make a report according to subsection (A) shall, within 30 days after making the telephone report, make a written report to the Department that contains the following information:
 1. A description of the licensed or registered source of radiation involved, including, for radioactive material, the kind, quantity, and chemical and physical form; and, for radiation machines, the manufacturer, model, serial number, type, and maximum energy of radiation emitted;
 2. A description of the circumstances under which the loss or theft occurred;
 3. A statement of disposition, or probable disposition, of the licensed or registered source of radiation;
 4. Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas;
 5. Actions that have been taken, or will be taken, to recover the source of radiation; and
 6. Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed or registered sources of radiation.
 - C. After filing the written report required in subsection (B), the licensee or registrant shall also report additional substantive information on the loss or theft within 30 days after the licensee or registrant learns of the information.
 - D. The licensee or registrant shall provide the Department with the names of individuals who may have received an exposure to radiation as a result of an incident reported to the Department under subsection (B).

Historical Note

New Section R9-7-443 recodified from R12-1-443, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-444. Reports of Exposures, Radiation Levels, and Concentrations of Radioactive Material Exceeding the Limits

- A. In addition to the notification required by R9-7-445, each licensee or registrant shall submit a written report within 30 days after learning of any of the following:
 1. Incidents for which notification is required by R9-7-445;
 2. Doses in excess of any of the following:
 - a. The occupational dose limits for adults in R9-7-408;
 - b. The occupational dose limits for a minor in R9-7-414;
 - c. The limits for an embryo or fetus of a declared pregnant woman in R9-7-415;
 - d. The limits for an individual member of the public in R9-7-416;
 - e. Any applicable limit in the license or registration; or
 - f. The ALARA limit on air emissions in R9-7-407;
 3. Levels of radiation or concentrations of radioactive material in:
 - a. A restricted area in excess of applicable limits in the license or registration, or
 - b. An unrestricted area in excess of 10 times the applicable limit in this Article or in the license or registration, whether or not this involves an exposure of any

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individual to a dose in excess of the limits in R9-7-416;

4. Radiation levels or concentrations of radioactive material in excess of the standards in 40 CFR 190, 2003 edition, published July 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408 which is incorporated by reference and on file with the Department, if the licensee is subject to these federal standards, or there is a license condition referencing the 40 CFR 190 standards. This incorporation by reference contains no future editions or amendments.

B. Contents of reports.

1. Each report shall contain a description of each individual's exposure to radiation and radioactive material, including as applicable:
 - a. Estimates of each individual's dose;
 - b. The levels of radiation and concentrations of radioactive material involved;
 - c. The cause of the elevated exposures, dose rates, or concentrations; and
 - d. Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, generally applicable environmental standards, and associated license or registration conditions.
2. Each report filed according to subsection (A) shall include for each occupationally overexposed individual: name, Social Security number, and date of birth. With respect to the limit for an embryo or fetus in R9-7-415, the identifiers in the report should be those of the declared pregnant woman. The report shall be prepared so that information regarding each overexposed individual is stated in a separate and detachable part of the report.

- C. All licensees or registrants who make reports according to subsection (A) shall submit the report in writing to the Department.

Historical Note

New Section R9-7-444 recodified from R12-1-444, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-445. Notification of Incidents

- A. Immediate notification: Each licensee or registrant shall immediately report to the Department, as specified in R9-7-448(C), any event involving a radiation source that may have caused or threatens to cause any of the following conditions:
 1. An individual to receive:
 - a. A total effective dose equivalent of 0.25 Sv (25 rem) or more;
 - b. A lens dose equivalent of 0.75 Sv (75 rem) or more; or
 - c. A shallow-dose equivalent to the skin or extremities of 2.5 Gy (250 rads) or more; or
 2. The release of radioactive material, inside or outside of a restricted area but not including a location where personnel are not normally stationed during routine operations, such as a hot-cell or process enclosure, so if an individual had been present for 24 hours, the individual could have received five times the annual limit on intake.
- B. Twenty-four hour notification: Each licensee or registrant shall, within 24 hours of discovery of the event, report to the Department, as specified in R9-7-448(C), any event involving loss of control of a radiation source possessed by the licensee or registrant that may have caused, or threatens to cause, any of the following conditions:

1. An individual to receive, in a period of 24 hours:
 - a. A total effective dose equivalent exceeding 0.05 Sv (5 rem);
 - b. A lens dose equivalent exceeding 0.15 Sv (15 rem); or
 - c. A shallow-dose equivalent to the skin or extremities exceeding 0.5 Gy (50 rads); or
 2. The release of radioactive material, inside or outside of a restricted area but not including a location where personnel are not normally stationed during routine operations, such as a hot-cell or process enclosure, so, if an individual had been present for 24 hours, the individual could have received an intake in excess of one occupational annual limit of intake.
- C. A licensee or registrant shall prepare any report filed with the Department according to this Section so that names of individuals who have received exposure to radiation or radioactive material are stated in a separate and detachable part of the report.
 - D. If the Department does not respond to the initial telephone call made according to subsection (A) or (B) and R9-7-448(C), the licensee or registrant shall report to the Department of Public Safety and continue with reasonable efforts to contact the Department Duty Officer until contact is made.
 - E. The provisions of this Section do not apply to a dose that results from a planned special exposure, if the dose is within the limits for planned special exposures and reported according to R9-7-413(C).

Historical Note

New Section R9-7-445 recodified from R12-1-445, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-446. Notifications and Reports to Individuals

- A. Requirements for notification and reports to individuals of exposure to radiation or radioactive material are specified in R9-7-1004.
- B. In addition to the reporting requirements in R9-7-444 and R9-7-445, each licensee or registrant shall notify the individual exposed to radiation or radioactive material. The notice to the exposed individual shall be provided no later than the date the report is submitted to the Department and shall comply with R9-7-1004(A).

Historical Note

New Section R9-7-446 recodified from R12-1-446, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-447. Vacating Premises

- A. If a facility has been used for activities involving radioactive material a licensee shall notify the Department in writing of the intent to vacate the facility no less than 45 days before relinquishing possession or control of the facility.
- B. If a facility is contaminated with radioactive material, a licensee vacating the facility shall decontaminate it using Department-approved procedures.
- C. The Department shall inspect a vacated facility to determine whether it is contaminated with radioactive material.

Historical Note

New Section R9-7-447 recodified from R12-1-447, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-448. Additional Reporting

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- A.** Each licensee shall notify the Department, according to subsection (C), as soon as possible, but not later than four hours after the discovery of an event, and take immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed the limits specified in this Chapter or releases of licensed material that could exceed the limits specified in this Chapter. For purposes of this Section, event means a radiation accident involving a fire, explosion, gas release, or similar occurrence.
- B.** Each licensee shall notify the Department, according to subsection (C), within 24 hours after discovering any of the following events involving licensed material:
1. A contamination event that:
 - a. Requires that anyone having access to the contaminated area be restricted for more than 24 hours by the imposition of additional radiological controls to prohibit entry into the area;
 - b. Involves a quantity of radioactive material greater than five times the lowest annual limit on intake specified in Appendix B of this Article; and
 - c. Results in access to the contaminated area being restricted for a reason other than to allow radionuclides with a half-life of less than 24 hours to decay prior to decontamination.
 2. An event in which equipment is disabled or fails to function as designed when:
 - a. The equipment is part of a system designed to prevent releases exceeding the limits specified in this Chapter, to prevent exposures to radiation and radioactive materials exceeding limits specified in this Chapter, or to mitigate the consequences of an accident;
 - b. The equipment performs a safety function; and
 - c. No redundant equipment is available and operable to perform the required safety function.
 3. An event that requires urgent medical treatment of an individual with radioactive contamination on the individual's clothing or body.
 4. A fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:
 - a. The quantity of material involved is greater than five times the lowest annual limit on intake specified in Appendix B of this Article, and
 - b. The damage affects the integrity of the licensed material or its container.
- C.** Each licensee shall make reports by telephone to the Department at 480-202-4982 and, to the extent that the information is available at the time of notification, include the following information:
1. The caller's name, official title, and call back telephone number;
 2. A description of the event, including date and time;
 3. The exact location of the event;
 4. The isotopes, quantities, and chemical and physical form of the licensed material involved; and
 5. Any personnel radiation exposure data available.
- D.** Each licensee who makes a report required by subsection (A) or (B) shall submit to the Department a written follow-up report within 30 days of the initial report. Written reports prepared as required by other rules may be submitted to fulfill this requirement if the reports contain all of the required information in this subsection. The report shall include the following:
1. A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;
 2. The exact location of the event;
 3. The isotopes, quantities, and chemical and physical form of the licensed material involved;
 4. Date and time of the event;
 5. Corrective actions taken or planned and the results of any evaluations or assessments; and
 6. The extent of personnel exposure to radiation or to radioactive materials without identification of each exposed individual by name.
- E.** Each licensee that makes a report required by subsection (A) or (B) shall submit a written follow-up report to the Department within 30 days after the initial report.

Historical Note

New Section R9-7-448 recodified from R12-1-448, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-449. Survey Instruments and Pocket Dosimeters

- A.** Each licensee or registrant shall ensure that survey instruments used to show compliance with this Article have been calibrated before first use, annually, and following repair, unless otherwise specified in this Chapter.
- B.** To satisfy the requirements of subsection (A), the licensee or registrant shall:
1. For each scale to be calibrated, calibrate two readings separated by at least 50 percent of scale rating; and
 2. Conspicuously note on the instrument the apparent radiation level, in appropriate units for the type of survey instrument being used and the date of calibration.
- C.** Each licensee or registrant shall check each survey instrument for proper operation with the dedicated check source after calibration and before each use.
- D.** The licensee or registrant shall retain a record of each calibration required in subsection (A) for three years. The record shall include:
1. A description of the calibration procedure; and
 2. A description of the source used, the certified dose rates from the source, the rates indicated by the instrument being calibrated, the correction factors deduced from the calibration data, the signature of the individual who performed the calibration, and the date of calibration.
- E.** To meet the requirements of subsections (A), (B), and (C), the licensee or registrant may obtain the services of persons licensed or registered by the Department, the NRC, an Agreement State, or a Licensing State to perform calibrations of survey instruments. Licensing records of the service person authorization shall be maintained for three years by the licensee or registrant obtaining the service.
- F.** Each licensee or registrant shall ensure that pocket dosimeters used to show compliance with this Article:
1. Have been evaluated for proper operation annually and following repair, using a procedure acceptable to the Department, unless a more frequent evaluation is required by license condition (Unless the dosimeter is electronic, the evaluation of the dosimeter shall include a drift test over a 24-hour period.); and
 2. Meet the performance criteria listed in R9-7-523(C) and R9-7-1130(C).
- G.** Records of personnel dosimeter operational checks shall be maintained for three years.

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Historical Note

New Section R9-7-449 recodified from R12-1-449, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-450. Sealed Sources

- A. A licensee shall only receive, possess, and use radioactive materials contained in a sealed source that has been manufactured, labeled, packaged, and distributed in accordance with a specific license for its manufacture and distribution. The license to manufacture and distribute a sealed source shall be issued by the Department, the U.S. Nuclear Regulatory Commission, a Licensing State, or another Agreement State.
- B. A licensee who possesses and uses a sealed source, or any device or equipment that contains a sealed source, shall follow the radiation safety and handling instructions approved by the Department or follow the radiation safety and handling instructions furnished by the manufacturer on the label attached to the source, on the permanent container of the source, or in a leaflet or brochure that accompanies the source, and maintain the instructions in a legible and conveniently available form. If the handling instructions, leaflet, or brochure is no longer available and a copy cannot be obtained from the manufacturer, the licensee shall notify the Department that the source handling information is no longer available.
- C. Inventories:
1. An inventory shall be conducted at intervals not to exceed six months, unless a shorter interval is specified by license condition.
 2. The records of the inventory shall be maintained for three years from the date of the inventory, and shall be available for inspection by the Department.
 3. The information recorded shall include:
 - a. The kind and quantity of radioactive material,
 - b. The model and serial number of the source or the device in which it is mounted,
 - c. The location of the sealed source,
 - d. The date of the inventory, and
 - e. The signature of the person performing the inventory.
- D. Any licensee who possesses and uses sealed sources in the practice of medicine shall conduct a physical inventory according to the requirements in 9 A.A.C. 7, Article 7.
- E. Sealed sources, containing radioactive material, shall not be opened unless authorized by license condition.
- F. Sealed sources and machines, devices, or equipment containing sealed sources shall be used in accordance with procedures described in the manufacturer's instructions and the safety precautions described in the Nuclear Regulatory Commission Sealed Sources and Device Registry, unless the instructions or precautions conflict with these rules or license condition.
2. Conduct a radiation survey of the premises where the licensed activities were carried out to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-452 and submit to the Department a report of the results of this survey, unless the licensee demonstrates in some other manner acceptable to the Department that the premises are suitable for release in accordance with the criteria for decommissioning in R9-7-452.
- B. Before terminating a licensed program, each licensee authorized to possess radioactive material with a half-life greater than 120 days, in any unsealed form, shall forward the following records to the Department:
1. Records of disposal of the licensed material required by R9-7-435, R9-7-436, R9-7-437, and R9-7-438; and
 2. Records required by R9-7-418.
- C. If a licensed activity is transferred or assigned in accordance with subsection (E), each licensee authorized to possess radioactive material with a half-life greater than 120 days, in any unsealed form, shall transfer the following records to the new licensee and the new licensee shall maintain these records until the license is terminated:
1. Records of disposal of licensed material required by R9-7-435, R9-7-436, R9-7-437, and R9-7-438; and
 2. Records required by R9-7-418.
- D. Before the Department terminates a license, each licensee shall forward the records required by subsection (E) to the Department.
- E. A person licensed under R9-7-312 shall maintain required records regarding decommissioning of a facility in a location identified on the license until the Department releases the site for unrestricted use. Before transfer or assignment of licensed activities, a licensee shall transfer all records required by this Section to the transferee. If records relating to facility decommissioning are kept for other purposes, the transferee shall refer to these records and provide their location on the transferee's application for a license. The transferee shall maintain the records until the Department terminates the transferee's new license. The new licensee shall maintain the following decommissioning records for Department review:
1. Records of spills or other occurrences involving the spread of contamination in and around the facility, equipment, or site. The licensee shall maintain a record of any instance when contamination remains after cleanup procedures or there is a reasonable likelihood that a contaminant has spread to an inaccessible area, as in the case of possible seepage into porous material such as concrete. These records shall include any known information that identifies any radionuclide involved and its quantity, form, and concentration.
 2. As-built drawings showing modifications of structures and equipment in restricted areas where radioactive materials are used or stored, and locations of possible inaccessible contamination, such as buried pipes. If as-built drawings are referenced, the licensee need not index each relevant document individually. If drawings are not available, the licensee shall provide records with known information concerning these areas and locations, as prescribed in subsection (E)(1).
 3. Except for areas that contain depleted uranium used only for shielding or as penetrators in unused munitions, a list, contained in a single document and updated every two years, of the following:
 - a. Any area designated or formerly designated as a restricted area as defined under R9-7-102;

Historical Note

New Section R9-7-450 recodified from R12-1-450, at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-451. Termination of a Radioactive Material License or a Licensed Activity

- A. As the final step before terminating a radioactive material use program licensed under R9-7-312, the licensee shall:
1. Certify to the Department the disposition of all licensed material, including accumulated wastes, by submitting a complete description of a disposal plan with signed receipts from all licensed persons receiving the licensed material; and

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- b. Any area outside of a restricted area for which documentation is required under subsection (B)(1);
 - c. Any area outside of a restricted area where wastes have been buried;
 - d. Any area outside of a restricted area that contains regulated radioactive material that will require the licensee to either decontaminate the area for decommissioning under R9-7-452 or obtain disposal approval under R9-7-435; and
 - e. Any restricted area where wastes have been buried.
4. Records of the cost estimate performed for the decommissioning funding plan or the amount certified by the Department for decommissioning and the method for assuring funding, if either a funding plan or certification is used.

Historical Note

New Section R9-7-451 recodified from R12-1-451, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-452. Radiological Criteria for License Termination**A. General provisions and scope:**

- 1. The criteria in this Section apply to the decommissioning of facilities licensed under Article 3 of this Chapter. The criteria do not apply to uranium and thorium recovery facilities already subject to 10 CFR 40, Appendix A, or to uranium solution extraction facilities.
- 2. The criteria in this Section do not apply to sites that:
 - a. Have been decommissioned before the effective date of this Section; or
 - b. Have previously submitted and received Department approval of a license termination plan (LTP) or decommissioning plan.
- 3. If a site has been decommissioned and the license terminated in accordance with the criteria in this Section, the Department shall not require additional cleanup unless, based on new information, the Department determines that the criteria of this Section were not met and residual radioactivity at the site is a threat to public health and safety.
- 4. When calculating the TEDE for the average member of the critical group, a licensee shall use the peak annual dose expected within the first 1000 years after decommissioning.

B. Radiological criteria for unrestricted use. The Department considers a site acceptable for unrestricted use if the licensee reduces residual radioactivity, distinguishable from background radiation, to a TEDE for an average member of the critical group that does not exceed 0.15 mSv (15 mrem) per year, including radiation from groundwater sources of drinking water, and the residual radioactivity is as low as reasonably achievable (ALARA). To determine the level that is ALARA, the Department and the licensee shall take into account any detriment, such as deaths from transportation accidents, that is likely to result from decontamination and waste disposal.**C. Criteria for license termination under restrictive conditions.** The Department considers a site acceptable for license termination if the licensee meets all of the following restrictive conditions:

- 1. The licensee demonstrates that a reduction in residual radioactivity, necessary to comply with subsection (B), will result in net public or environmental harm or is not being made because the residual level of radioactivity is ALARA. To determine the level that is ALARA, the

Department and the licensee shall take into account any detriment, such as deaths from transportation accidents, that is likely to result from decontamination and waste disposal;

- 2. The licensee establishes one or more legally enforceable institutional controls that reduce residual radioactivity, distinguishable from background radiation, to a TEDE for the average member of the critical group that does not exceed (0.15 mSv) 15 mrem per year, including radiation from groundwater sources of drinking water;
- 3. The licensee demonstrates financial assurance that complies with R9-7-323(C), which enables an independent third party, including a governmental custodian of the site, to assume and carry out responsibilities for control and maintenance of the site and funds placed into a trust segregated from the licensee's assets and outside the licensee's administrative control, and in which the adequacy of the trust funds is to be assessed based on an assumed annual 1 percent real rate of return on investment;
- 4. The licensee submits a decommissioning plan or License Termination Plan (LTP) to the Department, indicating the licensee's intent to decommission in accordance with R9-7-323 and specifying that the licensee intends to decommission by restricting use of the site. The licensee shall document in the LTP or decommissioning plan how comments from individuals and institutions in the community, who may be affected by the decommissioning, have been sought and addressed after analysis.
 - a. If a licensee is restricting use of the site, the licensee shall seek comments from the public concerning the proposed decommissioning, regarding all of the following matters:
 - i. Whether the institutional controls proposed by the licensee will reduce residual radioactivity, distinguishable from background radiation, to a TEDE for the average member of the critical group that does not exceed 0.15 mSv (15 mrem) per year; are enforceable; and do not impose an unreasonable burden on the local community or other affected parties; and
 - ii. Whether the licensee has provided financial assurance that complies with R9-7-323(C), which enables an independent third party, including a governmental custodian of the site, to assume and carry out responsibilities for control and maintenance of the site;
 - b. In seeking comments on the issues identified in subsection (C)(4)(a), the licensee shall provide for:
 - i. Participation by representatives of a broad cross section of community interests that may be affected by the decommissioning;
 - ii. An opportunity for a comprehensive discussion of the issues by all of the community representatives; and
 - iii. A publicly available document that contains or access to each oral and written comment that reflects the viewpoints of community representatives on each issue and the extent of agreement or disagreement among representatives on each issue; and
- 5. The licensee reduces residual radioactivity, distinguishable from background radiation, at the site so that if the institutional controls are no longer in effect, the TEDE for the average member of the critical group is as low as rea-

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sonably achievable and does not exceed 1 mSv (100 mrem) per year; unless the licensee:

- a. Demonstrates that a further reduction in residual radioactivity necessary to comply with subsection (C)(5) is not technically achievable or economically feasible, or will result in net public or environmental harm;
- b. Provides for durable institutional controls; and
- c. Provides financial assurance that complies with R9-7-323(C), which enables an independent third party, including a governmental custodian of the site, to carry out periodic rechecks of the site, no less frequently than every five years; assures that each institutional control remains in place according to subsection (C)(3); and assumes and carries out responsibilities for maintenance of the institutional control.

D. Alternate criteria for license termination:

1. Based on circumstances that relate to a specific license, the Department may terminate the license using the following alternate criteria for subsections (B) or (C)(2), if the licensee demonstrates that the TEDE from residual radioactivity, distinguishable from background radiation, for an average member of the critical group does not exceed 0.15 mSv (15 mrem) per year, and if the licensee:
 - a. Ensures that public health and safety is protected by submitting an analysis of possible sources of exposure, prepared by a independent qualified expert, which indicates whether it is likely that the dose from all human-made sources combined, other than medical sources, is more than the 1 mSv/y (100 mrem/y) limit in R9-7-416;
 - b. Employs to the extent practicable, restrictions on site use, according to the provisions of subsection (C) to minimize exposures at the site;
 - c. Reduces doses to ALARA levels, taking into consideration any detriments such as traffic accidents expected to potentially result from decontamination and waste disposal;
 - d. Submits a decommissioning plan or License Termination Plan (LTP) to the Department that indicates the licensee's intent to decommission in accordance with R9-7-323, and specifies that the licensee proposes to decommission by use of alternate criteria. The licensee shall document in the decommissioning plan or LTP how comments from individuals and institutions in the community, who may be affected by the decommissioning, have been sought and addressed after analysis. In seeking comments, the licensee shall provide for:
 - i. Participation by representatives of a broad cross section of community interests that may be affected by the decommissioning;
 - ii. An opportunity for a comprehensive discussion of the issues by all of the community representatives; and
 - iii. A publicly available document that contains or access to each oral and written comment that reflects viewpoints of community representatives on each issue and the extent of agreement and disagreement among the representatives on each issue; and
 - e. Has provided sufficient financial assurance in the form of a trust fund to enable an independent third party, including a governmental custodian of a site,

to assume and carry out responsibilities for any necessary control and maintenance of the site.

2. The use of alternate criteria to terminate a license requires approval by the Department after consideration of any comments provided by the U.S. Environmental Protection Agency and any public comments submitted under subsection (E).

E. Public notification and public participation:

1. Upon the receipt of an LTP or decommissioning plan from a licensee, or a proposal by a licensee for release of a site under subsection (C) or (D), or whenever the Department determines that notice will serve the public interest, the Department shall notify and solicit comments from:
 - a. Local and state governments in the vicinity of the site and any Indian Nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning; and
 - b. The U.S. Environmental Protection Agency.
2. To comply with subsection(E)(1) the Department shall publish a notice in a local newspaper, send letters to state or local organizations on its mailing list, hold a public hearing that is readily accessible to individuals in the vicinity of the site, and solicit comments from the public.

F. Minimization of contamination. After the effective date of this Section, an applicant for a license, other than a renewal, shall describe in the application how facility design and procedures for operation will facilitate eventual decommissioning and minimize, to the extent practicable, the generation of radioactive waste and contamination of the facility and the environment.

1. Applicants for standard design certifications, standard design approvals, and manufacturing licenses shall describe in the application how facility design will minimize, to the extent practicable, contamination of the facility and the environment, facilitate eventual decommissioning, and minimize, to the extent practicable, the generation of radioactive waste.
2. Licensees shall, to the extent practical, conduct operations to minimize the introduction of residual radioactivity into the site, including the subsurface, in accordance with the existing radiation protection requirements in this Article and radiological criteria for license termination in this Article.

G. The Department considers a site acceptable for unrestricted use if the residual radioactivity, distinguishable from background radiation, is equal to or less than the values in Table 1.

Historical Note

New Section R9-7-452 recodified from R12-1-452, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Table 1. Acceptable Surface Contamination 1 Levels

Radionuclide ¹	Average ^{2,3}	Maximum ^{2,4}	Removable ^{2,5}
U-nat, U-235, U-238, and associated decay products	5,000 dpm/100 cm ²	15,000 dpm/100cm ²	1,000 dpm/100 cm ²
Transuranics, Ra-226, Ra-228, Th-230, Pa-231, Ac-227, I-125, I-129	100dpm/100cm ²	300 dpm/100cm ²	20dpm/100cm ²

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Th-nat, Th-232, Sr-90, Ra-223, Ra-224, U-232, I-126, I-131, I-133	1000 dpm/ 100cm ²	3000 dpm/ 100cm ²	200 dpm/ 100cm ²
Beta-gamma (Exceptions noted above)	5,000 dpm/ 100 cm ²	15,000 dpm/ 100cm ²	1,000 dpm/ 100 cm ²

¹ Where surface contamination by both alpha-and beta-gamma-emitting radionuclides exists, the limits established for alpha-and beta-gamma-emitting radionuclides apply independently.

² As used in this table, dpm (disintegrations per minute) means the rate of emission by radioactive material as determined by correcting the counts per minute observed on an instrument calibrated for background, efficiency, and geometric factors associated with the instrumentation, in accordance with R9-7-449.

³ Measurements of average contamination level shall not be averaged over more than one square meter. For objects of less surface area, the average shall be derived for each object.

⁴ The maximum contamination level applies to an area of not more than 100 cm².

⁵ The amount of removable radioactive material per 100 cm² of surface area shall be determined by wiping that area with dry filter or soft absorbent paper, applying moderate pressure, and assessing the amount of radioactive material on the wipe with an instrument calibrated in accordance with R9-7-449. When removable contamination on objects of surface area A (where A is less than 100 sq. cm) is determined, the entire surface shall be wiped and the contamination level multiplied by 100/A to convert to a "per 100 sq. cm" basis.

Historical Note

New Article 4, Table 1 recodified from 12 A.A.C. 1, Article 4, Table 1, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-453. Reports to Individuals of Exceeding Dose Limits

Any licensee or registrant that reports a personnel exposure to the Department in accordance with R9-7-413(A)(6), R9-7-444, or R9-7-452 shall:

1. Notify the exposed individual of the exposure addressed in the report; and
2. Transmit the report to the exposed individual at the same time the Department is notified of the exposure.

Historical Note

New Section R9-7-453 recodified from R12-1-453, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-454. Nationally Tracked Sources

- A. A licensee who manufactures, receives, transfers, disassembles, or disposes of a nationally tracked source shall complete and submit to the Nuclear Regulatory Commission's National Source Tracking System and the Department, a National Source Tracking Transaction Report that contains the information required in 10 CFR 20.2207(a) through (e), revised August 9, 2021, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments. The report shall be submitted by the close of the next business day after the transaction using a reporting method specified in 10 CFR 20.2207(f), revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B. The initial National Source Tracking Transaction Report shall contain the information required in subsection (A), be submitted using a method specified in 10 CFR 20.2207(f), revised August 9, 2021, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C. A licensee shall correct any error in previously filed National Source Tracking Transaction Reports or file a new report for any missed transaction within five business days of the discovery of the error or missed transaction in accordance with 10 CFR 20.2207(g), revised August 9, 2021, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- D. A licensee who receives a nationally tracked sealed source shall not disassemble the source unless specifically authorized to do so by the Department.

Historical Note

New Section R9-7-454 recodified from R12-1-454, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-455. Security Requirements for Portable Gauges

- A. A licensee that uses a portable gauge shall use a minimum of two independent controls to maintain security while:
 1. Transporting a portable gauge; and
 2. Storing a portable gauge.
- B. Each control shall form a tangible barrier that will prevent unauthorized removal whenever a portable gauge is not under the control and constant surveillance of the licensee.
- C. A licensee shall employ controls approved by the Department.

Historical Note

New Section R9-7-455 recodified from R12-1-455, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Appendix A. Assigned Protection Factors for Respirators^a

	Operating mode	Assigned Protection Factors
I. Air Purifying Respirators [Particulate ^b only] ^c :		
Filtering face piece disposable ^d	Negative	(^d)
Face piece, half ^e	Negative Pressure	10
Face piece, full	Negative Pressure	100
Face piece, half	Powered Air-purifying Respirators	50
Face piece, full	Powered Air-purifying Respirators	1000
Helmet/hood	Powered Air-purifying Respirators	1000
Face piece, loose-fitting	Powered Air-purifying Respirators	25
II. Atmosphere supplying respirators [particulate, gases and vapors ^f]:		
1. Air-line respirator:		
Face piece, half	Demand	10
Face piece, half	Continuous Flow	50
Face piece, half	Pressure Demand	50
Face piece, full	Demand	100
Face piece, full	Continuous Flow	1000
Face piece, full	Pressure Demand	1000
Helmet/hood	Continuous Flow	1000
Face piece, loose-fitting	Continuous Flow	25
Suit	Continuous Flow	(^g)
2. Self-contained breathing Apparatus (SCBA):		
Face piece, full	Demand	^h 100
Face piece, full	Pressure Demand	¹ 10,000
Face piece, full	Demand, Recirculating	^h 100
Face piece, full	Positive Pressure Recirculating	¹ 10,000
III. Combination Respirators:		
Any combination of air-purifying and atmosphere-supplying respirators	Assigned protection factor for type and mode of operation as listed above	

^a These assigned protection factors apply only in a respiratory protection program that meets the requirements of this Article. They are applicable only to airborne radiological hazards and may not be appropriate if chemical or other respiratory hazards exist instead of, or in addition to, radioactive hazards. A licensee shall comply with Department of Labor regulations, regarding selection and use of respirators for those circumstances.

Radioactive contaminants for which the concentration values in Table 1, Column 3 of Appendix B are based on internal dose due to inhalation may, in addition, present external exposure hazards at higher concentrations. Under these circumstances, limitations on occupancy may have to be governed by external dose limits.

^b A licensee shall equip air purifying respirators of APF<100 with particulate filters that are at least 95 percent efficient. The licensee shall equip air purifying respirators of APF=100 with particulate filters that are at least 99 percent efficient. The licensee shall equip air purifying respirators of APF>100 with particulate filters that are at least 99.97 percent efficient.

^c A licensee may apply to the Commission for the use of an APF greater than 1 for sorbent cartridges as protection against airborne radioactive gases and vapors, similar to radioiodine.

^d A Licensee may permit an individual to use this type of respirator if the individual has not been medically screened or fit tested on the device, provided that no credit is taken for use of these respirators in estimation of intake or dose. It is also recognized that it is difficult to perform an effective positive or negative pressure pre-use user seal check on this type of device. All other respiratory protection program requirements listed in 10 CFR 20.1703, January 2000 Edition, and published January 1, 2000, apply and are incorporated by reference and available for review at the Department and Secretary of State. This incorporation by reference contains no future editions or amendments. There is no assigned protection factor for these devices. However, a licensee may use an APF equal to 10 if the licensee can demonstrate a fit factor of at least 100 by use of a validated or evaluated, qualitative or quantitative fit test.

^e Under-chin type only. No distinction is made in this appendix between elastomeric half-masks with replaceable cartridges and those designed with the filter medium as an integral part of the face piece (disposable or reusable disposable). Both types are acceptable as long as the seal area of the latter contains some substantial type of seal-enhancing material, such as rubber or plastic, two or more suspension straps are adjustable, the filter medium is at least 95 percent efficient, and all other requirements of this Article are met.

^f The assigned protection factors for gases and vapors are not applicable to radioactive contaminants that present an absorption or submersion hazard. For tritium oxide vapor, approximately one-third of the intake occurs by absorption through the skin so that an overall pro-

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tection factor of 3 is appropriate when atmosphere-supplying respirators are used to protect against tritium oxide. Exposure to radioactive noble gases is not considered a significant respiratory hazard and protective actions for these contaminants should be based on external (submersion) dose considerations.

^g No NIOSH approval schedule is currently available for atmosphere supplying suits. This equipment may be used in an acceptable respiratory protection program as long as all the other minimum program requirements, with the exception of fit testing, are met. The minimum program requirements are provided in 10 CFR 20.1703.

^h The licensee shall implement institutional controls to assure that these devices are not used in areas immediately dangerous to life or health (IDLH).

ⁱ This type of respirator may be used as an emergency device in unknown concentrations for protection against inhalation hazards. External radiation hazards and other limitations to permitted exposure such as skin absorption shall be taken into account in these circumstances. This device may not be used by any individual who experiences perceptible outward leakage of breathing gas while wearing the device.

Historical Note

New Appendix A recodified from 12 A.A.C. 1, Article 4, Appendix A, effective March 22, 2018 (Supp. 18-1).

Appendix B. Annual Limits on Intake (ALI) and Derived Air Concentrations (DAC) of Radionuclides for Occupational Exposure; Effluent Concentrations; Concentrations for Release to Sanitary Sewerage

Introduction

For each radionuclide, Table I indicates the chemical form which is to be used for selecting the appropriate ALI or DAC value. The ALIs and DACs for inhalation are given for an aerosol with an activity median aerodynamic diameter (AMAD) of 1 μm , micron, and for three classes (D,W,Y) of radioactive material, which refer to their retention (approximately days, weeks, or years) in the pulmonary region of the lung. This classification applies to a range of clearance half-times for D if less than 10 days, for W from 10 to 100 days, and for Y greater than 100 days. Table II provides concentration limits for airborne and liquid effluents released to the general environment. Table III provides concentration limits for discharges to sanitary sewerage.

Note:

The values in Tables I, II, and III are presented in the computer "E" notation. In this notation a value of 6E-02 represents a value of 6×10^{-2} or 0.06, 6E+2 represents 6×10^2 or 600, and 6E+0 represents 6×10^0 or 6.

Table I "Occupational Values"

Note that the columns in Table I of this Appendix captioned "Oral Ingestion ALI," "Inhalation ALI," and "DAC" are applicable to occupational exposure to radioactive material.

The ALIs in this Appendix are the annual intakes of given radionuclide by "Reference Man" which would result in either (1) a committed effective dose equivalent of 0.05 Sv (5 rem), stochastic ALI, or (2) a committed dose equivalent of 0.5 Sv (50 rem) to an organ or tissue, nonstochastic ALI. The stochastic ALIs were derived to result in a risk, due to irradiation of organs and tissues, comparable to the risk associated with deep-dose equivalent to the whole body of 0.05 Sv (5 rem). The derivation includes multiplying the committed dose equivalent to an organ or tissue by a weighting factor, W_T . This weighting factor is the proportion of the risk of stochastic effects resulting from irradiation of the organ or tissue, T , to the total risk of stochastic effects when the whole body is irradiated uniformly. The values of W_T are listed under the definition of weighting factor in R9-7-403. The nonstochastic ALIs were derived to avoid nonstochastic effects, such as prompt damage to tissue or reduction in organ function.

A value of $W_T = 0.06$ is applicable to each of the five organs or tissues in the "remainder" category receiving the highest dose equivalents, and the dose equivalents of all other remaining tissues may be disregarded. The following portions of the GI tract -- stomach,

small intestine, upper large intestine, and lower large intestine -- are to be treated as four separate organs.

Note that the dose equivalents for an extremity, skin, and lens of the eye are not considered in computing the committed effective dose equivalent but are subject to limits that shall be met separately.

When an ALI is defined by the stochastic dose limit, this value alone is given. When an ALI is determined by the nonstochastic dose limit to an organ, the organ or tissue to which the limit applies is shown, and the ALI for the stochastic limit is shown in parentheses. Abbreviated organ or tissue designations are used:

LLI wall	=	lower large intestine wall,
St. wall	=	stomach wall,
Blad wall	=	bladder wall, and
Bone surf	=	Bone surface.

The use of the ALIs listed first, the more limiting of the stochastic and nonstochastic ALIs, will ensure that nonstochastic effects are avoided and that the risk of stochastic effects is limited to an acceptably low value. If, in a particular situation involving a radionuclide for which the nonstochastic ALI is limiting, use of that nonstochastic ALI is considered unduly conservative, the licensee may use the stochastic ALI to determine the committed effective dose equivalent. However, the licensee shall also ensure that the 0.5 Sv (50 rem) dose equivalent limit for any organ or tissue is not exceeded by the sum of the external deep-dose equivalent plus the internal committed dose equivalent to that organ, not the effective dose. For the case where there is no external dose contribution, this would be demonstrated if the sum of the fractions of the nonstochastic ALIs (ALI_{ns}) that contribute to the committed dose equivalent to the organ receiving the highest dose does not exceed unity, that is, $\sum (\text{intake (in } \mu\text{Ci)}) / ALI_{ns} \leq 1.0$. If there is an external deep dose equivalent contribution of H_d , then this sum must be less than $1 - (H_d/50)$, instead of ≤ 1.0 .

Note that the dose equivalents for an extremity, skin, and lens of the eye are not considered in computing the committed effective dose equivalent but are subject to limits that must be met separately.

The derived air concentration (DAC) values are derived limits intended to control chronic occupational exposures. The relationship between the DAC and the ALI is given by:

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$$\text{DAC} = \text{ALI}(\text{in } \mu\text{Ci}) / (2000 \text{ hours per working year} \times 60 \text{ minutes/hour} \times 2 \times 10^4 \text{ ml per minute}) = [\text{ALI} / 2.4 \times 10^9] \mu\text{Ci/ml},$$

where 2×10^4 ml is the volume of air breathed per minute at work by Reference Man under working conditions of light work.

The DAC values relate to one of two modes of exposure: either external submersion or the internal committed dose equivalents resulting from inhalation of radioactive materials. DACs based upon submersion are for immersion in a semi-infinite cloud of uniform concentration and apply to each radionuclide separately.

The ALI and DAC values include contributions to exposure by the single radionuclide named and any in-growth of daughter radionuclides produced in the body by decay of the parent. However, intakes that include both the parent and daughter radionuclides shall be treated by the general method appropriate for mixtures.

The values of ALI and DAC do not apply directly when the individual both ingests and inhales a radionuclide, when the individual is exposed to a mixture of radionuclides by either inhalation or ingestion or both, or when the individual is exposed to both internal and external irradiation. See R9-7-407. When an individual is exposed to radioactive materials which fall under several of the translocation classifications of the same radionuclide, such as Class D, Class W, or Class Y, the exposure may be evaluated as if it were a mixture of different radionuclides.

It should be noted that the classification of a compound as Class D, W, or Y is based on the chemical form of the compound and does not take into account the radiological half-life of different radionuclides. For this reason, values are given for Class D, W, and Y compounds, even for very short-lived radionuclides.

Table II "Effluent Concentrations"

The columns in Table II of this Appendix captioned "Effluents," "Air," and "Water" are applicable to the assessment and control of dose to the public, particularly in the implementation of the provisions of R9-7-415. The concentration values given in Columns 1 and 2 of Table II are equivalent to the radionuclide concentrations which, if inhaled or ingested continuously over the course of a year, would produce a total effective dose equivalent of 0.5 mSv (0.05 rem).

Consideration of nonstochastic limits has not been included in deriving the air and water effluent concentration limits because nonstochastic effects are presumed not to occur at or below the dose levels established for individual members of the public. For radionuclides, where the nonstochastic limit was governing in deriving the occupational DAC, the stochastic ALI was used in deriving the corresponding airborne effluent limit in Table II. For this reason,

the DAC and airborne effluent limits are not always proportional as they were in earlier versions of Appendix A of Article 4.

The air concentration values listed in Table II, Column 1 were derived by one of two methods. For those radionuclides for which the stochastic limit is governing, the occupational stochastic inhalation ALI was divided by 2.4×10^9 , relating the inhalation ALI to the DAC, as explained above, and then divided by a factor of 300. The factor of 300 includes the following components: a factor of 50 to relate the 0.05 Sv (5 rem) annual occupational dose limit to the 0.1 rem limit for members of the public, a factor of 3 to adjust for the difference in exposure time and the inhalation rate for a worker and that for members of the public; and a factor of 2 to adjust the occupational values, derived for adults, so that they are applicable to other age groups.

For those radionuclides for which submersion, that is external dose, is limiting, the occupational DAC in Table I, Column 3 was divided by 219. The factor of 219 is composed of a factor of 50, as described above, and a factor of 4.38 relating occupational exposure for 2,000 hours per year to full-time exposure (8,760 hours per year). Note that an additional factor of 2 for age considerations is not warranted in the submersion case.

The water concentrations were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by 7.3×10^7 . The factor of 7.3×10^7 (ml) includes the following components: the factors of 50 and 2 described above and a factor of 7.3×10^5 (ml) which is the annual water intake of Reference Man.

Note 2 of this Appendix provides groupings of radionuclides which are applicable to unknown mixtures of radionuclides. These groupings, including occupational inhalation ALIs and DACs, air and water effluent concentrations, and releases to sewer, require demonstrating that the most limiting radionuclides in successive classes are absent. The limit for the unknown mixture is defined when the presence of one of the listed radionuclides cannot be definitely excluded as being present either from knowledge of the radionuclide composition of the source or from actual measurements.

Table III "Releases to Sewers"

The monthly average concentrations for release to sanitary sewerage are applicable to the provisions in R9-7-435. The concentration values were derived by taking the most restrictive occupational stochastic oral ingestion ALI and dividing by 7.3×10^6 (ml). The factor of 7.3×10^6 (ml) is composed of a factor of 7.3×10^5 (ml), the annual water intake by Reference Man, and a factor of 10, such that the concentrations, if the sewage released by the licensee were the only source of water ingested by a Reference Man during a year, would result in a committed effective dose equivalent of 0.5 rem.

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LIST OF ELEMENTS

<u>Name</u>	<u>Symbol</u>	<u>Atomic Number</u>	<u>Name</u>	<u>Symbol</u>	<u>Atomic Number</u>
Actinium	Ac	89	Molybdenum	Mo	42
Aluminum	Al	13	Neodymium	Nd	60
Americium	Am	95	Neptunium	Np	93
Antimony	Sb	51	Nickel	Ni	28
Argon	Ar	18	Niobium	Nb	41
Arsenic	As	33	Nitrogen	N	7
Astatine	At	85	Osmium	Os	76
Barium	Ba	56	Oxygen	O	8
Berkelium	Bk	97	Palladium	Pd	46
Beryllium	Be	4	Phosphorus	P	15
Bismuth	Bi	83	Platinum	Pt	78
Bromine	Br	35	Plutonium	Pu	94
Cadmium	Cd	48	Polonium	Po	84
Calcium	Ca	20	Potassium	K	19
Californium	Cf	98	Praseodymium	Pr	59
Carbon	C	6	Promethium	Pm	61
Cerium	Ce	58	Protactinium	Pa	91
Cesium	Cs	55	Radium	Ra	88
Chlorine	Cl	17	Radon	Rn	86
Chromium	Cr	24	Rhenium	Re	75
Cobalt	Co	27	Rhodium	Rh	45
Copper	Cu	29	Rubidium	Rb	37
Curium	Cm	96	Ruthenium	Ru	44
Dysprosium	Dy	66	Samarium	Sm	62
Einsteinium	Es	99	Scandium	Sc	21
Erbium	Er	68	Selenium	Se	34
Europium	Eu	63	Silicon	Si	14
Fermium	Fm	100	Silver	Ag	47
Fluorine	F	9	Sodium	Na	11
Francium	Fr	87	Strontium	Sr	38
Gadolinium	Gd	64	Sulfur	S	16
Gallium	Ga	31	Tantalum	Ta	73
Germanium	Ge	32	Technetium	Tc	43
Gold	Au	79	Tellurium	Te	52
Hafnium	Hf	72	Terbium	Tb	65
Holmium	Ho	67	Thallium	Tl	81
Hydrogen	H	1	Thorium	Th	90
Indium	In	49	Thulium	Tm	69
Iodine	I	53	Tin	Sn	50
Iridium	Ir	77	Titanium	Ti	22
Iron	Fe	26	Tungsten	W	74
Krypton	Kr	36	Uranium	U	92
Lanthanum	La	57	Vanadium	V	23
Lead	Pb	82	Xenon	Xe	54
Lutetium	Lu	71	Ytterbium	Yb	70
Magnesium	Mg	12	Yttrium	Y	39
Manganese	Mn	25	Zinc	Zn	30
Mendelevium	Md	101	Zirconium	Zr	40
Mercury	Hg	80			

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
1	Hydrogen-3	Water, DAC includes skin absorption	8E+4	8E+4	2E-5	1E-7	1E-3	1E-2
		Gas (HT or T ₂) Submersion ¹ : Use above values as HT and T ₂ oxidize in air and in the body to HTO.						
4	Beryllium-7	W, all compounds except those given for Y	4E+4	2E+4	9E-6	3E-8	6E-4	6E-3
		Y, oxides, halides, and nitrates	-	2E+4	8E-6	3E-8	-	-
4	Beryllium-10	W, see ⁷ Be	1E+3	2E+2	6E-8	2E-10	-	--
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		Y, see ⁷ Be	-	1E+1	6E-9	2E-11	-	-
6	Carbon-11 ²	Monoxide	-	1E+6	5E-4	2E-6	-	-
		Dioxide	-	6E+5	3E-4	9E-7	-	-
		Compounds	4E+5	4E+5	2E-4	6E-7	6E-3	6E-2
6	Carbon-14	Monoxide	-	2E+6	7E-4	2E-6	-	-
		Dioxide	-	2E+5	9E-5	3E-7	-	-
		Compounds	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4
7	Nitrogen-13 ²	Submersion ¹	-	-	4E-6	2E-8	-	-
8	Oxygen-15 ²	Submersion ¹	-	-	4E-6	2E-8	-	-
9	Fluorine-18 ²	D, fluorides of H, Li, Na, K, Rb, Cs, and Fr	5E+4	7E+4	3E-5	1E-7	-	-
		St wall (5E+4)	-	-	-	-	7E-4	7E-3
		W, fluorides of Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, As, Sb, Bi, Fe, Ru, Os, Co, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, V, Nb, Ta, Mn, Tc, and Re	-	9E+4	4E-5	1E-7	-	-
		Y, Lanthanum fluoride	-	8E+4	3E-5	1E-7	-	-
11	Sodium-22	D, all compounds	4E+2	6E+2	3E-7	9E-10	6E-6	6E-5
11	Sodium-24	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
12	Magnesium-28	D, all compounds except those given for W	7E+2	2E+3	7E-7	2E-9	9E-6	9E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	1E+3	5E-7	2E-9	-	-
13	Aluminum-26	D, all compounds except those given for W	4E+2	6E+1	3E-8	9E-11	6E-6	6E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	9E+1	4E-8	1E-10	-	-
14	Silicon-31	D, all compounds except those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, oxides, hydroxides, carbides, and nitrates	-	3E+4	1E-5	5E-8	-	-
		Y, aluminosilicate glass	-	3E+4	1E-5	4E-8	-	-
14	Silicon-32	D, see ³¹ Si	2E+3	2E+2	1E-7	3E-10	-	-
		LLI wall (3E+3)	-	-	-	-	4E-5	4E-4
		W, see ³¹ Si	-	1E+2	5E-8	2E-10	-	-
		Y, see ³¹ Si	-	5E+0	2E-9	7E-12	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3 Inhalation	Col. 1 Air	Col. 2 Water	Monthly Average
			ALI (μ Ci)	ALI (μ Ci)	DAC (μ Ci/ml)	(μ Ci/ml)	(μ Ci/ml)	Concentration (μ Ci/ml)
15	Phosphorus-32	D, all compounds except phosphates given for W	6E+2	9E+2	4E-7	1E-9	9E-6	9E-5
		W, phosphates of Zn ²⁺ , S ³⁺ , Mg ²⁺ , Fe ³⁺ , Bi ³⁺ , and Lanthanides	-	4E+2	2E-7	5E-10	-	-
15	Phosphorus-33	D, see ³² P	6E+3	8E+3	4E-6	1E-8	8E-5	8E-4
		W, see ³² P	-	3E+3	1E-6	4E-9	-	-
16	Sulfur-35	Vapor	1E+4	6E-6	2E-8	-	-	-
		D, sulfides and sulfates except those given for W	1E+4	2E+4	7E-6	2E-8	-	-
		LLI wall	(8E+3)	-	-	-	1E-4	1E-3
		W, elemental sulfur, sulfides of Sr, Ba, Ge, Sn, Pb, As, Sb, Bi, Cu, Ag, Au, Zn, Cd, Hg, W, and Mo. Sulfates of Ca, Sr, Ba, Ra, As, Sb, and Bi	-	2E+3	9E-7	3E-9	-	-
17	Chlorine-36	D, chlorides of H, Li, Na, K, Rb, Cs, and Fr	2E+3	2E+3	1E-6	3E-9	2E-5	2E-4
		W, chlorides of Lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Cr, Mo, W, Mn, Tc, and Re	-	2E+2	1E-7	3E-10-	-	-
17	Chlorine-38 ²	D, see ³⁶ Cl	2E+4	4E+4	2E-5	6E-8-	-	-
		St wall	(3E+4)	-	-	-3E-4	3E-3	-
		W, see ³⁶ Cl	-	5E+4	2E-5	6E-8-	-	-
17	Chlorine-39 ²	D, see ³⁶ Cl	2E+4	5E+4	2E-5	7E-8-	-	-
		St wall	(4E+4)	-	-	-5E-4	5E-3	-
		W, see ³⁶ Cl	-	6E+4	2E-5	8E-8-	-	-
18	Argon-37	Submersion ¹	-	-	1E+0	6E-3-	-	-
18	Argon-39	Submersion ¹	-	-	2E-4	8E-7-	-	-
18	Argon-41	Submersion ¹	-	-	3E-6	1E-8-	-	-
19	Potassium-40	D, all compounds	3E+2	4E+2	2E-7	6E-10	4E-6	4E-5
19	Potassium-42	D, all compounds	5E+3	5E+3	2E-6	7E-9	6E-5	6E-4
19	Potassium-43	D, all compounds	6E+3	9E+3	4E-6	1E-8	9E-5	9E-4
19	Potassium-44 ²	D, all compounds	2E+4	7E+4	3E-5	9E-8	-	-
		St wall	(4E+4)	-	-	-	5E-4	5E-3
19	Potassium-45 ²	D, all compounds	3E+4	1E+5	5E-5	2E-7	-	-
		St wall	(5E+4)	-	-	-	7E-4	7E-3

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
20	Calcium-41	W, all compounds	3E+3	4E+3	2E-6	-	-	-
			Bone surf (4E+3)	Bone surf (4E+3)	-	5E-9	6E-5	6E-4
20	Calcium-45	W, all compounds	2E+3	8E+2	4E-7	1E-9	2E-5	2E-4
20	Calcium-47	W, all compounds	8E+2	9E+2	4E-7	1E-9	1E-5	1E-4
21	Scandium-43	Y, all compounds	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
21	Scandium-44m	Y, all compounds	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
21	Scandium-44	Y, all compounds	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
21	Scandium-46	Y, all compounds	9E+2	2E+2	1E-7	3E-10	1E-5	1E-4
21	Scandium-47	Y, all compounds	2E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (3E+3)	-	-	-	4E-5	4E-4
21	Scandium-48	Y, all compounds	8E+2	1E+3	6E-7	2E-9	1E-5	1E-4
21	Scandium-49 ²	Y, all compounds	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3
22	Titanium-44	D, all compounds except those given for W and Y	3E+2	1E+1	5E-9	2E-11	4E-6	4E-5
		W, oxides, hydroxides, carbides, halides, and nitrates	-	3E+1	1E-8	4E-11	-	-
		Y, SrTiO	-	6E+0	2E-9	8E-12	-	-
22	Titanium-45	D, see ⁴⁴ Ti	9E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		W, see ⁴⁴ Ti	-	4E+4	1E-5	5E-8	-	-
		Y, see ⁴⁴ Ti	-	3E+4	1E-5	4E-8	-	-
23	Vanadium-47 ²	D, all compounds except those given for W	3E+4	8E+4	3E-5	1E-7	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
		W, oxides, hydroxides, carbides, and halides	-	1E+5	4E-5	1E-7	-	-
23	Vanadium-48	D, see ⁴⁷ V	6E+2	1E+3	5E-7	2E-9	9E-6	9E-5
		W, see ⁴⁷ V	-	6E+2	3E-7	9E-10	-	-
23	Vanadium-49	D, see ⁴⁷ V	7E+4	3E+4	1E-5	-	-	-
			LLI wall (9E+4)	Bone surf (3E+4)	-	5E-8	1E-3	1E-2
		W, see ⁴⁷ V	-	2E+4	8E-6	2E-8	-	-
24	Chromium-48	D, all compounds except those given for W and Y	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, halides and nitrates	-	7E+3	3E-6	1E-8	-	-
		Y, oxides and hydroxides	-	7E+3	3E-6	1E-8	-	-
24	Chromium-49 ²	D, see ⁴⁸ Cr	3E+4	8E+4	4E-5	1E-7	4E-4	4E-3
		W, see ⁴⁸ Cr	-	1E+5	4E-5	1E-7	-	-
		Y, see ⁴⁸ Cr	-	9E+4	4E-5	1E-7	-	-
24	Chromium-51	D, see ⁴⁸ Cr	4E+4	5E+4	2E-5	6E-8	5E-4	5E-3
		W, see ⁴⁸ Cr	-	2E+4	1E-5	3E-8	-	-
		Y, see ⁴⁸ Cr	-	2E+4	8E-6	3E-8	-	-
25	Manganese-51 ²	D, all compounds except those given for W	2E+4	5E+4	2E-5	7E-8	3E-4	3E-3
		W, oxides, hydroxides, halides, and nitrates	-	6E+4	3E-5	8E-8	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
25	Manganese-52m ²	D, see ⁵¹ Mn	3E+4 St wall (4E+4)	9E+4 -	4E-5 -	1E-7 -	- 5E-4	- 5E-3
		W, see ⁵¹ Mn	-	1E+5	4E-5	1E-7	-	-
25	Manganese-52	D, see ⁵¹ Mn	7E+2	1E+3	5E-7	2E-9	1E-5	1E-4
		W, see ⁵¹ Mn	-	9E+2	4E-7	1E-9	-	-
25	Manganese-53	D, see ⁵¹ Mn	5E+4	1E+4 Bone surf (2E+4)	5E-6 -	- 3E-8	7E-4 -	7E-3 -
		W, see ⁵¹ Mn	-	1E+4	5E-6	2E-8	-	-
25	Manganese-54	D, see ⁵¹ Mn	2E+3	9E+2	4E-7	1E-9	3E-5	3E-4
		W, see ⁵¹ Mn	-	8E+2	3E-7	1E-9	-	-
25	Manganese-56	D, see ⁵¹ Mn	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see ⁵¹ Mn	-	2E+4	9E-6	3E-8	-	-
26	Iron-52	D, all compounds except those given for W	9E+2	3E+3	1E-6	4E-9	1E-5	1E-4
		W, oxides, hydroxides, and halides	-	2E+3	1E-6	3E-9	-	-
26	Iron-55	D, see ⁵² Fe	9E+3	2E+3	8E-7	3E-9	1E-4	1E-3
		W, see ⁵² Fe	-	4E+3	2E-6	6E-9	-	-
26	Iron-59	D, see ⁵² Fe	8E+2	3E+2	1E-7	5E-10	1E-5	1E-4
		W, see ⁵² Fe	-	5E+2	2E-7	7E-10	-	-
26	Iron-60	D, see ⁵² Fe	3E+1	6E+0	3E-9	9E-12	4E-7	4E-6
		W, see ⁵² Fe	-	2E+1	8E-9	3E-11	-	-
27	Cobalt-55	W, all compounds except those given for Y	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, oxides, hydroxides, halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
27	Cobalt-56	W, see ⁵⁵ Co	5E+2	3E+2	1E-7	4E-10	6E-6	6E-5
		Y, see ⁵⁵ Co	4E+2	2E+2	8E-8	3E-10	-	-
27	Cobalt-57	W, see ⁵⁵ Co	8E+3	3E+3	1E-6	4E-9	6E-5	6E-4
		Y, see ⁵⁵ Co	4E+3	7E+2	3E-7	9E-10	-	-
27	Cobalt-58m	W, see ⁵⁵ Co	6E+4	9E+4	4E-5	1E-7	8E-4	8E-3
		Y, see ⁵⁵ Co	-	6E+4	3E-5	9E-8	-	-
27	Cobalt-58	W, see ⁵⁵ Co	2E+3	1E+3	5E-7	2E-9	2E-5	2E-4
		Y, see ⁵⁵ Co	1E+3	7E+2	3E-7	1E-9	-	-
27	Cobalt-60m ²	W, see ⁵⁵ Co	1E+6 St wall (1E+6)	4E+6 -	2E-3 -	6E-6 -	- 2E-2	- 2E-1
		Y, see ⁵⁵ Co	-	3E+6	1E-3	4E-6	-	-
27	Cobalt-60	W, see ⁵⁵ Co	5E+2	2E+2	7E-8	2E-10	3E-6	3E-5
		Y, see ⁵⁵ Co	2E+2	3E+1	1E-8	5E-11	-	-
27	Cobalt-61 ²	W, see ⁵⁵ Co	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		Y, see ⁵⁵ Co	2E+4	6E+4	2E-5	8E-8	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
27	Cobalt-62m ²	W, see ⁵⁵ Co St wall	4E+4 (5E+4)	2E+5 -	7E-5 -	2E-7 -	- 7E-4	- 7E-3
28	Nickel-56	Y, see ⁵⁵ Co D, all compounds except those given for W W, oxides, hydroxides, and carbides Vapor	- 1E+3 - -	2E+5 2E+3 1E+3 1E+3	6E-5 8E-7 5E-7 5E-7	2E-7 3E-9 2E-9 2E-9	- 2E-5 - -	- 2E-4 - -
28	Nickel-57	D, see ⁵⁶ Ni W, see ⁵⁶ Ni Vapor	2E+3 - -	5E+3 3E+3 6E+3	2E-6 1E-6 3E-6	7E-9 4E-9 9E-	2E-5 - -	2E-4 - -
28	Nickel-59	D, see ⁵⁶ Ni W, see ⁵⁶ Ni Vapor	2E+4 - -	4E+3 7E+3 2E+3	2E-6 3E-6 8E-7	5E-9 1E-8 3E-9	3E-4 - -	3E-3 - -
28	Nickel-63	D, see ⁵⁶ Ni W, see ⁵⁶ Ni Vapor	9E+3 - -	2E+3 3E+3 8E+2	7E-7 1E-6 3E-7	2E-9 4E-9 1E-9	1E-4 - -	1E-3 - -
28	Nickel-65	D, see ⁵⁶ Ni W, see ⁵⁶ Ni Vapor	8E+3 - -	2E+4 3E+4 2E+4	1E-5 1E-5 7E-6	3E-8 4E-8 2E-8	1E-4 - -	1E-3 - -
28	Nickel-66	D, see ⁵⁶ Ni LLI wall	4E+2 (5E+2)	2E+3 -	7E-7 -	2E-9 -	- 6E-6	- 6E-5
29	Copper-60 ²	W, see ⁵⁶ Ni Vapor D, all compounds except those given for W and Y St wall	- - 3E+4 (3E+4)	6E+2 3E+3 9E+4 -	3E-7 1E-6 4E-5 -	9E-10 4E-9 1E-7 -	- - - 4E-4	- - - 4E-3
29	Copper-61	W, sulfides, halides, and nitrates Y, oxides and hydroxides	- -	1E+5 1E+5	5E-5 4E-5	2E-7 1E-7	- -	- -
29	Copper-64	D, see ⁶⁰ Cu W, see ⁶⁰ Cu Y, see ⁶⁰ Cu	1E+4 - -	3E+4 4E+4 4E+4	1E-5 2E-5 1E-5	4E-8 6E-8 5E-8	2E-4 - -	2E-3 - -
29	Copper-67	D, see ⁶⁰ Cu W, see ⁶⁰ Cu Y, see ⁶⁰ Cu	1E+4 - -	3E+4 2E+4 2E+4	1E-5 1E-5 9E-6	4E-8 3E-8 3E-8	2E-4 - -	2E-3 - -
29	Copper-67	D, see ⁶⁰ Cu W, see ⁶⁰ Cu Y, see ⁶⁰ Cu	5E+3 - -	8E+3 5E+3 5E+3	3E-6 2E-6 2E-6	1E-8 7E-9 6E-9	6E-5 - -	6E-4 - -
30	Zinc-62	Y, all compounds	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
30	Zinc-63 ²	Y, all compounds St wall	2E+4 (3E+4)	7E+4 -	3E-5 -	9E-8 -	- 3E-4	- 3E-3

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
30	Zinc-65	Y, all compounds	4E+2	3E+2	1E-7	4E-10	5E-6	5E-5
30	Zinc-69m	Y, all compounds	4E+3	7E+3	3E-6	1E-8	6E-5	6E-4
30	Zinc-69 ²	Y, all compounds	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
30	Zinc-71m	Y, all compounds	6E+3	2E+4	7E-6	2E-8	8E-5	8E-4
30	Zinc-72	Y, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
31	Gallium-65 ²	D, all compounds except those given for W	5E+4 St wall (6E+4),	2E+5	7E-5	2E-7	-	-
		W, oxides, hydroxides, carbides, halides, and nitrates	-	2E+5	8E-5	3E-7	-	-
31	Gallium-66	D, see ⁶⁵ Ga	1E+3	4E+3	1E-6	5E-9	1E-5	1E-4
		W, see ⁶⁵ Ga	-	3E+3	1E-6	4E-9	-	-
31	Gallium-67	D, see ⁶⁵ Ga	7E+3	1E+4	6E-6	2E-8	1E-4	1E-3
		W, see ⁶⁵ Ga	-	1E+4	4E-6	1E-8	-	-
31	Gallium-68 ²	D, see ⁶⁵ Ga	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ⁶⁵ Ga	-	5E+4	2E-5	7E-8	-	-
31	Gallium-70 ²	D, see ⁶⁵ Ga	5E+4 St wall (7E+4)	2E+5	7E-5	2E-7	-	-
		W, see ⁶⁵ Ga	-	2E+5	8E-5	3E-7	-	-
31	Gallium-72	D, see ⁶⁵ Ga	1E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ⁶⁵ Ga	-	3E+3	1E-6	4E-9	-	-
31	Gallium-73	D, see ⁶⁵ Ga	5E+3	2E+4	6E-6	2E-8	7E-5	7E-4
		W, see ⁶⁵ Ga	-	2E+4	6E-6	2E-8	-	-
32	Germanium-66	D, all compounds except those given for W	2E+4	3E+4	1E-5	4E-8	3E-4	3E-3
		W, oxides, sulfides, and halides	-	2E+4	8E-6	3E-8	-	-
32	Germanium-67 ²	D, see ⁶⁶ Ge	3E+4 St wait (4E+4)	9E+4	4E-5	1E-7	-	-
		W, see ⁶⁶ Ge	-	1E+5	4E-5	1E-7	-	-
32	Germanium-68	D, see ⁶⁶ Ge	5E+3	4E+3	2E-6	5E-9	6E-5	6E-4
		W, see ⁶⁶ Ge	-	1E+2	4E-8	1E-10	-	-
32	Germanium-69	D, see ⁶⁶ Ge	1E+4	2E+4	6E-6	2E-8	2E-4	2E-3
		W, see ⁶⁶ Ge	-	8E+3	3E-6	1E-8	-	-
32	Germanium-71	D, see ⁶⁶ Ge	5E+5	4E+5	2E-4	6E-7	7E-3	7E-2
		W, see ⁶⁶ Ge	-	4E+4	2E-5	6E-8	-	-
32	Germanium-75 ²	D, see ⁶⁶ Ge	4E+4 St wall (7E+4)	8E+4	3E-5	1E-7	-	-
		W, see ⁶⁶ Ge	-	8E+4	4E-5	1E-7	-	-
32	Germanium-77	D, see ⁶⁶ Ge	9E+3	1E+4	4E-6	1E-8	1E-4	1E-3
		W, see ⁶⁶ Ge	-	6E+3	2E-6	8E-9	-	-

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
32	Germanium-78 ²	D, see ⁶⁶ Ge	2E+4	2E+4	9E-6	3E-8	-	-
			St wall (2E+4)	-	-	-	3E-4	3E-3
		W, see ⁶⁶ Ge	-	2E+4	9E-6	3E-8	-	-
33	Arsenic-69 ²	W, all compounds	3E+4	1E+5	5E-5	2E-7	-	-
			St wall (4E+4)	-	-	-	6E-4	6E-3
33	Arsenic-70 ²	W, all compounds	1E+4	5E+4	2E-5	7E-8	2E-4	2E-3
33	Arsenic-71	W, all compounds	4E+3	5E+3	2E-6	6E-9	5E-5	5E-4
33	Arsenic-72	W, all compounds	9E+2	1E+3	6E-7	2E-9	1E-5	1E-4
33	Arsenic-73	W, all compounds	8E+3	2E+3	7E-7	2E-9	1E-4	1E-3
33	Arsenic-74	W, all compounds	1E+3	8E+2	3E-7	1E-9	2E-5	2E-4
33	Arsenic-76	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4
33	Arsenic-77	W, all compounds	4E+3	5E+3	2E-6	7E-9	-	-
			LLI wall (5E+3)	-	-	-	6E-5	6E-4
33	Arsenic-78 ²	W, all compounds	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
34	Selenium-70 ²	D, all compounds except those given for W	2E+4	4E+4	2E-5	5E-8	1E-4	1E-3
		W, oxides, hydroxides, carbides, and elemental Se	1E+4	4E+4	2E-5	6E-8	-	-
34	Selenium-73m ²	D, see ⁷⁰ Se	6E+4	2E+5	6E-5	2E-7	4E-4	4E-3
		W, see ⁷⁰ Se	3E+4	1E+5	6E-5	2E-7	-	-
34	Selenium-73	D, see ⁷⁰ Se	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
		W, see ⁷⁰ Se	-	2E+4	7E-6	2E-8	-	-
34	Selenium-75	D, see ⁷⁰ Se	5E+2	7E+2	3E-7	1E-9	7E-6	7E-5
		W, see ⁷⁰ Se	-	6E+2	3E-7	8E-10	-	-
34	Selenium-79	D, see ⁷⁰ Se	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
		W, see ⁷⁰ Se	-	6E+2	2E-7	8E-10	-	-
34	Selenium-81m ²	D, see ⁷⁰ Se	4E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		W, see ⁷⁰ Se	2E+4	7E+4	3E-5	1E-7	-	-
34	Selenium-81 ²	D, see ⁷⁰ Se	6E+4	2E+5	9E-5	3E-7	-	-
			St wall (8E+4)	-	-	-	1E-3	1E-2
		W, see ⁷⁰ Se	-	2E+5	1E-4	3E-7	-	-
34	Selenium-83 ²	D, see ⁷⁰ Se	4E+4	1E+5	5E-5	2E-7	4E-4	4E-3
		W, see ⁷⁰ Se	3E+4	1E+5	5E-5	2E-7	-	-
35	Bromine-74m ²	D, bromides of H, Li, Na, K, Rb, Cs, and Fr	1E+4	4E+4	2E-5	5E-8	-	-
			St wall (2E+4)	-	-	-	3E-4	3E-3

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ($\mu\text{Ci/ml}$)
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	
		W, Bromides of lanthanides, Be, Mg, Ca, Sr, Ba, Ra, Al, Ga, In, Tl, Ge, Sn, Pb, As, Sb, Bi, Fe, Ru, Os, Co, Rh, Ir, Ni, Pd, Pt, Cu, Ag, Au, Zn, Cd, Hg, Sc, Y, Ti, Zr, Hf, V, Nb, Ta, Mn, Tc, and Re	-	4E+4	2E-5	6E-8	-	-
35	Bromine-74 ²	D, see ^{74m} Br	2E+4	7E+4	3E-5	1E-7	-	-
		St wall (4E+4)	-	-	-	-	5E-4	5E-3
		W, see ^{74m} Br	-	8E+4	4E-5	1E-7	-	-
35	Bromine-75 ²	D, see ^{74m} Br	3E+4	5E+4	2E-5	7E-8	-	-
		St wall (4E+4)	-	-	-	-	5E-4	5E-3
		W, see ^{74m} Br	-	5E+4	2E-5	7E-8	-	-
35	Bromine-76	D, see ^{74m} Br	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
		W, see ^{74m} Br	-	4E+3	2E-6	6E-9	-	-
35	Bromine-77	D, see ^{74m} Br	2E+4	2E+4	1E-5	3E-8	2E-4	2E-3
		W, see ^{74m} Br	-	2E+4	8E-6	3E-8	-	-
35	Bromine-80m	D, see ^{74m} Br	2E+4	2E+4	7E-6	2E-8	3E-4	3E-3
		W, see ^{74m} Br	-	1E+4	6E-6	2E-8	-	-
35	Bromine-80 ²	D, see ^{74m} Br	5E+4	2E+5	8E-5	3E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
		W, see ^{74m} Br	-	2E+5	9E-5	3E-7	-	-
35	Bromine-82	D, see ^{74m} Br	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
		W, see ^{74m} Br	-	4E+3	2E-6	5E-9	-	-
35	Bromine-83	D, see ^{74m} Br	5E+4	6E+4	3E-5	9E-8	-	-
		St wall (7E+4)	-	-	-	-	9E-4	9E-3
		W, see ^{74m} Br	-	6E+4	3E-5	9E-8	-	-
35	Bromine-84 ²	D, see ^{74m} Br	2E+4	6E+4	2E-5	8E-8	-	-
		St wall (3E+4)	-	-	-	-	4E-4	4E-3
		W, see ^{74m} Br	-	6E+4	3E-5	9E-8	-	-
36	Krypton-74 ²	Submersion ¹	-	-	3E-6	1E-8	-	-
36	Krypton-76	Submersion ¹	-	-	9E-6	4E-8	-	-
36	Krypton-77 ²	Submersion ¹	-	-	4E-6	2E-8	-	-
36	Krypton-79	Submersion ¹	-	-	2E-5	7E-8	-	-
36	Krypton-81	Submersion ¹	-	-	7E-4	3E-6	-	-
36	Krypton-83m ²	Submersion ¹	-	-	1E-2	5E-5	-	-
36	Krypton-85m	Submersion ¹	-	-	2E-5	1E-7	-	-
36	Krypton-85	Submersion ¹	-	-	1E-4	7E-7	-	-
36	Krypton-87 ²	Submersion ¹	-	-	5E-6	2E-8	-	-
36	Krypton-88	Submersion ¹	-	-	2E-6	9E-9	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ($\mu\text{Ci/ml}$)
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	
37	Rubidium-79 ²	D, all compounds	4E+4 St wall (6E+4)	1E+5 -	5E-5 -	2E-7 -	- 8E-4	- 8E-3
37	Rubidium-81m ²	D, all compounds	2E+5 St wall (3E+5)	3E+5 -	1E-4 -	5E-7 -	- 4E-3	- 4E-2
37	Rubidium-81	D, all compounds	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
37	Rubidium 82m	D, all compounds	1E+4	2E+4	7E-6	2E-8	2E-4	2E-3
37	Rubidium-83	D, all compounds	6E+2	1E+3	4E-7	1E-9	9E-6	9E-5
37	Rubidium-84	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37	Rubidium-86	D, all compounds	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
37	Rubidium-87	D, all compounds	1E+3	2E+3	6E-7	2E-9	1E-5	1E-4
37	Rubidium-88 ²	D, all compounds	2E+4 St wall (3E+4)	6E+4 -	3E-5 -	9E-8 -	- 4E-4	- 4E-3
37	Rubidium-89 ²	D, all compounds	4E+4 St wall (6E+4)	1E+5 -	6E-5 -	2E-7 -	- 9E-4	- 9E-3
38	Strontium-80 ²	D, all soluble compounds except SrTiO Y, all insoluble compounds and SrTiO	4E+3 -	1E+4 1E+4	5E-6 5E-6	2E-8 2E-8	6E-5 -	6E-4 -
38	Strontium-81 ²	D, see ⁸⁰ Sr Y, see ⁸⁰ Sr	3E+4 2E+4	8E+4 8E+4	3E-5 3E-5	1E-7 1E-7	3E-4 -	3E-3 -
38	Strontium-82	D, see ⁸⁰ Sr	3E+2 LLI wall (2E+2)	4E+2 -	2E-7 -	6E-10 -	- 3E-6	- 3E-5
38	Strontium-83	Y, see ⁸⁰ Sr D, see ⁸⁰ Sr Y, see ⁸⁰ Sr	2E+2 3E+3 2E+3	9E+1 7E+3 4E+3	4E-8 3E-6 1E-6	1E-10 1E-8 5E-9	- 3E-5 -	- 3E-4 -
38	Strontium-85m ²	D, see ⁸⁰ Sr Y, see ⁸⁰ Sr	2E+5 -	6E+5 8E+5	3E-4 4E-4	9E-7 1E-6	3E-3 -	3E-2 -
38	Strontium-85	D, see ⁸⁰ Sr Y, see ⁸⁰ Sr	3E+3 -	3E+3 2E+3	1E-6 6E-7	4E-9 2E-9	4E-5 -	4E-4 -
38	Strontium-87m	D, see ⁸⁰ Sr Y, see ⁸⁰ Sr	5E+4 4E+4	1E+5 2E+5	5E-5 6E-5	2E-7 2E-7	6E-4 -	6E-3 -
38	Strontium-89	D, see ⁸⁰ Sr	6E+2 LLI wall (6E+2)	8E+2 -	4E-7 -	1E-9 -	- 8E-6	- 8E-5
38	Strontium-90	Y, see ⁸⁰ Sr D, see ⁸⁰ Sr	5E+2 3E+1 Bone surf (4E+1)	1E+2 2E+1 Bone surf (2E+1)	6E-8 8E-9 -	2E-10 -	- -	- -
38	Strontium-91	Y, see ⁸⁰ Sr D, see ⁸⁰ Sr Y, see ⁸⁰ Sr	- 2E+3 -	4E+0 6E+3 4E+3	2E-9 2E-6 1E-6	6E-12 8E-9 5E-9	- 2E-5 -	- 2E-4 -

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
38	Strontium-92	D, see ^{80}Sr	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ^{80}Sr	-	7E+3	3E-6	9E-9	-	-
39	Yttrium-86m ²	W, all compounds except those given for Y	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		Y, oxides and hydroxides	-	5E+4	2E-5	8E-8	-	-
39	Yttrium-86	W, see ^{86m}Y	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4
		Y, see ^{86m}Y	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-87	W, see ^{86m}Y	2E+3	3E+3	1E-6	5E-9	3E-5	3E-4
		Y, see ^{86m}Y	-	3E+3	1E-6	5E-9	-	-
39	Yttrium-88	W, see ^{86m}Y	1E+3	3E+2	1E-7	3E-10	1E-5	1E-4
		Y, see ^{86m}Y	-	2E+2	1E-7	3E-10	-	-
39	Yttrium-90m	W, see ^{86m}Y	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
		Y, see ^{86m}Y	-	1E+4	5E-6	2E-8	-	-
39	Yttrium-90	W, see ^{86m}Y	4E+2	7E+2	3E-7	9E-10	-	-
		LLI wall (5E+2)	-	-	-	-	7E-6	7E-5
		Y, see ^{86m}Y	-	6E+2	3E-7	9E-10	-	-
39	Yttrium-91m ²	W, see ^{86m}Y	1E+5	2E+5	1E-4	3E-7	2E-3	2E-2
		Y, see ^{86m}Y	-	2E+5	7E-5	2E-7	-	-
39	Yttrium-91	W, see ^{86m}Y	5E+2	2E+2	7E-8	2E-10	-	-
		LLI wall (6E+2)	-	-	-	-	8E-6	8E-5
		Y, see ^{86m}Y	-	1E+2	5E-8	2E-10	-	-
39	Yttrium-92	W, see ^{86m}Y	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ^{86m}Y	-	8E+3	3E-6	1E-8	-	-
39	Yttrium-93	W, see ^{86m}Y	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, see ^{86m}Y	-	2E+3	1E-6	3E-9	-	-
39	Yttrium-94 ²	W, see ^{86m}Y	2E+4	8E+4	3E-5	1E-7	-	-
		St wall (3E+4)	-	-	-	-	4E-4	4E-3
		Y, see ^{86m}Y	-	8E+4	3E-5	1E-7	-	-
39	Yttrium-95 ²	W, see ^{86m}Y	4E+4	2E+5	6E-5	2E-7	-	-
		St wall (5E+4)	-	-	-	-	7E-4	7E-3
		Y, see ^{86m}Y	-	1E+5	6E-5	2E-7	-	-
40	Zirconium-86	D, all compounds except those given for W and Y	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
		W, oxides, hydroxides, halides, and nitrates	-	3E+3	1E-6	4E-9	-	-
		Y, carbide	-	2E+3	1E-6	3E-9	-	-
40	Zirconium-88	D, see ^{86}Zr	4E+3	2E+2	9E-8	3E-10	5E-5	5E-4
		W, see ^{86}Zr	-	5E+2	2E-7	7E-10	-	-
		Y, see ^{86}Zr	-	3E+2	1E-7	4E-10	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC (μCi/ml)	Col. 1 Air (μCi/ml)	Col. 2 Water (μCi/ml)	Monthly Average Concentration (μCi/ml)
40	Zirconium-89	D, see ⁸⁶ Zr	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ⁸⁶ Zr	-	2E+3	1E-6	3E-9	-	-
		Y, see ⁸⁶ Zr	-	2E+3	1E-6	3E-9	-	-
40	Zirconium-93	D, see ⁸⁶ Zr	1E+3	6E+0	3E-9	-	-	-
		Bone surf	(3E+3)	Bone surf (2E+1)	-	2E-11	4E-5	4E-4
		W, see ⁸⁶ Zr	-	2E+1	1E-8	-	-	-
		Bone surf	-	(6E+1)	-	9E-11	-	-
		Y, see ⁸⁶ Zr	-	6E+1	2E-8	-	-	-
		Bone surf	-	(7E+1)	-	9E-11	-	-
40	Zirconium-95	D, see ⁸⁶ Zr	1E+3	1E+2	5E-8	-	2E-5	2E-4
		Bone surf	-	(3E+2)	-	4E-10	-	-
		W, see ⁸⁶ Zr	-	4E+2	2E-7	5E-10	-	-
		Y, see ⁸⁶ Zr	-	3E+2	1E-7	4E-10	-	-
		Y, see ⁸⁶ Zr	-	1E+3	5E-7	2E-9	-	-
40	Zirconium-97	D, see ⁸⁶ Zr	6E+2	2E+3	8E-7	3E-9	9E-6	9E-5
		W, see ⁸⁶ Zr	-	1E+3	6E-7	2E-9	-	-
		Y, see ⁸⁶ Zr	-	1E+3	5E-7	2E-9	-	-
41	Niobium-88 ²	W, all compounds except those given for Y	5E+4	2E+5	9E-5	3E-7	-	-
		St wall	(7E+4)	-	-	-	1E-3	1E-2
		Y, oxides and hydroxides	-	2E+5	9E-5	3E-7	-	-
41	Niobium-89 ² (66 min)	W, see ⁸⁸ Nb	1E+4	4E+4	2E-5	6E-8	1E-4	1E-3
		Y, see ⁸⁸ Nb	-	4E+4	2E-5	5E-8	-	-
41	Niobium-89 (122 min)	W, see ⁸⁸ Nb	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		Y, see ⁸⁸ Nb	-	2E+4	6E-6	2E-8	-	-
41	Niobium-90	W, see ⁸⁸ Nb	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		Y, see ⁸⁸ Nb	-	2E+3	1E-6	3E-9	-	-
41	Niobium-93m	W, see ⁸⁸ Nb	9E+3	2E+3	8E-7	3E-9	-	-
		LLI wall	(1E+4)	-	-	-	2E-4	2E-3
		Y, see ⁸⁸ Nb	-	2E+2	7E-8	2E-10	-	-
41	Niobium-94	W, see ⁸⁸ Nb	9E+2	2E+2	8E-8	3E-10	1E-5	1E-4
		Y, see ⁸⁸ Nb	-	2E+1	6E-9	2E-11	-	-
41	Niobium-95m	W, see ⁸⁸ Nb	2E+3	3E+3	1E-6	4E-9	-	-
		LLI wall	(2E+3)	-	-	-	3E-5	3E-4
		Y, see ⁸⁸ Nb	-	2E+3	9E-7	3E-9	-	-
41	Niobium-95	W, see ⁸⁸ Nb	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
		Y, see ⁸⁸ Nb	-	1E+3	5E-7	2E-9	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
41	Niobium-96	W, see ^{88}Nb	1E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		Y, see ^{88}Nb	-	2E+3	1E-6	3E-9	-	-
41	Niobium-97 ²	W, see ^{88}Nb	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		Y, see ^{88}Nb	-	7E+4	3E-5	1E-7	-	-
41	Niobium-98 ²	W, see ^{88}Nb	1E+4	5E+4	2E-5	8E-8	2E-4	2E-3
		Y, see ^{88}Nb	-	5E+4	2E-5	7E-8	-	-
42	Molybdenum-90	D, all compounds except those given for Y	4E+3	7E+3	3E-6	1E-8	3E-5	3E-4
		Y, oxides, hydroxides, and MoS	2E+3	5E+3	2E-6	6E-9	-	-
42	Molybdenum-93m	D, see ^{90}Mo	9E+3	2E+4	7E-6	2E-8	6E-5	6E-4
		Y, see ^{90}Mo	4E+3	1E+4	6E-6	2E-8	-	-
42	Molybdenum-93	D, see ^{90}Mo	4E+3	5E+3	2E-6	8E-9	5E-5	5E-4
		Y, see ^{90}Mo	2E+4	2E+2	8E-8	2E-10	-	-
42	Molybdenum-99	D, see ^{90}Mo	2E+3	3E+3	1E-6	4E-9	-	-
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
42	Molybdenum-101 ²	Y, see ^{90}Mo	1E+3	1E+3	6E-7	2E-9	-	-
		D, see ^{90}Mo	4E+4	1E+5	6E-5	2E-7	-	-
42		St wall (5E+4)	-	-	-	-	7E-4	7E-3
		Y, see ^{90}Mo	-	1E+5	6E-5	2E-7	-	-
43	Technetium-93m ²	D, All compounds except those given for W	7E+4	2E+5	6E-5	2E-7	1E-3	1E-2
		W, oxides, hydroxides, halides, and nitrates	-	3E+5	1E-4	4E-7	-	-
43	Technetium-93	D, see $^{93\text{m}}\text{Tc}$	3E+4	7E+4	3E-5	1E-7	4E-4	4E-3
		W, see $^{93\text{m}}\text{Tc}$	-	1E+5	4E-5	1E-7	-	-
43	Technetium-94m ²	D, see $^{93\text{m}}\text{Tc}$	2E+4	4E+4	2E-5	6E-8	3E-4	3E-3
		W, see $^{93\text{m}}\text{Tc}$	-	6E+4	2E-5	8E-8	-	-
43	Technetium-94	D, see $^{93\text{m}}\text{Tc}$	9E+3	2E+4	8E-6	3E-8	1E-4	1E-3
		W, see $^{93\text{m}}\text{Tc}$	-	2E+4	1E-5	3E-8	-	-
43	Technetium-95m	D, see $^{93\text{m}}\text{Tc}$	4E+3	5E+3	2E-6	8E-9	5E-5	5E-4
		W, see $^{93\text{m}}\text{Tc}$	-	2E+3	8E-7	3E-9	-	-
43	Technetium-95	D, see $^{93\text{m}}\text{Tc}$	1E+4	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see $^{93\text{m}}\text{Tc}$	-	2E+4	8E-6	3E-8	-	-
43	Technetium-96m ²	D, see $^{93\text{m}}\text{Tc}$	2E+5	3E+5	1E-4	4E-7	2E-3	2E-2
		W, see $^{93\text{m}}\text{Tc}$	-	2E+5	1E-4	3E-7	-	-
43	Technetium-96	D, see $^{93\text{m}}\text{Tc}$	2E+3	3E+3	1E-6	5E-9	3E-5	3E-4
		W, see $^{93\text{m}}\text{Tc}$	-	2E+3	9E-7	3E-9	-	-
43	Technetium-97m	D, see $^{93\text{m}}\text{Tc}$	5E+3	7E+3	3E-6	-	6E-5	6E-4
		St wall (7E+3)	-	-	-	1E-8	-	-
		W, see $^{93\text{m}}\text{Tc}$	-	1E+3	5E-7	2E-9	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
43	Technetium-97	D, see ^{93m}Tc	4E+4	5E+4	2E-5	7E-8	5E-4	5E-3
		W, see ^{93m}Tc	-	6E+3	2E-6	8E-9	-	-
43	Technetium-98	D, see ^{93m}Tc	1E+3	2E+3	7E-7	2E-9	1E-5	1E-4
		W, see ^{93m}Tc	-	3E+2	1E-7	4E-10	-	-
43	Technetium-99m	D, see ^{93m}Tc	8E+4	2E+5	6E-5	2E-7	1E-3	1E-2
		W, see ^{93m}Tc	-	2E+5	1E-4	3E-7	-	-
43	Technetium-99	D, see ^{93m}Tc	4E+3	5E+3	2E-6	-	6E-5	6E-4
				St wall (6E+3)	-	8E-9	-	-
		W, see ^{93m}Tc	-	7E+2	3E-7	9E-10	-	-
43	Technetium-101 ²	D, see ^{93m}Tc	9E+4	3E+5	1E-4	5E-7	-	-
				St wall (1E+5)	-	-	2E-3	2E-2
		W, see ^{93m}Tc	-	4E+5	2E-4	5E-7	-	-
43	Technetium-104 ²	D, see ^{93m}Tc	2E+4	7E+4	3E-5	1E-7	-	-
				St wall (3E+4)	-	-	4E-4	4E-3
		W, see ^{93m}Tc	-	9E+4	4E-5	1E-7	-	-
44	Ruthenium-94 ²	D, all compounds except those given for W and Y	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, halides	-	6E+4	3E-5	9E-8	-	-
		Y, oxides and hydroxides	-	6E+4	2E-5	8E-8	-	-
44	Ruthenium-97	D, see ^{94}Ru	8E+3	2E+4	8E-6	3E-8	1E-4	1E-3
		W, see ^{94}Ru	-	1E+4	5E-6	2E-8	-	-
		Y, see ^{94}Ru	-	1E+4	5E-6	2E-8	-	-
44	Ruthenium-103	D, see ^{94}Ru	2E+3	2E+3	7E-7	2E-9	3E-5	3E-4
		W, see ^{94}Ru	-	1E+3	4E-7	1E-9	-	-
		Y, see ^{94}Ru	-	6E+2	3E-7	9E-10	-	-
44	Ruthenium-105	D, see ^{94}Ru	5E+3	1E+4	6E-6	2E-8	7E-5	7E-4
		W, see ^{94}Ru	-	1E+4	6E-6	2E-8	-	-
		Y, see ^{94}Ru	-	1E+4	5E-6	2E-8	-	-
44	Ruthenium-106	D, see ^{94}Ru	2E+2	9E+1	4E-8	1E-10	-	-
				LLI wall (2E+2)	-	-	3E-6	3E-5
		W, see ^{94}Ru	-	5E+1	2E-8	8E-11	-	-
		Y, see ^{94}Ru	-	1E+1	5E-9	2E-11	-	-
45	Rhodium-99m	D, all compounds except those given for W and Y	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
		W, halides	-	8E+4	3E-5	1E-7	-	-
		Y, oxides and hydroxides	-	7E+4	3E-5	9E-8	-	-
45	Rhodium-99	D, see ^{99m}Rh	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ^{99m}Rh	-	2E+3	9E-7	3E-9	-	-
		Y, see ^{99m}Rh	-	2E+3	8E-7	3E-9	-	-

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3 DAC	Col. 1 Air	Col. 2 Water	Monthly Average Concentration
			ALI (μCi)	ALI (μCi)	($\mu\text{Ci}/\text{ml}$)	($\mu\text{Ci}/\text{ml}$)	($\mu\text{Ci}/\text{ml}$)	($\mu\text{Ci}/\text{ml}$)
45	Rhodium-100	D, see $^{99\text{m}}\text{Rh}$	2E+3	5E+3	2E-6	7E-9	2E-5	2E-4
		W, see $^{99\text{m}}\text{Rh}$	-	4E+3	2E-6	6E-9	-	-
		Y, see $^{99\text{m}}\text{Rh}$	-	4E+3	2E-6	5E-9	-	-
45	Rhodium-101m	D, see $^{99\text{m}}\text{Rh}$	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, see $^{99\text{m}}\text{Rh}$	-	8E+3	4E-6	1E-8	-	-
		Y, see $^{99\text{m}}\text{Rh}$	-	8E+3	3E-6	1E-8	-	-
45	Rhodium-101	D, see $^{99\text{m}}\text{Rh}$	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see $^{99\text{m}}\text{Rh}$	-	8E+2	3E-7	1E-9	-	-
		Y, see $^{99\text{m}}\text{Rh}$	-	2E+2	6E-8	2E-10	-	-
45	Rhodium-102m	D, see $^{99\text{m}}\text{Rh}$	1E+3	5E+2	2E-7	7E-10	-	-
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		W, see $^{99\text{m}}\text{Rh}$	-	4E+2	2E-7	5E-10	-	-
45	Rhodium-102	Y, see $^{99\text{m}}\text{Rh}$	-	1E+2	5E-8	2E-10	-	-
		D, see $^{99\text{m}}\text{Rh}$	6E+2	9E+1	4E-8	1E-10	8E-6	8E-5
		W, see $^{99\text{m}}\text{Rh}$	-	2E+2	7E-8	2E-10	-	-
45	Rhodium-103m ²	Y, see $^{99\text{m}}\text{Rh}$	-	6E+1	2E-8	8E-11	-	-
		D, see $^{99\text{m}}\text{Rh}$	4E+5	1E+6	5E-4	2E-6	6E-3	6E-2
		W, see $^{99\text{m}}\text{Rh}$	-	1E+6	5E-4	2E-6	-	-
45	Rhodium-105	Y, see $^{99\text{m}}\text{Rh}$	-	1E+6	5E-4	2E-6	-	-
		D, see $^{99\text{m}}\text{Rh}$	4E+3	1E+4	5E-6	2E-8	-	-
		LLI wall (4E+3)	-	-	-	-	5E-5	5E-4
45	Rhodium-106m	W, see $^{99\text{m}}\text{Rh}$	-	6E+3	3E-6	9E-9	-	-
		Y, see $^{99\text{m}}\text{Rh}$	-	6E+3	2E-6	8E-9	-	-
		D, see $^{99\text{m}}\text{Rh}$	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
45	Rhodium-107 ²	W, see $^{99\text{m}}\text{Rh}$	-	4E+4	2E-5	5E-8	-	-
		Y, see $^{99\text{m}}\text{Rh}$	-	4E+4	1E-5	5E-8	-	-
		D, see $^{99\text{m}}\text{Rh}$	7E+4	2E+5	1E-4	3E-7	-	-
46	Palladium-100	St wall (9E+4)	-	-	-	-	1E-3	1E-2
		W, see $^{99\text{m}}\text{Rh}$	-	3E+5	1E-4	4E-7	-	-
		Y, see $^{99\text{m}}\text{Rh}$	-	3E+5	1E-4	3E-7	-	-
46	Palladium-101	D, all compounds except those given for W and Y	1E+3	1E+3	6E-7	2E-9	2E-5	2E-4
		W, nitrates	-	1E+3	5E-7	2E-9	-	-
		Y, oxides and hydroxides	-	1E+3	6E-7	2E-9	-	-
46	Palladium-101	D, see ^{100}Pd	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
		W, see ^{100}Pd	-	3E+4	1E-5	5E-8	-	-
		Y, see ^{100}Pd	-	3E+4	1E-5	4E-8	-	-

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
46	Palladium-103	D, see ^{100}Pd	6E+3	6E+3	3E-6	9E-9	-	-
		LLI wall (7E+3)	-	-	-	-	1E-4	1E-3
		W, see ^{100}Pd	-	4E+3	2E-6	6E-9	-	-
		Y, see ^{100}Pd	-	4E+3	1E-6	5E-9	-	-
46	Palladium-107	D, see ^{100}Pd	3E+4	2E+4	9E-6	-	-	-
		LLI wall (4E+4)	-	Kidneys (2E+4)	-	3E-8	5E-4	5E-3
		W, see ^{100}Pd	-	7E+3	3E-6	1E-8	-	-
		Y, see ^{100}Pd	-	4E+2	2E-7	6E-10	-	-
46	Palladium-109	D, see ^{100}Pd	2E+3	6E+3	3E-6	9E-9	3E-5	3E-4
		W, see ^{100}Pd	-	5E+3	2E-6	8E-9	-	-
		Y, see ^{100}Pd	-	5E+3	2E-6	6E-9	-	-
47	Silver-102 ²	D, all compounds except those given for W and Y	5E+4	2E+5	8E-5	2E-7	-	-
		St wall (6E+4)	-	-	-	-	9E-4	9E-3
		W, nitrates and sulfides	-	2E+5	9E-5	3E-7	-	-
		Y, oxides and hydroxides	-	2E+5	8E-5	3E-7	-	-
47	Silver-103 ²	D, see ^{102}Ag	4E+4	1E+5	4E-5	1E-7	5E-4	5E-3
		W, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
		Y, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
47	Silver-104m ²	D, see ^{102}Ag	3E+4	9E+4	4E-5	1E-7	4E-4	4E-3
		W, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
		Y, see ^{102}Ag	-	1E+5	5E-5	2E-7	-	-
47	Silver-104 ²	D, see ^{102}Ag	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		W, see ^{102}Ag	-	1E+5	6E-5	2E-7	-	-
		Y, see ^{102}Ag	-	1E+5	6E-5	2E-7	-	-
47	Silver-105	D, see ^{102}Ag	3E+3	1E+3	4E-7	1E-9	4E-5	4E-4
		W, see ^{102}Ag	-	2E+3	7E-7	2E-9	-	-
		Y, see ^{102}Ag	-	2E+3	7E-7	2E-9	-	-
47	Silver-106m	D, see ^{102}Ag	8E+2	7E+2	3E-7	1E-9	1E-5	1E-4
		W, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
		Y, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
47	Silver-106 ²	D, see ^{102}Ag	6E+4	2E+5	8E-5	3E-7	-	-
		St Wall (6E+4)	-	-	-	-	9E-4	9E-3
		W, see ^{102}Ag	-	2E+5	9E-5	3E-7	-	-
		Y, see ^{102}Ag	-	2E+5	8E-5	3E-7	-	-
47	Silver-108m	D, see ^{102}Ag	6E+2	2E+2	8E-8	3E-10	9E-6	9E-5
		W, see ^{102}Ag	-	3E+2	1E-7	4E-10	-	-
		Y, see ^{102}Ag	-	2E+1	1E-8	3E-11	-	-

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
47	Silver-110m	D, see ^{102}Ag	5E+2	1E+2	5E-8	2E-10	6E-6	6E-5
		W, see ^{102}Ag	-	2E+2	8E-8	3E-10	-	-
		Y, see ^{102}Ag	-	9E+1	4E-8	1E-10	-	-
47	Silver-111	D, see ^{102}Ag	9E+2	2E+3	6E-7	-	-	-
			LLI wall (1E+3)	Liver (2E+3)	-	2E-9	2E-5	2E-4
		W, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
		Y, see ^{102}Ag	-	9E+2	4E-7	1E-9	-	-
47	Silver-112	D, see ^{102}Ag	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{102}Ag	-	1E+4	4E-6	1E-8	-	-
		Y, see ^{102}Ag	-	9E+3	4E-6	1E-8	-	-
47	Silver-115 ²	D, see ^{102}Ag	3E+4	9E+4	4E-5	1E-7	-	-
			St wall (3E+4)	-	-	-	4E-4	4E-3
		W, see ^{102}Ag	-	9E+4	4E-5	1E-7	-	-
		Y, see ^{102}Ag	-	8E+4	3E-5	1E-7	-	-
48	Cadmium-104 ²	D, all compounds except those given for W and Y	2E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		W, sulfides, halides, and nitrates	-	1E+5	5E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
48	Cadmium-107	D, see ^{104}Cd	2E+4	5E+4	2E-5	8E-8	3E-4	3E-3
		W, see ^{104}Cd	-	6E+4	2E-5	8E-8	-	-
		Y, see ^{104}Cd	-	5E+4	2E-5	7E-8	-	-
48	Cadmium-109	D, see ^{104}Cd	3E+2	4E+1	1E-8	-	-	-
			Kidneys (4E+2)	Kidneys (5E+1)	-	7E-11	6E-6	6E-5
		W, see ^{104}Cd	-	1E+2	5E-8	-	-	-
				Kidneys (1E+2)	-	2E-10	-	-
48	Cadmium-113m	Y, see ^{104}Cd	-	1E+2	5E-8	2E-10	-	-
		D, see ^{104}Cd	2E+1	2E+0	1E-9	-	-	-
			Kidneys (4E+1)	Kidneys (4E+0)	-	5E-12	5E-7	5E-6
		W, see ^{104}Cd	-	8E+0	4E-9	-	-	-
48	Cadmium-113		-	Kidneys (1E+1)	-	2E-11	-	-
		Y, see ^{104}Cd	-	1E+1	5E-9	2E-11	-	-
		D, see ^{104}Cd	2E+1	2E+0	9E-10	-	-	-
			Kidneys (3E+1)	Kidneys (3E+0)	-	5E-12	4E-7	4E-6
48		W, see ^{104}Cd	-	8E+0	3E-9	-	-	-
			-	Kidneys (1E+1)	-	2E-11	-	-
		Y, see ^{104}Cd	-	1E+1	6E-9	2E-11	-	-

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
48	Cadmium-115m	D, see ^{104}Cd	3E+2	5E+1 Kidneys	2E-8	-	4E-6	4E-5
			-	(8E+1)	-	1E-10	-	-
		W, see ^{104}Cd	-	1E+2	5E-8	2E-10	-	-
		Y, see ^{104}Cd	-	1E+2	6E-8	2E-10	-	-
48	Cadmium-115	D, see ^{104}Cd	9E+2	1E+3	6E-7	2E-9	-	-
			LLI wall (1E+3)	-	-	-	1E-5	1E-4
		W, see ^{104}Cd	-	1E+3	5E-7	2E-9	-	-
		Y, see ^{104}Cd	-	1E+3	6E-7	2E-9	-	-
48	Cadmium-117m	D, see ^{104}Cd	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see ^{104}Cd	-	2E+4	7E-6	2E-8	-	-
		Y, see ^{104}Cd	-	1E+4	6E-6	2E-8	-	-
48	Cadmium-117	D, see ^{104}Cd	5E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		W, see ^{104}Cd	-	2E+4	7E-6	2E-8	-	-
		Y, see ^{104}Cd	-	1E+4	6E-6	2E-8	-	-
49	Indium-109	D, all compounds except those given for W W, oxides, hydroxides, halides, and nitrates	2E+4	4E+4	2E-5	6E-8	3E-4	3E-3
			-	6E+4	3E-5	9E-8	-	-
49	Indium-110 ² (69.1 min)	D, see ^{109}In	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{109}In	-	6E+4	2E-5	8E-8	-	-
49	Indium-110 (4.9 h)	D, see ^{109}In	5E+3	2E+4	7E-6	2E-8	7E-5	7E-4
		W, see ^{109}In	-	2E+4	8E-6	3E-8	-	-
49	Indium-111	D, see ^{109}In	4E+3	6E+3	3E-6	9E-9	6E-5	6E-4
		W, see ^{109}In	-	6E+3	3E-6	9E-9	-	-
49	Indium-112 ²	D, see ^{109}In	2E+5	6E+5	3E-4	9E-7	2E-3	2E-2
	-	W, see ^{109}In	-	7E+5	3E-4	1E-6	-	-
49	Indium-113m ²	D, see ^{109}In	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
	-	W, see ^{109}In	-	2E+5	8E-5	3E-7	-	-
49	Indium-114m	D, see ^{109}In	3E+2	6E+1	3E-8	9E-11	-	-
			LLI wall (4E+2)	-	-	-	5E-6	5E-5
		W, see ^{109}In	-	1E+2	4E-8	1E-10	-	-
49	Indium-115m	D, see ^{109}In	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
	-	W, see ^{109}In	-	5E+4	2E-5	7E-8	-	-
49	Indium-115	D, see ^{109}In	4E+1	1E+0	6E-10	2E-12	5E-7	5E-6
	-	W, see ^{109}In	-	5E+0	2E-9	8E-12	-	-
49	Indium-116m ²	D, see ^{109}In	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
		W, see ^{109}In	-	1E+5	5E-5	2E-7	-	-
49	Indium-117m ²	D, see ^{109}In	1E+4	3E+4	1E-5	5E-8	2E-4	2E-3
	-	W, see ^{109}In	-	4E+4	2E-5	6E-8	-	-
49	Indium-117 ²	D, see ^{109}In	6E+4	2E+5	7E-5	2E-7	8E-4	8E-3
		W, see ^{109}In	-	2E+5	9E-5	3E-7	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
49	Indium-119m ²	D, see ¹⁰⁹ In	4E+4 St wall (5E+4)	1E+5 -	5E-5 -	2E-7 -	- 7E-4	- 7E-3
50	Tin-110	W, see ¹⁰⁹ In D, all compounds except those given for W W, sulfides, oxides, hydroxides, halides, nitrates, and stannic phosphate	- 4E+3 -	1E+5 1E+4 1E+4	6E-5 5E-6 5E-6	2E-7 2E-8 2E-8	- 5E-5 -	- 5E-4 -
50	Tin-111 ²	D, see ¹¹⁰ Sn	7E+4	2E+5	9E-5	3E-7	1E-3	1E-2
50	Tin-113	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 2E+3	3E+5 1E+3	1E-4 5E-7	4E-7 2E-9	- -	- -
50	Tin-117m	LLI wall (2E+3) W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 2E+3 LLI wall (2E+3)	5E+2 1E+3 Bone surf (2E+3)	2E-7 5E-7 -	8E-10 -	- -	- -
50	Tin-119m	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 3E+3	1E+3 2E+3	6E-7 1E-6	2E-9 3E-9	- -	- -
50	Tin-121m	LLI wall (4E+3) W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 3E+3 LLI wall (4E+3)	1E+3 9E+2 -	4E-7 4E-7 -	1E-9 1E-9 -	- 5E-5 -	- 5E-4 -
50	Tin-121	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 6E+3	5E+2 2E+4	2E-7 6E-6	8E-10 2E-8	- -	- -
50	Tin-123m ²	LLI wall (6E+3) W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 6E+3 LLI wall (6E+3)	1E+4 1E+5 -	5E-6 5E-5 6E-5	2E-8 2E-7 2E-7	- 7E-4 -	- 7E-3 -
50	Tin-123	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 5E+2	1E+4 6E+2	5E-6 3E-7	2E-8 9E-10	- -	- -
50	Tin-125	LLI wall (6E+2) W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 5E+2 LLI wall (5E+2)	2E+2 9E+2 -	7E-8 4E-7 -	2E-10 1E-9 -	- -	- -
50	Tin-126	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 3E+2	4E+2 6E+1	1E-7 2E-8	5E-10 8E-11	- 4E-6	- 4E-5
50	Tin-127	W, see ¹¹⁰ Sn D, see ¹¹⁰ Sn	- 7E+3	7E+1 2E+4	3E-8 8E-6	9E-11 3E-8	- 9E-5	- 9E-4
		W, see ¹¹⁰ Sn	-	2E+4	8E-6	3E-8	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration (µCi/ml)
			Col. 1 Oral Ingestion ALI (µCi)	Col. 2 Inhalation ALI (µCi)	Col. 3 DAC (µCi/ml)	Col. 1 Air (µCi/ml)	Col. 2 Water (µCi/ml)	
50	Tin-128 ²	D, see ¹¹⁰ Sn	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, see ¹¹⁰ Sn	-	4E+4	1E-5	5E-8	-	-
51	Antimony-115 ²	D, all compounds except those given for W	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
		W, oxides, hydroxides, halides, sulfides, sulfates, and nitrates	-	3E+5	1E-4	4E-7	-	-
51	Antimony-116m ²	D, see ¹¹⁵ Sb	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
		W, see ¹¹⁵ Sb	-	1E+5	6E-5	2E-7	-	-
51	Antimony-116 ²	D, see ¹¹⁵ Sb	7E+4	3E+5	1E-4	4E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
		W, see ¹¹⁵ Sb	-	3E+5	1E-4	5E-7	-	-
51	Antimony-117	D, see ¹¹⁵ Sb	7E+4	2E+5	9E-5	3E-7	9E-4	9E-3
		W, see ¹¹⁵ Sb	-	3E+5	1E-4	4E-7	-	-
51	Antimony-118m	D, see ¹¹⁵ Sb	6E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		W, see ¹¹⁵ Sb	5E+3	2E+4	9E-6	3E-8	-	-
51	Antimony-119	D, see ¹¹⁵ Sb	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
		W, see ¹¹⁵ Sb	2E+4	3E+4	1E-5	4E-8	-	-
51	Antimony-120 ² (16 min)	D, see ¹¹⁵ Sb	1E+5	4E+5	2E-4	6E-7	-	-
		St wall (2E+5)	-	-	-	-	2E-3	2E-2
		W, see ¹¹⁵ Sb	-	5E+5	2E-4	7E-7	-	-
51	Antimony-120 (5.76 d)	D, see ¹¹⁵ Sb	1E+3	2E+3	9E-7	3E-9	1E-5	1E-4
		W, see ¹¹⁵ Sb	9E+2	1E+3	5E-7	2E-9	-	-
51	Antimony-122	D, see ¹¹⁵ Sb	8E+2	2E+3	1E-6	3E-9	-	-
		LLI wall (8E+2)	-	-	-	-	1E-5	1E-4
		W, see ¹¹⁵ Sb	7E+2	1E+3	4E-7	2E-9	-	-
51	Antimony-124m ²	D, see ¹¹⁵ Sb	3E+5	8E+5	4E-4	1E-6	3E-3	3E-2
		W, see ¹¹⁵ Sb	2E+5	6E+5	2E-4	8E-7	-	-
51	Antimony-124	D, see ¹¹⁵ Sb	6E+2	9E+2	4E-7	1E-9	7E-6	7E-5
		W, see ¹¹⁵ Sb	5E+2	2E+2	1E-7	3E-10	-	-
51	Antimony-125	D, see ¹¹⁵ Sb	2E+3	2E+3	1E-6	3E-9	3E-5	3E-4
		W, see ¹¹⁵ Sb	-	5E+2	2E-7	7E-10	-	-
51	Antimony-126m ²	D, see ¹¹⁵ Sb	5E+4	2E+5	8E-5	3E-7	-	-
		St wall (7E+4)	-	-	-	-	9E-4	9E-3
		W, see ¹¹⁵ Sb	-	2E+5	8E-5	3E-7	-	-
51	Antimony-126	D, see ¹¹⁵ Sb	6E+2	1E+3	5E-7	2E-9	7E-6	7E-5
		W, see ¹¹⁵ Sb	5E+2	5E+2	2E-7	7E-10	-	-
51	Antimony-127	D, see ¹¹⁵ Sb	8E+2	2E+3	9E-7	3E-9	-	-
		LLI wall (8E+2)	-	-	-	-	1E-5	1E-4
		W, see ¹¹⁵ Sb	7E+2	9E+2	4E-7	1E-9	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
51	Antimony-128 ² (10.4 min)	D, see ¹¹⁵ Sb	8E+4 St wall (1E+5)	4E+5 -	2E-4 -	5E-7 -	- 1E-3	- 1E-2
		W, see ¹¹⁵ Sb	-	4E+5	2E-4	6E-7	-	-
51	Antimony-128 (9.01 h)	D, see ¹¹⁵ Sb	1E+3	4E+3	2E-6	6E-9	2E-5	2E-4
		W, see ¹¹⁵ Sb	-	3E+3	1E-6	5E-9	-	-
51	Antimony-129	D, see ¹¹⁵ Sb	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		W, see ¹¹⁵ Sb	-	9E+3	4E-6	1E-8	-	-
51	Antimony-130 ²	D, see ¹¹⁵ Sb	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		W, see ¹¹⁵ Sb	-	8E+4	3E-5	1E-7	-	-
51	Antimony-131 ²	D, see ¹¹⁵ Sb	1E+4 Thyroid (2E+4)	2E+4 Thyroid (4E+4)	1E-5 -	- 6E-8	- 2E-4	- 2E-3
		W, see ¹¹⁵ Sb	-	2E+4 Thyroid (4E+4)	1E-5 -	- 6E-8	- -	- -
52	Tellurium-116	D, all compounds except those given for W W, oxides, hydroxides, and nitrates	8E+3 -	2E+4 3E+4	9E-6 1E-5	3E-8 4E-8	1E-4 -	1E-3 -
52	Tellurium-121m	D, see ¹¹⁶ Te	5E+2 Bone surf (7E+2)	2E+2 Bone surf (4E+2)	8E-8 -	- 5E-10	- 1E-5	- 1E-4
		W, see ¹¹⁶ Te	-	4E+2	2E-7	6E-10	-	-
52	Tellurium-121	D, see ¹¹⁶ Te	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
		W, see ¹¹⁶ Te	-	3E+3	1E-6	4E-9	-	-
52	Tellurium-123m	D, see ¹¹⁶ Te	6E+2 Bone surf (1E+3)	2E+2 Bone surf (5E+2)	9E-8 -	- 8E-10	- 1E-5	- 1E-4
		W, see ¹¹⁶ Te	-	5E+2	2E-7	8E-10	-	-
52	Tellurium-123	D, see ¹¹⁶ Te	5E+2 Bone surf (1E+3)	2E+2 Bone surf (5E+2)	8E-8 -	- 7E-10	- 2E-5	- 2E-4
		W, see ¹¹⁶ Te	-	4E+2 Bone surf (1E+3)	2E-7 -	- 2E-9	- -	- -
52	Tellurium-125m	D, see ¹¹⁶ Te	1E+3 Bone surf (1E+3)	4E+2 Bone surf (1E+3)	2E-7 -	- 1E-9	- 2E-5	- 2E-4
		W, see ¹¹⁶ Te	-	7E+2	3E-7	1E-9	-	-
52	Tellurium-127m	D, see ¹¹⁶ Te	6E+2 -	3E+2 Bone surf (4E+2)	1E-7 -	- 6E-10	9E-6 -	9E-5 -
		W, see ¹¹⁶ Te	-	3E+2	1E-7	4E-10	-	-
52	Tellurium-127	D, see ¹¹⁶ Te	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ¹¹⁶ Te	-	2E+4	7E-6	2E-8	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
52	Tellurium-129m	D, see ^{116}Te	5E+2	6E+2	3E-7	9E-10	7E-6	7E-5
		W, see ^{116}Te	-	2E+2	1E-7	3E-10	-	-
52	Tellurium-129 ²	D, see ^{116}Te	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
		W, see ^{116}Te	-	7E+4	3E-5	1E-7	-	-
52	Tellurium-131m	D, see ^{116}Te	3E+2	4E+2	2E-7	-	-	-
		Thyroid	Thyroid (6E+2)	Thyroid (1E+3)	-	2E-9	8E-6	8E-5
		W, see ^{116}Te	-	4E+2	2E-7	-	-	-
		Thyroid	-	Thyroid (9E+2)	-	1E-9	-	-
52	Tellurium-131 ²	D, see ^{116}Te	3E+3	5E+3	2E-6	-	-	-
		Thyroid	Thyroid (6E+3)	Thyroid (1E+4)	-	2E-8	8E-5	8E-4
		W, see ^{116}Te	-	5E+3	2E-6	-	-	-
		Thyroid	-	Thyroid (1E+4)	-	2E-8	-	-
52	Tellurium-132	D, see ^{116}Te	2E+2	2E+2	9E-8	-	-	-
		Thyroid	Thyroid (7E+2)	Thyroid (8E+2)	-	1E-9	9E-6	9E-5
		W, see ^{116}Te	-	2E+2	9E-8	-	-	-
		Thyroid	-	Thyroid (6E+2)	-	9E-10	-	-
52	Tellurium-133m ²	D, see ^{116}Te	3E+3	5E+3	2E-6	-	-	-
		Thyroid	Thyroid (6E+3)	Thyroid (1E+4)	-	2E-8	9E-5	9E-4
		W, see ^{116}Te	-	5E+3	2E-6	-	-	-
		Thyroid	-	Thyroid (1E+4)	-	2E-8	-	-
52	Tellurium-133 ²	D, see ^{116}Te	1E+4	2E+4	9E-6	-	-	-
		Thyroid	Thyroid (3E+4)	Thyroid (6E+4)	-	8E-8	4E-4	4E-3
		W, see ^{116}Te	-	2E+4	9E-6	-	-	-
		Thyroid	-	Thyroid (6E+4)	-	8E-8	-	-
52	Tellurium-134 ²	D, see ^{116}Te	2E+4	2E+4	1E-5	-	-	-
		Thyroid	Thyroid (2E+4)	Thyroid (5E+4)	-	7E-8	3E-4	3E-3
		W, see ^{116}Te	-	2E+4	1E-5	-	-	-
		Thyroid	-	Thyroid (5E+4)	-	7E-8	-	-
53	Iodine-120m ²	D, all compounds	1E+4	2E+4	9E-6	3E-8	-	-
		Thyroid	Thyroid (1E+4)	-	-	-	2E-4	2E-3
53	Iodine-120 ²	D, all compounds	4E+3	9E+3	4E-6	-	-	-
		Thyroid	Thyroid (8E+3)	Thyroid (1E+4)	-	2E-8	1E-4	1E-3

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
53	Iodine-121	D, all compounds	1E+4	2E+4	8E-6	-	-	-
		Thyroid	Thyroid					
		(3E+4)	(5E+4)	-	7E-8	4E-4	4E-3	
53	Iodine-123	D, all compounds	3E+3	6E+3	3E-6	-	-	-
		Thyroid	Thyroid					
		(1E+4)	(2E+4)	-	2E-8	1E-4	1E-3	
53	Iodine-124	D, all compounds	5E+1	8E+1	3E-8	-	-	-
		Thyroid	Thyroid					
		(2E+2)	(3E+2)	-	4E-10	2E-6	2E-5	
53	Iodine-125	D, all compounds	4E+1	6E+1	3E-8	-	-	-
		Thyroid	Thyroid					
		(1E+2)	(2E+2)	-	3E-10	2E-6	2E-5	
53	Iodine-126	D, all compounds	2E+1	4E+1	1E-8	-	-	-
		Thyroid	Thyroid					
		(7E+1)	(1E+2)	-	2E-10	1E-6	1E-5	
53	Iodine-128 ²	D, all compounds	4E+4	1E+5	5E-5	2E-7	-	-
		St wall						
		(6E+4)	-	-	-	8E-4	8E-3	
53	Iodine-129	D, all compounds	5E+0	9E+0	4E-9	-	-	-
		Thyroid	Thyroid					
		(2E+1)	(3E+1)	-	4E-11	2E-7	2E-6	
53	Iodine-130	D, all compounds	4E+2	7E+2	3E-7	-	-	-
		Thyroid	Thyroid					
		(1E+3)	(2E+3)	-	3E-9	2E-5	2E-4	
53	Iodine-131	D, all compounds	3E+1	5E+1	2E-8	-	-	-
		Thyroid	Thyroid					
		(9E+1)	(2E+2)	-	2E-10	1E-6	1E-5	
53	Iodine-132m ²	D, all compounds	4E+3	8E+3	4E-6	-	-	-
		Thyroid	Thyroid					
		(1E+4)	(2E+4)	-	3E-8	1E-4	1E-3	
53	Iodine-132	D, all compounds	4E+3	8E+3	3E-6	-	-	-
		Thyroid	Thyroid					
		(9E+3)	(1E+4)	-	2E-8	1E-4	1E-3	
53	Iodine-133	D, all compounds	1E+2	3E+2	1E-7	-	-	-
		Thyroid	Thyroid					
		(5E+2)	(9E+2)	-	1E-9	7E-6	7E-5	
53	Iodine-134 ²	D, all compounds	2E+4	5E+4	2E-5	6E-8	-	-
		Thyroid						
		(3E+4)	-	-	-	4E-4	4E-3	
53	Iodine-135	D, all compounds	8E+2	2E+3	7E-7	-	-	-
		Thyroid	Thyroid					
		(3E+3)	(4E+3)	-	6E-9	3E-5	3E-4	
54	Xenon-120 ²	Submersion ¹	-	-	1E-5	4E-8	-	-
54	Xenon-121 ²	Submersion ¹	-	-	2E-6	1E-8	-	-
54	Xenon-122	Submersion ¹	-	-	7E-5	3E-7	-	-
54	Xenon-123	Submersion ¹	-	-	6E-6	3E-8	-	-
54	Xenon-125	Submersion ¹	-	-	2E-5	7E-8	-	-
54	Xenon-127	Submersion ¹	-	-	1E-5	6E-8	-	-
54	Xenon-129m	Submersion ¹	-	-	2E-4	9E-7	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
54	Xenon-131m	Submersion ¹	-	-	4E-4	2E-6	-	-
54	Xenon-133m	Submersion ¹	-	-	1E-4	6E-7	-	-
54	Xenon-133	Submersion ¹	-	-	1E-4	5E-7	-	-
54	Xenon-135m ²	Submersion ¹	-	-	9E-6	4E-8	-	-
54	Xenon-135	Submersion ¹	-	-	1E-5	7E-8	-	-
54	Xenon-138 ²	Submersion ¹	-	-	4E-6	2E-8	-	-
55	Cesium-125 ²	D, all compounds	5E+4	1E+5	6E-5	2E-7	-	-
		St wall	(9E+4)	-	-	-	1E-3	1E-2
55	Cesium-127	D, all compounds	6E+4	9E+4	4E-5	1E-7	9E-4	9E-3
55	Cesium-129	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-4	3E-3
55	Cesium-130 ²	D, all compounds	6E+4	2E+5	8E-5	3E-7	-	-
		St wall	(1E+5)	-	-	-	1E-3	1E-2
55	Cesium-131	D, all compounds	2E+4	3E+4	1E-5	4E-8	3E-4	3E-3
55	Cesium-132	D, all compounds	3E+3	4E+3	2E-6	6E-9	4E-5	4E-4
55	Cesium-134m	D, all compounds	1E+5	1E+5	6E-5	2E-7	-	-
		St wall	(1E+5)	-	-	-	2E-3	2E-2
55	Cesium-134	D, all compounds	7E+1	1E+2	4E-8	2E-10	9E-7	9E-6
55	Cesium-135m ²	D, all compounds	1E+5	2E+5	8E-5	3E-7	1E-3	1E-2
55	Cesium-135	D, all compounds	7E+2	1E+3	5E-7	2E-9	1E-5	1E-4
55	Cesium-136	D, all compounds	4E+2	7E+2	3E-7	9E-10	6E-6	6E-5
55	Cesium-137	D, all compounds	1E+2	2E+2	6E-8	2E-10	1E-6	1E-5
55	Cesium-138 ²	D, all compounds	2E+4	6E+4	2E-5	8E-8	-	-
		St wall	(3E+4)	-	-	-	4E-4	4E-3
56	Barium-126 ²	D, all compounds	6E+3	2E+4	6E-6	2E-8	8E-5	8E-4
56	Barium-128	D, all compounds	5E+2	2E+3	7E-7	2E-9	7E-6	7E-5
56	Barium-131m ²	D, all compounds	4E+5	1E+6	6E-4	2E-6	-	-
		St wall	(5E+5)	-	-	-	7E-3	7E-2
56	Barium-131	D, all compounds	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
56	Barium-133m	D, all compounds	2E+3	9E+3	4E-6	1E-8	-	-
		LLI wall	(3E+3)	-	-	-	4E-5	4E-4
56	Barium-133	D, all compounds	2E+3	7E+2	3E-7	9E-10	2E-5	2E-4
56	Barium-135m	D, all compounds	3E+3	1E+4	5E-6	2E-8	4E-5	4E-4
56	Barium-139 ²	D, all compounds	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
56	Barium-140	D, all compounds	5E+2	1E+3	6E-7	2E-9	-	-
		LLI wall	(6E+2)	-	-	-	8E-6	8E-5
56	Barium-141 ²	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
56	Barium-142 ²	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
57	Lanthanum-131 ²	D, all compounds except those given for W, oxides and hydroxides	5E+4	1E+5	5E-5	2E-7	6E-4	6E-3
			-	2E+5	7E-5	2E-7	-	-

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
57	Lanthanum-132	D, see ^{131}La	3E+3	1E+4	4E-6	1E-8	4E-5	4E-4
		W, see ^{131}La	-	1E+4	5E-6	2E-8	-	-
57	Lanthanum-135	D, see ^{131}La	4E+4	1E+5	4E-5	1E-7	5E-4	5E-3
		W, see ^{131}La	-	9E+4	4E-5	1E-7	-	-
57	Lanthanum-137	D, see ^{131}La	1E+4	6E+1	3E-8	-	2E-4	2E-3
				Liver				
			-	(7E+1)	-	1E-10	-	-
		W, see ^{131}La	-	3E+2	1E-7	-	-	-
57	Lanthanum-138	D, see ^{131}La	9E+2	4E+0	1E-9	5E-12	1E-5	1E-4
		W, see ^{131}La	-	1E+1	6E-9	2E-11	-	-
57	Lanthanum-140	D, see ^{131}La	6E+2	1E+3	6E-7	2E-9	9E-6	9E-5
		W, see ^{131}La	-	1E+3	5E-7	2E-9	-	-
57	Lanthanum-141	D, see ^{131}La	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
		W, see ^{131}La	-	1E+4	5E-6	2E-8	-	-
57	Lanthanum-142 ²	D, see ^{131}La	8E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ^{131}La	-	3E+4	1E-5	5E-8	-	-
57	Lanthanum-143 ²	D, see ^{131}La	4E+4	1E+5	4E-5	1E-7	-	-
			St wall					
			(4E+4)	-	-	-	5E-4	5E-3
		W, see ^{131}La	-	9E+4	4E-5	1E-7	-	-
58	Cerium-134	W, all compounds except those given for Y	5E+2	7E+2	3E-7	1E-9	-	-
			LLI wall					
			(6E+2)	-	-	-	8E-6	8E-5
58	Cerium-135	Y, oxides, hydroxides, and fluorides	-	7E+2	3E-7	9E-10	-	-
		W, see ^{134}Ce	2E+3	4E+3	2E-6	5E-9	2E-5	2E-4
58	Cerium-137m	Y, see ^{134}Ce	-	4E+3	1E-6	5E-9	-	-
		W, see ^{134}Ce	2E+3	4E+3	2E-6	6E-9	-	-
58	Cerium-137	LLI wall	(2E+3)	-	-	-	3E-5	3E-4
		Y, see ^{134}Ce	-	4E+3	2E-6	5E-9	-	-
58	Cerium-139	W, see ^{134}Ce	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
		Y, see ^{134}Ce	-	1E+5	5E-5	2E-7	-	-
58	Cerium-141	W, see ^{134}Ce	5E+3	8E+2	3E-7	1E-9	7E-5	7E-4
		Y, see ^{134}Ce	-	7E+2	3E-7	9E-10	-	-
58	Cerium-143	W, see ^{134}Ce	2E+3	7E+2	3E-7	1E-9	-	-
			LLI wall					
			(2E+3)	-	-	-	3E-5	3E-4
		Y, see ^{134}Ce	-	6E+2	2E-7	8E-10	-	-
58	Cerium-143	W, see ^{134}Ce	1E+3	2E+3	8E-7	3E-9	-	-
			LLI wall					
			(1E+3)	-	-	-	2E-5	2E-4
		Y, see ^{134}Ce	-	2E+3	7E-7	2E-9	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC (μCi/ml)	Col. 1 Air (μCi/ml)	Col. 2 Water (μCi/ml)	Monthly Average Concentration (μCi/ml)
58	Cerium-144	W, see ¹³⁴ Ce	2E+2 LLI wall (3E+2)	3E+1	1E-8	4E-11	-	-
		Y, see ¹³⁴ Ce	-	1E+1	6E-9	2E-11	-	-
59	Praseodymium-136 ²	W, all compounds except those given for Y	5E+4 St wall (7E+4)	2E+5	1E-4	3E-7	-	-
		Y, oxides, hydroxides, carbides, and fluorides	-	2E+5	9E-5	3E-7	-	-
59	Praseodymium-137 ²	W, see ¹³⁶ Pr	4E+4	2E+5	6E-5	2E-7	5E-4	5E-3
		Y, see ¹³⁶ Pr	-	1E+5	6E-5	2E-7	-	-
59	Praseodymium-138m	W, see ¹³⁶ Pr	1E+4	5E+4	2E-5	8E-8	1E-4	1E-3
		Y, see ¹³⁶ Pr	-	4E+4	2E-5	6E-8	-	-
59	Praseodymium-139	W, see ¹³⁶ Pr	4E+4	1E+5	5E-5	2E-7	6E-4	6E-3
		Y, see ¹³⁶ Pr	-	1E+5	5E-5	2E-7	-	-
59	Praseodymium-142m ²	W, see ¹³⁶ Pr	8E+4	2E+5	7E-5	2E-7	1E-3	1E-2
		Y, see ¹³⁶ Pr	-	1E+5	6E-5	2E-7	-	-
59	Praseodymium-142	W, see ¹³⁶ Pr	1E+3	2E+3	9E-7	3E-9	1E-5	1E-4
		Y, see ¹³⁶ Pr	-	2E+3	8E-7	3E-9	-	-
59	Praseodymium-143	W, see ¹³⁶ Pr	9E+2 LLI wall (1E+3)	8E+2	3E-7	1E-9	-	-
		Y, see ¹³⁶ Pr	-	7E+2	3E-7	9E-10	-	-
59	Praseodymium-144 ²	W, see ¹³⁶ Pr	3E+4 St wall (4E+4)	1E+5	5E-5	2E-7	-	-
		Y, see ¹³⁶ Pr	-	1E+5	5E-5	2E-7	-	-
59	Praseodymium-145	W, see ¹³⁶ Pr	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		Y, see ¹³⁶ Pr	-	8E+3	3E-6	1E-8	-	-
59	Praseodymium-147 ²	W, see ¹³⁶ Pr	5E+4 St wall (8E+4)	2E+5	8E-5	3E-7	-	-
		Y, see ¹³⁶ Pr	-	2E+5	8E-5	3E-7	-	-
60	Neodymium-136 ²	W, all compounds except those given for Y	1E+4	6E+4	2E-5	8E-8	2E-4	2E-3
		Y, oxides, hydroxides, carbides, and fluorides	-	5E+4	2E-5	8E-8	-	-
60	Neodymium-138	W, see ¹³⁶ Nd	2E+3	6E+3	3E-6	9E-9	3E-5	3E-4
		Y, see ¹³⁶ Nd	-	5E+3	2E-6	7E-9	-	-
60	Neodymium-139m	W, see ¹³⁶ Nd	5E+3	2E+4	7E-6	2E-8	7E-5	7E-4
		Y, see ¹³⁶ Nd	-	1E+4	6E-6	2E-8	-	-
60	Neodymium-139 ²	W, see ¹³⁶ Nd	9E+4	3E+5	1E-4	5E-7	1E-3	1E-2
		Y, see ¹³⁶ Nd	-	3E+5	1E-4	4E-7	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
60	Neodymium-141	W, see ^{136}Nd	2E+5	7E+5	3E-4	1E-6	2E-3	2E-2
		Y, see ^{136}Nd	-	6E+5	3E-4	9E-7	-	-
60	Neodymium-147	W, see ^{136}Nd	1E+3	9E+2	4E-7	1E-9	-	-
		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		Y, see ^{136}Nd	-	8E+2	4E-7	1E-9	-	-
60	Neodymium-149 ²	W, see ^{136}Nd	1E+4	3E+4	1E-5	4E-8	1E-4	1E-3
		Y, see ^{136}Nd	-	2E+4	1E-5	3E-8	-	-
60	Neodymium-151 ²	W, see ^{136}Nd	7E+4	2E+5	8E-5	3E-7	9E-4	9E-3
		Y, see ^{136}Nd	-	2E+5	8E-5	3E-7	-	-
61	Promethium-141 ²	W, all compounds except those given for Y	5E+4 St wall (6E+4)	2E+5	8E-5	3E-7	-	-
		Y, oxides, hydroxides, carbides, and fluorides	-	2E+5	7E-5	2E-7	-	-
61	Promethium-143	W, see ^{141}Pm	5E+3	6E+2	2E-7	8E-10	7E-5	7E-4
		Y, see ^{141}Pm	-	7E+2	3E-7	1E-9	-	-
61	Promethium-144	W, see ^{141}Pm	1E+3	1E+2	5E-8	2E-10	2E-5	2E-4
		Y, see ^{141}Pm	-	1E+2	5E-8	2E-10	-	-
61	Promethium-145	W, see ^{141}Pm	1E+4	2E+2	7E-8	-	1E-4	1E-3
		Bone surf (2E+2)	-	-	-	3E-10	-	-
		Y, see ^{141}Pm	-	2E+2	8E-8	3E-10	-	-
61	Promethium-146	W, see ^{141}Pm	2E+3	5E+1	2E-8	7E-11	2E-5	2E-4
		Y see ^{141}Pm	-	4E+1	2E-8	6E-11	-	-
61	Promethium-147	W see ^{141}Pm	4E+3	1E+2	5E-8	-	-	-
		LLI wall Bone surf (5E+3) (2E+2)	-	-	-	3E-10	7E-5	7E-4
		Y, see ^{141}Pm	-	1E+2	6E-8	2E-10	-	-
61	Promethium-148m	W, see ^{141}Pm	7E+2	3E+2	1E-7	4E-10	1E-5	1E-4
		Y, see ^{141}Pm	-	3E+2	1E-7	5E-10	-	-
61	Promethium-148	W, see ^{141}Pm	4E+2	5E+2	2E-7	8E-10	-	-
		LLI wall (5E+2)	-	-	-	-	7E-6	7E-5
		Y, see ^{141}Pm	-	5E+2	2E-7	7E-10	-	-
0		LLI wall (1E+3)	-	-	-	-	2E-5	2E-4
		Y, see ^{141}Pm	-	2E+3	8E-7	2E-9	-	-
61	Promethium-150	W, see ^{141}Pm	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
		Y, see ^{141}Pm	-	2E+4	7E-6	2E-8	-	-
61	Promethium-151	W, see ^{141}Pm	2E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		Y, see ^{141}Pm	-	3E+3	1E-6	4E-9	-	-
62	Samarium-141m ²	W, all compounds	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
62	Samarium-141 ²	W, all compounds	5E+4 St wall (6E+4)	2E+5 - -	8E-5 - -	2E-7 - -	- 8E-4 -	- 8E-3 -
62	Samarium-142 ²	W, all compounds	8E+3	3E+4	1E-5	4E-8	1E-4	1E-3
62	Samarium-145	W, all compounds	6E+3	5E+2	2E-7	7E-10	8E-5	8E-4
62	Samarium-146	W, all compounds	1E+1	4E2	1E-11	-	-	-
62	Samarium-147	W, all compounds	Bone surf (3E+1)	Bone surf (6E-2)	-	9E-14	3E-7	3E-6
			2E+1	4E2	2E-11	-	-	-
62	Samarium-151	W, all compounds	Bone surf (3E+1)	Bone surf (7E-2)	-	1E-13	4E-7	4E-6
			1E+4	1E+2	4E-8	-	-	-
62	Samarium-153	W, all compounds	LLI wall (1E+4)	Bone surf (2E+2)	-	2E-10	2E-4	2E-3
			2E+3	3E+3	1E-6	4E-9	-	-
62	Samarium-155 ²	W, all compounds	LLI wall (2E+3)	-	-	-	3E-5	3E-4
			6E+4 St wall (8E+4)	2E+5 - -	9E-5 - -	3E-7 - -	- 1E-3 -	- 1E-2 -
62	Samarium-156	W, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
63	Europium-145	W, all compounds	2E+3	2E+3	8E-7	3E-9	2E-5	2E-4
63	Europium-146	W, all compounds	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
63	Europium-147	W, all compounds	3E+3	2E+3	7E-7	2E-9	4E-5	4E-4
63	Europium-148	W, all compounds	1E+3	4E+2	1E-7	5E-10	1E-5	1E-4
63	Europium-149	W, all compounds	1E+4	3E+3	1E-6	4E-9	2E-4	2E-3
63	Europium-150 (12.62 h)	W, all compounds	3E+3	8E+3	4E-6	1E-8	4E-5	4E-4
63	Europium-150 (34.2 y)	W, all compounds	8E+2	2E+1	8E-9	3E-11	1E-5	1E-4
63	Europium-152m	W, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
63	Europium-152	W, all compounds	8E+2	2E+1	1E-8	3E-11	1E-5	1E-4
63	Europium-154	W, all compounds	5E+2	2E+1	8E-9	3E-11	7E-6	7E-5
63	Europium-155	W, all compounds	4E+3	9E+1	4E-8	-	5E-5	5E-4
63	Europium-156	W, all compounds	-	Bone surf (1E+2)	-	2E-10	-	-
			6E+2	5E+2	2E-7	6E-10	8E-6	8E-5
63	Europium-157	W, all compounds	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
63	Europium-158 ²	W, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
64	Gadolinium-145 ²	D, all compounds except those given for W	5E+4 St wall (5E+4)	2E+5 - -	6E-5 - -	2E-7 - -	- 6E-4 -	- 6E-3 -
			-	2E+5	7E-5	2E-7	-	-
64	Gadolinium-146	D, see ¹⁴⁵ Gd	1E+3	1E+2	5E-8	2E-10	2E-5	2E-4
		W, see ¹⁴⁵ Gd	-	3E+2	1E-7	4E-10	-	-
64	Gadolinium-147	D, see ¹⁴⁵ Gd	2E+3	4E+3	2E-6	6E-9	3E-5	3E-4
		W, see ¹⁴⁵ Gd	-	4E+3	1E-6	5E-9	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
64	Gadolinium-148	D, see ^{145}Gd	1E+1	8E+3	3E-12	-	-	-
			Bone surf (2E+1)	Bone surf (2E+2)	-	2E-14	3E-7	3E-6
		W, see ^{145}Gd	-	3E-2	1E-11	-	-	-
			-	Bone surf (6E-2)	-	8E-14	-	-
64	Gadolinium-149	D, see ^{145}Gd	3E+3	2E+3	9E-7	3E-9	4E-5	4E-4
		W, see ^{145}Gd	-	2E+3	1E-6	3E-9	-	-
64	Gadolinium-151	D, see ^{145}Gd	6E+3	4E+2	2E-7	-	9E-5	9E-4
			-	Bone surf (6E+2)	-	9E-10	-	-
		W, see ^{145}Gd	-	1E+3	5E-7	2E-9	-	-
			-	-	-	-	-	-
64	Gadolinium-152	D, see ^{145}Gd	2E+1	1E-2	4E-12	-	-	-
			Bone surf (3E+1)	Bone surf (2E-2)	-	3E-14	4E-7	4E-6
		W, see ^{145}Gd	-	4E-2	2E-11	-	-	-
			-	Bone surf (8E-2)	-	1E-13	-	-
64	Gadolinium-153	D, see ^{145}Gd	5E+3	1E+2	6E-8	-	6E-5	6E-4
			-	Bone surf (2E+2)	-	3E-10	-	-
		W, see ^{145}Gd	-	6E+2	2E-7	8E-10	-	-
			-	-	-	-	-	-
64	Gadolinium-159	D, see ^{145}Gd	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{145}Gd	-	6E+3	2E-6	8E-9	-	-
65	Terbium-147 ²	W, all compounds	9E+3	3E+4	1E-5	5E-8	1E-4	1E-3
65	Terbium-149	W, all compounds	5E+3	7E+2	3E-7	1E-9	7E-5	7E-4
65	Terbium-150	W, all compounds	5E+3	2E+4	9E-6	3E-8	7E-5	7E-4
65	Terbium-151	W, all compounds	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
65	Terbium-153	W, all compounds	5E+3	7E+3	3E-6	1E-8	7E-5	7E-4
65	Terbium-154	W, all compounds	2E+3	4E+3	2E-6	6E-9	2E-5	2E-4
65	Terbium-155	W, all compounds	6E+3	8E+3	3E-6	1E-8	8E-5	8E-4
65	Terbium-156m (5.0 h)	W, all compounds	2E+4	3E+4	1E-5	4E-8	2E-4	2E-3
65	Terbium-156m (24.4 h)	W, all compounds	7E+3	8E+3	3E-6	1E-8	1E-4	1E-3
65	Terbium-156	W, all compounds	1E+3	1E+3	6E-7	2E-9	1E-5	1E-4
65	Terbium-157	W, all compounds	5E+4	3E+2	1E-7	-	-	-
65	Terbium-158	W, all compounds	LLI wall (5E+4)	Bone surf (6E+2)	-	8E-10	7E-4	7E-3
			1E+3	2E+1	8E-9	3E-11	2E-5	2E-4
			8E+2	2E+2	9E-8	3E-10	1E-5	1E-4
			2E+3	2E+3	7E-7	2E-9	-	-
65	Terbium-160	W, all compounds	LLI wall (2E+3)	-	-	-	3E-5	3E-4
			9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
			2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
			1E+4	2E+3	1E-6	3E-9	2E-4	2E-3
66	Dysprosium-155	W, all compounds	1E+4	5E+4	2E-5	6E-8	2E-4	2E-3

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
66	Dysprosium-166	W, all compounds	6E+2	7E+2	3E-7	1E-9	-	-
			LLI wall (8E+2)	-	-	-	1E-5	1E-4
67	Holmium-155 ²	W, all compounds	4E+4	2E+5	6E-5	2E-7	6E-4	6E-3
67	Holmium-157 ²	W, all compounds	3E+5	1E+6	6E-4	2E-6	4E-3	4E-2
67	Holmium-159 ²	W, all compounds	2E+5	1E+6	4E-4	1E-6	3E-3	3E-2
67	Holmium-161	W, all compounds	1E+5	4E+5	2E-4	6E-7	1E-3	1E-2
67	Holmium-162m ²	W, all compounds	5E+4	3E+5	1E-4	4E-7	7E-4	7E-3
67	Holmium-162 ²	W, all compounds	5E+5	2E+6	1E-3	3E-6	-	-
			St wall (8E+5)	-	-	-	1E-2	1E-1
67	Holmium-164m ²	W, all compounds	1E+5	3E+5	1E-4	4E-7	1E-3	1E-2
67	Holmium-164 ²	W, all compounds	2E+5	6E+5	3E-4	9E-7	-	-
			St wall (2E+5)	-	-	-	3E-3	3E-2
67	Holmium-166m	W, all compounds	6E+2	7E+0	3E-9	9E-12	9E-6	9E-5
67	Holmium-166	W, all compounds	9E+2	2E+3	7E-7	2E-9	-	-
			LLI wall (9E+2)	-	-	-	1E-5	1E-4
67	Holmium-167	W, all compounds	2E+4	6E+4	2E-5	8E-8	2E-4	2E-3
68	Erbium-161	W, all compounds	2E+4	6E+4	3E-5	9E-8	2E-4	2E-3
68	Erbium-165	W, all compounds	6E+4	2E+5	8E-5	3E-7	9E-4	9E-3
68	Erbium-169	W, all compounds	3E+3	3E+3	1E-6	4E-9	-	-
			LLI wall (4E+3)	-	-	-	5E-5	5E-4
68	Erbium-171	W, all compounds	4E+3	1E+4	4E-6	1E-8	5E-5	5E-4
68	Erbium-172	W, all compounds	1E+3	1E+3	6E-7	2E-9	-	-
			LLI wall (E+3)	-	-	-	2E-5	2E-4
69	Thulium-162 ²	W, all compounds	7E+4	3E+5	1E-4	4E-7	-	-
			St wall (7E+4)	-	-	-	1E-3	1E-2
69	Thulium-166	W, all compounds	4E+3	1E+4	6E-6	2E-8	6E-5	6E-4
69	Thulium-167	W, all compounds	2E+3	2E+3	8E-7	3E-9	-	-
			LLI wall (2E+3)	-	-	-	3E-5	3E-4
69	Thulium-170	W, all compounds	8E+2	2E+2	9E-8	3E-10	-	-
			LLI wall (1E+3)	-	-	-	1E-5	1E-4
69	Thulium-171	W, all compounds	1E+4	3E+2	1E-7	-	-	-
			LLI wall Bone surf (1E+4)	(6E+2)	-	8E-10	2E-4	2E-3
69	Thulium-172	W, all compounds	7E+2	1E+3	5E-7	2E-9	-	-
			LLI wall (8E+2)	-	-	-	1E-5	1E-4
69	Thulium-173	W, all compounds	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
69	Thulium-175 ²	W, all compounds	7E+4	3E+5	1E-4	4E-7	-	-
			St wall (9E+4)	-	-	-	1E-3	1E-2

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
70	Ytterbium-162 ²	W, all compounds except those given for Y	7E+4	3E+5	1E-4	4E-7	1E-3	1E-2
		Y, oxides, hydroxides, and fluorides	-	3E+5	1E-4	4E-7	-	-
70	Ytterbium-166	W, see ¹⁶² Yb	1E+3	2E+3	8E-7	3E-9	2E-5	2E-4
		Y, see ¹⁶² Yb	-	2E+3	8E-7	3E-9	-	-
70	Ytterbium-167 ²	W, see ¹⁶² Yb	3E+5	8E+5	3E-4	1E-6	4E-3	4E-2
		Y, see ¹⁶² Yb	-	7E+5	3E-4	1E-6	-	-
70	Ytterbium-169	W, see ¹⁶² Yb	2E+3	8E+2	4E-7	1E-9	2E-5	2E-4
		Y, see ¹⁶² Yb	-	7E+2	3E-7	1E-9	-	-
70	Ytterbium-175	W, see ¹⁶² Yb	3E+3	4E+3	1E-6	5E-9	-	-
		LLI wall (3E+3)	-	-	-	-	4E-5	4E-4
		Y, see ¹⁶² Yb	-	3E+3	1E-6	5E-9	-	-
70	Ytterbium-177 ²	W, see ¹⁶² Yb	2E+4	5E+4	2E-5	7E-8	2E-4	2E-3
		Y, see ¹⁶² Yb	-	5E+4	2E-5	6E-8	-	-
70	Ytterbium-178 ²	W, see ¹⁶² Yb	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		Y, see ¹⁶² Yb	-	4E+4	2E-5	5E-8	-	-
71	Lutetium-169	W, all compounds except those given for Y	3E+3	4E+3	2E-6	6E-9	3E-5	3E-4
		Y, oxides, hydroxides, and fluorides	-	4E+3	2E-6	6E-9	-	-
71	Lutetium-170	W, see ¹⁶⁹ Lu	1E+3	2E+3	9E-7	3E-9	2E-5	2E-4
		Y, see ¹⁶⁹ Lu	-	2E+3	8E-7	3E-9	-	-
71	Lutetium-171	W, see ¹⁶⁹ Lu	2E+3	2E+3	8E-7	3E-9	3E-5	3E-4
		Y, see ¹⁶⁹ Lu	-	2E+3	8E-7	3E-9	-	-
71	Lutetium-172	W, see ¹⁶⁹ Lu	1E+3	1E+3	5E-7	2E-9	1E-5	1E-4
		Y, see ¹⁶⁹ Lu	-	1E+3	5E-7	2E-9	-	-
71	Lutetium-173	W, see ¹⁶⁹ Lu	5E+3	3E+2	1E-7	-	7E-5	7E-4
		Bone surf (5E+2)	-	-	-	6E-10	-	-
		Y, see ¹⁶⁹ Lu	-	3E+2	1E-7	4E-10	-	-
71	Lutetium-174m	W, see ¹⁶⁹ Lu	2E+3	2E+2	1E-7	-	-	-
		LLI wall (3E+3)	-	Bone surf (3E+2)	-	5E-10	4E-5	4E-4
		Y, see ¹⁶⁹ Lu	-	2E+2	9E-8	3E-10	-	-
71	Lutetium-174	W, see ¹⁶⁹ Lu	5E+3	1E+2	5E-8	-	7E-5	7E-4
		Bone surf (2E+2)	-	-	-	3E-10	-	-
		Y, see ¹⁶⁹ Lu	-	2E+2	6E-8	2E-10	-	-
71	Lutetium-176m	W, see ¹⁶⁹ Lu	8E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		Y, see ¹⁶⁹ Lu	-	2E+4	9E-6	3E-8	-	-
71	Lutetium-176	W, see ¹⁶⁹ Lu	7E+2	5E+0	2E-9	-	1E-5	1E-4
		Bone surf (1E+1)	-	-	-	2E-11	-	-
		Y, see ¹⁶⁹ Lu	-	8E+0	3E-9	1E-1	-	-

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers Monthly Average Concentration ($\mu\text{Ci/ml}$)
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	
71	Lutetium-177m	W, see ^{169}Lu	7E+2	1E+2	5E-8	-	1E-5	1E-4
				Bone surf				
			-	(1E+2)	-	2E-10	-	-
		Y, see ^{169}Lu	-	8E+1	3E-8	1E-10	-	-
71	Lutetium-177	W, see ^{169}Lu	2E+3	2E+3	9E-7	3E-9	-	-
			LLI wall					
			(3E+3)	-	-	-	4E-5	4E-4
		Y, see ^{169}Lu	-	2E+3	9E-7	3E-9	-	-
71	Lutetium-178m ²	W, see ^{169}Lu	5E+4	2E+5	8E-5	3E-7	-	-
			St. wall					
			(6E+4)	-	-	-	8E-4	8E-3
		Y, see ^{169}Lu	-	2E+5	7E-5	2E-7	-	-
71	Lutetium-178 ²	W, see ^{169}Lu	4E+4	1E+5	5E-5	2E-7	-	-
			St wall					
			(4E+4)	-	-	-	6E-4	6E-3
		Y, see ^{169}Lu	-	1E+5	5E-5	2E-7	-	-
71	Lutetium-179	W, see ^{169}Lu	6E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		Y, see ^{169}Lu	-	2E+4	6E-6	3E-8	-	-
72	Hafnium-170	D, all compounds except those given for W	3E+3	6E+3	2E-6	8E-9	4E-5	4E-4
		W, oxides, hydroxides, carbides, and nitrates	-	5E+3	2E-6	6E-9	-	-
72	Hafnium-172	D, see ^{170}Hf	1E+3	9E+0	4E-9	-	2E-5	2E-4
				Bone surf				
			-	(2E+1)	-	3E-11	-	-
		W, see ^{170}Hf	-	4E+1	2E-8	-	-	-
				Bone surf				
			-	(6E+1)	-	8E-11	-	-
72	Hafnium-173	D, see ^{170}Hf	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see ^{170}Hf	-	1E+4	5E-6	2E-8	-	-
72	Hafnium-175	D, see ^{170}Hf	3E+3	9E+2	4E-7	-	4E-5	4E-4
				Bone surf				
			-	(1E+3)	-	1E-9	-	-
		W, see ^{170}Hf	-	1E+3	5E-7	2E-9	-	-
72	Hafnium-177m ²	D, see ^{170}Hf	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
		W, see ^{170}Hf	-	9E+4	4E-5	1E-7	-	-
72	Hafnium-178m	D, see ^{170}Hf	3E+2	1E+0	5E-10	-	3E-6	3E-5
				Bone surf				
			-	(2E+0)	-	3E-12	-	-
		W, see ^{170}Hf	-	5E+0	2E-9	-	-	-
				Bone surf				
			-	(9E+0)	-	1E-11	-	-
72	Hafnium-179m	D, see ^{170}Hf	1E+3	3E+2	1E-7	-	1E-5	1E-4
				Bone surf				
			-	(6E+2)	-	8E-10	-	-
		W, see ^{170}Hf	-	6E+2	3E-7	8E-10	-	-

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
72	Hafnium-180m	D, see ^{170}Hf	7E+3	2E+4	9E-6	3E-8	1E-4	1E-3
		W, see ^{170}Hf	-	3E+4	1E-5	4E-8	-	-
72	Hafnium-181	D, see ^{170}Hf	1E+3	2E+2	7E-8	-	2E-5	2E-4
			Bone surf					
			-	(4E+2)	-	6E-10	-	-
		W, see ^{170}Hf	-	4E+2	2E-7	6E-10	-	-
72	Hafnium-182m ²	D, see ^{170}Hf	4E+4	9E+4	4E-5	1E-7	5E-4	5E-3
		W, see ^{170}Hf	-	1E+5	6E-5	2E-7	-	-
72	Hafnium-182	D, see ^{170}Hf	2E+2	8E-1	3E-10	-	-	-
			Bone surf					
			(4E+2)	(2E+0)	-	2E-12	5E-6	5E-5
		W, see ^{170}Hf	-	3E+0	1E-9	-	-	-
			Bone surf					
			-	(7E+0)	-	1E-11	-	-
72	Hafnium-183 ²	D, see ^{170}Hf	2E+4	5E+4	2E-5	6E-8	3E-4	3E-3
		W, see ^{170}Hf	-	6E+4	2E-5	8E-8	-	-
72	Hafnium-184	D, see ^{170}Hf	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		W, see ^{170}Hf	-	6E+3	3E-6	9E-9	-	-
73	Tantalum-172 ²	W, all compounds except those given for Y	4E+4	1E+5	5E-5	2E-7	5E-4	5E-3
		Y, elemental Ta, oxides, hydroxides, halides, carbides, nitrates, and nitrides	-	1E+5	4E-5	1E-7	-	-
73	Tantalum-173	W, see ^{172}Ta	7E+3	2E+4	8E-6	3E-8	9E-5	9E-4
		Y, see ^{172}Ta	-	2E+4	7E-6	2E-8	-	-
73	Tantalum-174 ²	W, see ^{172}Ta	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
		Y, see ^{172}Ta	-	9E+4	4E-5	1E-7	-	-
73	Tantalum-175	W, see ^{172}Ta	6E+3	2E+4	7E-6	2E-8	8E-5	8E-4
		Y, see ^{172}Ta	-	1E+4	6E-6	2E-8	-	-
73	Tantalum-176	W, see ^{172}Ta	4E+3	1E+4	5E-6	2E-8	5E-5	5E-4
		Y, see ^{172}Ta	-	1E+4	5E-6	2E-8	-	-
73	Tantalum-177	W, see ^{172}Ta	1E+4	2E+4	8E-6	3E-8	2E-4	2E-3
		Y, see ^{172}Ta	-	2E+4	7E-6	2E-8	-	-
73	Tantalum-178	W, see ^{172}Ta	2E+4	9E+4	4E-5	1E-7	2E-4	2E-3
		Y, see ^{172}Ta	-	7E+4	3E-5	1E-7	-	-
73	Tantalum-179	W, see ^{172}Ta	2E+4	5E+3	2E-6	8E-9	3E-4	3E-3
		Y, see ^{172}Ta	-	9E+2	4E-7	1E-9	-	-
73	Tantalum-180m	W, see ^{172}Ta	2E+4	7E+4	3E-5	9E-8	3E-4	3E-3
		Y, see ^{172}Ta	-	6E+4	2E-5	8E-8	-	-
73	Tantalum-180	W, see ^{172}Ta	1E+3	4E+2	2E-7	6E-10	2E-5	2E-4
		Y, see ^{172}Ta	-	2E+1	1E-8	3E-11	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC (μCi/ml)	Col. 1 Air (μCi/ml)	Col. 2 Water (μCi/ml)	Monthly Average Concentration (μCi/ml)
73	Tantalum-182m ²	W, see ¹⁷² Ta	2E+5 St wall (2E+5)	5E+5 -	2E-4 -	8E-7 -	- 3E-3	- 3E-2
		Y, see ¹⁷² Ta	-	4E+5	2E-4	6E-7	-	-
73	Tantalum-182	W, see ¹⁷² Ta	8E+2	3E+2	1E-7	5E-10	1E-5	1E-4
		Y, see ¹⁷² Ta	-	1E+2	6E-8	2E-10	-	-
73	Tantalum-183	W, see ¹⁷² Ta	9E+2 LLI wall (1E+3)	1E+3 -	5E-7 -	2E-9 -	- 2E-5	- 2E-4
		Y, see ¹⁷² Ta	-	1E+3	4E-7	1E-9	-	-
73	Tantalum-184	W, see ¹⁷² Ta	2E+3	5E+3	2E-6	8E-9	3E-5	3E-4
		Y, see ¹⁷² Ta	-	5E+3	2E-6	7E-9	-	-
73	Tantalum-185 ²	W, see ¹⁷² Ta	3E+4	7E+4	3E-5	1E-7	4E-4	4E-3
		Y, see ¹⁷² Ta	-	6E+4	3E-5	9E-8	-	-
73	Tantalum-186 ²	W, see ¹⁷² Ta	5E+4 St wall (7E+4)	2E+5 -	1E-4 -	3E-7 -	- 1E-3	- 1E-2
		Y, see ¹⁷² Ta	-	2E+5	9E-5	3E-7	-	-
74	Tungsten-176	D, all compounds	1E+4	5E+4	2E-5	7E-8	1E-4	1E-3
74	Tungsten-177	D, all compounds	2E+4	9E+4	4E-5	1E-7	3E-4	3E-3
74	Tungsten-178	D, all compounds	5E+3	2E+4	8E-6	3E-8	7E-5	7E-4
74	Tungsten-179 ²	D, all compounds	5E+5	2E+6	7E-4	2E-6	7E-3	7E-2
74	Tungsten-181	D, all compounds	2E+4	3E+4	1E-5	5E-8	2E-4	2E-3
74	Tungsten-185	D, all compounds	2E+3 LLI wall (3E+3)	7E+3 -	3E-6 -	9E-9 -	- 4E-5	- 4E-4
74	Tungsten-187	D, all compounds	2E+3	9E+3	4E-6	1E-8	3E-5	3E-4
74	Tungsten-188	D, all compounds	4E+2 LLI wall (5E+2)	1E+3 -	5E-7 -	2E-9 -	- 7E-6	- 7E-5
75	Rhenium-177 ²	D, all compounds except those given for W	9E+4 St wall (1E+5)	3E+5 -	1E-4 -	4E-7 -	- 2E-3	- 2E-2
		W, oxides, hydroxides, and nitrates	-	4E+5	1E-4	5E-7	-	-
75	Rhenium-178 ²	D, see ¹⁷⁷ Re	7E+4 St wall (1E+5)	3E+5 -	1E-4 -	4E-7 -	- 1E-3	- 1E-2
		W, see ¹⁷⁷ Re	-	3E+5	1E-4	4E-7	-	-
75	Rhenium-181	D, see ¹⁷⁷ Re	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
		W, see ¹⁷⁷ Re	-	9E+3	4E-6	1E-8	-	-
75	Rhenium-182 (12.7 h)	D, see ¹⁷⁷ Re	7E+3	1E+4	5E-6	2E-8	9E-5	9E-4
		W, see ¹⁷⁷ Re	-	2E+4	6E-6	2E-8	-	-
75	Rhenium-182 (64.0 h)	D, see ¹⁷⁷ Re	1E+3	2E+3	1E-6	3E-9	2E-5	2E-4
		W, see ¹⁷⁷ Re	-	2E+3	9E-7	3E-9	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
75	Rhenium-184m	D, see ^{177}Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ^{177}Re	-	4E+2	2E-7	6E-10	-	-
75	Rhenium-184	D, see ^{177}Re	2E+3	4E+3	1E-6	5E-9	3E-5	3E-4
		W, see ^{177}Re	-	1E+3	6E-7	2E-9	-	-
75	Rhenium-186m	D, see ^{177}Re	1E+3	2E+3	7E-7	-	-	-
		St wall	(2E+3)	(2E+3)	-	3E-9	2E-5	2E-4
		W, see ^{177}Re	-	2E+2	6E-8	2E-10	-	-
75	Rhenium-186	D, see ^{177}Re	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
		W, see ^{177}Re	-	2E+3	7E-7	2E-9	-	-
75	Rhenium-187	D, see ^{177}Re	6E+5	8E+5	4E-4	-	8E-3	8E-2
		St wall	-	(9E+5)	-	1E-6	-	-
		W, see ^{177}Re	-	1E+5	4E-5	1E-7	-	-
75	Rhenium-188m ²	D, see ^{177}Re	8E+4	1E+5	6E-5	2E-7	1E-3	1E-2
		W, see ^{177}Re	-	1E+5	6E-5	2E-7	-	-
75	Rhenium-188	D, see ^{177}Re	2E+3	3E+3	1E-6	4E-9	2E-5	2E-4
		W, see ^{177}Re	-	3E+3	1E-6	4E-9	-	-
75	Rhenium-189	D, see ^{177}Re	3E+3	5E+3	2E-6	7E-9	4E-5	4E-4
		W, see ^{177}Re	-	4E+3	2E-6	6E-9	-	-
76	Osmium-180 ²	D, all compounds except those given for W and Y	1E+5	4E+5	2E-4	5E-7	1E-3	1E-2
		W, halides and nitrates	-	5E+5	2E-4	7E-7	-	-
		Y, oxides and hydroxides	-	5E+5	2E-4	6E-7	-	-
76	Osmium-181 ²	D, see ^{180}Os	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{180}Os	-	5E+4	2E-5	6E-8	-	-
		Y, see ^{180}Os	-	4E+4	2E-5	6E-8	-	-
76	Osmium-182	D, see ^{180}Os	2E+3	6E+3	2E-6	8E-9	3E-5	3E-4
		W, see ^{180}Os	-	4E+3	2E-6	6E-9	-	-
		Y, see ^{180}Os	-	4E+3	2E-6	6E-9	-	-
76	Osmium-185	D, see ^{180}Os	2E+3	5E+2	2E-7	7E-10	3E-5	3E-4
		W, see ^{180}Os	-	8E+2	3E-7	1E-9	-	-
		Y, see ^{180}Os	-	8E+2	3E-7	1E-9	-	-
76	Osmium-189m	D, see ^{180}Os	8E+4	2E+5	1E-4	3E-7	1E-3	1E-2
		W, see ^{180}Os	-	2E+5	9E-5	3E-7	-	-
		Y, see ^{180}Os	-	2E+5	7E-5	2E-7	-	-
76	Osmium-191m	D, see ^{180}Os	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ^{180}Os	-	2E+4	8E-6	3E-8	-	-
		Y, see ^{180}Os	-	2E+4	7E-6	2E-8	-	-
76	Osmium-191	D, see ^{180}Os	2E+3	2E+3	9E-7	3E-9	-	-
		LLI wall	(3E+3)	-	-	-	3E-5	3E-4
		W, see ^{180}Os	-	2E+3	7E-7	2E-9	-	-
		Y, see ^{180}Os	-	1E+3	6E-7	2E-9	-	-

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
76	Osmium-193	D, see ^{180}Os	2E+3	5E+3	2E-6	6E-9	-	-
			LLI wall (2E+3)	-	-	-	2E-5	2E-4
		W, see ^{180}Os	-	3E+3	1E-6	4E-9	-	-
		Y, see ^{180}Os	-	3E+3	1E-6	4E-9	-	-
76	Osmium-194	D, see ^{180}Os	4E+2	4E+1	2E-8	6E-11	-	-
			LLI wall (6E+2)	-	-	-	8E-6	8E-5
		W, see ^{180}Os	-	6E+1	2E-8	8E-11	-	-
		Y, see ^{180}Os	-	8E+0	3E-9	1E-11	-	-
77	Iridium-182 ²	D, all compounds except those given for W and Y	4E+4	1E+5	6E-5	2E-7	-	-
			St wall (4E+4)	-	-	-	6E-4	6E-3
		W, halides, nitrates, and metallic iridium	-	2E+5	6E-5	2E-7	-	-
		Y, oxides and hydroxides	-	1E+5	5E-5	2E-7	-	-
77	Iridium-184	D, see ^{182}Ir	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see ^{182}Ir	-	3E+4	1E-5	5E-8	-	-
		Y, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
77	Iridium-185	D, see ^{182}Ir	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W, see ^{182}Ir	-	1E+4	5E-6	2E-8	-	-
		Y, see ^{182}Ir	-	1E+4	4E-6	1E-8	-	-
77	Iridium-186	D, see ^{182}Ir	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
		W, see ^{182}Ir	-	6E+3	3E-6	9E-9	-	-
		Y, see ^{182}Ir	-	6E+3	2E-6	8E-9	-	-
77	Iridium-187	D, see ^{182}Ir	1E+4	3E+4	1E-5	5E-8	1E-4	1E-3
		W, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
		Y, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
77	Iridium-188	D, see ^{182}Ir	2E+3	5E+3	2E-6	6E-9	3E-5	3E-4
		W, see ^{182}Ir	-	4E+3	1E-6	5E-9	-	-
		Y, see ^{182}Ir	-	3E+3	1E-6	5E-9	-	-
77	Iridium-189	D, see ^{182}Ir	5E+3	5E+3	2E-6	7E-9	-	-
			LLI wall (5E+3)	-	-	-	7E-5	7E-4
		W, see ^{182}Ir	-	4E+3	2E-6	5E-9	-	-
		Y, see ^{182}Ir	-	4E+3	1E-6	5E-9	-	-
77	Iridium-190m ²	D, see ^{182}Ir	2E+5	2E+5	8E-5	3E-7	2E-3	2E-2
		W, see ^{182}Ir	-	2E+5	9E-5	3E-7	-	-
		Y, see ^{182}Ir	-	2E+5	8E-5	3E-7	-	-
77	Iridium-190	D, see ^{182}Ir	1E+3	9E+2	4E-7	1E-9	1E-5	1E-4
		W, see ^{182}Ir	-	1E+3	4E-7	1E-9	-	-
		Y, see ^{182}Ir	-	9E+2	4E-7	1E-9	-	-

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
77	Iridium-192m	D, see ^{182}Ir	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
		W, see ^{182}Ir	-	2E+2	9E-8	3E-10	-	-
		Y, see ^{182}Ir	-	2E+1	6E-9	2E-11	-	-
77	Iridium-192	D, see ^{182}Ir	9E+2	3E+2	1E-7	4E-10	1E-5	1E-4
		W, see ^{182}Ir	-	4E+2	2E-7	6E-10	-	-
		Y, see ^{182}Ir	-	2E+2	9E-8	3E-10	-	-
77	Iridium-194m	D, see ^{182}Ir	6E+2	9E+1	4E-8	1E-10	9E-6	9E-5
		W, see ^{182}Ir	-	2E+2	7E-8	2E-10	-	-
		Y, see ^{182}Ir	-	1E+2	4E-8	1E-10	-	-
77	Iridium-194	D, see ^{182}Ir	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		W, see ^{182}Ir	-	2E+3	9E-7	3E-9	-	-
		Y, see ^{182}Ir	-	2E+3	8E-7	3E-9	-	-
77	Iridium-195m	D, see ^{182}Ir	8E+3	2E+4	1E-5	3E-8	1E-4	1E-3
		W, see ^{182}Ir	-	3E+4	1E-5	4E-8	-	-
		Y, see ^{182}Ir	-	2E+4	9E-6	3E-8	-	-
77	Iridium-195	D, see ^{182}Ir	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{182}Ir	-	5E+4	2E-5	7E-8	-	-
		Y, see ^{182}Ir	-	4E+4	2E-5	6E-8	-	-
78	Platinum-186	D, all compounds	1E+4	4E+4	2E-5	5E-8	2E-4	2E-3
78	Platinum-188	D, all compounds	2E+3	2E+3	7E-7	2E-9	2E-5	2E-4
78	Platinum-189	D, all compounds	1E+4	3E+4	1E-5	4E-8	1E-4	1E-3
78	Platinum-191	D, all compounds	4E+3	8E+3	4E-6	1E-8	5E-5	5E-4
78	Platinum-193m	D, all compounds	3E+3	6E+3	3E-6	8E-9	-	-
		LLI wall (3E+4)	-	-	-	-	4E-5	4E-4
		D, all compounds	4E+4	2E+4	1E-5	3E-8	-	-
78	Platinum-193	LLI wall (5E+4)	-	-	-	-	6E-4	6E-3
		D, all compounds	2E+3	4E+3	2E-6	6E-9	-	-
		LLI wall (2E+3)	-	-	-	-	3E-5	3E-4
78	Platinum-197m ²	D, all compounds	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
78	Platinum-197	D, all compounds	3E+3	1E+4	4E-6	1E-8	4E-5	4E-4
78	Platinum-199 ²	D, all compounds	5E+4	1E+5	6E-5	2E-7	7E-4	7E-3
78	Platinum-200	D, all compounds	1E+3	3E+3	1E-6	5E-9	2E-5	2E-4
79	Gold-193	D, all compounds except those given for W and Y	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
		W, halides and nitrates	-	2E+4	9E-6	3E-8	-	-
		Y, oxides and hydroxides	-	2E+4	8E-6	3E-8	-	-
79	Gold-194	D, see ^{193}Au	3E+3	8E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{193}Au	-	5E+3	2E-6	8E-9	-	-
		Y, see ^{193}Au	-	5E+3	2E-6	7E-9	-	-
79	Gold-195	D see ^{193}Au	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
		W see ^{193}Au	-	1E+3	6E-7	2E-9	-	-
		Y see ^{193}Au	-	4E+2	2E-7	6E-10	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
79	Gold-198m	D see ^{193}Au	1E+3	3E+3	1E-6	4E-9	1E-5	1E-4
		W see ^{193}Au	-	1E+3	5E-7	2E-9	-	-
		Y see ^{193}Au	-	1E+3	5E-7	2E-9	-	-
79	Gold-198	D see ^{193}Au	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		W see ^{193}Au	-	2E+3	8E-7	3E-9	-	-
		Y see ^{193}Au	-	2E+3	7E-7	2E-9	-	-
79	Gold-199	D see ^{193}Au	3E+3	9E+3	4E-6	1E-8	-	-
		LLI wall (3E+3)	-	-	-	-	4E-5	4E-4
		W, see ^{193}Au	-	4E+3	2E-6	6E-9	-	-
		Y, see ^{193}Au	-	4E+3	2E-6	5E-9	-	-
79	Gold-200m	D, see ^{193}Au	1E+3	4E+3	1E-6	5E-9	2E-5	2E-4
		W, see ^{193}Au	-	3E+3	1E-6	4E-9	-	-
		Y, see ^{193}Au	-	2E+4	1E-6	3E-9	-	-
79	Gold-200 ²	D, see ^{193}Au	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
		W, see ^{193}Au	-	8E+4	3E-5	1E-7	-	-
		Y, see ^{193}Au	-	7E+4	3E-5	1E-7	-	-
79	Gold-201 ²	D, see ^{193}Au	7E+4	2E+5	9E-5	3E-7	-	-
		St wall (9E+4)	-	-	-	-	1E-3	1E-2
		W, see ^{193}Au	-	2E+5	1E-4	3E-7	-	-
		Y, see ^{193}Au	-	2E+5	9E-5	3E-7	-	-
80	Mercury-193m	Vapor	-	8E+3	4E-6	1E-8	-	-
		Organic D	4E+3	1E+4	5E-6	2E-8	6E-5	6E-4
		D, sulfates	3E+3	9E+3	4E-6	1E-8	4E-5	4E-4
		W, oxides, hydroxides, halides, nitrates, and sulfides	-	8E+3	3E-6	1E-8	-	-
80	Mercury-193	Vapor	-	3E+4	1E-5	4E-8	-	-
		Organic D	2E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		D, see ^{193}mHg	2E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ^{193}mHg	-	4E+4	2E-5	6E-8	-	-
80	Mercury-194	Vapor	-	3E+1	1E-8	4E-11	-	-
		Organic D	2E+1	3E+1	1E-8	4E-11	2E-7	2E-6
		D, see ^{193}mHg	8E+2	4E+1	2E-8	6E-11	1E-5	1E-4
		W, see ^{193}mHg	-	1E+2	5E-8	2E-10	-	-
80	Mercury-195m	Vapor	-	4E+3	2E-6	6E-9	-	-
		Organic D	3E+3	6E+3	3E-6	8E-9	4E-5	4E-4
		D, see ^{193}mHg	2E+3	5E+3	2E-6	7E-9	3E-5	3E-4
		W, see ^{193}mHg	-	4E+3	2E-6	5E-9	-	-
80	Mercury-195	Vapor	-	3E+4	1E-5	4E-8	-	-
		Organic D	2E+4	5E+4	2E-5	6E-8	2E-4	2E-3
		D, see ^{193}mHg	1E+4	4E+4	1E-5	5E-8	2E-4	2E-3
		W, see ^{193}mHg	-	3E+4	1E-5	5E-8	-	-

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
80	Mercury-197m	Vapor	-	5E+3	2E-6	7E-9	-	-
		Organic D	4E+3	9E+3	4E-6	1E-8	5E-5	5E-4
		D, see ^{193}mHg	3E+3	7E+3	3E-6	1E-8	4E-5	4E-4
		W, see ^{193}mHg	-	5E+3	2E-6	7E-9	-	-
80	Mercury-197	Vapor	-	8E+3	4E-6	1E-8	-	-
		Organic D	7E+3	1E+4	6E-6	2E-8	9E-5	9E-4
		D, see ^{193}mHg	6E+3	1E+4	5E-6	2E-8	8E-5	8E-4
		W, see ^{193}mHg	-	9E+3	4E-6	1E-8	-	-
80	Mercury-199m ²	Vapor	-	8E+4	3E-5	1E-7	-	-
		Organic D	6E+4	2E+5	7E-5	2E-7	-	-
		St wall (1E+5)	-	-	-	-	1E-3	1E-2
		D, see ^{193}mHg	6E+4	1E+5	6E-5	2E-7	8E-4	8E-3
		W, see ^{193}mHg	-	2E+5	7E-5	2E-7	-	-
80	Mercury-203	Vapor	-	8E+2	4E-7	1E-9	-	-
		Organic D	5E+2	8E+2	3E-7	1E-9	7E-6	7E-5
		D, see ^{193}mHg	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
		W, see ^{193}mHg	-	1E+3	5E-7	2E-9	-	-
81	Thallium-194m ²	D, all compounds	5E+4	2E+5	6E-5	2E-7	-	-
		St wall (7E+4)	-	-	-	-	1E-3	1E-2
81	Thallium-194 ²	D, all compounds	3E+5	6E+5	2E-4	8E-7	-	-
		St wall (3E+5)	-	-	-	-	4E-3	4E-2
81	Thallium-195 ²	D, all compounds	6E+4	1E+5	5E-5	2E-7	9E-4	9E-3
81	Thallium-197	D, all compounds	7E+4	1E+5	5E-5	2E-7	1E-3	1E-2
81	Thallium-198m ²	D, all compounds	3E+4	5E+4	2E-5	8E-8	4E-4	4E-3
81	Thallium-198	D, all compounds	2E+4	3E+4	1E-5	5E-8	3E-4	3E-3
81	Thallium-199	D, all compounds	6E+4	8E+4	4E-5	1E-7	9E-4	9E-3
81	Thallium-200	D, all compounds	8E+3	1E+4	5E-6	2E-8	1E-4	1E-3
81	Thallium-201	D, all compounds	2E+4	2E+4	9E-6	3E-8	2E-4	2E-3
81	Thallium-202	D, all compounds	4E+3	5E+3	2E-6	7E-9	5E-5	5E-4
81	Thallium-204	D, all compounds	2E+3	2E+3	9E-7	3E-9	2E-5	2E-4
82	Lead-195m ²	D, all compounds	6E+4	2E+5	8E-5	3E-7	8E-4	8E-3
82	Lead-198	D, all compounds	3E+4	6E+4	3E-5	9E-8	4E-4	4E-3
82	Lead-199 ²	D, all compounds	2E+4	7E+4	3E-5	1E-7	3E-4	3E-3
82	Lead-200	D, all compounds	3E+3	6E+3	3E-6	9E-9	4E-5	4E-4
82	Lead-201	D, all compounds	7E+3	2E+4	8E-6	3E-8	1E-4	1E-3
82	Lead-202m	D, all compounds	9E+3	3E+4	1E-5	4E-8	1E-4	1E-3
82	Lead-202	D, all compounds	1E+2	5E+1	2E-8	7E-11	2E-6	2E-5
82	Lead-203	D, all compounds	5E+3	9E+3	4E-6	1E-8	7E-5	7E-4
82	Lead-205	D, all compounds	4E+3	1E+3	6E-7	2E-9	5E-5	5E-4
82	Lead-209	D, all compounds	2E+4	6E+4	2E-5	8E-8	3E-4	3E-3
82	Lead-210	D, all compounds	6E1	2E1	1E-10	-	-	-
		Bone surf (1E+0)	Bone surf (4E-1)	-	-	6E-13	1E-8	1E-7
82	Lead-211 ²	D, all compounds	1E+4	6E+2	3E-7	9E-10	2E-4	2E+3

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
82	Lead-212	D, all compounds	8E+1	3E+1	1E-8	5E-11	-	-
		Bone surf (1E+2)		-	-	-	2E-6	2E-5
82	Lead-214 ²	D, all compounds	9E+3	8E+2	3E-7	1E-9	1E-4	1E-3
83	Bismuth-200 ²	D, nitrates	3E+4	8E+4	4E-5	1E-7	4E-4	4E-3
		W, all other compounds	-	1E+5	4E-5	1E-7	-	-
83	Bismuth-201 ²	D, see ²⁰⁰ Bi	1E+4	3E+4	1E-5	4E-8	2E-4	2E-3
		W, see ²⁰⁰ Bi	-	4E+4	2E-5	5E-8	-	-
83	Bismuth-202 ²	D, see ²⁰⁰ Bi	1E+4	4E+4	2E-5	6E-8	2E-4	2E-3
		W, see ²⁰⁰ Bi	-	8E+4	3E-5	1E-7	-	-
83	Bismuth-203	D, see ²⁰⁰ Bi	2E+3	7E+3	3E-6	9E-9	3E-5	3E-4
		W, see ²⁰⁰ Bi	-	6E+3	3E-6	9E-9	-	-
83	Bismuth-205	D, see ²⁰⁰ Bi	1E+3	3E+3	1E-6	3E-9	2E-5	2E-4
		W, see ²⁰⁰ Bi	-	1E+3	5E-7	2E-9	-	-
83	Bismuth-206	D, see ²⁰⁰ Bi	6E+2	1E+3	6E-7	2E-9	9E-6	9E-5
		W, see ²⁰⁰ Bi	-	9E+2	4E-7	1E-9	-	-
83	Bismuth-207	D, see ²⁰⁰ Bi	1E+3	2E+3	7E-7	2E-9	1E-5	1E-4
		W, see ²⁰⁰ Bi	-	4E+2	1E-7	5E-10	-	-
83	Bismuth-210m	D, see ²⁰⁰ Bi	4E+1	5E+0	2E-9	-	-	-
		Kidneys (6E+1)		Kidneys (6E+0)	-	9E-12	8E-7	8E-6
		W, see ²⁰⁰ Bi	-	7E-1	3E-10	9E-13		
83	Bismuth-210	D, see ²⁰⁰ Bi	8E+2	2E+2	1E-7	-	1E-5	1E-4
		Kidneys (4E+2)			-	5E-10	-	-
		W, see ²⁰⁰ Bi	-	3E+1	1E-8	4E-11	-	-
83	Bismuth-212 ²	D, see ²⁰⁰ Bi	5E+3	2E+2	1E-7	3E-10	7E-5	7E-4
		W, see ²⁰⁰ Bi	-	3E+2	1E-7	4E-10	-	-
83	Bismuth-213 ²	D, see ²⁰⁰ Bi	7E+3	3E+2	1E-7	4E-10	1E-4	1E-3
		W, see ²⁰⁰ Bi	-	4E+2	1E-7	5E-10	-	-
83	Bismuth-214 ²	D, see ²⁰⁰ Bi	2E+4	8E+2	3E-7	1E-9	-	-
		St wall (2E+4)		-	-	-	3E-4	3E-3
		W, see ²⁰⁰ Bi	-	9E-2	4E-7	1E-9	-	-
84	Polonium-203 ²	D, all compounds except those given for W	3E+4	6E+4	3E-5	9E-8	3E-4	3E-3
		W, oxides, hydroxides, and nitrates	-	9E+4	4E-5	1E-7	-	-
84	Polonium-205 ²	D, see ²⁰³ Po	2E+4	4E+4	2E-5	5E-8	3E-4	3E-3
		W, see ²⁰³ Po	-	7E+4	3E-5	1E-7	-	-
84	Polonium-207	D, see ²⁰³ Po	8E+3	3E+4	1E-5	3E-8	1E-4	1E-3
		W, see ²⁰³ Po	-	3E+4	1E-5	4E-8	-	-
84	Polonium-210	D, see ²⁰³ Po	3E+0	6E-1	3E-10	9E-13	4E-8	4E-7
		W, see ²⁰³ Po	-	6E-1	3E-10	9E-13	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
85	Astatine-207 ²	D, halides	6E+3	3E+3	1E-6	4E-9	8E-5	8E-4
		W	-	2E+3	9E-7	3E-9	-	-
85	Astatine-211	D, halides	1E+2	8E+1	3E-8	1E-10	2E-6	2E-5
		W	-	5E+1	2E-8	8E-11	-	-
86	Radon-220	With daughters removed	-	2E+4	7E-6	2E-8	-	-
		With daughters present	-	2E+1	9E-9	3E-11	-	-
			(or 12 working level months)			(or 1.0 working level)		
86	Radon-222	With daughters removed	-	1E+4	4E-6	1E-8	-	-
		With daughters present	-	1E+2	3E-8	1E-10	-	-
			(or 4 working level months)			(or 0.33 working level)		
87	Francium-222 ²	D, all compounds	2E+3	5E+2	2E-7	6E-10	3E-5	3E-4
87	Francium-223 ²	D, all compounds	6E+2	8E+2	3E-7	1E-9	8E-6	8E-5
88	Radium-223	W, all compounds	5E+0	7E-1	3E-10	9E-13	-	-
			Bone surf (9E+0)	-	-	-	1E-7	1E-6
88	Radium-224	W, all compounds	8E+0	2E+0	7E-10	2E-12	-	-
			Bone surf (2E+1)	-	-	-	2E-7	2E-6
88	Radium-225	W, all compounds	8E+0	7E-1	3E-10	9E-13	-	-
			Bone surf (2E+1)	-	-	-	2E-7	2E-6
88	Radium-226	W, all compounds	2E+0	6E-1	3E-10	9E-13	-	-
			Bone surf (5E+0)	-	-	-	6E-8	6E-7
88	Radium-227 ²	W, all compounds	2E+4	1E+4	6E-6	-	-	-
			Bone surf (2E+4)	Bone surf (2E+4)	-	3E-8	3E-4	3E-3
88	Radium-228	W, all compounds	2E+0	1E+0	5E-10	2E-12	-	-
			Bone surf (4E+0)	-	-	-	6E-8	6E-7
89	Actinium-224	D, all compounds except those given for W and Y	2E+3	3E+1	1E-8	-	-	-
			LLI wall (2E+3)	Bone surf (4E+1)	-	5E-11	3E-5	3E-4
		W, halides and nitrates	-	5E+1	2E-8	7E-11	-	-
		Y, oxides and hydroxides	-	5E+1	2E-8	6E-11	-	-
89	Actinium-225	D, see ²²⁴ Ac	5E+1	3E-1	1E-10	-	-	-
			LLI wall (5E+1)	Bone surf (5E-1)	-	7E-13	7E-7	7E-6
		W, see ²²⁴ Ac	-	6E-1	3E-10	9E-13	-	-
		Y, see ²²⁴ Ac	-	6E-1	3E-10	9E-13	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
89	Actinium-226	D, see ^{224}Ac	1E+2	3E+0	1E-9	-	-	-
			LLI wall (1E+2)	Bone surf (4E+0)	-	5E-12	2E-6	2E-5
		W, see ^{224}Ac	-	5E+0	2E-9	7E-12	-	-
		Y, see ^{224}Ac	-	5E+0	2E-9	6E-12	-	-
89	Actinium-227	D, see ^{224}Ac	2E-1	4E-4	2E-13	-	-	-
			Bone surf (4E-1)	Bone surf (8E-4)	-	1E-15	5E-9	5E-8
		W, see ^{224}Ac	-	2E-3	7E-13	-	-	-
			-	Bone surf (3E-3)	-	4E-15	-	-
89	Actinium-228	D, see ^{224}Ac	-	4E-3	2E-12	6E-15	-	-
			2E+3	9E+0	4E-9	-	3E-5	3E-4
		W see ^{224}Ac	-	Bone surf (2E+1)	-	2E-11	-	-
			-	4E+1	2E-8	-	-	-
90	Thorium-226 ²	Y see ^{224}Ac	-	Bone surf (6E+1)	-	8E-11	-	-
			-	4E+1	2E-8	6E-11	-	-
		W, all compounds except those given for Y	5E+3	2E+2	6E-8	2E-10	-	-
			St wall (5E+3)	-	-	-	7E-5	7E-4
90	Thorium-227	Y, oxides and hydroxides	-	1E+2	6E-8	2E-10	-	-
		W, see ^{226}Th	1E+2	3E-1	1E-10	5E-13	2E-6	2E-5
90	Thorium-228	Y, see ^{226}Th	-	3E-1	1E-10	5E-13	-	-
		W, see ^{226}Th	6E+0	1E-2	4E-12	-	-	-
90	Thorium-229	Y, see ^{226}Th	Bone surf (1E+1)	Bone surf (2E-2)	-	3E-14	2E-7	2E-6
			-	2E-2	7E-12	2E-14	-	-
		W, see ^{226}Th	6E-1	9E-4	4E-13	-	-	-
			Bone surf (1E+0)	Bone surf (2E-3)	-	3E-15	2E-8	2E-7
90	Thorium-230	Y, see ^{226}Th	-	2E-3	1E-12	-	-	-
			-	Bone surf (3E-3)	-	4E-15-	-	-
		W, see ^{226}Th	4E+0	6E-3	3E-12	-	-	-
			Bone surf (9E+0)	Bone surf (2E-2)	-	2E-14	1E-6	-
90	Thorium-231	Y, see ^{226}Th	-	2E-2	6E-12	-	-	-
		W, see ^{228}Th	4E+3	6E+3	3E-6	9E-9	5E-5	5E-4
		Y, see ^{228}Th	-	6E+3	3E-6	9E-9-	-	-

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
90	Thorium-232	W, see ^{228}Th	7E-1	1E-3	5E-13	-	-	-
			Bone surf (2E+0)	Bone surf (3E-3)	-	4E-15	3E-8	3E-7
		Y, see ^{228}Th	-	3E-3	1E-12	-	-	-
			-	Bone surf (4E-3)	-	6E-15	-	-
90	Thorium-234	W, see ^{228}Th	3E+2	2E+2	8E-8	3E-10	-	-
			LLI wall (4E+2)	-	-	-	5E-6	5E-5
		Y, see ^{228}Th	-	2E+2	6E-8	2E-10	-	-
			-	-	-	-	-	-
91	Protactinium-227 ²	W, all compounds except those given for Y	4E+3	1E+2	5E-8	2E-10	5E-5	5E-4
		Y, oxides and hydroxides	-	1E+2	4E-8	1E-10	-	-
91	Protactinium-228	W, see ^{227}Pa	1E+3	1E+1	5E-9	-	2E-5	2E-4
			-	Bone surf (2E+1)	-	3E-11	-	-
		Y, see ^{227}Pa	-	1E+1	5E-9	2E-11	-	-
			-	-	-	-	-	-
91	Protactinium-230	W, see ^{227}Pa	6E+2	5E+0	2E-9	7E-12	-	-
			Bone surf (9E+2)	-	-	-	1E-5	1E-4
		Y, see ^{227}Pa	-	4E+0	1E-9	5E-12	-	-
			-	-	-	-	-	-
91	Protactinium-231	W, see ^{227}Pa	2E-1	2E-3	6E-13	-	-	-
			Bone surf (5E-1)	Bone surf (4E-3)	-	6E-15	6E-9	6E-8
		Y, see ^{227}Pa	-	4E-3	2E-12	-	-	-
			-	Bone surf (6E-3)	-	8E-15	-	-
91	Protactinium-232	W, see ^{227}Pa	1E+3	2E+1	9E-9	-	2E-5	2E-4
			-	Bone surf (6E+1)	-	8E-11	-	-
		Y, see ^{227}Pa	-	6E+1	2E-8	-	-	-
			-	Bone surf (7E+1)	-	1E-10	-	-
91	Protactinium-233	W, see ^{227}Pa	1E+3	7E+2	3E-7	1E-9	-	-
			LLI wall (2E+3)	-	-	-	2E-5	2E-4
		Y, see ^{227}Pa	-	6E+2	2E-7	8E-10	-	-
			-	-	-	-	-	-
91	Protactinium-234	W, see ^{227}Pa	2E+3	8E+3	3E-6	1E-8	3E-5	3E-4
			-	7E+3	3E-6	9E-9	-	-
		Y, see ^{227}Pa	-	7E+3	3E-6	9E-9	-	-
			-	-	-	-	-	-
92	Uranium-230	D, UF, UOF, UO(NO)	4E+0	4E-1	2E-10	-	-	-
			Bone surf (6E+0)	Bone surf (6E-1)	-	8E-13	8E-8	8E-7
		W, UO, UF, UCl Y, UO, UO	-	4E-1	1E-10	5E-13	-	-
			-	3E-1	1E-10	4E-13	-	-

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3 DAC	Col. 1 Air	Col. 2 Water	Monthly Average Concentration
			ALI (μCi)	ALI (μCi)	(μCi/ml)	(μCi/ml)	(μCi/ml)	(μCi/ml)
92	Uranium-231	D, see ²³⁰ U	5E+3	8E+3	3E-6	1E-8	-	-
		LLI wall (4E+3)	-	-	-	6E-5	6E-4	
		W, see ²³⁰ U	-	6E+3	2E-6	8E-9	-	-
		Y, see ²³⁰ U	-	5E+3	2E-6	6E-9	-	-
92	Uranium-232	D, see ²³⁰ U	2E+0	2E-1	9E-11	-	-	-
		Bone surf (4E+0)	Bone surf (4E-1)	-	6E-13	6E-8	6E-7	
		W, see ²³⁰ U	-	4E-1	2E-10	5E-13	-	-
		Y, see ²³⁰ U	-	8E-3	3E-12	1E-14	-	-
92	Uranium-233	D, see ²³⁰ U	1E+1	1E+0	5E-10	-	-	-
		Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6	
		W, see ²³⁰ U	-	7E-1	3E-10	1E-12	-	-
		Y, see ²³⁰ U	-	4E-2	2E-11	5E-14	-	-
92	Uranium-234 ³	D, see ²³⁰ U	1E+1	1E+0	5E-10	-	-	-
		Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6	
		W, see ²³⁰ U	-	7E-1	3E-10	1E-12	-	-
		Y, see ²³⁰ U	-	4E-2	2E-11	5E-14	-	-
92	Uranium-235 ³	D, see ²³⁰ U	1E+1	1E+0	6E-10	-	-	-
		Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6	
		W, see ²³⁰ U	-	8E-1	3E-10	1E-12	-	-
		Y, see ²³⁰ U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-236	D, see ²³⁰ U	1E+1	1E+0	5E-10	-	-	-
		Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6	
		W, see ²³⁰ U	-	8E-1	3E-10	1E-12	-	-
		Y, see ²³⁰ U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-237	D, see ²³⁰ U	2E+3	3E+3	1E-6	4E-9	-	-
		LLI wall (2E+3)	-	-	-	3E-5	3E-4	
		W, see ²³⁰ U	-	2E+3	7E-7	2E-9	-	-
		Y, see ²³⁰ U	-	2E+3	6E-7	2E-9	-	-
92	Uranium-238 ³	D, see ²³⁰ U	1E+1	1E+0	6E-10	-	-	-
		Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6	
		W, see ²³⁰ U	-	8E-1	3E-10	1E-12	-	-
		Y, see ²³⁰ U	-	4E-2	2E-11	6E-14	-	-
92	Uranium-239 ²	D, see ²³⁰ U	7E+4	2E+5	8E-5	3E-7	9E-4	9E-3
		W, see ²³⁰ U	-	2E+5	7E-5	2E-7	-	-
		Y, see ²³⁰ U	-	2E+5	6E-5	2E-7	-	-

TITLE 9. HEALTH SERVICES
CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
92	Uranium-240	D, see ^{230}U	1E+3	4E+3	2E-6	5E-9	2E-5	2E-4
		W, see ^{230}U	-	3E+3	1E-6	4E-9	-	-
		Y, see ^{230}U	-	2E+3	1E-6	3E-9	-	-
92	Uranium-natural ³	D, see ^{230}U	1E+1	1E+0	5E-10	-	-	-
			Bone surf (2E+1)	Bone surf (2E+0)	-	3E-12	3E-7	3E-6
		W, see ^{230}U	-	8E-1	3E-10	9E-13	-	-
		Y, see ^{230}U	-	5E-2	2E-11	9E-24	-	-
93	Neptunium-232 ²	W, all compounds	1E+5	2E+3	7E-7	-	2E-3	2E-2
			-	Bone surf (5E+2)	-	6E-9	-	-
93	Neptunium-233 ²	W, all compounds	8E+5	3E+6	1E-3	4E-6	1E-2	1E-1
93	Neptunium-234	W, all compounds	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
93	Neptunium-235	W, all compounds	2E+4	8E+2	3E-7	-	-	-
			LLI wall (2E+4)	Bone surf (1E+3)	-	2E-9	3E-4	3E-3
93	Neptunium-236 (1.15E+5 y)	W, all compounds	3E+0	2E-2	9E-12	-	-	-
			Bone surf (6E+0)	Bone surf (5E-2)	-	8E-14	9E-8	9E-7
93	Neptunium-236 (22.5 h)	W, all compounds	3E+3	3E+1	1E-8	-	-	-
			Bone surf (4E+3)	Bone surf (7E+1)	-	1E-10	5E-5	5E-4
93	Neptunium-237	W, all compounds	5E-1	4E-3	2E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	1E-14	2E-8	2E-7
93	Neptunium-238	W, all compounds	1E+3	6E+1	3E-8	-	2E-5	2E-4
			-	Bone surf (2E+2)	-	2E-10	-	-
93	Neptunium-239	W, all compounds	2E+3	2E+3	9E-7	3E-9	-	-
			LLI wall (2E+3)	-	-	-	2E-5	2E-4
93	Neptunium-240 ²	W, all compounds	2E+4	8E+4	3E-5	1E-7	3E-4	3E-3
94	Plutonium-234	W, all compounds except PuO	8E+3	2E+2	9E-8	3E-10	1E-4	1E-3
		Y, PuO	-	2E+2	8E-8	3E-10	-	-
94	Plutonium-235 ²	W, see ^{234}Pu	9E+5	3E+6	1E-3	4E-6	1E-2	1E-1
		Y, see ^{234}Pu	-	3E+6	1E-3	3E-6	-	-
94	Plutonium-236	W, see ^{234}Pu	2E+0	2E-2	8E-12	-	-	-
			Bone surf (4E+0)	Bone surf (4E-2)	-	5E-14	6E-8	6E-7
		Y, see ^{234}Pu	-	4E-2	2E-11	6E-14	-	-
94	Plutonium-237	W, see ^{234}Pu	1E+4	3E+3	1E-6	5E-9	2E-4	2E-3
		Y, see ^{234}Pu	-	3E+3	1E-6	4E-9	-	-
94	Plutonium-238	W, see ^{234}Pu	9E-1	7E-3	3E-12	-	-	-
			Bone surf (2E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ^{234}Pu	-	2E-2	8E-12	2E-14	-	-

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
94	Plutonium-239	W, see ^{234}Pu	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ^{234}Pu	-	2E-2	7E-12	-	-	-
94	Plutonium-240	W, see ^{234}Pu	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ^{234}Pu	-	2E-2	7E-12	-	-	-
94	Plutonium-241	W, see ^{234}Pu	4E+1	3E-1	1E-10	-	-	-
			Bone surf (7E+1)	Bone surf (6E-1)	-	8E-13	1E-6	1E-5
		Y, see ^{234}Pu	-	8E-1	3E-10	-	-	-
94	Plutonium-242	W, see ^{234}Pu	8E-1	7E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ^{234}Pu	-	2E-2	7E-12	-	-	-
94	Plutonium-243	W, see ^{234}Pu	2E+4	4E+4	2E-5	5E-8	2E-4	2E-3
		Y, see ^{234}Pu	-	4E+4	2E-5	5E-8	-	-
94	Plutonium-244	W, see ^{234}Pu	8E-1	7E-3	3E-12	-	-	-
			Bone surf (2E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
		Y, see ^{234}Pu	-	2E-2	7E-12	-	-	-
94	Plutonium-245	W, see ^{234}Pu	2E+3	5E+3	2E-6	6E-9	3E-5	3E-4
		Y, see ^{234}Pu	-	4E+3	2E-6	6E-9	-	-
94	Plutonium-246	W, see ^{234}Pu	4E+2	3E+2	1E-7	4E-10	-	-
			LLI wall (4E+2)	-	-	-	6E-6	6E-5
		Y, see ^{234}Pu	-	3E+2	1E-7	4E-10	-	-
95	Americium-237 ²	W, all compounds	8E+4	3E+5	1E-4	4E-7	1E-3	1E-2
95	Americium-238 ²	W, all compounds	4E+4	3E+3	1E-6	-	5E-4	5E-3
			-	Bone surf (6E+3)	-	9E-9	-	-
95	Americium-239	W, all compounds	5E+3	1E+4	5E-6	2E-8	7E-5	7E-4
95	Americium-240	W, all compounds	2E+3	3E+3	1E-6	4E-9	3E-5	3E-4
95	Americium-241	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
95	Americium-242m	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
95	Americium-242	W, all compounds	4E+3	8E+1	4E-8	-	5E-5	5E-4
			-	Bone surf (9E+1)	-	1E-10	-	-
95	Americium-243	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
95	Americium-244m ²	W, all compounds	6E+4	4E+3	2E-6	-	-	-
			St wall (8E+4)	Bone surf (7E+3)	-	1E-8	1E-3	1E-2
95	Americium-244	W, all compounds	3E+3	2E+2	8E-8	-	4E-5	4E-4
			-	Bone surf (3E+2)	-	4E-10	-	-
95	Americium-245	W, all compounds	3E+4	8E+4	3E-5	1E-7	4E-4	4E-3
95	Americium-246m ²	W, all compounds	5E+4	2E+5	8E-5	3E-7	-	-
			St wall (6E+4)	-	-	-	8E-4	8E-3
95	Americium-246 ²	W, all compounds	3E+4	1E+5	4E-5	1E-7	4E-4	4E-3
96	Curium-238	W, all compounds	2E+4	1E+3	5E-7	2E-9	2E-4	2E-3
96	Curium-240	W, all compounds	6E+1	6E-1	2E-10	-	-	-
			Bone surf (8E+1)	Bone surf (6E-1)	-	9E-13	1E-6	1E-5
96	Curium-241	W, all compounds	1E+3	3E+1	1E-8	-	2E-5	2E-4
			-	Bone surf (4E+1)	-	5E-11	-	-
96	Curium-242	W, all compounds	3E+1	3E-1	1E-10	-	-	-
			Bone surf (5E+1)	Bone surf (3E-1)	-	4E-13	7E-7	7E-6
96	Curium-243	W, all compounds	1E+0	9E-3	4E-12	-	-	-
			Bone surf (2E+0)	Bone surf (2E-2)	-	2E-14	3E-8	3E-7
96	Curium-244	W, all compounds	1E+0	1E-2	5E-12	-	-	-
			Bone surf (3E+0)	Bone surf (2E-2)	-	3E-14	3E-8	3E-7
96	Curium-245	W, all compounds	7E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
96	Curium-246	W, all compounds	7E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
96	Curium-247	W, all compounds	8E-1	6E-3	3E-12	-	-	-
			Bone surf (1E+0)	Bone surf (1E-2)	-	2E-14	2E-8	2E-7
96	Curium-248	W, all compounds	2E-1	2E-3	7E-13	-	-	-
			Bone surf (4E-1)	Bone surf (3E-3)	-	4E-15	5E-9	5E-8

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μ Ci)	Col. 2 Inhalation ALI (μ Ci)	Col. 3 DAC (μ Ci/ml)	Col. 1 Air (μ Ci/ml)	Col. 2 Water (μ Ci/ml)	Monthly Average Concentration (μ Ci/ml)
96	Curium-249 ²	W, all compounds	5E+4	2E+4 Bone surf	7E-6	-	7E-4	7E-3
			-	(3E+4)	-	4E-8	-	-
96	Curium-250	W, all compounds	4E-2	3E-4 Bone surf	1E-13	-	-	-
			(6E-2)	(5E-4)	-	8E-16	9E-10	9E-9
97	Berkelium-245	W, all compounds	2E+3	1E+3	5E-7	2E-9	3E-5	3E-4
97	Berkelium-246	W, all compounds	3E+3	3E+3	1E-6	4E-9	4E-5	4E-4
97	Berkelium-247	W, all compounds	5E-1	4E-3 Bone surf	2E-12	-	-	-
			(1E+0)	(9E-3)	-	1E-14	2E-8	2E-7
97	Berkelium-249	W, all compounds	2E+2	2E+0 Bone surf	7E-10	-	-	-
			(5E+2)	(4E+0)	-	5E-12	6E-6	6E-5
97	Berkelium-250	W, all compounds	9E+3	3E+2 Bone surf	1E-7	-	1E-4	1E-3
			-	(7E+2)	-	1E-9	-	-
98	Californium-244 ²	W, all compounds except those given for Y	3E+4 St wall	6E+2	2E-7	8E-10	-	-
			(3E+4)	-	-	-	4E-4	4E-3
		Y, oxides and hydroxides	-	6E+2	2E-7	8E-10	-	-
98	Californium-246	W, see ²⁴⁴ Cf	4E+2	9E+0	4E-9	1E-11	5E-6	5E-5
		Y, see ²⁴⁴ Cf	-	9E+0	4E-9	1E-11	-	-
98	Californium-248	W, see ²⁴⁴ Cf	8E+0	6E-2 Bone surf	3E-11	-	-	-
			(2E+1)	(1E-1)	-	2E-13	2E-7	2E-6
		Y, see ²⁴⁴ Cf	-	1E-1	4E-11	1E-13	-	-
98	Californium-249	W, see ²⁴⁴ Cf	5E-1	4E-3 Bone surf	2E-12	-	-	-
			(1E+0)	(9E-3)	-	1E-14	2E-8	2E-7
		Y, see ²⁴⁴ Cf	-	1E-2 Bone surf	4E-12	-	-	-
			-	(1E-2)	-	2E-14	-	-
98	Californium-250	W, see ²⁴⁴ Cf	1E+0	9E-3 Bone surf	4E-12	-	-	-
			(2E+0)	(2E-2)	-	3E-14	3E-8	3E-7
		Y, see ²⁴⁴ Cf	-	3E-2	1E-11	4E-14	-	-
98	Californium-251	W, see ²⁴⁴ Cf	5E-1	4E-3 Bone surf	2E-12	-	-	-
			(1E+0)	(9E-3)	-	1E-14	2E-8	2E-7
		Y, see ²⁴⁴ Cf	-	1E-2 Bone surf	4E-12	-	-	-
			-	(1E-2)	-	2E-14	-	-
98	Californium-252	W, see ²⁴⁴ Cf	2E+0	2E-2 Bone surf	8E-12	-	-	-
			(5E+0)	(4E-2)	-	5E-14	7E-8	7E-7
		Y, see ²⁴⁴ Cf	-	3E-2	1E-11	5E-14	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion ALI (μCi)	Col. 2 Inhalation ALI (μCi)	Col. 3 DAC ($\mu\text{Ci/ml}$)	Col. 1 Air ($\mu\text{Ci/ml}$)	Col. 2 Water ($\mu\text{Ci/ml}$)	Monthly Average Concentration ($\mu\text{Ci/ml}$)
98	Californium-253	W, see ^{244}Cf	2E+2	2E+0	8E-10	3E-12	-	-
			Bone surf (4E+2)	-	-	-	5E-6	5E-5
		Y, see ^{244}Cf	-	2E+0	7E-10	2E-12	-	-
98	Californium-254	W, see ^{244}Cf	2E+0	2E-2	9E-12	3E-14	3E-8	3E-7
		Y, see ^{244}Cf	-	2E-2	7E-12	2E-14	-	-
99	Einsteinium-250	W, all compounds	4E+4	5E+2	2E-7	-	6E-4	6E-3
			Bone surf (1E+3)	-	-	2E-9	-	-
99	Einsteinium-251	W, all compounds	7E+3	9E+2	4E-7	-	1E-4	1E-3
			Bone surf (1E+3)	-	-	2E-9	-	-
99	Einsteinium-253	W, all compounds	2E+2	1E+0	6E-10	2E-12	2E-6	2E-5
99	Einsteinium-254m	W, all compounds	3E+2	1E+1	4E-9	1E-11	-	-
			LLI wall (3E+2)	-	-	-	4E-6	4E-5
99	Einsteinium-254	W, all compounds	8E+0	7E-2	3E-11	-	-	-
			Bone surf (2E+1)	Bone surf (1E-1)	-	2E-13	2E-7	2E-6
100	Fermium-252	W, all compounds	5E+2	1E+1	5E-9	2E-11	6E-6	6E-5
100	Fermium-253	W, all compounds	1E+3	1E+1	4E-9	1E-11	1E-5	1E-4
100	Fermium-254	W, all compounds	3E+3	9E+1	4E-8	1E-10	4E-5	4E-4
100	Fermium-255	W, all compounds	5E+2	2E+1	9E-9	3E-11	7E-6	7E-5
100	Fermium-257	W, all compounds	2E+1	2E-1	7E-11	-	-	-
			Bone surf (4E+1)	Bone surf (2E-1)	-	3E-13	5E-7	5E-6
101	Mendelevium-257	W, all compounds	7E+3	8E+1	4E-8	-	1E-4	1E-3
			Bone surf (9E+1)	-	-	1E-10	-	-
101	Mendelevium-258	W, all compounds	3E+1	2E-1	1E-10	-	-	-
			Bone surf (5E+1)	Bone surf (3E-1)	-	5E-13	6E-7	6E-6
-	Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life less than 2 hours	Submersion ¹	-	2E+2	1E-7	1E-9	-	-
-	Any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life greater than 2 hours.	...	-	2E-1	1E-10	1E-12	1E-8	1E-7

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Concentration ($\mu\text{Ci/ml}$)
	Any single radionuclide not listed above that decays by alpha emission or spontaneous fission, or any mixture for which either the identity or the concentration of any radionuclide in the mixture is not known.	...	-	4E-4	2E-13	1E-15	2E-9	2E-8

FOOTNOTES:

- ¹ “Submersion” means that values given are for submersion in a hemispherical semi-infinite cloud of airborne material.
- ² These radionuclides have radiological half-lives of less than 2 hours. The total effective dose equivalent received during operations with these radionuclides might include a significant contribution from external exposure. The DAC values for all radionuclides, other than those designated Class “Submersion,” are based upon the committed effective dose equivalent due to the intake of the radionuclide into the body and do NOT include potentially significant contributions to dose equivalent from external exposures. The licensee may substitute $1\text{E-}7 \mu\text{Ci/ml}$ for the listed DAC to account for the submersion dose prospectively but shall use individual monitoring devices or other radiation-measuring instruments that measure external exposure to demonstrate compliance with the limits. (See R12-1-410)
- ³ For soluble mixtures of U-238, U-234, and U-235 in air, chemical toxicity may be the limiting factor (see R12-1-408(E)). If the percent by weight (enrichment) of U-235 is not greater than 5, the concentration value for a 40-hour work week is 0.2 milligrams uranium per cubic meter of air average. For any enrichment, the product of the average concentration and time of exposure during a 40-hour work week shall not exceed $8\text{E-}3$ (SA) $\mu\text{Ci-hr/ml}$, where SA is the specific activity of the uranium inhaled. The specific activity for natural uranium is $6.77\text{E-}7$ curies per gram U. The specific activity for other mixtures of U-238, U-235, and U-234, if not known, shall be:

$$\text{SA} = 3.6\text{E-}7 \text{ curies/gram U U-depleted}$$

$$\text{SA} = [0.4 + 0.38 (\text{enrichment}) + 0.0034 (\text{enrichment})^2] \text{E-}6, \text{ enrichment} > 0.72$$

where enrichment is the percentage by weight of U-235, expressed as percent.

NOTE:

- If the identity of each radionuclide in a mixture is known but the concentration of one or more of the radionuclides in the mixture is not known, the DAC for the mixture shall be the most restrictive DAC of any radionuclide in the mixture.
- If the identity of each radionuclide in the mixture is not known, but it is known that certain radionuclides specified in this Appendix are not present in the mixture, the inhalation ALI, DAC, and effluent and sewage concentrations for the mixture are the lowest values specified in this Appendix for any radionuclide that is not known to be absent from the mixture; or\

Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1	Col. 2	Col. 3	Col. 1	Col. 2	Monthly Average
			Oral Ingestion ALI (μCi)	Inhalation ALI (μCi)	DAC ($\mu\text{Ci/ml}$)	Air ($\mu\text{Ci/ml}$)	Water ($\mu\text{Ci/ml}$)	Concentration ($\mu\text{Ci/ml}$)
	If it is known that Ac-227-D and Cm-250-W are not present		-	7E-4	3E-13	-	-	-
	If, in addition, it is known that Ac-227-W,Y, Th-229-W,Y, Th-230-W, Th-232-W,Y, Pa-231-W,Y, Np-237-W, Pu-239-W, Pu-240-W, Pu-242-W, Am-241-W, Am-242m-W, Am-243-W, Cm-245-W, Cm-246-W, Cm-247-W, Cm-248-W, Bk-247-W, Cf-249-W, and Cf-251-W are not present		-	7E-3	3E-12	-	-	-

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Atomic No.	Radionuclide	Class	Table I Occupational Values			Table II Effluent Concentrations		Table III Releases to Sewers
			Col. 1 Oral Ingestion	Col. 2 Inhalation	Col. 3	Col. 1	Col. 2	Monthly Average
			ALI (μCi)	ALI (μCi)	DAC (μCi/ml)	Air (μCi/ml)	Water (μCi/ml)	Concentration (μCi/ml)
If, in addition, it is known that Sm-146-W, Sm-147-W, Gd-148-D,W, Gd-152-D,W, Th-228-W,Y, Th-230-Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, Np-236-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-Y, Pu-240-Y, Pu-242-Y, Pu-244-W,Y, Cm-243-W, Cm-244-W, Cf-248-W, Cf-249-Y, Cf-250-W,Y, Cf-251-Y, Cf-252-WY, and Cf-254-W,Y are not present			-	7E-2	3E-11	-	-	-
If, in addition, it is known that Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-Y, Es-254-W, Fm-257-W, and Md-258-W are not present			-	7E-1	3E-10	-	-	-
If, in addition, it is known that Si-32-Y, Ti-44-Y, Fe-60-D, Sr-90-Y, Zr-93-D, Cd-113m-D, Cd-113-D, In-115-D,W, La-138-D, Lu-176-W, Hf-178m-D,W, Hf-182-D,W, Bi-210m-D, Ra-224-W, Ra-228-W, Ac-226-D,W,Y, Pa-230-W,Y, U-233-D,W, U-234-D,W, U-235-D,W, U-236-D,W, U-238-D,W, Pu-241-Y, Bk-249-W, Cf-253-W,Y, and Es-253-W are not present			-	7E+0	3E-9	-	-	-
If it is known that Ac-227-D,W,Y, Th-229-W,Y, Th-232-W,Y, Pa-231-W,Y, Cm-248-W, and Cm-250-W are not present			-	-	-	1E-14	-	-
If, in addition, it is known that Sm-146-W, Gd-148-D,W, Gd-152-D, Th-228-W,Y, Th-230-W,Y, U-232-Y, U-233-Y, U-234-Y, U-235-Y, U-236-Y, U-238-Y, U-Nat-Y, Np-236-W, Np-237-W, Pu-236-W,Y, Pu-238-W,Y, Pu-239-W,Y, Pu-240-W,Y, Pu-242-W,Y, Pu-244-W,Y, Am-241-W, Am-242m-W, Am-243-W, Cm-243-W, Cm-244-W, Cm-245-W, Cm-246-W, Cm-247-W, Bk-247-W, Cf-249-W,Y, Cf-250-W,Y, Cf-251-W,Y, Cf-252-W,Y, and Cf-254-W,Y are not present			-	-	-	1E-13	-	-
If, in addition, it is known that Sm-147-W, Gd-152-W, Pb-210-D, Bi-210m-W, Po-210-D,W, Ra-223-W, Ra-225-W, Ra-226-W, Ac-225-D,W,Y, Th-227-W,Y, U-230-D,W,Y, U-232-D,W, U-Nat-W, Pu-241-W, Cm-240-W, Cm-242-W, Cf-248-W,Y, Es-254-W, Fm-257-W, and Md-258-W are not present			-	-	-	-	1E-12	-
If, in addition it is known that Fe-60, Sr-90, Cd-113m, Cd-113, In-115, I-129, Cs-134, Sm-145, Sm-147, Gd-148, Gd-152, Hg-194 (organic), Bi-210m, Ra-223, Ra-224, Ra-225, Ac-225, Th-228, Th-230, U-233, U-234, U-235, U-236, U-238, U-Nat, Cm-242, Cf-248, Es-254, Fm-257, and Md-258 are not present			-	-	-	-	1E-6	1E-5

3. If a mixture of radionuclides consists of Uranium and its daughters in ore dust (10 μm AMAD particle distribution assumed) prior to chemical separation of the Uranium from the ore, the following values may be used for the DAC of the mixture: 6E-11 μCi of gross

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alpha activity from Uranium-238, Uranium-234, Thorium-230, and Radium-226 per milliliter of air; 3E-11 µCi of natural uranium per milliliter of air; or 45 micrograms of natural uranium per cubic meter of air.

4. If the identity and concentration of each radionuclide in a mixture are known, the limiting values should be derived as follows: determine, for each radionuclide in the mixture, the ratio between the concentration present in the mixture and the concentration otherwise established in Appendix B to Article 4 for the specific radionuclide when not in a mixture. The sum of such ratios for all of the radionuclides in the mixture may not exceed "1" (i.e., "unity").

Example: If radionuclides "A," "B," and "C" are present in concentrations C_A , C_B , and C_C , and if the applicable DACs are DAC_A , DAC_B , and DAC_C respectively then the concentrations shall be limited so that the following relationship exists:

$$\frac{C_A}{DAC_A} + \frac{C_B}{DAC_B} + \frac{C_C}{DAC_C} \leq 1$$

Historical Note

New Appendix B recodified from 12 A.A.C. 1, Article 4, Appendix B, effective March 22, 2018 (Supp. 18-1).

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Appendix C. Quantities¹ of Licensed or Registered Material Requiring Labeling

Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)
Hydrogen-3	1,000	Nickel-57	100	Krypton-83m	1,000
Beryllium-7	1,000	Nickel-59	100	Krypton-85m	1,000
Beryllium-10	1	Nickel-63	100	Krypton-85	1,000
Carbon-11	1,000	Nickel-65	1,000	Krypton-87	1,000
Carbon-14	1,000	Nickel-66	10	Krypton-88	1,000
Fluorine-18	1,000	Copper-60	1,000	Rubidium-79	1,000
Sodium-22	10	Copper-61	1,000	Rubidium-81m	1,000
Sodium-24	100	Copper-64	1,000	Rubidium-81	1,000
Magnesium-28	100	Copper-67	1,000	Rubidium-82m	1,000
Aluminum-26	10	Zinc-62	100	Rubidium-83	100
Silicon-31	1,000	Zinc-63	1,000	Rubidium-84	100
Silicon-32	1	Zinc-65	10	Rubidium-86	100
Phosphorus-32	10	Zinc-69m	100	Rubidium-87	100
Phosphorus-33	100	Zinc-69	1,000	Rubidium-88	1,000
Sulfur-35	100	Zinc-71m	1,000	Rubidium-89	1,000
Chlorine-36	10	Zinc-72	100	Strontium-80	100
Chlorine-38	1,000	Gallium-65	1,000	Strontium-81	1,000
Chlorine-39	1,000	Gallium-66	100	Strontium-83	100
Argon-39	1,000	Gallium-67	1,000	Strontium-85m	1,000
Argon-41	1,000	Gallium-68	1,000	Strontium-85	100
Potassium-40	100	Gallium-70	1,000	Strontium-87m	1,000
Potassium-42	1,000	Gallium-72	100	Strontium-89	10
Potassium-43	1,000	Gallium-73	1,000	Strontium-90	0.1
Potassium-44	1,000	Germanium-66	1,000	Strontium-91	100
Potassium-45	1,000	Germanium-67	1,000	Strontium-92	100
Calcium-41	100	Germanium-68	10	Yttrium-86m	1,000
Calcium-45	100	Germanium-69	1,000	Yttrium-86	100
Calcium-47	100	Germanium-71	1,000	Yttrium-87	100
Scandium-43	1,000	Germanium-75	1,000	Yttrium-88	10
Scandium-44m	100	Germanium-77	1,000	Yttrium-90m	1,000
Scandium-44	100	Germanium-78	1,000	Yttrium-90	10
Scandium-46	10	Arsenic-69	1,000	Yttrium-91m	1,000
Scandium-47	100	Arsenic-70	1,000	Yttrium-91	10
Scandium-48	100	Arsenic-71	100	Yttrium-92	100
Scandium-49	1,000	Arsenic-72	100	Yttrium-93	100
Titanium-44	1	Arsenic-73	100	Yttrium-94	1,000
Titanium-45	1,000	Arsenic-74	100	Yttrium-95	1,000
Vanadium-47	1,000	Arsenic-76	100	Zirconium-86	100
Vanadium-48	100	Arsenic-77	100	Zirconium-88	10
Vanadium-49	1,000	Arsenic-78	1,000	Zirconium-89	100
Chromium-48	1,000	Selenium-70	1,000	Zirconium-93	1
Chromium-49	1,000	Selenium-73m	1,000	Zirconium-95	10
Chromium-51	1,000	Selenium-73	100	Zirconium-97	100
Manganese-51	1,000	Selenium-75	100	Niobium-88	1,000
Manganese-52m	1,000	Selenium-79	100	Niobium-89m	
Manganese-52	100	Selenium-81m	1,000	(66 min)	1,000
Manganese-53	1,000	Selenium-81	1,000	Niobium-89	
Manganese-54	100	Selenium-83	1,000	(122 min)	1,000
Manganese-56	1,000	Bromine-74m	1,000	Niobium-90	100
Iron-52	100	Bromine-74	1,000	Niobium-93m	10
Iron-55	100	Bromine-75	1,000	Niobium-94	1
Iron-59	10	Bromine-76	100	Niobium-95m	100
Iron-60	1	Bromine-77	1,000	Niobium-95	100
Cobalt-55	100	Bromine-80m	1,000	Niobium-96	100
Cobalt-56	10	Bromine-80	1,000	Niobium-97	1,000
Cobalt-57	100	Bromine-82	100	Niobium-98	1,000
Cobalt-58m	1,000	Bromine-83	1,000	Molybdenum-90	100
Cobalt-58	100	Bromine-84	1,000	Molybdenum-93m	100
Cobalt-60m	1,000	Krypton-74	1,000	Molybdenum-93	10
Cobalt-60	1	Krypton-76	1,000	Molybdenum-99	100
Cobalt-61	1,000	Krypton-77	1,000	Molybdenum-101	1,000
Cobalt-62m	1,000	Krypton-79	1,000	Technetium-93m	1,000
Nickel-56	100	Krypton-81	1,000	Technetium-93	1,000

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Appendix C. Continued

Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)
Technetium-94m	1,000	Indium-116m	1,000	Iodine-129	1
Technetium-94	1,000	Indium-117m	1,000	Iodine-130	10
Technetium-96m	1,000	Indium-117	1,000	Iodine-131	1
Technetium-96	100	Indium-119m	1,000	Iodine-132m	100
Technetium-97m	100	Tin-110	100	Iodine-132	100
Technetium-97	1,000	Tin-111	1,000	Iodine-133	10
Technetium-98	10	Tin-113	100	Iodine-134	1,000
Technetium-99m	1,000	Tin-117m	100	Iodine-135	100
Technetium-99	100	Tin-119m	100	Xenon-120	1,000
Technetium-101	1,000	Tin-121m	100	Xenon-121	1,000
Technetium-104	1,000	Tin-121	1,000	Xenon-122	1,000
Ruthenium-94	1,000	Tin-123m	1,000	Xenon-123	1,000
Ruthenium-97	1,000	Tin-123	10	Xenon-125	1,000
Ruthenium-103	100	Tin-125	10	Xenon-127	1,000
Ruthenium-105	1,000	Tin-126	10	Xenon-129m	1,000
Ruthenium-106	1	Tin-127	1,000	Xenon-131m	1,000
Rhodium-99m	1,000	Tin-128	1,000	Xenon-133m	1,000
Rhodium-99	100	Antimony-115	1,000	Xenon-133	1,000
Rhodium-100	100	Antimony-116m	1,000	Xenon-135m	1,000
Rhodium-101m	1,000	Antimony-116	1,000	Xenon-135	1,000
Rhodium-101	10	Antimony-117	1,000	Xenon-138	1,000
Rhodium-102m	10	Antimony-118m	1,000	Cesium-125	1,000
Rhodium-102	10	Antimony-119	1,000	Cesium-127	1,000
Rhodium-103m	1,000	Antimony-120	1,000	Cesium-129	1,000
Rhodium-105	100	(16m)	1,000	Cesium-130	1,000
Rhodium-106m	1,000	Antimony-120	100	Cesium-131	1,000
Rhodium-107	1,000	(5.76d)	100	Cesium-132	100
Palladium-100	100	Antimony-122	100	Cesium-134m	1,000
Palladium-101	1,000	Antimony-124m	1,000	Cesium-134	10
Palladium-103	100	Antimony-124	10	Cesium-135m	1,000
Palladium-107	10	Antimony-125	100	Cesium-135	100
Palladium-109	100	Antimony-126m	1,000	Cesium-136	10
Silver-102	1,000	Antimony-126	100	Cesium-137	10
Silver-103	1,000	Antimony-127	100	Cesium-138	1,000
Silver-104m	1,000	Antimony-128	1,000	Barium-126	1,000
Silver-104	1,000	(10.4m)	1,000	Barium-128	100
Silver-105	100	Antimony-128	100	Barium-131m	1,000
Silver-106m	100	(9.01h)	100	Barium-131	100
Silver-106	1,000	Antimony-129	100	Barium-133m	100
Silver-108m	1	Antimony-130	1,000	Barium-133	100
Silver-110m	10	Antimony-131	1,000	Barium-135m	100
Silver-111	100	Tellurium-116	1,000	Barium-139	1,000
Silver-112	100	Tellurium-121m	10	Barium-140	100
Silver-115	1,000	Tellurium-121	100	Barium-141	1,000
Cadmium-104	1,000	Tellurium-123m	10	Barium-142	1,000
Cadmium-107	1,000	Tellurium-123	100	Lanthanum-131	1,000
Cadmium-109	1	Tellurium-125m	10	Lanthanum-132	100
Cadmium-113m	0.1	Tellurium-127m	10	Lanthanum-135	1,000
Cadmium-113	100	Tellurium-127	1,000	Lanthanum-137	10
Cadmium-115m	10	Tellurium-129m	10	Lanthanum-138	100
Cadmium-115	100	Tellurium-129	1,000	Lanthanum-140	100
Cadmium-117m	1,000	Tellurium-131m	10	Lanthanum-141	100
Cadmium-117	1,000	Tellurium-131	100	Lanthanum-142	1,000
Indium-109	1,000	Tellurium-132	10	Lanthanum-143	1,000
Indium-110m	1,000	Tellurium-133m	100	Cerium-134	100
(69.1m)	1,000	Tellurium-133	1,000	Cerium-135	100
Indium-110	1,000	Tellurium-134	1,000	Cerium-137m	100
(4.9h)	1,000	Iodine-120m	1,000	Cerium-137	1,000
Indium-111	100	Iodine-120	100	Cerium-139	100
Indium-112	1,000	Iodine-121	1,000	Cerium-141	100
Indium-113m	1,000	Iodine-123	100	Cerium-143	100
Indium-114m	10	Iodine-124	10	Cerium-144	1
Indium-115m	1,000	Iodine-125	1	Praseodymium-136	1,000
Indium-115	100	Iodine-126	1		
		Radionuclide	Quantity (μCi)		
		Iodine-128	1,000		

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Appendix C.

Continued

Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)
Praseodymium-137	1,000	Terbium-149	100	Lutetium-179	1,000
Praseodymium-138m	1,000	Terbium-150	1,000	Hafnium-170	100
Praseodymium-139	1,000	Terbium-151	100	Hafnium-172	1
Praseodymium-142m	1,000	Terbium-153	1,000	Hafnium-173	1,000
Praseodymium-142	100	Terbium-154	100	Hafnium-175	100
Praseodymium-143	100	Terbium-155	1,000	Hafnium-177m	1,000
Praseodymium-144	1,000	Terbium-156m		Hafnium-178m	0.1
Praseodymium-145	100	(5.0h)	1,000	Hafnium-179m	10
Praseodymium-147	1,000	Terbium-156m		Hafnium-180m	1,000
Neodymium-136	1,000	(24.4h)	1,000	Hafnium-181	10
Neodymium-138	100	Terbium-156	100	Hafnium-182m	1,000
Neodymium-139m	1,000	Terbium-157	10	Hafnium-182	0.1
Neodymium-139	1,000	Terbium-158	1	Hafnium-183	1,000
Neodymium-141	1,000	Terbium-160	10	Hafnium-184	100
Neodymium-147	100	Terbium-161	100	Tantalum-172	1,000
Neodymium-149	1,000	Dysprosium-155	1,000	Tantalum-173	1,000
Neodymium-151	1,000	Dysprosium-157	1,000	Tantalum-174	1,000
Promethium-141	1,000	Dysprosium-159	100	Tantalum-175	1,000
Promethium-143	100	Dysprosium-165	1,000	Tantalum-176	100
Promethium-144	10	Dysprosium-166	100	Tantalum-177	1,000
Promethium-145	10	Holmium-155	1,000	Tantalum-178	1,000
Promethium-146	1	Holmium-157	1,000	Tantalum-179	100
Promethium-147	10	Holmium-159	1,000	Tantalum-180m	1,000
Promethium-148m	10	Holmium-161	1,000	Tantalum-180	100
Promethium-148	10	Holmium-162m	1,000	Tantalum-182m	1,000
Promethium-149	100	Holmium-162	1,000	Tantalum-182	10
Promethium-150	1,000	Holmium-164m	1,000	Tantalum-183	100
Promethium-151	100	Holmium-164	1,000	Tantalum-184	100
Samarium-141m	1,000	Holmium-166m	1	Tantalum-185	1,000
Samarium-141	1,000	Holmium-166	100	Tantalum-186	1,000
Samarium-142	1,000	Holmium-167	1,000	Tungsten-176	1,000
Samarium-145	100	Erbium-161	1,000	Tungsten-177	1,000
Samarium-146	1	Erbium-165	1,000	Tungsten-178	1,000
Samarium-147	100	Erbium-169	100	Tungsten-179	1,000
Samarium-151	10	Erbium-171	100	Tungsten-181	1,000
Samarium-153	100	Erbium-172	100	Tungsten-185	100
Samarium-155	1,000	Thulium-162	1,000	Tungsten-187	100
Samarium-156	1,000	Thulium-166	100	Tungsten-188	10
Europium-145	100	Thulium-167	100	Rhenium-177	1,000
Europium-146	100	Thulium-170	10	Rhenium-178	1,000
Europium-147	100	Thulium-171	10	Rhenium-181	1,000
Europium-148	10	Thulium-172	100	Rhenium-182	
Europium-149	100	Thulium-173	100	(12.7h)	1,000
Europium-150		Thulium-175	1,000	Rhenium-182	
(12.62h)	100	Ytterbium-162	1,000	(64.0h)	100
Europium-150		Ytterbium-166	100	Rhenium-184m	10
(34.2y)	1	Ytterbium-167	1,000	Rhenium-184	100
Europium-152m	100	Ytterbium-169	100	Rhenium-186m	10
Europium-152	1	Ytterbium-175	100	Rhenium-186	100
Europium-154	1	Ytterbium-177	1,000	Rhenium-187	1,000
Europium-155	10	Ytterbium-178	1,000	Rhenium-188m	1,000
Europium-156	100	Lutetium-169	100	Rhenium-188	100
Europium-157	100	Lutetium-170	100	Rhenium-189	100
Europium-158	1,000	Lutetium-171	100	Osmium-180	1,000
Gadolinium-145	1,000	Lutetium-172	100	Osmium-181	1,000
Gadolinium-146	10	Lutetium-173	10	Osmium-182	100
Gadolinium-147	100	Lutetium-174m	10	Osmium-185	100
Gadolinium-148	0.001	Lutetium-174	10	Osmium-189m	1,000
Gadolinium-149	100	Lutetium-176m	1,000	Osmium-191m	1,000
Gadolinium-151	10	Lutetium-176	100	Osmium-191	100
Gadolinium-152	100	Lutetium-177m	10	Osmium-193	100
Gadolinium-153	10	Lutetium-177	100	Osmium-194	1
Gadolinium-159	100	Lutetium-178m	1,000	Iridium-182	1,000
Terbium-147	1,000	Lutetium-178	1,000	Iridium-184	1,000

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CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Appendix C.

Continued

Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)
Iridium-185	1,000	Lead-205	100
Iridium-186	100	Lead-209	1,000
Iridium-187	1,000	Lead-210	0.01
Iridium-188	100	Lead-211	100
Iridium-189	100	Lead-212	1
Iridium-190m	1,000	Lead-214	100
Iridium-190	100	Bismuth-200	1,000
Iridium-192m		Bismuth-201	1,000
(1.4m)	10	Bismuth-202	1,000
Iridium-192		Bismuth-203	100
(73.8d)	1	Bismuth-205	100
Iridium-194m	10	Bismuth-206	100
Iridium-194	100	Bismuth-207	10
Iridium-195m	1,000	Bismuth-210m	0.1
Iridium-195	1,000	Bismuth-210	1
Platinum-186	1,000	Bismuth-212	10
Platinum-188	100	Bismuth-213	10
Platinum-189	1,000	Bismuth-214	100
Platinum-191	100	Polonium-203	1,000
Platinum-193m	100	Polonium-205	1,000
Platinum-193	1,000	Polonium-207	1,000
Platinum-195m	100	Polonium-210	0.1
Platinum-197m	1,000	Astatine-207	100
Platinum-197	100	Astatine-211	10
Platinum-199	1,000	Radon-220	1
Platinum-200	100	Radon-222	1
Gold-193	1,000	Francium-222	100
Gold-194	100	Francium-223	100
Gold-195	10	Radium-223	0.1
Gold-198m	100	Radium-224	0.1
Gold-198	100	Radium-225	0.1
Gold-199	100	Radium-226	0.1
Gold-200m	100	Radium-227	1,000
Gold-200	1,000	Radium-228	0.1
Gold-201	1,000	Actinium-224	1
Mercury-193m	100	Actinium-225	0.01
Mercury-193	1,000	Actinium-226	0.1
Mercury-194	1	Actinium-227	0.001
Mercury-195m	100	Actinium-228	1
Mercury-195	1,000	Thorium-226	10
Mercury-197m	100	Thorium-227	0.01
Mercury-197	1,000	Thorium-228	0.001
Mercury-199m	1,000	Thorium-229	0.001
Mercury-203	100	Thorium-230	0.001
Thallium-194m	1,000	Thorium-231	100
Thallium-194	1,000	Thorium-232	100
Thallium-195	1,000	Thorium-234	10
Thallium-197	1,000	Thorium-natural	100
Thallium-198m	1,000	Protactinium-227	10
Thallium-198	1,000	Protactinium-228	1
Thallium-199	1,000	Protactinium-230	0.1
Thallium-201	1,000	Protactinium-231	0.001
Thallium-200	1,000	Protactinium-232	1
Thallium-202	100	Protactinium-233	100
Thallium-204	100	Protactinium-234	100
Lead-195m	1,000	Uranium-230	0.01
Lead-198	1,000	Uranium-231	100
Lead-199	1,000	Uranium-232	0.001
Lead-200	100	Uranium-233	0.001
Lead-201	1,000	Uranium-234	0.001
Lead-202m	1,000	Uranium-235	0.001
Lead-202	10	Uranium-236	0.001
Lead-203	1,000	Uranium-237	100

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Uranium-238	100	Americium-242m	0.001
Uranium-239	1,000	Americium-242	10
Radionuclide	Quantity (μCi)	Americium-243	0.001
Uranium-240	100	Americium-244m	100
Uranium-natural	100	Americium-244	10
Neptunium-232	100	Americium-245	1,000
Neptunium-233	1,000	Americium-246m	1,000
Neptunium-234	100	Americium-246	1,000
Neptunium-235	100	Curium-238	100
Neptunium-236		Curium-240	0.1
(1.15E + 5)	0.001	Curium-241	1
Neptunium-236		Curium-242	0.01
(22.5h)	1	Curium-243	0.001
Neptunium-237	0.001	Curium-244	0.001
Neptunium-238	10	Curium-245	0.001
Neptunium-239	100	Curium-246	0.001
Neptunium-240	1,000	Curium-247	0.001
Plutonium-234	10	Curium-248	0.001
Plutonium-235	1,000	Curium-249	1,000
Plutonium-236	0.001	Berkelium-245	100
Plutonium-237	100	Berkelium-246	100
Plutonium-238	0.001	Berkelium-247	0.001
Plutonium-239	0.001	Berkelium-249	0.1
Plutonium-240	0.001	Berkelium-250	10
Plutonium-241	0.01	Californium-244	100
Plutonium-242	0.001	Californium-246	1
Plutonium-243	1,000	Californium-248	0.01
Plutonium-244	0.001	Californium-249	0.001
Plutonium-245	100	Californium-250	0.001
Americium-237	1,000	Californium-251	0.001
Americium-238	100	Californium-252	0.001
Americium-239	1,000	Californium-253	0.1
Americium-240	100	Californium-254	0.001
Americium-241	0.001		

Appendix C. Continued

Radionuclide	Quantity (μCi)	Radionuclide	Quantity (μCi)
Einsteinium-250	100	Any alpha-emitting radionuclide not listed above or mixtures of alpha emitters of unknown composition	0.001
Einsteinium-251	100		
Einsteinium-253	0.1		
Einsteinium-254m	1		
Einsteinium-254	0.01		
Fermium-252	1		
Fermium-253	1		
Fermium-254	10	Any radionuclide other than alpha-emitting radionuclides not listed above, or mixtures of beta emitters of unknown composition	0.01
Fermium-255	1		
Fermium-257	0.01		
Mendelevium-257	10		
Mendelevium-258	0.01		

* To convert μCi to kBq, multiply the μCi value by 37.

NOTE: Where there is involved a combination of radionuclides in known amounts, the limit for the combination shall be derived as follows: determine, for each radionuclide in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific radionuclide when not in combination. The sum of such ratios for all radionuclides in the combination may not exceed "1" -- that is, unity.

¹ The quantities listed above were derived by taking 1/10 of the most restrictive ALI listed in Table I, Columns 1 and 2, of Appendix B to Article 4, rounding to the nearest factor of 10, and constraining the values listed between 37 Bq and 37 MBq (0.001 and 1,000 μCi). Values of 3.7 MBq (100 μCi) have been assigned for radionuclides having a radioactive half-life in excess of E+9 years, except rhenium, 37 MBq (1,000 μCi), to take into account their low specific activity.

Historical Note

New Appendix C recodified from 12 A.A.C. 1, Article 4, Appendix C, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Appendix D. Classification and Characteristics of Low-level Radioactive Waste

- I. Classification of Radioactive Waste for Land Disposal
- Considerations. Determination of the classification of radioactive waste involves two considerations. First, consideration must be given to the concentration of long-lived radionuclides (and their shorter-lived precursors) whose potential hazard will persist long after such precautions as institutional controls, improved waste form, and deeper disposal have ceased to be effective. These precautions delay the time when long-lived radio nuclides could cause exposures. In addition, the magnitude of the potential dose is limited by the concentration and availability of the radionuclide at the time of exposure. Second, consideration must be given to the concentration of shorter-lived radionuclides for which requirements on institutional controls, waste form, and disposal methods are effective.
 - Classes of waste.
 - Class A waste is waste that is usually segregated from other waste classes at the disposal site. The physical form and characteristics of Class A waste must meet the minimum requirements set forth in Section II(a). If Class A waste also meets the stability requirements set forth in Section II(b), it is not necessary to segregate the waste for disposal.
 - Class B waste is waste that must meet more rigorous requirements on waste form to ensure stability after disposal. The physical form and characteristics of Class B waste must meet both the minimum and stability requirements set forth in Section II.
 - Class C waste is waste that not only must meet more rigorous requirements on waste form to ensure stability but also requires additional measures at the disposal facility to protect against inadvertent intrusion. The physical form and characteristics of Class C waste must meet both the minimum and stability requirements set forth in Section II.
 - Classification determined by long-lived radionuclides. If the radioactive waste contains only radionuclides listed in Table I, classification shall be determined as follows:
 - If the concentration does not exceed 0.1 times the value in Table I, the waste is Class A.
 - If the concentration exceeds 0.1 times the value in Table I but does not exceed the value in Table I, the waste is Class C.
 - If the concentration exceeds the value in Table I, the waste is not generally acceptable for land disposal.
 - For wastes containing mixtures of radionuclides listed in Table I, the total concentration shall be determined by the sum of fractions rule described in Section I(g).

Appendix D. Table I

TABLE I Concentration		
Radionuclide	curie/cubic meter ^a	nanocuries/gram ^b
C-14	8	
C-14 in activated metal	80	
Ni-59 in activated metal	220	
Nb-94 in activated metal	0.2	
Tc-99	3	
I-129	0.08	

Alpha-emitting transuranic radionuclides with half-life greater than five years

Pu-241	100	3,500
Cm-242		20,000
Ra-226		100

^aTo convert the Ci/m³ values to gigabecquerel (GBq) per cubic meter, multiply the Ci/m³ value by 37.

^bTo convert the nCi/g values to becquerel (Bq) per gram, multiply the nCi/g value by 37.

- Classification determined by short-lived radionuclides. If the waste does not contain any of the radionuclides listed in Table I, classification shall be determined based on the concentrations shown in Table II. However, as specified in Section I(f), if radioactive waste does not contain any nuclides listed in either Table I or II, it is Class A.
 - If the concentration does not exceed the value in Column 1, the waste is Class A.
 - If the concentration exceeds the value in Column 1 but does not exceed the value in Column 2, the waste is Class B.
 - If the concentration exceeds the value in Column 2 but does not exceed the value in Column 3, the waste is Class C.
 - If the concentration exceeds the value in Column 3, the waste is not generally acceptable for near-surface disposal.
 - For wastes containing mixtures of the radionuclides listed in Table II, the total concentration shall be determined by the sum of fractions rule described in Section I(g).

Appendix D. Table II

Radionuclide	TABLE II Concentration,		Curie/cubic meter* Column 3
	Column 1	Column 2	
Total of all radionuclides with less than 5-year half-life	700	*	*
H-3	40	*	*
Co-60	700	*	*
Ni-63	3.5	70	700
Ni-63 in activated metal	35	700	7000
Sr-90	0.04	150	7000
Cs-137	1	44	4600

* DEPARTMENT NOTE: To convert the Ci/m³ value to gigabecquerel (GBq) per cubic meter, multiply the Ci/m³ value by 37. There are no limits established for these radionuclides in Class B or C wastes. Practical considerations such as the effects of external radiation and internal heat generation on transportation, handling, and disposal will limit the concentrations for these wastes. These wastes shall be Class B unless the concentrations of other radionuclides in Table II determine the waste to be Class C independent of these radionuclides.

- Classification determined by both long- and short-lived radionuclides. If the radioactive waste contains a mixture of radionuclides, some of which are listed in Table I and

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some of which are listed in Table II, classification shall be determined as follows:

Each package of waste shall be clearly labeled to identify whether it is Class A, Class B, or Class C waste, in accordance with Section I.

*****See Section R9-7-102 for definition of pyrophoric.

Historical Note

New Appendix D, including Tables 1 and 2 recodified from 12 A.A.C. 1, Article 4, Appendix D, Tables 1 and 2, effective March 22, 2018 (Supp. 18-1).

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Appendix E. Quantities for Use with Decommissioning

Material	Microcurie	Iodine-134	10
Americium-241	0.01	Material	Microcurie
Antimony-122	100	Iodine-135	10
Antimony-124	10	Iridium-192	10
Antimony-125	10	Iridium-194	100
Arsenic-73	100	Iron-55	100
Arsenic-74	10	Iron-59	10
Arsenic-76	10	Krypton-85	100
Arsenic-77	100	Krypton-87	10
Barium-131	10	Lanthanum-140	10
Barium-133	10	Lutetium-177	100
Barium-140	10	Manganese-52	10
Bismuth-210	1	Manganese-54	10
Bromine-82	10	Manganese-56	10
Cadmium-109	10	Mercury-197m	100
Cadmium-115m	10	Mercury-197	100
Cadmium-115	100	Mercury-203	10
Calcium-45	10	Molybdenum-99	100
Calcium-47	10	Neodymium-147	100
Carbon-14	100	Neodymium-149	100
Cerium-141	100	Nickel-59	100
Cerium-143	100	Nickel-63	10
Cerium-144	1	Nickel-65	100
Cesium-131	1,000	Niobium-93m	10
Cesium-134m	100	Niobium-95	10
Cesium-134	1	Niobium-97	10
Cesium-135	10	Osmium-185	10
Cesium-136	10	Osmium-191m	100
Cesium-137	10	Osmium-191	100
Chlorine-36	10	Osmium-193	100
Chlorine-38	10	Palladium-103	100
Chromium-51	1,000	Palladium-109	100
Cobalt-58m	10	Phosphorus-32	10
Cobalt-58	10	Platinum-191	100
Cobalt-60	1	Platinum-193m	100
Copper-64	100	Platinum-193	100
Dysprosium-165	10	Platinum-197m	100
Dysprosium-166	100	Platinum-197	100
Erbium-169	100	Plutonium-239	0.01
Erbium-171	100	Polonium-210	0.1
Europium-152 (9.2 h)	100	Potassium-42	10
Europium-152 (13 yr)	1	Praseodymium-142	100
Europium-154	1	Praseodymium-143	100
Europium-155	10	Promethium-147	10
Fluorine-18	1,000	Promethium-149	10
Gadolinium-153	10	Radium-226	0.01
Gadolinium-159	100	Rhenium-186	100
Gallium-72	10	Rhenium-188	100
Germanium-71	100	Rhodium-103m	100
Gold-198	100	Rhodium-105	100
Gold-199	100	Rubidium-86	10
Hafnium-181	10	Rubidium-87	10
Holmium-166	100	Ruthenium-97	100
Hydrogen-3	1,000	Ruthenium-103	10
Indium-113m	100	Ruthenium-105	10
Indium-114m	10	Ruthenium-106	1
Indium-115m	100	Samarium-151	10
Indium-115	10	Samarium-153	100
Iodine-125	1	Scandium-46	10
Iodine-126	1	Scandium-47	100
Iodine-129	0.1	Scandium-48	10
Iodine-131	1	Selenium-75	10
Iodine-132	10	Silicon-31	100
Iodine-133	1	Silver-105	10

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Silver-110m	1	Tungsten-181	10
Silver-111	100	Material	Microcurie
Material	Microcurie	Tungsten-185	10
Sodium-22	1	Tungsten-187	100
Sodium-24	10	Uranium (natural)**	100
Strontium-85	10	Uranium-233	0.01
Strontium-89	1	Uranium-234	0.01
Strontium-90	0.1	Uranium-235	0.01
Strontium-91	10	Vanadium-48	10
Strontium-92	10	Xenon-131m	1,000
Sulfur-35	100	Xenon-133	100
Tantalum-182	10	Xenon-135	100
Technetium-96	10	Ytterbium-175	100
Technetium-97m	100	Yttrium-90	10
Technetium-97	100	Yttrium-91	10
Technetium-99m	100	Yttrium-92	100
Technetium-99	10	Yttrium-93	100
Tellurium-125m	10	Zinc-65	10
Tellurium-127m	10	Zinc-69m	100
Tellurium-127	100	Zinc-69	1,000
Tellurium-129m	10	Zirconium-93	10
Tellurium-129	100	Zirconium-95	10
Tellurium-131m	10	Zirconium-97	10
Tellurium-132	10	Any alpha emitting	
Terbium-160	10	radionuclide not listed	
Thallium-200	100	above or mixtures of	
Thallium-201	100	alpha emitters of unknown	
Thallium-202	100	composition	0.01
Thallium-204	10	Any radionuclide other	
Thorium (natural)**	100	than alpha emitting	
Thulium-170	10	radionuclides, not listed	
Thulium-171	10	above or mixtures of	
Tin-113	10	beta emitters of unknown	
Tin-125	10	composition	0.1

* To convert μCi to kBq , multiply the μCi value by 37.

** Based on alpha disintegration rate of Th-232, Th-230 and their daughter products.

*** Based on alpha disintegration rate of U-238, U-234, and U-235.

NOTE: Where there is involved a combination of isotopes in known amounts, the limit for the combination should be derived as follows: Determine, for each isotope in the combination, the ratio between the quantity present in the combination and the limit otherwise established for the specific isotope when not in combination. The sum of such ratios for all the isotopes in the combination may not exceed "1" - that is, unity.

Historical Note

New Appendix E recodified from 12 A.A.C. 1, Article 4, Appendix E, effective March 22, 2018 (Supp. 18-1).

ARTICLE 5. SEALED SOURCE INDUSTRIAL RADIOGRAPHY**R9-7-501. Definitions**

"Access panel" means any panel that is designed to be removed or opened for maintenance or service purposes, opened using tools, and used to provide access to the interior of the cabinet x-ray unit.

"Annual refresher safety training" means a review conducted or provided by the licensee for its employees on radiation safety aspects of industrial radiography. The review shall include, as applicable, the results of internal inspections, new procedures or equipment, new or revised state rules, accidents or errors that have occurred, and provide opportunities for employees to ask safety questions.

"Aperture" means any opening in the outside surface of the cabinet x-ray unit, other than a port, which remains open during generation of x-radiation.

"Associated equipment" means equipment used in conjunction with a radiographic exposure device that drives, guides, or comes in contact with the source.

"Certifying entity" means an independent certifying organization that complies with the requirements in Appendix A of this Article, or requirements of the NRC or another Agreement State, that are equivalent to the requirements in parts II and III of Appendix A.

"Collimator" means a radiation shield that is placed on the end of the guide tube or directly onto a radiographic exposure device to restrict the size of the radiation beam when the sealed source is positioned to make a radiographic exposure.

"Control (drive) cable" means the cable that is connected to the source assembly and used to drive the source to and from the exposure location.

"Control (drive) mechanism" means a device that enables the source assembly to be moved to and from the exposure device.

"Control tube" means a protective sheath for guiding the control cable. The control tube connects the control drive mechanism to the radiographic exposure device.

"Door" means any barrier that is designed to be movable or opened for routine operation purposes, not opened using tools,

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and used to provide access to the interior of the cabinet x-ray unit.

“Exposure head” means a device that places the gamma radiography sealed source in a selected working position.

“Ground fault” means an accidental electrical grounding of an electrical conductor.

“Guide tube (projection sheath)” means a flexible or rigid tube (i.e., “J” tube) for guiding the source assembly and the attached control cable from the exposure device to the exposure head. The guide tube may also include the connections necessary for attachment to the exposure device and to the exposure head.

“Hands-on experience” means accumulation of knowledge or skill in any area relevant to radiography.

“Independent certifying organization” means an independent organization that meets all of the requirements in Appendix A.

“Lay-barge radiography” means industrial radiography performed on any water vessel used for laying pipe.

“Port” means any opening in the outside surface of the cabinet x-ray unit that is designed to remain open, during generation of x-rays, for conveying material being irradiated into and out of the cabinet, or for partial insertion of an object for irradiation whose dimensions do not permit complete insertion into the cabinet x-ray unit.

“Practical examination” means a demonstration, through practical application of safety rules and principles of industrial radiography, including use of all radiography equipment and knowledge of radiography procedures.

“Radiographer certification” means written approval received from a certifying entity stating that an individual has satisfactorily met certain established radiation safety, testing, and experience criteria.

“Radiographic exposure device” means any x-ray machine used for purposes of making an industrial radiographic exposure or a device that contains a sealed source, and the sealed source or its shielding may be moved or otherwise changed from a shielded to an unshielded position for purposes of making an industrial radiographic exposure.

“Radiographic operations” means all activities associated with the presence of radiation sources in a radiographic exposure device during use of the device or transport (except when the device is being transported by a common or contract carrier). This includes performing surveys to confirm the adequacy of boundaries, setting up equipment, and conducting any activity inside restricted area boundaries.

“S-tube” means a tube through which a radioactive source travels when the source is inside a radiographic exposure device.

“Source assembly” means an assembly that consists of a sealed source and a connector that attaches the source to a control cable. The source assembly may also include a stop ball used to secure the source in the shielded position.

“Underwater radiography” means industrial radiography performed when a radiographic exposure device is beneath the surface of water.

Historical Note

New Section R9-7-501 recodified from R12-1-501 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-502. License Requirements

- A. The Department shall review an application for a specific license for the use of radioactive material in industrial radiography and approve the license if an applicant meets all of the following requirements:
1. The applicant satisfies the general requirements in R9-7-309 and any special requirements contained in this Article; and
 2. The applicant submits a program for training radiographers and radiographers’ assistants that complies with R9-7-543, except that:
 - a. After the effective date of this Section, an applicant is not required to describe its initial training and examination program for radiographers;
 - b. An applicant shall affirm that an individual who is acting as an industrial radiographer is certified in radiation safety by a certifying organization, as required in R9-7-543, before permitting the individual to act as a radiographer. This affirmation substitutes for a description of the applicant’s initial training and examination program for radiographers in the subjects outlined in R9-7-543(G); and
 - c. An applicant shall submit procedures for verifying and documenting the certification status of each radiographer and for ensuring that the certification remains valid.
- B. The applicant shall submit written operating and emergency procedures as prescribed in R9-7-522.
- C. The applicant shall submit a description of a program for review of job performance of each radiographer and radiographers’ assistant at intervals that do not exceed six months as prescribed in R9-7-543(E).
- D. The applicant shall submit a description of the applicant’s overall organizational structure as it applies to radiation safety responsibilities in industrial radiography, including specified delegation of authority and responsibility.
- E. The applicant shall submit a list of the qualifications of each individual designated as an RSO under R9-7-512 and indicate which designee is responsible for ensuring that the licensee’s radiation safety program is implemented in accordance with approved procedures.
- F. If an applicant intends to perform leak testing on any sealed source or exposure device that contains depleted uranium (DU) shielding, the applicant shall submit a description of the procedures for performing the leak testing and the qualifications of each person authorized to perform leak testing. If the applicant intends to analyze its own wipe samples, the application shall include a description of the procedures to be followed. The description shall include the:
 1. Instruments to be used,
 2. Methods of performing the analysis, and
 3. Relevant experience of the person who will analyze the wipe samples.
- G. If the applicant intends to perform “in-house” calibrations of survey instruments, the applicant shall describe each calibration method to be used and the relevant experience of each person who will perform a calibration. A licensee shall perform all calibrations according to the procedures prescribed in R9-7-504.
- H. The applicant shall identify and describe the location of all field stations and permanent radiographic installations.

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- I. The applicant shall identify each location where records required by this Chapter will be maintained.

Historical Note

New Section R9-7-502 recodified from R12-1-502 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-503. Performance Requirements for Equipment

- A. A licensee shall ensure that equipment used in industrial radiographic operations meets the following minimum criteria:
1. Each radiographic exposure device, source assembly or sealed source, and all associated equipment meet the requirements in American National Standards Institute, N432-1980 "Radiological Safety for the Design and Construction of Apparatus for Gamma Radiography" (published as NBS Handbook 136, issued January 1981) by the American National Standards Institute, which is incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments. This publication may be purchased from the American National Standards Institute, Inc., 25 West 43rd Street, New York, New York 10036 Telephone (212) 642-4900. A copy of the document is also on file at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html; or
 2. An engineering safety analysis demonstrates the applicability of previously performed testing on similar individual radiography equipment components. Based on a review of the analysis, the Department may find that previously performed testing can be substituted for testing of the component under the standards in subsection (A)(1).
- B. In addition to the requirements in subsection (A), the following requirements apply to each radiographic exposure device, source changer, source assembly, and sealed source:
1. A licensee shall ensure that each radiographic exposure device has attached to it a durable, legible, and clearly visible label bearing:
 - a. The chemical symbol and mass number of the radionuclide in the device;
 - b. The activity of the source and the date on which this activity was last measured;
 - c. The model (or product code) and serial number of the sealed source;
 - d. The manufacturer's description of the sealed source; and
 - e. The licensee's name, address, and telephone number.
 2. A licensee shall ensure that each radiographic exposure device intended for use as a Type B transport container meets the applicable requirements of 10 CFR 71, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 3. A licensee shall not modify any radiographic exposure device, source changer, source assembly, or associated equipment, unless the design of the replacement component, including source holder, source assembly, controls, or guide tubes is consistent with and does not compromise the design safety features of the system.
- C. In addition to the requirements in subsections (A) and (B), the following requirements apply to each radiographic exposure device, source assembly, and associated equipment that allows the source to be moved out of the device for radiographic operations or to a source changer:

1. The license shall ensure that the coupling between the source assembly and the control cable is designed so that the source assembly does not become disconnected if it is positioned outside of the guide tube and is constructed so that an unintentional disconnect will not occur under normal and reasonably foreseeable abnormal conditions;
 2. The device automatically secures the source assembly if it is retracted into the fully shielded position within the device and the securing system is released from the exposure device only by means of a deliberate operation;
 3. The outlet fittings, lock box, and drive cable fittings on each radiographic exposure device are equipped with safety plugs or covers installed for storage and transportation to protect the source assembly from water, mud, sand, or other foreign matter;
 4. Each sealed source or source assembly has attached to it or is engraved with a durable, legible, and visible label with the words: "DANGER--RADIOACTIVE." The licensee shall ensure that the label does not interfere with safe operation of the equipment;
 5. The guide tube is able to withstand a crushing test that closely approximates the crushing forces that are likely to be encountered during use, and a kinking resistance test that closely approximates the kinking forces that are likely to be encountered during use;
 6. A guide tube is used if a person moves the source out of the device;
 7. An exposure head or similar device, designed to prevent the source assembly from passing out of the end of the guide tube, is attached to the outermost end of the guide tube during industrial radiography operations;
 8. The guide tube exposure head connection is able to withstand the tensile test for control units specified in ANSI N432-1980, incorporated by reference in subsection (A); and
 9. Source changers provide a system for ensuring that the source is not accidentally withdrawn from the changer when a person is connecting or disconnecting the drive cable to or from the source assembly.
- D. A licensee shall ensure that radiographic exposure devices and associated equipment in use after January 10, 1996 comply with the requirements of this Section.
- E. Notwithstanding subsection (A), a licensee with equipment used in industrial radiographic operations need not comply with Sec. 8.92(C) of the Endurance Test in American National Standards Institute N432-1980 if the prototype equipment has been tested using a torque value representative of the torque that an individual using the radiography equipment can realistically exert on the lever or crankshaft of the drive mechanism.

Historical Note

New Section R9-7-503 recodified from R12-1-503 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-504. Radiation Survey Instruments

- A. A licensee shall maintain at least two calibrated and operable radiation survey instruments at each location where sources of radiation are present to make radiation surveys required by this Article and Article 4 of this Chapter. Instrumentation required by this Section shall be capable of measuring a range from 0.02 millisieverts (2 millirems) per hour through 0.01 sievert (1 rem) per hour.
- B. A licensee shall ensure that each radiation survey instrument required under subsection (A) is calibrated:
1. At intervals that do not exceed six months, and after instrument servicing, except for battery changes;

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2. For linear scale instruments, at two points located approximately one-third and two-thirds of full-scale on each scale; for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and for digital instruments, at 3 points between 0.02 and 10 millisieverts (2 and 1000 millirems) per hour; and
 3. So that an accuracy within plus or minus 20% of the calibration source can be demonstrated at each point checked.
- C. A licensee shall maintain calibration records for each radiation survey instrument, and maintain each record for three years after it is made.

Historical Note

New Section R9-7-504 recodified from R12-1-504 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-505. Leak Testing and Replacement of Sealed Sources

- A. A licensee shall ensure that replacement of any sealed source fastened to or contained in a radiographic exposure device and leak testing of any sealed source is performed by a person authorized to do so by the Department, the NRC, or another Agreement State.
- B. A licensee shall ensure that opening, repairing, or modifying any sealed source is performed by a person specifically authorized to do so by the Department, the NRC, or another Agreement State.
- C. A licensee that uses a sealed source shall have the source tested for leakage by a qualified person at intervals that do not exceed six months. The person who performs leak testing of the source shall use a method approved by the Department, the NRC, or by another Agreement State. A wipe sample shall be taken from the nearest accessible point to the sealed source where contamination might accumulate. The wipe sample shall be analyzed for radioactive contamination. The licensee shall ensure that the analysis is capable of detecting the presence of 185 Bq (0.005 microcurie) of radioactive material on the test sample and a person specifically authorized by the Department, the NRC, or another Agreement State performs the analysis. The licensee shall maintain records of the leak tests in accordance with this Section.
- D. Unless a sealed source is accompanied by a certificate from the transferor that shows that the sealed source has been leak tested within six months before the transfer, a licensee shall not use the sealed source until it is tested for leakage. A licensee is not required to test a sealed source that is in storage, but shall test each sealed source before use or transfer to another person if the interval of storage exceeds six months.
- E. A licensee shall immediately withdraw equipment containing a leaking source from use and have it decontaminated and repaired or dispose of the source in accordance with this Chapter. The licensee shall file a report with the Director of the Department within five days of any test with results that exceed the threshold in this subsection, and describe the equipment involved, the test results, and corrective action taken. If a leak test conducted under this Section reveals the presence of 185 Bq (0.005 microcurie) or more of removable radioactive material the Department classifies the sealed source as leaking.
- F. A licensee shall test for DU contamination at intervals that do not to exceed 12 months a radiographic exposure device that uses depleted uranium (DU) shielding and an "S" tube configuration. The licensee shall ensure that the analysis is capable of detecting the presence of 185 Bq (0.005 microcuries) of radioactive material on the test sample and a person specifically authorized by the Department, the NRC, or another

Agreement State performs the analysis. If the testing reveals the presence of 185 Bq (0.005 microcuries) or more of removable DU contamination, the licensee shall remove the exposure device from use until an evaluation of the wear on the S-tube is completed. If the evaluation reveals that the S-tube is worn through, the licensee shall ensure that the device is not used again. The licensee is not required to test for DU contamination if the radiographic exposure device is in storage. Before using or transferring the radiographic exposure device, the licensee shall test the device for DU contamination if the interval of storage exceeds 12 months. The licensee shall maintain records of the DU leak test in accordance with subsection (G).

- G. A licensee shall maintain records of leak test results for each sealed source and for each device that contains DU. The licensee shall ensure results are in Becquerels (microcuries), and retain each record for three years after it is made or until the source is removed from storage and tested, whichever is longer.

Historical Note

New Section R9-7-505 recodified from R12-1-505 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-506. Quarterly Inventory

- A. A licensee shall conduct a quarterly physical inventory to account for all sealed sources and devices that contain depleted uranium.
- B. A licensee shall maintain a record of the quarterly inventory required under subsection (A) for three years after it is made.
- C. The record required in subsection (B) shall include the date of the inventory, name of the individual who conducted the inventory, radionuclide, number of becquerels (curies) or mass (for DU) in each device, location of sealed source and associated devices, and manufacturer, model, and serial number of each sealed source and device as applicable.

Historical Note

New Section R9-7-506 recodified from R12-1-506 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-507. Utilization Logs

- A. A licensee shall maintain for each sealed source a utilization log that provides all of the following information:
1. A description, including the make, model, and serial number of each radiographic exposure device, and each sealed source transport and storage container that contains a sealed source;
 2. The identity and signature of the radiographer using the source; and
 3. The plant or site where the source is used and dates of use, including the date each source is removed from and returned to storage.
- B. A licensee shall retain the log required by subsection (A) for three years after the log is made.

Historical Note

New Section R9-7-507 recodified from R12-1-507 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-508. Inspection and Maintenance of Radiographic Exposure Devices, Transport and Storage Containers, Source Changers, Survey Instruments, and Associated Equipment

- A. A licensee shall perform visual and operability checks on each survey instrument, radiographic exposure device, transport and storage container, source changer, and associated equipment before use on each day the equipment is to be used to ensure that the equipment is in good working condition, the

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source is adequately shielded, and required labeling is present. A survey instrument operability check shall be performed using a check source or other authorized means. If an equipment problem is found, the licensee shall remove the equipment from service until it is repaired.

- B.** A licensee shall have written inspection and maintenance procedures to ensure that:
1. Radiographic exposure devices, source changers, transport and storage containers, survey instruments, and associated equipment that require inspection and maintenance at intervals that do not exceed three months or before first use of the equipment are functioning properly and safely. Replacement components shall meet design specifications. If an equipment problem is discovered, the licensee shall remove the equipment from service until it is repaired; and
 2. Type B packages are shipped and maintained in accordance with the certificate of compliance or other approval.
- C.** A licensee shall maintain records of daily checks and quarterly inspections of radiographic exposure devices, transport and storage containers, source changers, survey instruments, and associated equipment, and retain each record for three years after it is made. The record shall include the date of the check or inspection, name of the inspector, equipment involved, any problems found, and any repair or needed maintenance performed.

Historical Note

New Section R9-7-508 recodified from R12-1-508 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-509. Surveillance

During each radiographic operation, a radiographer or the radiographer's assistant, as permitted by R9-7-510, shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, except at permanent radiographic installations where all entrances are locked and the licensee is in compliance with R9-7-539.

Historical Note

New Section R9-7-509 recodified from R12-1-509 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-510. Radiographic Operations

- A.** If industrial radiography is performed at a location other than a permanent radiographic installation, a licensee shall ensure that the radiographer is accompanied by at least one other radiographer or radiographer's assistant, qualified under R9-7-543. The additional radiographer or radiographer's assistant shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. Industrial radiography is prohibited if only one qualified individual is present.
- B.** A licensee shall ensure that each industrial radiographic operation is conducted at a location of use authorized on the license in a permanent radiographic installation, unless another permanent location is specifically authorized by the Department.

Historical Note

New Section R9-7-510 recodified from R12-1-510 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-511. Reserved**Historical Note**

R9-7-511 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-512. Radiation Safety Officer (RSO)

- A.** A licensee shall have a radiation safety officer (RSO) who is responsible for implementing procedures and regulatory requirements in the daily operation of the radiation safety program.
- B.** Except as provided in subsection (C), the licensee shall ensure that the RSO satisfies the following minimum requirements:
1. The training and testing requirements in R9-7-543,
 2. Two thousand hours of hands-on experience as a qualified radiographer for an industrial radiographic operation, and
 3. Formal training in the establishment and maintenance of a radiation safety program.
- C.** If the licensee uses an individual in the position of RSO who does not have the training and experience required in subsection (B), the licensee shall provide the Department with a description of the individual's training and experience in the field of ionizing radiation and training with respect to the establishment and maintenance of a radiation safety protection program so the Department can determine whether the individual is qualified to perform under subsection (D).
- D.** The specific duties and authorities of the RSO include, but are not limited to:
1. Establishing and overseeing operating, emergency, and ALARA procedures as required in Article 4 of this Chapter and reviewing them every year to ensure that the procedures in use conform to current Department rules and license conditions;
 2. Overseeing and approving all phases of the training program for radiographic personnel, ensuring that appropriate and effective radiation protection practices are taught;
 3. Overseeing radiation surveys, leak tests, and associated documentation to ensure that the surveys and tests are performed in accordance with the rules and taking corrective measures if levels of radiation exceed established action limits;
 4. Overseeing the personnel monitoring program to ensure that devices are calibrated and used properly by occupationally exposed personnel and ensuring that records are kept of the monitoring results and timely notifications are made as required in R9-7-444; and
 5. Overseeing operations to ensure that they are conducted safely and instituting corrective actions, which may include ceasing operations if necessary.

Historical Note

New Section R9-7-512 recodified from R12-1-512 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-513. Form of Records

A licensee shall maintain records in accordance with R9-7-405.

Historical Note

New Section R9-7-513 recodified from R12-1-513 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-514. Limits on External Radiation Levels from Storage Containers and Source Changers

The maximum rate limits for storage containers and source changers are 2 millisieverts (200 mRem/hr) at any exterior surface and 0.1 millisieverts (10 mRem/hr) at 1 meter from any exterior surface with the sealed source in the shielded position.

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Historical Note

New Section R9-7-514 recodified from R12-1-514 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-515. Locking Radiographic Exposure Devices, Storage Containers, and Source Changers

- A. Except at permanent radiographic installations governed by R9-7-539, a licensee shall ensure that each radiographic exposure device has a lock or an outer container with a lock designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The licensee shall ensure that the exposure device or its container, if applicable, is locked (and if a keyed lock, with the key removed) if the device or container is not under the direct surveillance of a radiographer or a radiographer's assistant. During radiographic operations, the radiographer or radiographer's assistant shall secure the sealed source assembly in the shielded position each time the source is returned to the shielded position.
- B. A licensee shall ensure that each sealed source storage container and source changer has a lock or an outer container with a lock designed to prevent unauthorized or accidental removal of the sealed source from its shielded position. The licensee shall ensure that each storage container and source changer is locked (and if a keyed lock, with the key removed) if the storage container or source changer contains a sealed source and is not under the direct surveillance of a radiographer or a radiographer's assistant.

Historical Note

New Section R9-7-515 recodified from R12-1-515 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-516. Records of Receipt and Transfer of Sealed Sources

- A. A licensee shall maintain records that show each receipt and transfer of a sealed source or device that uses DU for shielding and retain each record for three years after it is made.
- B. The records shall contain separate entries for each transaction, including the date, name of the individual making the record, radionuclide, number of Becquerels (curies) or mass (for DU), and manufacturer, model, and serial number of each sealed source or device, as applicable.

Historical Note

New Section R9-7-516 recodified from R12-1-516 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-517. Posting

A licensee shall post any area in which industrial radiography is performed as required by R9-7-429. Exceptions listed in R9-7-430 do not apply to industrial radiographic operations.

Historical Note

New Section R9-7-517 recodified from R12-1-517 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-518. Labeling, Storage, and Transportation

- A. A licensee shall not use a source changer or a storage container to store licensed material unless the source changer or the storage container has securely attached to it a durable, legible, and clearly visible label that bears the standard trefoil radiation caution symbol and the standard colors for the symbol specifically: magenta, purple, or black on a yellow background, and the label has a minimum diameter of 25 mm and the wording "CAUTION (or DANGER), RADIOACTIVE MATERIAL NOTIFY CIVIL AUTHORITIES (or "NAME OF COMPANY")"

- B. A licensee shall not transport licensed material unless the material is packaged and the package is labeled, marked, and accompanied with appropriate shipping papers in accordance with 10 CFR 71, January 1, 2004, published by the Office of the Federal Register, National Archives and Records Administration, incorporated by reference, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- C. A licensee shall physically secure locked radiographic exposure devices and storage containers behind a locked door to prevent tampering or removal by unauthorized personnel. The licensee shall store licensed material in a manner that will minimize danger from explosion or fire.
- D. A licensee shall lock each transport package that contains licensed material and physically secure the package behind the locked doors of the transporting vehicle to prevent accidental loss, tampering, or unauthorized removal of the licensed material from the vehicle.

Historical Note

New Section R9-7-518 recodified from R12-1-518 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-519. Reserved**Historical Note**

R9-7-519 reserved when the Chapter was recodified from
12 A.A.C. 1 (Supp. 18-1).

R9-7-520. Reserved**Historical Note**

R9-7-520 reserved when the Chapter was recodified from
12 A.A.C. 1 (Supp. 18-1).

R9-7-521. Reserved**Historical Note**

R9-7-521 reserved when the Chapter was recodified from
12 A.A.C. 1 (Supp. 18-1).

R9-7-522. Operating and Emergency Procedures

- A. A licensee shall ensure that the operating and emergency procedures include, at a minimum, instructions in the following, as applicable:
 1. Handling and use of sealed sources or radiographic exposure devices, so that persons are not exposed to radiation that exceeds the limits in Article 4 of this Chapter;
 2. Methods and occasions for conducting radiation surveys;
 3. Methods for controlling access to radiographic areas;
 4. Methods and occasions for locking and securing radiographic exposure devices, transport and storage containers, and sealed sources;
 5. Personnel monitoring and associated equipment;
 6. Transportation of sealed sources to field locations, including packing radiographic exposure devices and storage containers in vehicles, placarding vehicles, and maintaining control of the sealed sources during transportation, as required in 49 CFR 171-173, 2002 edition, published October 1, 2002, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference and on file with the Department. This incorporation contains no future editions or amendments;
 7. Inspection, maintenance, and operability checks of radiographic exposure devices, survey instruments, transport containers, and storage containers;

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8. Actions to be taken immediately by radiography personnel if a pocket dosimeter is found to be off-scale or an alarm rate meter sounds an alarm;
 9. Procedures for identifying and reporting defects and non-compliance, as required by R9-7-448 and R9-7-535;
 10. Procedures for notifying the RSO and the Department in the event of an accident;
 11. Methods for minimizing exposure of persons in the event of an accident;
 12. Procedures for recovering a source if the licensee is responsible for source recovery; and
 13. Maintenance of records.
- B.** The licensee shall maintain copies of current operating and emergency procedures until the Department terminates the license. Superseded procedures shall be maintained for three years after being superseded. Additionally, a copy of the procedures shall be maintained at field stations in accordance with R9-7-540.
- Historical Note**
New Section R9-7-522 recodified from R12-1-522 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-523. Personnel Monitoring**
- A.** A licensee shall not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, each individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and a personnel dosimeter. At permanent radiography installations where other appropriate alarming or warning devices are in routine use, the wearing of an alarm rate meter is not required. A licensee shall:
1. Use a pocket dosimeter with a range from zero to 2 millisieverts (200 millirems) and ensure that each dosimeter is recharged at the start of each shift. Electronic personnel dosimeters are permitted in place of ion-chamber pocket dosimeters;
 2. Assign a personnel dosimeter to each individual, who shall wear the assigned equipment;
 3. Replace film badges at least monthly and ensure that all other personnel dosimeters that require replacement are replaced at least quarterly; and
 4. Ensure that all personnel dosimeters are evaluated at least quarterly or promptly after replacement, whichever is more frequent.
- B.** A licensee shall record exposures noted from direct reading dosimeters, such as pocket dosimeters or electronic personnel dosimeters, at the beginning and end of each shift. The licensee shall maintain the records for at least three years after the Department terminates the license.
- C.** A licensee shall check pocket dosimeters and electronic personnel dosimeters for correct response to radiation at periods that do not exceed 12 months. The licensee shall record the results of each check and maintain the records for three years after the dosimeter check is performed. The licensee shall discontinue use of a dosimeter if it is not accurate within plus or minus 20 percent of the true radiation exposure.
- D.** If an individual's pocket dosimeter is found to be off-scale, or the individual's electronic personnel dosimeter reads greater than 2 millisieverts (200 millirems), and the possibility of radiation exposure cannot be ruled out as the cause, a licensee shall ensure that:
1. If the individual's personnel dosimeter requires processing, the personnel dosimeter is sent for processing and evaluation within 24 hours after the suspected exposure;
 2. If the individual's personnel dosimeter does not require processing, the evaluation of the personnel dosimeter is started within 24 hours after the suspected exposure;
 3. The individual is not allowed to resume work associated with licensed material until the individual's radiation exposure has been determined by the licensee's RSO or the RSO's designee; and
 4. The results of the determination in subsection (D)(2) is included in the personnel monitoring records maintained in accordance with subsection (B).
- E.** If the personnel dosimeter that is required by subsection (A) is lost or damaged, the licensee shall ensure that the worker ceases work immediately until the licensee provides a replacement personnel dosimeter that meets the requirements in subsection (A) and the RSO or the RSO's designee calculates the exposure for the time period from issuance to discovery of the lost or damaged personnel dosimeter. The licensee shall maintain a record of the calculated exposure and the time period for which the personnel dosimeter was lost or damaged in accordance with subsection (B).
- F.** The licensee shall maintain dosimetry reports in accordance with subsection (B).
- G.** For each alarm rate meter a licensee shall ensure that:
1. At the start of each shift, the alarm functions (sounds) properly before an individual uses the device;
 2. Each device is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr); with an accuracy of plus or minus 20 percent of the true radiation dose rate;
 3. A special means is necessary to change the preset alarm function on the device; and
 4. Each device is calibrated at periods that do not exceed 12 months for correct response to radiation. The licensee shall maintain records of alarm rate meter calibrations in accordance with subsection (B).
- Historical Note**
New Section R9-7-523 recodified from R12-1-523 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).
- R9-7-524. Supervision of a Radiographer's Assistant**
- If a radiographer's assistant uses a radiographic exposure device, associated equipment, or a sealed source or conducts a radiation survey required by R9-7-533(B) to determine that the sealed source has returned to the shielded position after an exposure, the licensee shall ensure that the assistant is under the personal supervision of a radiographer. For purposes of this Section "personal supervision" means:
1. The radiographer is physically present at the site where the sealed source is being used,
 2. The radiographer is available to give immediate assistance if required, and
 3. The radiographer is able to observe the assistant's performance directly.
- Historical Note**
New Section R9-7-524 recodified from R12-1-524 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-525. Notification of Field Work**
- Each day radioactive material is used for industrial radiography, a licensee shall notify the Department of any planned field radiography. The notice shall be in writing and specify the location of the field work, the name of the supervising individual at the job site, and the expected duration of the work at the job site listed in the

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notice. A facsimile that provides the required information is sufficient notice.

Historical Note

New Section R9-7-525 recodified from R12-1-525 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-526. Reserved**Historical Note**

R9-7-526 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-527. Reserved**Historical Note**

R9-7-527 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-528. Reserved**Historical Note**

R9-7-528 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-529. Reserved**Historical Note**

R9-7-529 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-530. Reserved**Historical Note**

R9-7-530 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-531. Security

During each radiographic operation, the radiographer or radiographer's assistant shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, as defined in Article 1, unless:

1. The high radiation area is equipped with a control device or an alarm system as prescribed in R9-7-420(A), or
2. The high radiation area is locked to protect against unauthorized or accidental entry.

Historical Note

New Section R9-7-531 recodified from R12-1-531 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-532. Posting

Notwithstanding any provisions in R9-7-430, areas in which radiography is being performed shall be conspicuously posted as required by R9-7-429(A) and (B).

Historical Note

New Section R9-7-532 recodified from R12-1-532 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-533. Radiation Surveys

- A. A licensee shall conduct surveys with a calibrated and operable radiation survey instrument that meets the requirements of R9-7-504.
- B. Using a survey instrument that complies with subsection (A), the licensee shall conduct a survey of the radiographic exposure device and the guide tube after each exposure before approaching the device or the guide tube. The survey shall be performed to determine that the sealed source is in the shielded position before the radiographer or radiographer's assistant exchanges films, repositions the exposure head, or dismantles the equipment.

- C. The licensee shall conduct a survey of the radiographic exposure device with a calibrated radiation survey instrument any time the source is exchanged or the device is placed in a storage area, as defined in R9-7-102, to ensure that the sealed source is in the shielded position.
- D. The licensee shall maintain a record of each exposure device survey conducted before the device is placed in storage under subsection (C), if that survey is the last one performed during the workday. Each record shall be maintained for three years after the record is made.

Historical Note

New Section R9-7-533 recodified from R12-1-533 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-534. Reserved**Historical Note**

R9-7-534 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-535. Notifications

- A. In addition to the reporting requirements specified in Article 4, each licensee shall provide a written report to the Department if any of the following incidents involving radiography equipment occur:
 1. Unintentional disconnection of the source assembly from the control cable;
 2. Inability to retract the source assembly to the fully shielded position or secure it in this position; or
 3. Failure of any component (critical to safe operation of the device) to properly perform its intended function;
- B. A licensee shall include the following information in any report submitted under this Section, regarding radiography equipment, or Article 4, regarding an overexposure, if the report concerns the failure of safety components of radiography equipment:
 1. A description of the equipment problem;
 2. Cause of the incident, if known;
 3. Name of manufacturer and model number of the equipment involved in the incident;
 4. Place, date, and time of the incident;
 5. Actions taken to establish normal operations;
 6. Corrective actions taken or planned to prevent recurrence; and
 7. Qualifications of personnel involved in the incident.
- C. Any licensee that conducts radiographic operations, or stores radioactive material at a location not listed on the license or for a period longer than 180 days during a calendar year, shall notify the Department of these activities before the 180 days has elapsed.

Historical Note

New Section R9-7-535 recodified from R12-1-535 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-536. Reserved**Historical Note**

R9-7-536 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-537. Reserved**Historical Note**

R9-7-537 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-538. Reserved

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Historical Note

R9-7-538 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-539. Permanent Radiographic Installations

- A. If a licensee maintains a permanent radiographic installation that does not fall within the definition of “enclosed radiography” in R9-7-102, the licensee shall ensure that each entrance, used for personnel access to the high radiation area, has either:
1. An entrance control device of the type described in R9-7-420(A)(1) that reduces the radiation level upon entry into the area, or
 2. Both conspicuous visible and audible alarm signals to warn of the presence of radiation. The licensee shall ensure that the visible signal is actuated by radiation if a source is exposed and the audible signal is actuated if someone attempts to enter the installation while a source is exposed.
- B. A licensee with an alarm signal shall test the alarm signal for proper operation with a radiation source each day before the installation is used for radiographic operations. The test shall include a check of both the visible and audible signals. A licensee with an entrance control device shall test the device monthly. If an entrance control device or alarm signal is operating improperly, the licensee shall immediately label the device or signal as “defective” and repair the device or signal within seven calendar days. The licensee may continue to use the facility during this seven-day period, if the licensee implements continuous surveillance requirements of R9-7-509 and uses an alarming rate meter.
- C. A licensee shall maintain each record an alarm system or entrance control device test for three years after the record is made.

Historical Note

New Section R9-7-539 recodified from R12-1-539 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-540. Location of Documents and Records

- A. A licensee shall maintain a copy of each record required by this Article and other applicable Articles of this Chapter at a location specified under R9-7-502(I).
- B. A licensee shall maintain a copy of each record listed below at each field station and temporary job site;
1. The license that authorizes use of radioactive material;
 2. A copy of Articles 4, 5, and 10 of this Chapter;
 3. Utilization logs for each radiographic exposure device dispatched from that location, as required by R9-7-507;
 4. Records of equipment problems identified in daily checks of equipment, as required by R9-7-508(A);
 5. Records of alarm system and entrance control checks as required by R9-7-539;
 6. Records of direct-reading dosimeters, such as pocket dosimeters and electronic personnel dosimeters as required by R9-7-523;
 7. Operating and emergency procedures as required by R9-7-522;
 8. A report on the most recent calibration of the radiation survey instruments in use at the site as required by R9-7-504;
 9. A report on the most recent calibration of each alarm rate meter, and operability check of each pocket dosimeter and electronic personnel dosimeter as required in R9-7-523;
 10. Most recent survey record as required by R9-7-533;
 11. The shipping papers for the transportation of radioactive material required by 10 CFR 71.5, 2003 edition, pub-

lished January 1, 2003, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference and on file with the Department (this incorporation contains no future editions or amendments); and

12. If operating under reciprocity in accordance with R9-7-320, a copy of the NRC or Agreement State license authorizing the use of radioactive materials.

Historical Note

New Section R9-7-540 recodified from R12-1-540 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-541. Reserved**Historical Note**

R9-7-541 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-542. Reserved**Historical Note**

R9-7-542 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-543. Training

- A. A licensee shall not allow an individual to act as a radiographer until the individual has received training in the subjects in subsection (G), has participated in a minimum of two months of on-the-job training, and is certified through a radiographer certification program by a independent certifying organization in accordance with the criteria specified in Appendix A.
1. A licensee shall provide the Department with proof of an individuals’ certification and a written request that the individual be added to a license as a certified radiographer.
 2. A licensee shall maintain proof of certification at the job site where a radiographer is performing field radiography.
 3. A licensee that employs certified radiographers in Arizona shall ensure that:
 - a. Each radiographer has obtained initial certification within the last five years, and
 - b. An uncertified radiographer works only as a radiographer’s assistant until certified.
 4. A radiographer shall recertify every five years by:
 - a. Taking an approved radiography certification examination in accordance with this subsection; or
 - b. Providing written evidence that the radiographer is active in the practice of industrial radiography and has participated in continuing education during the previous five-year period.
 5. If an individual cannot provide the written evidence required in subsection (4)(b), the individual shall retake the certification examination.
 6. A radiographer shall provide the licensee with proof of certification in the form of a card issued by the certifying organization that contains:
 - a. A picture of the certified radiographer,
 - b. The radiographer’s certification number,
 - c. The date the certification expires, and
 - d. The radiographer’s signature.
- B. A licensee shall not allow an individual to act as a radiographer until the individual:
1. Has received copies of and instruction in the requirements of this Article; applicable Sections of Articles 4 and 10 and R9-7-107; applicable DOT regulations in 10 CFR 71, January 1, 2003 edition, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated

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- by reference, contains no future editions or amendments, and is on file with Department; the Department license or licenses under which the radiographer will perform industrial radiography; and the licensee's operating and emergency procedures;
2. Has demonstrated an understanding of the licensee's license and operating and emergency procedures by successfully completing a written or oral examination that covers the relevant material;
 3. Has received training in:
 - a. Use of the licensee's radiographic exposure devices and sealed sources,
 - b. Daily inspection of devices and associated equipment, and
 - c. Use of radiation survey instruments; and
 4. Has demonstrated an understanding of the use of radiographic exposure devices, sources, survey instruments, and associated equipment described in subsection (B)(3) by successfully completing a practical examination covering this material.
- C. A licensee shall not allow an individual to act as a radiographer's assistant until the individual:
1. Has received copies of and instruction in the requirements of this Article; applicable Sections of Articles 4 and 10 and R9-7-107; applicable DOT regulations in 10 CFR 71, January 1, 2003 edition, by the Office of the Federal Register, National Archives and Records Administration, Washington, D.C. 20408, which is incorporated by reference, contains no future editions or amendments, and is on file with the Department; the Department license or licenses under which the radiographer's assistant will perform industrial radiography; and the licensee's operating and emergency procedures;
 2. Has developed competence to use, under the personal supervision of the radiographer, the licensee's radiographic exposure devices, sealed sources, associated equipment, and radiation survey instruments; and
 3. Has demonstrated understanding of the instructions provided under subsection (C)(1) by successfully completing a written test on the subjects covered and has demonstrated competence using the hardware described in subsection (C)(2) by successfully completing a practical examination.
- D. A licensee shall provide refresher safety training for each radiographer and radiographer's assistant at intervals not to exceed 12 months.
- E. Unless an individual serves as both a radiographer and an RSO, the RSO or the RSO's designee shall design and implement an inspection program to examine the job performance of each radiographer and radiographer's assistant and to ensure that the Department's rules and license requirements, and the licensee's operating and emergency procedures are followed. The inspection program shall:
1. Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals that do not exceed six months; and
 2. If a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than six months, the radiographer shall demonstrate knowledge of the training requirements in subsection (B)(3) and the radiographer's assistant shall demonstrate knowledge of the training requirements of subsection (C)(2) by a practical examination before participating in a radiographic operation.
- F. A licensee shall maintain records of the training required in this Section including certification documents, written and practical examinations, refresher safety training documents, and inspection documents, in accordance with subsection (I).
- G. A licensee shall include the following subjects in the training required under subsection (A):
1. Fundamentals of radiation safety, including:
 - a. Characteristics of gamma radiation,
 - b. Units of radiation dose and quantity of radioactivity,
 - c. Hazards of exposure to radiation,
 - d. Levels of radiation from licensed material, and
 - e. Methods of controlling radiation dose (time, distance, and shielding);
 2. Radiation detection instruments, including:
 - a. Use, operation, calibration, and limitations of radiation survey instruments;
 - b. Survey techniques; and
 - c. Use of personnel monitoring equipment;
 3. Equipment topics, including:
 - a. Operation and control of radiographic exposure equipment, use of remote handling equipment, and use of storage containers, using pictures or models of source assemblies (pigtailed);
 - b. Storage, control, and disposal of licensed material; and
 - c. Inspection and maintenance of equipment;
 4. The requirements of pertinent Department rules; and
 5. Case histories of accidents in radiography.
- H. A licensee shall maintain records of radiographer certification in accordance with subsection (I)(1) and provide proof of certification as required in subsection (A)(1).
- I. A licensee shall maintain the following records for three years after each record is made:
1. Records of training for each radiographer and each radiographer's assistant. For radiographers, the records shall include radiographer certification documents and verification of certification status. All records shall include copies of written tests, dates of oral and practical examinations, and names of individuals who conducted and took the oral and practical examinations; and
 2. Records of annual refresher safety training and semi-annual inspections of job performance for each radiographer and each radiographer's assistant. The records for the annual refresher safety training shall list topics discussed during training, the date of training, and names of each instructor and attendee. For inspections of job performance, the records shall include a list of the items checked during the inspection and any non-compliance observed by the RSO.

Historical Note

New Section R9-7-543 recodified from R12-1-543 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Standards for Organizations that Provide Radiography Certification

Note: For purposes of this Article an "independent certifying organization" means an organization that meets all of the criteria in this Appendix.

I. Requirements for an Organization that Provides Radiographer Certification

To qualify to provide radiographer certification an organization shall:

- A. Be a society or association, with members who participate in, or have an interest in, the field of industrial radiography;

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- B. Not restrict membership because of race, color, religion, sex, age, national origin, or disability;
- C. Have a certification program that is open to nonmembers, as well as members;
- D. Be an incorporated, nationally recognized organization that is involved in setting national standards of practice within its fields of expertise;
- E. Have a staff comparable to other nationally recognized organizations, a viable system for financing its operations, and a policy-and decision-making review board;
- F. Have a set of written, organizational by-laws and policies that address conflicts of interest and provide a system for monitoring and enforcing the by-laws and policies;
- G. Have a committee, with members who can carry out their responsibilities impartially, review and approve the certification guidelines and procedures, and advise the organization's staff in implementing the certification program;
- H. Have a committee, with members who can carry out their responsibilities impartially, review complaints against certified individuals and determine sanctions;
- I. Have written procedures describing all aspects of the organization's certification program;
- J. Maintain records of the current status of each individual's certification and administration of the certification program;
- K. Have procedures to ensure that certified individuals are provided due process with respect to administration of the certification program, including a process for becoming certified and a process for imposing sanctions against certified individuals;
- L. Have procedures for proctoring examinations and qualifying proctors. The organization, through these procedures, shall ensure that an individual who proctors an examination is not employed by the same company or corporation (or a wholly-owned subsidiary of the company or corporation) that employs an examinee;
- M. Exchange information about certified individuals with the Department, other independent certifying organizations, the NRC, or Agreement States and allow periodic review of its certification program and related records; and
- N. Provide a description to the Department of its procedures for choosing examination sites and providing a favorable examination environment.

II. Requirements for a Certification Program

An independent certifying organization shall ensure that its certification program:

- A. Requires an applicant for certification to:
 1. Obtain training in the subjects listed in R9-7-543(G) or equivalent NRC or Agreement State regulations, and
 2. Satisfactorily complete a written examination that covers these subjects;
- B. Requires an applicant for certification to provide documentation demonstrating that the applicant has:
 1. Received training in the subjects listed in R9-7-543(G) or equivalent NRC or Agreement State regulations;
 2. Satisfactorily completed the on-the-job training required in R9-7-543(A); and
 3. Received verification by an Agreement State or a NRC licensee that the applicant has demonstrated the capability of independently working as a radiographer;
- C. Provides procedures that protect examination questions from disclosure;
- D. Provides procedures for denying certification to an applicant and revoking, suspending, and reinstating a certificate;
- E. Provides a certification period that is not less than three years or more than five years, procedures for renewing certifications and, if the procedures allow renewals without examination, a

system for assessing evidence of recent full-time employment and annual refresher training; and

- F. Provides a timely response to inquiries, by telephone or letter, from members of the public, about an individual's certification status.

III. Requirements for a Written Examination

An independent certifying organization shall ensure that its examination:

- A. Is designed to test an individual's knowledge and understanding of the subjects listed in R9-7-543(G);
- B. Is written in a multiple-choice format; and
- C. Has psychometrically valid questions drawn from a question bank and based on the material in R9-7-543(G).

Historical Note

New Article 5, Appendix A recodified from 12 A.A.C. 1, Article 5, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 6. USE OF X-RAYS IN THE HEALING ARTS**R9-7-601. Reserved****Historical Note**

R9-7-601 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-602. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

"Accessible surface" means the external surface of the enclosure or housing provided by the manufacturer.

"Added filter" means the filter added to the inherent filtration.

"Aluminum equivalent" means the thickness of aluminum (type 1100 alloy) that affords equivalent attenuation, under specified conditions, as the material in question. (The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper).

"Annual" means annually within two months of the anniversary due date as determined by the original installation date, inspection date, survey date, or a reset date created by conducting a full survey before the anniversary date has arrived.

"Assembler" means any person engaged in the business of assembling, replacing, or installing one or more components into an x-ray system or subsystem.

"Attenuation block" means a block or stack, having dimensions 20 cm by 20 cm by 3.8 cm (7.9 inches by 7.9 inches by 1.5 inches) of type 1100 aluminum alloy or other materials that afford equivalent attenuation.

"Automatic exposure control" means a device that automatically controls one or more technique factors in order to obtain, at a preselected location or locations, a required quantity of radiation.

"Barrier" (See "Protective barrier")

"Beam axis" means a line from the source through the center of the x-ray field.

"Beam-limiting device" means a device that provides a means to restrict the dimensions of the x-ray field.

"C-arm x-ray system" means an x-ray system that has the image receptor and x-ray tube housing assembly connected by a common mechanical support system to maintain a desired spatial relationship. This system is designed to allow a change

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in the projection of the beam through the patient without a change in the position of the patient.

“Changeable filter” means any filter, exclusive of inherent filtration, which can be removed from the useful beam by an electronic, mechanical, or physical process.

“Cinefluorography” means fluorography that uses a movie camera to record fluorograph images on film for later playback.

“Coefficient of variation” means the ratio of the standard deviation to the mean value of a population of observations.

“Collimator” means an adjustable device, generally made of lead, that is fixed to an x-ray tube housing to intercept or collimate the useful beam and, if not made of lead, has a lead equivalency of not less than that of the tube housing assembly.

“Compression device” means a device used to bring object structures closer to the image plane of a radiograph and make a part of the human body a more uniform thickness so the optical density of the radiograph will be more uniform.

“Computed tomography” means the production of a tomogram by the acquisition and computer processing of x-ray transmission data. For purposes of these rules this term has the same meaning as “CT.”

“Contact therapy system” means that the x-ray tube port is put in contact with or within 5 centimeters (2 inches) of the surface being treated.

“Control panel” means that part of the x-ray machine where switches, knobs, push-buttons, or other hardware necessary for manually setting the technique factors are located.

“Cooling curve” means the graphical relationship between heat units stored and cooling time.

“CT gantry” means the tube housing assemblies, beam-limiting devices, detectors, and the supporting structure, frame, and cover which hold or enclose these components.

“Dead-man switch” means a switch constructed so that a circuit-closing contact can be maintained only by continuous pressure on the switch by the operator.

“Diagnostic source assembly” means the tube housing assembly with a beam-limiting device attached.

“Diagnostic x-ray system” means an x-ray system designed for irradiation of any part of a human or animal body for the purpose of diagnosis or visualization.

“Direct scattered radiation” means scattered radiation that has been deviated in direction only by materials irradiated by the useful beam (see “Scattered radiation”).

“Electronic brachytherapy” means a method of radiation therapy where an electrically generated source of ionizing radiation is placed in or near the tumor or target tissue to deliver therapeutic radiation dosage.

“Entrance exposure rate” means the roentgens per unit time at the point where the center of the useful beam enters the patient.

“Equipment” (See “X-ray equipment”)

“Filter” means material placed in the useful beam to absorb undesirable radiation.

“Fluoroscopic imaging assembly” means a subsystem in which x-ray photons produce a fluoroscopic image. It includes

the image receptor or receptors such as the image intensifier and spot-film device, electrical interlocks, if any, and structural material that provides a linkage between the image receptor and diagnostic source assembly.

“Fluoroscopic system” means a radiographic x-ray system used to directly visualize internal structure, the motion of internal structures, and fluids in real time, or near real-time, to aid in the treatment or diagnosis of disease, or the performance of other medical procedures.

“Focal spot” means the region of the anode target in an x-ray tube where electrons from the cathode interact to produce x-rays.

“General purpose radiographic x-ray system” means any radiographic x-ray system that, by design, is not limited to radiographic examination of a specific anatomical region.

“Gonadal shield” means a protective barrier for the testes or ovaries.

“Grid” means a device used to improve the image detail in a radiograph by reducing the intensity of x-ray scatter radiation exiting the film side of the patient.

“Half-value layer” or “HVL” means the thickness of a specified material that attenuates the beam of radiation to an exposure rate that is one-half of its original value. In this definition, the contribution of any scattered radiation, other than that which is present initially in the beam, is excluded.

“Healing arts radiography” means the application of x-radiation to human patients for diagnostic or therapeutic purposes by a licensed practitioner or a person certified in accordance with R9-7-603(B)(1), at the direction of a licensed practitioner. Healing arts radiography includes:

- Positioning the x-ray beam with respect to the patient,
- Anatomical positioning of the patient,
- Selecting exposure factors, or
- Initiating the exposure.

“Healing arts screening” means the application of radiation from an x-ray machine to a human for the detection or evaluation of health indications when the tests are not specifically and individually ordered by a licensed practitioner.

“Image intensifier” means an electronic device, installed in an x-ray system housing, which instantaneously converts an x-ray pattern into a corresponding light image of higher intensity.

“Image receptor” means any device, such as a fluorescent screen or radiographic film, which transforms incident x-ray photons either into a visible image or into another form which can be made into a visible image by further transformation.

“Inherent filtration” means the filtration of the useful beam by permanently installed components of the tube housing assembly.

“Kilovolts peak” or “kVp” (See “Peak tube potential”)

“Lateral fluoroscope” means the x-ray tube and image receptor combination in a biplane system dedicated to the lateral projection. It consists of the lateral x-ray tube housing assembly and the lateral image receptor that are fixed in position relative to the table with the x-ray beam axis parallel to the plane of the table.

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“Lead equivalent” means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

“Leakage radiation” means all radiation emanating from the tube housing except the useful beam and radiation produced when the exposure switch or timer is not activated.

“Leakage technique factors” means the technique factors associated with the diagnostic source assembly that are used in measuring leakage radiation. Included are:

For capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs (mAs) or the minimum obtainable from the unit, whichever is larger;

For field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and maximum-rated number of x-ray pulses in an hour for operation at the maximum-rated peak tube potential; and

For all other source assemblies, the maximum-rated peak tube potential and maximum-rated continuous tube current for the maximum-rated peak tube potential.

“mA” means milliamperes.

“Mammographic x-ray system” means an x-ray system that is specifically engineered to image human breasts.

“mAs” means milliamperes second.

“Mobile equipment” (See “X-ray equipment”)

“Peak tube potential” means the maximum value of the potential difference across the x-ray tube during an exposure.

“Phantom” means a volume of material that behaves in a manner similar to tissue with respect to the attenuation and scattering of radiation. (i.e. “Breast phantom” means an artificial test object that simulates the average composition of, and various structures in the breast.)

“Phototimer” (See “Automatic exposure control”)

“Portable equipment” (See “X-ray equipment”)

“Primary protective barrier” (See “Protective barrier”)

“Protective apron” means an apron made of radiation, absorbing material used to reduce radiation exposure.

“Protective barrier” means a barrier of radiation-absorbing material used to reduce radiation exposure.

“Primary protective barrier” means the material, excluding filters, placed in the useful beam.

“Secondary protective barrier” means the material which attenuates stray radiation.

“Protective glove” means a glove made of radiation- absorbing material used to reduce radiation exposure.

“Radiologic physicist” means an individual who:

Is certified by the American Board of Radiology, American Board of Medical Physics, or the American Board of Health Physics;

Possesses documentation of state approval;

Holds a master’s degree or higher in a physical science; and

Meets the training and certification requirements in R9-7-615(A)(1)(c).

“Scattered radiation” means radiation that, during passage through matter, has been deviated in direction. (See “Direct scattered radiation”)

“Screen” or “intensifying screen” means a device that converts the energy of the x-ray beam into visible light that interacts with the radiographic film, forming a latent image, or contains photostimulable phosphor plates that upon exposure, emit visible or nonvisible light to create an image.

“Secondary protective barrier” (See “Protective barrier”)

“Shutter” (See “Collimator”)

“Source” means the focal spot of the x-ray tube.

“Source-to-image receptor distance” or “SID” means the distance from the source to the center of the input surface of the image receptor.

“Spot check” means an abbreviated calibration procedure which is performed to assure that a previous calibration continues to be valid. Also, a spot film may be taken to improve visualization by arresting motion and to document medical observations. Note that in some cases, a film may not be created.

“Stationary equipment” (See “X-ray equipment”)

“Stray radiation” means the sum of leakage and scattered radiation.

“System” (See “X-ray system”)

“Technique chart” means a tabulation of technique factors.

“Technique factors” means the following conditions of operation:

For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs;

For field emission equipment rated for pulsed operation, peak tube potential in kV, and number of x-ray pulses;

For CT x-ray systems designed for pulsed operation, peak tube potential in kV, scan time in seconds, and either tube current in mA, x-ray pulse width in seconds, and number of x-ray pulses per scan, or the product of tube current, x-ray pulse width, and number of x-ray pulses in mAs;

For CT x-ray systems not designed for pulsed operation, peak tube potential in kV, and either tube current in mA and scan time in seconds, or the product of tube current, exposure time in mAs, when the scan time and exposure time are equivalent; and

For all other equipment, peak tube potential in kV, and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs.

“Treatment simulator” means a diagnostic x-ray system that duplicates a medical particle accelerator or other teletherapy in terms of its geometrical, mechanical, and optical qualities; the main function of which, is to display radiation treatment fields so that the target volume may be accurately included in the area of irradiation without delivering excess radiation to surrounding normal tissue.

“Tube” means x-ray tube unless otherwise specified.

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“Tube housing assembly” means the tube housing with the tube installed. It includes high-voltage or filament transformers and other elements contained within the tube housing.

“Tube rating chart” means the set of curves that specify the rated limits of operation of the tube in terms of the technique factors.

“Useful beam” means the radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam-limiting device when the exposure controls are in a mode that causes the system to produce radiation.

“Visible area” means that portion of the input surface on the image receptor over which incident x-ray photons are producing a visible image.

“X-ray equipment” means an x-ray system, subsystem, or component described further by the following terms:

“Hand-held” means x-ray equipment designed to be held by an operator while being used.

“Mobile” means x-ray equipment mounted on a permanent base with wheels or casters for moving while completely assembled.

“Portable” means x-ray equipment designed to be hand-carried, but used with a cord or delayed timer system that allows the operator to be six feet or more away from the useful beam.

“Stationary” means x-ray equipment installed in a fixed location.

“Transportable mobile” means x-ray equipment installed in a vehicle or trailer.

“X-ray system” means an assemblage of components for the controlled production of x-rays. It includes, at minimum, an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components that function with the system are considered integral parts of the system.

“X-ray tube” means any electron tube that is designed for the conversion of electrical energy into x-ray energy. For purposes of the rules contained in 9 A.A.C. 7, this term is synonymous with “tube.”

Historical Note

New Section R9-7-602 recodified from R12-1-602 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-603. Operational Standards, Shielding, and Darkroom Requirements

- A. A person shall not make, sell, lease, transfer, lend, or install x-ray equipment or the supplies used in connection with the equipment unless the supplies and equipment, when properly placed in operation and properly used, meets the requirements of 9 A.A.C. 7.
- B. A registrant shall direct the operation of x-ray machines under the registrant’s control and assure that all of the following provisions are met in the operation of x-ray machines:
 1. The registrant shall not permit any individual to engage in the practice of “Healing Arts Radiography” using equipment under the registrant’s control, unless the individual possesses, and displays in the primary employer’s facility, an official certificate issued by, or is exempt from, the Medical Radiologic Technology Board of Examiners that contains an original signature of its Director or designee. A copy of the certificate shall be posted at any secondary

employment location with documentation that verifies that the employer has physically seen the official certificate and has annotated on the copy the location where the official certificate may be viewed by Department staff.

2. The registrant shall maintain records documenting compliance with subsection (B)(1) for each individual practicing “Healing Arts Radiography” using equipment under the registrant’s control,
3. The registrant shall provide safety rules to each individual operating x-ray equipment under the registrant’s control, including any restrictions in operating procedures necessary for the safe use of the equipment and require that the operator demonstrate familiarity with 9 A.A.C. 7.

C. Shielding

1. Each registrant shall provide each installation with primary and secondary protective barriers that are necessary to assure compliance with 9 A.A.C. 7, Article 4.
2. A registrant shall ensure that attenuation provided by a protective barrier meets or exceeds the level of protection established in Report No. 147 Structural Shielding Design for Medical X-ray Imaging Facilities, November 19, 2004, by the National Council on Radiation Protection and Measurements, (NCRP), NCRP Publications, 7910 Woodmount Ave., Suite 400, Bethesda, MD 20814-3095. This report is incorporated by reference and available under R9-7-101. The incorporated material contains no future editions or amendments. Copies of the report are available from NCRP Publications: online at <http://www.ncrppublications.org>; toll free at (800) 229-2652 (Ext. 25); or e-mail at NCRPpubs@NCRPonline.org. Each registrant shall use this incorporated material to provide sufficient shielding to prevent a public exposure that exceeds the limits in R9-7-416.
3. A registrant shall:
 - a. Mount each lead barrier so that the barrier will not sag or cold flow because of its own weight and protect the barrier from damage;
 - b. Use barriers designed so that joints between different ends of protective material do not impair the overall protection of the barriers;
 - c. Use barriers designed so that joints at the floor and ceiling do not impair the overall protection of the barriers;
 - d. Use windows, window frames, doors, and door frames that have the same lead equivalence required in the adjacent walls; and
 - e. Cover holes in protective barriers so that overall attenuation is not impaired.
4. A registrant shall also meet the structural shielding requirements in R9-7-607(C), if the x-ray system in question is not a mobile fluoroscopic unit, dental panoramic, cephalometric, dental CT, or intraoral radiographic system.

D. Film Processing and Darkroom Requirements. A registrant shall:

1. Ensure that the darkroom is light-tight and use proper safe-lighting such that any film type in use exposed in a cassette to x-ray radiation sufficient to produce an optical density from 1 to 2 when processed shall not suffer an increase in density greater than 0.1 (0.05 for mammography) when exposed in the darkroom for two minutes with all safe-lights illuminated. (A processor with a daylight loader satisfies this requirement.);
2. Ensure that film is stored in a cool, dry place and is protected from radiation exposure; and that film located in open packages is stored in a light-tight container;

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3. Ensure that film cassettes and intensifying screens are inspected annually, cleaned, and replaced as necessary;
4. Ensure that film cassettes contain film and intensifying screens that have the same sensitivity;
5. Ensure that automatic film processors develop film in accordance with time-temperature relationships recommended by the film manufacturer;
6. Ensure that manually developed film is developed in accordance with the time-temperature relationships recommended by the manufacturer, and that a timer, thermometer, and a time-temperature chart are available and used in the darkroom;
7. Ensure that film processing solutions are prepared and maintained in accordance with the directions of the manufacturer;
8. Ensure that outdated film is not used for diagnostic radiographs;
9. Follow manufacturer's recommendations for cleaning or inspection of computed radiography (CR) cassettes, but not less than annually;
10. Follow manufacturer's recommendations for preventive maintenance on digital radiography panels or cassettes, but not less than annually; and
11. Maintain documentation that demonstrates that requirements of this subsection are being met for three years for Department review from the date of inspection.

Historical Note

New Section R9-7-603 recodified from R12-1-603 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-604. General Procedures

- A. Each registrant shall ensure the following procedural requirements are met in the operation of x-ray equipment:
 1. An x-ray machine which does not meet the provisions of this Chapter shall not be operated for diagnostic or therapeutic purposes, unless specifically exempted by the Department.
 2. Except for patients who cannot be moved out of the room, only the individuals required for the radiological procedure or in training may be present in the room during radiographic exposure, and all the following requirements apply:
 - a. All individuals shall be positioned such that no part of the body, including the extremities not protected by 0.5 mm lead equivalent, will be struck by the useful beam.
 - b. Staff and ancillary personnel shall be protected from the direct scatter radiation by protective aprons or whole body protective barriers of not less than 0.25 mm lead equivalent.
 - c. Individuals, other than the patient to be examined, who cannot be removed from the room during mobile or portable radiography shall be protected from the direct scatter radiation by whole body protective barriers of 0.25 millimeters lead equivalent or shall be so positioned that the nearest portion of the body is at least 2 meters (6.5 feet) from both the tube head and the nearest edge of the image receptor.
 - d. If a portion of the body of any staff or ancillary personnel is potentially subjected to stray radiation that could result in that individual receiving 10 percent of the maximum permissible dose as defined in Article 4 of this Chapter, the registrant shall provide additional protective devices as specified by the Department.
3. An individual shall not be exposed to the useful beam except for a healing arts purpose authorized by a licensed practitioner of the healing arts. The following acts are prohibited:
 - a. Exposure of an individual without meeting the required healing art requirements and without a valid directive from a licensed practitioner;
 - b. Exposure of an individual for training, demonstration, or other non-healing arts purpose;
 - c. Exposure of an individual for the purpose of healing arts screening, except as authorized by the Department after submitting to the Department the information listed in Appendix A of this Article. (If any information submitted to the Department changes, the registrant shall immediately notify the Department of the changes.);
 - d. Routinely holding film or a patient during an exposure to x-ray radiation; or
 - e. Exposure of an individual to fluoroscopy as a positioning method for general purpose radiological procedures.
4. All persons who are associated with the operation of an x-ray system are subject to the occupational exposure limits specified in Article 4. Exposure of a personnel monitoring device to deceptively indicate a dose delivered to an individual is prohibited.
5. The registrant shall check radiation protective equipment for reliability and integrity defects on an annual basis, as follows:
 - a. Aprons, gloves, and shields shall be checked for holes, tears, and breaks.
 - b. If defects are found in the equipment, the registrant shall replace or remove it from service. Equipment removed from service shall not be put back into service until it is repaired.
 - c. A record of the annual reliability and integrity check and any equipment replacement shall be maintained for three years.
- B. The registrant shall maintain the following records for each x-ray machine:
 1. Survey, calibration, maintenance, and modification records regarding the x-ray machine or room, which include the name of the person who performed the service; and
 2. Correspondence with the Department regarding the x-ray machine facility.

Historical Note

New Section R9-7-604 recodified from R12-1-604 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-605. X-ray Machine Standards

- A. A registrant shall prevent leakage radiation from the diagnostic source assembly measured at a distance of 1 meter in any direction from the source assembly from exceeding 25.8 $\mu\text{C/kg}$ (100 milliroentgens) in one hour when the x-ray tube is operated at its leakage technique factors. The Department shall determine compliance by obtaining measurements averaged over an area of 100 square centimeters (15.5 square inches) with no linear dimension greater than 20 centimeters (7.9 inches).
- B. The registrant shall prevent radiation emitted by a component other than the diagnostic source assembly from exceeding 516 nC/kg (2 milliroentgens) in one hour at 5 centimeters from any accessible surface of the component when it is operated in an assembled x-ray system under any conditions for which it was designed. The Department shall determine compliance by

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obtaining measurements averaged over an area of 100 square centimeters (15.5 square inches) with no linear dimension greater than 20 centimeters (7.9 inches).

C. Beam quality.

1. The registrant shall prevent the useful beam half-value layer (HVL) for diagnostic x-ray given x-ray tube poten-

tial from falling below the values shown in Table I. If it is necessary to determine the HVL at an x-ray tube potential that is not listed in Table I, the registrant shall use linear interpolation or extrapolation to make the determination.

Table I

Design operating range (kilovolts peak)	Measured potential (kilovolts peak)	HVL (millimeters of aluminum) Dental Intraoral Units manufactured after December 1, 1980	Medical X-ray Units manufactured before June 10, 2006 and Dental Intraoral Units manufactured on or before December 1, 1980	Medical X-ray Units manufactured on or after June 10, 2006
Below 51	30	1.5	0.3	0.3
	40	1.5	0.4	0.4
	50	1.5	0.5	0.5
51 to 70	51	1.5	1.2	1.3
	60	1.5	1.3	1.5
	70	1.5	1.5	1.8
Above 70	71	2.1	2.1	2.5
	80	2.3	2.3	2.9
	90	2.5	2.5	3.2
	100	2.7	2.7	3.6
	110	3.0	3.0	3.9
	120	3.2	3.2	4.3
	130	3.5	3.5	4.7
	140	3.8	3.8	5.0
	150	4.1	4.1	5.4

2. If the registrant demonstrates that the aluminum equivalent of the total filtration in the primary beam is not less than that shown in Table II, the registrant is considered to have met the criteria in subsection (C)(1).

Table II - Filtration Required vs. Operating Voltage

Operating Voltage (kVp)	Total Filtration (inherent plus added) (millimeters aluminum equivalent)
Below 51	0.5 millimeters
51 - 70	1.5 millimeters
Above 70	2.5 millimeters

3. The registrant shall use beryllium window tubes that have a minimum of 0.5 millimeters aluminum equivalent filtration permanently mounted in the useful beam.
 4. For capacitor energy storage equipment, the Department shall determine compliance with the maximum quantity of charge per exposure.
 5. When determining the minimum aluminum equivalent filtration, the registrant shall include the filtration contributed by all materials that are always present between the focal spot of the tube and the patient (for example, a tabletop when the tube is mounted "under the table" and inherent filtration of the tube).
- D. Multiple tubes. If two or more radiographic tubes are controlled by one exposure switch, the operator shall clearly indicate which tube or tubes have been selected before initiation of

the exposure, activating one light on the x-ray control panel and a second light at or near the tube housing assembly, each indicating the tube or tubes that have been selected.

- E. Mechanical support of tube head. The registrant shall adjust the tube housing assembly supports so that the tube housing assembly will remain stable during an exposure, unless the tube housing movement is a designed function of the x-ray system.
- F. Exposure reproducibility. The coefficient of variation shall not exceed 0.10 when all technique factors are held constant. This requirement is satisfied if the value of the average exposure (E) is greater than or equal to five times the difference between the maximum exposure (E_{max}) and minimum exposure (E_{min}) when four exposures are made at identical technique factors, $[E \geq 5(E_{\max} - E_{\min})]$.
- G. Accuracy deviation. A registrant shall not use an x-ray machine if the measured technique factors for kVp and time duration are not within the limits specified by the manufacturer. In the absence of the manufacturer's specifications, a registrant shall not use an x-ray machine if the measured kVp is not within 10 percent of the indicated kVp value and the measured time duration is not within 20 percent of the indicated time.

Historical Note

New Section R9-7-605, including Tables I and II, recodified from R12-1-605, Tables I and II, at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-606. Fluoroscopic and Fluoroscopic Treatment Simulator Systems

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- A. Useful beam limitation.** A registrant shall:
1. Provide beam-limiting devices that restrict the entire cross section of the useful beam to less than the area of the primary barrier at any Source-to-Image Receptor Distance (SID);
 2. Ensure that the x-ray field size produced by fluoroscopic systems without image intensification does not extend beyond the visible area of the image receptor at any SID;
 3. Ensure that the x-ray field size produced by fluoroscopic systems with image intensification and automatic shutter control does not exceed the diameter of the image receptor at any SID;
 4. Ensure that the x-ray field size produced by fluoroscopic systems with image intensification and manual shutter control does not exceed the diameter of the image receptor with the fluoroscopic imaging assembly positioned at the maximum usable distance above the table top; and
 5. Ensure that the x-ray field size produced by fluoroscopic systems with image intensification and manual shutter control, where the fluoroscopic tube is above the table top, does not exceed the diameter of the image receptor with the shutters open to the fullest extent, and at the maximum SID which the fluoroscopic tube is capable of producing radiation.
- B. Fluoroscopic primary protective barrier.** A registrant shall:
1. Provide the fluoroscopic imaging assembly with a primary protective barrier that always intercepts the entire cross section of the useful beam at any SID.
 2. Ensure that the fluoroscopic tube is not capable of producing radiation unless the primary protective barrier is in a position to intercept the entire cross section of the useful beam.
 3. Ensure that fluoroscopic radiation production automatically terminates if the primary protective barrier is removed from the useful beam.
 4. Ensure that the fluoroscopic primary protective barrier meets the following requirements for attenuation of the useful beam:
 - a. For equipment installed before November 15, 1967, the required lead equivalent of the barrier is not less than 1.5 millimeters for fluoroscopes that produce less than 100 kVp, 1.8 millimeters for fluoroscopes that produce at least 100 kVp but less than 125 kVp, and 2.0 millimeters for fluoroscopes that produce 125 or more kVp. (For conventional fluoroscopes, these requirements may be assumed to have been met if the exposure rate measured at the viewing surface of the fluorescent screen does not exceed 12.9 microcoulombs per kilogram (50 milliroentgens) per hour with the screen in the primary beam of the fluoroscope without a patient, under normal operating conditions.) For equipment installed or reinstalled, the required lead equivalent of the barrier is 2.0 millimeters for fluoroscopes that produce less than 125 kVp or 2.7 millimeters for fluoroscopes that produce 125 or more kVp.
 - b. For fluoroscopic systems that use image intensification, the exposure rate, due to transmission through the primary protective barrier, does not exceed 516 nC/kg (2 milliroentgens) per hour at 10 centimeters (4 inches) from any accessible surface of the fluoroscopic imaging assembly, beyond the plane of the image receptor for each 258 μ C/kg (1 roentgen) per minute of entrance exposure rate.
 - c. Compliance with subsections (B)(4)(a) and (b) is determined with the image receptor positioned 35.5 centimeters (14 inches) from the panel or table top, at normal operating technical factors and with the attenuation block in the useful beam for systems with image intensification.
- C. Entrance exposure rate limits.** A registrant shall ensure that:
1. The exposure rate, measured at the point where the center of the useful beam enters the patient does not exceed 2.6 mC/kg (10 roentgens) per minute at any combination of tube potential and current, except during recording of fluoroscopic images or if provided with optional high-level control.
 2. If provided with optional high-level control, the equipment is not operable at any combination of tube potential and current that will result in an exposure rate in excess of 2.6 mC/kg (10 roentgens) per minute at the point where the center of the useful beam enters the patient, unless the high-level control is activated, in which case an exposure rate in excess of 5.2 mC/kg (20 roentgens) per minute is prohibited.
 - a. Special means of activation of high-level controls, such as additional pressure applied continuously by the operator, are required to avoid accidental use.
 - b. A continuous signal audible to the fluoroscopist is required to indicate that the high-level control is being employed.
 3. The Department shall determine compliance with subsections (C)(1) and (2) as follows:
 - a. Remove grids and compression devices from the useful beam during the measurement;
 - b. If the source is below the table, measure the exposure rate 1 centimeter above the table top or cradle; and
 - c. If the source is above the table, measure the exposure rate 30 centimeters (11.8 inches) above the table top with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement;
 - d. For fluoroscopy involving a mobile C-arm x-ray system, measure the exposure rate 30 centimeters (11.8 inches) from the input surface of the fluoroscopic imaging assembly;
 - e. For fluoroscopy involving a C-arm x-ray system, measure the exposure rate 30 centimeters (11.8 inches) from the input surface of the fluoroscope imaging assembly, with the x-ray source positioned at any available SID, provided that the end of the beam-limiting device or spacer is not closer than 30 centimeters (11.8 inches) from the input surface of the fluoroscopic image assembly; and
 - f. For a lateral fluoroscope, measure the exposure rate 15 centimeters (5.9 inches) from the centerline of the x-ray table and in the direction of the x-ray source with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement. If the tabletop is movable, it shall be positioned as closely as possible to the lateral x-ray source, with the end of the beam-limiting device or spacer no closer than 15 centimeters (5.9 inches) to the centerline of the x-ray table.
- D. The registrant shall ensure that the source-to-skin distance is not less than:**
1. 38 centimeters (15 inches) on stationary fluoroscopes installed after January 2, 1996;
 2. 35.5 centimeters (14 inches) on stationary fluoroscopes which are in operation before January 2, 1996;

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3. 30 centimeters (11.8 inches) on all mobile fluoroscopes; and
 4. 20 centimeters (8 inches) for image-intensified fluoroscopes used for a specific surgical application. The registrant shall follow any precautionary measures in the users operating manual.
- E.** Each fluoroscopic system installation is subject to all of the following requirements for the control of stray radiation. A registrant shall:
1. Provide a shielding device of at least 0.25 millimeter lead equivalent for covering the Bucky-slot during fluoroscopy;
 2. Except for fluoroscopy performed using portable or mobile C-arm x-ray systems or during surgical procedures or cardiac catheterization, provide protective drapes, or hinged or sliding panels of at least 0.25 millimeters lead equivalent, between the patient and fluoroscopist to intercept scattered radiation that would otherwise reach the fluoroscopist and others near the machine, but not substitute drapes and panels for a protective apron; and
 3. Ensure that protective aprons of at least 0.25 millimeter lead equivalent are worn in the fluoroscopy room by each person, except the patient, whose body is likely to be exposed to 50 μ Sv/hr (5 mR/hr) or more.
- F.** Exposure control. A registrant shall:
1. Ensure that activation of the fluoroscopic tube is controlled by a "dead-man" switch;
 2. Provide a manual reset cumulative timing device, which is activated only during production of radiation in the fluoroscopic mode, to indicate elapsed time by an audible signal or terminate production of radiation;
 3. Provide a device for exposure control in the "spot film" mode that terminates exposure either automatically, or after a preset time interval, preset number of pulses, preset product of current and time, or preset exposure; and
 4. Ensure that the x-ray tube potential and current are continuously indicated.
- G.** A registrant shall provide systems used for mobile fluoroscopy with image intensification.
- H.** Fluoroscopic treatment simulators. Simulators are exempt from subsections (A) through (G). A registrant shall:
1. Use a beam limiting device that restricts the beam to the area of clinical interest.
 2. Include and label devices for settings or physical factors, such as kVp, mA, or exposure time on the control panel;
 3. Ensure that the fluoroscopic exposure switch or switches are of the "deadman" type;
 4. Ensure that each person whose presence is necessary is in the simulator room during exposure and protected with a lead apron of at least 0.5 millimeter lead equivalent or a portable shield. Any person who places their hands in the useful x-ray beam shall wear leaded gloves; and
 5. Ensure that the operator stands behind a barrier and is able to observe the patient during simulator exposures.
- Historical Note**
- New Section R9-7-606 recodified from R12-1-606 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-607. Additional X-ray Machine Standards, Shielding Requirements, and Procedures, Except Mobile Fluoroscopic, Dental Panoramic, Cephalometric, Dental CT, or Dental Intra-oral Radiographic Systems**
- A.** Useful beam limitation. A registrant shall:
1. Provide a means to restrict the useful beam to the area of clinical interest for any combination of SID and image receptor size employed.
 2. Ensure that beam-limiting devices meet the following requirements:
 - a. Devices that project a circular radiation field restrict the diameter of the useful beam, not to exceed the diagonal dimension of the image receptor by greater than 2 percent of the SID;
 - b. Devices that project a rectangular or square radiation field restrict the useful beam to the longitudinal and transverse dimensions of the image receptor to within 2 percent of the SID;
 - c. Beam limiting devices that do not incorporate light beams to define the projected radiation field are clearly labeled, indicating the SID and image receptor size at which each device complies with the applicable requirements of subsection (A)(2)(a) or (b);
 - d. Adjustable beam-limiting devices installed after July 31, 1971, incorporate light beams to define the projected dimensions of the useful beam and provide an average illumination of not less than 100 lux (9 foot-candles) at 1 meter (3.3 feet) or at the maximum SID, whichever is less. The average illumination shall be based upon measurements made in the approximate center of each quadrant of the light field; and
 - e. All beam-limiting devices installed, on general purpose fixed and mobile radiographic systems, provide stepless means of continuous adjustment of the projected radiation field size.
 3. Provide a means to align the center of the radiation field to the center of the image receptor to within 2 percent of the SID.
- B.** Radiation exposure control. A registrant shall:
1. Provide a means to terminate the exposure at a preset time interval, preset product of current and time, preset number of pulses, or a preset exposure to the image receptor. The registrant shall ensure that it is not possible to make an exposure when the exposure control device is set to a "zero" or "off" position if either position is provided.
 2. Ensure that the exposure switch is a "dead-man" switch, and except for those used with "spot-film" devices in fluoroscopy, is arranged so that it cannot be conveniently operated outside a shielded area.
 3. Provide x-ray systems with automatic exposure control, which indicates at the control panel when this mode is selected, and a visual and audible signal, which indicates termination of the exposure.
 4. Use a control panel that includes:
 - a. A device (usually a milliamp meter) that will give a positive indication during radiation production; and
 - b. Control setting indicators or meters that indicate the appropriate technical factors: kVp, mAs, mA, or exposure time, and any special mode selected for the exposure.
- C.** Structural shielding. A registrant shall:
1. Ensure that all wall, floor and ceiling areas struck by the useful beam have primary protective barriers. Primary protective barriers in walls shall extend from the finished floor to a minimum height of 2.13 meters (7 feet);
 2. Ensure that secondary protective barriers are provided in all wall, floor, and ceiling areas that do not have primary protective barriers or where the primary protective barrier

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requirements are lower than the secondary barrier requirements;

3. Ensure that the operator's station is behind a protective barrier sufficient to ensure compliance with R9-7-408, R9-7-414, and R9-7-416, and the operator is able to communicate with the patient from the operator's station.
4. Provide a window of transparent material equal in attenuation to that required by the adjacent barrier, or a mirror system, that is large enough and placed so that the operator can see the patient during exposure without having to leave the protected area.

D. Operating procedures. A registrant shall:

1. Use mechanical supporting or restraining devices, if a patient must be held in position for radiography. If the patient must be held by an individual, the registrant shall ensure that the individual is protected with appropriate shielding devices, such as protective gloves and apron, and is positioned so that no part of the body of the individual holding the patient is struck by the useful beam;
2. Ensure that only individuals required for the radiographic procedure are in the radiographic room during exposure, and, except for the patient, all these individuals are equipped with protective devices;
3. Restrict the useful beam to the clinical area of interest;
4. Provide a chart in the vicinity of the diagnostic x-ray system's control panel that specifies, for all routine examinations performed with the system, the following information:
 - a. Patient's anatomical size and technique factors;
 - b. Type and size of the film or film screen combination;
 - c. Type and focal distance of the grid, if any;
 - d. X-ray source-to-image receptor distance; and
 - e. Type and location of gonad shielding.
5. Provide documentation of the following items:
 - a. The patient's identity;
 - b. The x-ray examination, as recorded in a radiographic log;
 - c. The date the examination is performed;
 - d. The number of projections (if applicable), or on-time, or dose factors depending upon the unit; and
 - e. A method of identifying the individual who performed the examination.
6. The registrant shall maintain in chronological order, the documentation required in subsection (D)(5) in written or readily available electronic form. The documentation shall be maintained for three years from the date the examination is performed.

Historical Note

New Section R9-7-607 recodified from R12-1-607 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-608. Mobile Diagnostic Radiographic and Mobile Fluoroscopic Systems, Except Dental Panoramic, Cephalometric, Dental CT, or Dental Intraoral Radiographic Systems

A. Equipment

1. All requirements of R9-7-607(A) and (B) apply.
2. For mobile radiographic units the registrant shall provide a "dead-man" switch, together with an electrical cord of sufficient length so that the operator can stand out of the useful beam and at least 1.82 meters (6 feet) from the patient during all x-ray exposures.
3. A registrant shall ensure that a cone, spacer frame, or inherent provision is made so that the equipment is not operated at source-skin distances of less than 20.3 centimeters (8 inches).

B. Structural shielding. If a mobile unit is used routinely in one location, it is considered a fixed installation subject to the shielding requirements in R9-7-603(C), and R9-7-607(C).

C. Operating procedures

1. All provisions of R9-7-607(D) apply.
2. An individual who operates a mobile x-ray system shall comply with R9-7-419(B).

Historical Note

New Section R9-7-608 recodified from R12-1-608 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-609. Chest Photofluorographic Systems

Use of chest photofluorographic systems for diagnosis of human disease is prohibited.

Historical Note

New Section R9-7-609 recodified from R12-1-609 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-610. Dental Intraoral Radiographic Systems

A. Equipment. A registrant shall:

1. Use a protective tube housing of diagnostic type;
2. Use diaphragms or cones for restricting the useful beam and to provide the same degree of protection as the housing. The diameter of the useful beam at the end of the cone or spacer frame shall not be more than 7.6 centimeters (3 inches) for intraoral radiography;
3. Ensure that a cone or spacer frame provides a source-to-skin distance of not less than 17.8 centimeters (7 inches) with apparatus operating above 50 kVp or 10 centimeters (4 inches) with apparatus operating at 50 kVp or below for intraoral radiography;
4. Provide a timer to terminate the exposure at a preset time interval, a preset product of current and time, a preset number of pulses, or a preset radiation exposure to the image receptor;
5. Ensure that it is not possible to make an exposure if the timer is set to the "zero" or "off" position;
6. Ensure that the tube head remains stationary if placed in the exposure position;
7. Ensure that the exposure initiating device is a "dead-man" switch;
8. Use a control panel that includes:
 - a. A means to provide visual or audible indication, detectable at or from the operator's position, during x-ray production or exposure termination; and
 - b. Indication of technique factors for kVp, mA, exposure time, and any special mode that may be selected for the exposure;
9. Use technique factors, where deviation of measured values from indicated values for kVp and exposure time do not exceed the limits specified by the manufacturer. In the absence of the manufacturer's specifications, the deviation shall not exceed plus or minus 10 percent of the indicated value for kVp and plus or minus 20 percent for exposure time duration;
10. For a digital system that uses an electronic sensor, use digital radiography techniques that permit reducing x-ray beam on-time to 25 percent of the exposure time required for "D" speed film or lower, reducing radiation to the patient by the same rate; and
11. For a computed radiography (imaging plate (IP) made of photostimulable phosphor) system that uses an imaging plate, use radiography techniques that permit reducing x-ray beam on-time to 50 percent of the exposure time required for "D" speed film or lower, reducing radiation to the patient by the same rate.

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B. Structural shielding. The registrant shall:

1. Provide dental installations with primary and secondary barriers to ensure compliance with the personnel exposure requirements in Article 4 of this Chapter; (Note: In many cases, structural materials of ordinary walls suffice as a protective barrier without addition of special shielding material.)
2. Install primary protective barriers between rooms or areas if dental x-ray units are used in adjacent rooms or areas;
3. Provide each installation with a protective barrier for the operator or arrange the installation so that the operator can stand at least 1.82 meters (6 feet) from the patient and well away from the useful beam;
4. Arrange the operator's position to allow visual contact with the patient during exposure; and
5. Comply with fixed installation requirements, if a mobile unit is used routinely in one location.

C. Operating procedures

1. A dentist or other persons shall not hold patients or films during exposure. Only persons required for the radiographic procedure are allowed in the radiographic room during exposures.
2. An operator shall stand at least 1.82 meters (6 feet) from the patient or behind a protective barrier during each exposure.
3. An operator shall ensure that only the patient is in the useful beam.
4. The licensed practitioner or other person shall not hold the tube housing or the cone during the exposure.
5. A registrant shall not perform dental fluoroscopy without an image intensifier.

Historical Note

New Section R9-7-610 recodified from R12-1-610 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-610.01. Hand-held Intraoral Dental Radiographic Unit Requirements For Use**A.** Registrants are subject to the following requirements for Intraoral dental radiographic units designed to be operated as a hand-held unit:

1. For all uses:
 - a. Operators of hand-held intraoral dental radiographic units shall be specifically trained to operate such equipment.
 - b. A hand-held intraoral dental radiographic unit shall be held without any motion during a patient examination. A tube stand may be utilized to immobilize a hand-held intraoral dental radiographic unit during patient examination.
 - c. The operator shall ensure there are no bystanders within a radius of at least six feet from the patient being examined with a hand-held intraoral radiographic unit.
2. Additional requirements for operatories in permanent facilities:
 - a. Hand-held intraoral dental radiographic units shall be used for patient examinations in dental operatories that meet the structural shielding requirements specified by the Department or by a qualified health or medical physicist.
 - b. Hand-held intraoral dental radiographic units shall not be used for patient examinations in hallways and waiting rooms.

B. Hand-held units may only be used in a manner as specified on the registration issued by the Department.**Historical Note**

New Section R9-7-610.01 recodified from R12-1-610.01 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-611. Therapeutic X-ray Systems of Less Than 1 MeV**A.** Equipment requirements.

1. Leakage radiation. When the x-ray tube is operated at its maximum rated tube current for the maximum kVp, the leakage air kerma rate shall not exceed the value specified at the distance specified for that classification of therapeutic radiation machine. For each therapeutic radiation machine, the registrant shall determine, or obtain from the manufacturer, the leakage radiation existing at the positions specified:
 - a. 5-50 kVp Systems. The leakage air kerma rate measured at any position 5 centimeters from the tube housing assembly shall not exceed 1 mGy (100 mrad) in any one hour.
 - b. Greater than 50 kVp and less than 1MeV Systems. The leakage air kerma rate measured at a distance of 1 meter from the target in any direction shall not exceed 1 centigray (1 rad) in any 1 hour. This air kerma rate measurement may be averaged over areas no larger than 100 square centimeters (100 cm²). In addition, the air kerma rate at a distance of 5 centimeters from the surface of the tube housing assembly shall not exceed 30 centigray (30 rad) per hour.
2. Permanent beam limiting devices. A registrant shall ensure that fixed diaphragms or cones used for limiting the useful beam provide the same or higher degree of attenuation as required for the tube housing assembly.
3. Removable and adjustable beam-limiting devices. A registrant shall ensure that:
 - a. Removable and adjustable beam-limiting devices, for the portion of the useful beam to be blocked by these devices, transmit not more than 1 percent of the original x-ray beam at the maximum kilovoltage and maximum treatment filter; and
 - b. When adjustable beam limiting devices are used, the position and shape of the radiation field shall be indicated by a light beam.
4. Filter system. A registrant shall ensure that the filter system is designed so that:
 - a. Filters cannot be accidentally displaced from the useful beam at any possible tube orientation;
 - b. For equipment installed after January 1, 2011, an interlock system prevents irradiation if the proper filter is not in place;
 - c. The air kerma rate escaping from the filter slot shall not exceed 1 centigray (1 rad) per hour at one (1) meter under any operating conditions; and
 - d. Each filter is marked regarding its material of construction and its thickness or wedge angle for wedge filters.
5. X-ray tube immobilization. A registrant shall ensure that the tube housing assembly is capable of being immobilized during stationary treatments and the x-ray tube shall be so mounted that it cannot accidentally turn or slide with respect to the housing aperture.
6. Focal spot marking. A registrant shall ensure that the tube housing assembly is marked so that it is possible to determine the location of the focal spot to within 5 millimeters, and the marking is readily accessible for use during calibration procedures.
7. Therapy treatment timers. A registrant shall:

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- a. Provide a timer that has a display at the treatment control panel. The timer shall have a preset time selector and an elapsed time indicator;
 - b. Ensure that the timer is a cumulative timer that activates with the radiation, retains its reading after irradiation is interrupted or terminated, and requires the operator to reset the preset time selector after irradiation is terminated and before irradiation can be reinitiated;
 - c. Ensure that the timer terminates irradiation when a preselected time has elapsed;
 - d. Ensure that the timer permits accurate presetting and determination of exposure times as short as one second;
 - e. Ensure that the timer does not permit an exposure if set at zero; and
 - f. Ensure that the timer does not activate until the shutter is opened if irradiation is controlled by a shutter mechanism.
8. Control panel functions. In addition to the displays required in other provisions of this Section, a registrant shall ensure that a control panel has:
- a. An indication of whether electrical power is available at the control panel and if activation of the x-ray tube is possible;
 - b. An indication of whether x-rays are being produced;
 - c. A means for indicating kVp and x-ray tube current;
 - d. A means for terminating an exposure at any time;
 - e. A locking device that will prevent unauthorized use of the x-ray system; and
 - f. For x-ray equipment installed after January 2, 1996, a positive display of specific filters in the beam.
9. Multiple tubes. If one control panel is used to energize more than one x-ray tube a registrant shall ensure that:
- a. It is possible to activate only one x-ray tube during any time interval,
 - b. There is an indication at the control panel that identifies which x-ray tube is energized, and
 - c. There is an indication at the tube housing assembly when that tube is energized.
10. Source-to-patient distance. A registrant shall ensure that there is a means of determining the source-to-patient distance to within 1 centimeter.
11. Shutters. Unless it is possible to bring the x-ray output to the prescribed exposure parameters within five seconds, a registrant shall ensure that the entire useful beam is automatically attenuated by a shutter with a lead equivalency not less than that of the tube housing assembly. In addition the registrant shall ensure that:
- a. After the unit is at operating parameters, the operator controls the shutter electrically from the control panel; and
 - b. An indication of shutter position appears at the control panel.
12. Low filtration x-ray tubes. A registrant shall ensure that each x-ray system equipped with a beryllium or other low-filtration window is clearly labeled as low-filtration equipment on the tube housing assembly and at the control panel.
- B. Facility design requirements.** In addition to shielding necessary to meet the requirements of Article 4 of this Chapter, a registrant shall ensure that:
1. Warning lights. A treatment room to which access is possible through more than one entrance has a warning light, in a readily observable position near the outside of any access doors, which will indicate when the useful beam is "on."
 2. Voice communication. Two-way oral communication is possible between the patient and the operator at the control panel; or where excessive noise levels make oral communication impractical, another effective method of communication.
 3. Viewing systems. Windows, mirrors, closed-circuit television, or an equivalent system, permits continuous observation of the patient during irradiation and is located so that the operator can observe the patient from the control panel. If the primary viewing system is by electronic means (for example, television), the registrant shall have an alternate viewing system for use in the event of electronic failure.
 4. Systems above 150 kVp. For treatment rooms that contain an x-ray system capable of operating above 150 kVp a registrant shall ensure that:
 - a. All necessary shielding, except for any beam interceptor, is provided by fixed barriers;
 - b. The control panel is within a protective booth equipped with an interlocked door, or located outside the treatment rooms;
 - c. All doors of the treatment room are electrically connected to the control panel so that x-ray production cannot occur unless all doors are closed; and
 - d. Opening of any door to the treatment room during exposure results in automatic termination of x-ray production or reduction of radiation levels to an average of no more than 516 nC/kg (2 milliroentgens) per hour and a maximum of 2.6 µC/kg (10 milliroentgens) per hour at a distance of 1 meter (3.3 feet) from the target in any direction, and restoration of the machine to full operation is possible only from the control panel after the termination or reduction.
- C. Surveys.** A registrant shall ensure that:
1. All facilities, both new and existing, or not previously surveyed, are surveyed before being put into service for the treatment of patients by, or under the direction of, a person trained and experienced in the principles of radiation protection, and perform additional surveys of a facility after any change in the facility or a facility's equipment that might cause a significant increase in radiation hazard, before being put into service for the treatment of patients.
 2. The person conducting the survey reports the survey findings in writing to the individual in charge of the facility and maintains a copy of the survey report for inspection by the Department.
 3. The installation is operated in compliance with any limitations indicated by the protection survey required by subsection (C)(1).
- D. Calibrations.** A registrant shall ensure that:
1. The calibration of a therapeutic x-ray system includes, but is not limited to, the following determinations:
 - a. Verification that the x-ray system is operating in compliance with the design specifications;
 - b. The dose rate equivalent for each combination of field size, technique factors, filter, and treatment distance used;
 - c. The degree of congruence between the radiation field and the field indicated by the localizing device if a localizing device is used; and

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- d. An evaluation of the uniformity of the radiation field symmetry for the field sizes used and any dependence upon source housing assembly orientation;
 2. The calibration of an x-ray system is performed at intervals not to exceed annually and after any change or replacement of components that could cause a change in the radiation output;
 3. The calibration of the radiation output of the x-ray system is performed by, or under the direction of, a person trained and experienced in performing calibrations, who is physically present at the facility during calibration;
 4. Calibration of the radiation output of an x-ray system is performed with a calibrated instrument. The registrant shall ensure that calibration of the instrument is directly traceable to the National Institute of Standards and Technology (NIST) and that the instrument has been calibrated within the preceding 24 months;
 5. Records of calibration performed under subsection (D)(3) are maintained for at least three years after completion of the calibration and are made available for inspection by the Department; and
 6. A copy of the most recent calibration is available for use by the operator at the control panel.
- E.** Spot checks. A registrant shall ensure that spot checks are performed on therapeutic x-ray systems capable of operation at greater than 150 kVp. The registrant shall ensure that spot checks meet the following requirements:
1. The spot-check procedures are in writing and have been developed by a qualified expert;
 2. The measurements taken during the spot checks demonstrate the degree of consistency of the operating characteristics that can affect the radiation output of the x-ray system;
 3. The written spot-check procedure specifies the frequency of the tests or measurements, made at intervals not to exceed monthly;
 4. The spot-check procedure identifies conditions that require recalibration of the system in accordance with subsection (D)(1); and
 5. Records of spot-check measurements performed as required by subsection (E)(3) are maintained, available for inspection by the Department, for three years following the measurements.
- F.** Operating procedures. A registrant shall ensure that:
1. Therapeutic x-ray systems are not left unattended unless the system is secured according to subsection (A)(8)(e);
 2. If a patient must be held in position for radiation therapy, mechanical supporting or restraining devices are used;
 3. The tube housing assembly is not held by an individual during exposures; and
 4. At 150 kVp or more the patient is the only person in the treatment room during production of radiation. At less than 150 kVp an individual may be in the room with patient, provided the individual is protected by a barrier sufficient to meet the requirements of Article 4 of this Chapter.
- G.** Electronic Brachytherapy units are exempt from the requirements of this Section.
- Historical Note**
New Section R9-7-611 recodified from R12-1-611 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
- R9-7-611.01. Electronic Brachytherapy to Deliver Interstitial and Intracavitary Therapeutic Radiation Dosage**
- A.** Electronic brachytherapy devices used to deliver interstitial and intracavitary therapeutic radiation dosage shall be subject to the requirements of this Section, and unless otherwise specified in this Section shall be exempt from the requirements of R9-7-611.
1. An electronic brachytherapy device that does not meet the requirements of this Section shall not be used for irradiation of patients; and
 2. An electronic brachytherapy device shall only be utilized for human use applications specifically approved by the U.S. Food and Drug Administration (FDA), unless participating in a research study approved by the registrant's Institutional Review Board (IRB).
- B.** Each facility location authorized to use an electronic brachytherapy device in accordance with this Section shall possess appropriately calibrated portable monitoring equipment. At a minimum, such equipment shall include a portable survey instrument capable of measuring dose rates over the range 10 μ Sv (1 mrem) per hour to 10 mSv (1000 mrem) per hour. The survey instrument shall be capable of measuring as low as 10 μ Sv (1 mrem) per hour in the energy range of the electronic brachytherapy unit for which the survey instrument is to be used. Published correction factors utilized in conjunction with the instrument's readings may be used to achieve sensitivity. The survey instrument or instruments shall be operable and calibrated before first use, at intervals not to exceed 12 months, and after survey instrument repairs.
- C.** Facility Design Requirements for Electronic Brachytherapy Devices. In addition to shielding adequate to meet requirements of R9-7-603(C), the treatment room shall meet the following design requirements:
1. If applicable, provision shall be made to prevent simultaneous operation of more than one therapeutic radiation machine in a treatment room.
 2. Access to the treatment room shall be controlled by a door at each entrance.
 3. Each treatment room shall have provisions to permit continuous oral communication and visual observation of the patient from the treatment control panel during irradiation. The electronic brachytherapy device shall not be used for patient irradiation unless the patient can be observed.
 4. For electronic brachytherapy devices capable of operating below 150 kVp, radiation shielding for the staff in the treatment room may be available, either as a portable shield or as localized shielded material around the treatment site or both, in lieu of the requirements for room shielding. The shielding shall meet the requirements of R9-7-603(C).
 5. For electronic brachytherapy devices capable of operating at or greater than 150 kVp, the facility must meet the requirements of R9-7-611(B)(4).
- D.** Control Panel Functions. The control panel, in addition to the displays required by other provisions in this Section, shall:
1. Provide an indication of whether electrical power is available at the control panel and if activation of the electronic brachytherapy source is possible;
 2. Provide an indication of whether x-rays are being produced;
 3. Provide a means for indicating electronic brachytherapy source potential and current;
 4. Provide the means for terminating an exposure at any time; and
 5. Include an access control (locking) device that will prevent unauthorized use of the electronic brachytherapy device.

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- E.** Timer. A suitable irradiation control device (timer) shall be provided to terminate the irradiation after a pre-set time interval or integrated charge on a dosimeter-based monitor.
1. A timer shall be provided at the treatment control panel. The timer shall indicate the planned setting and the time elapsed or remaining;
 2. The timer shall not permit an exposure if set at zero;
 3. The timer shall be a cumulative device that activates with an indication of "BEAM-ON" that retains its reading after irradiation is interrupted or terminated. After irradiation is terminated and before irradiation can be reinitiated, it shall be necessary to reset the elapsed time indicator;
 4. The timer shall terminate irradiation when a pre-selected time has elapsed, if any dose monitoring system has not previously terminated irradiation.
 5. The timer shall permit setting of exposure times as short as 0.1 second; and
 6. The timer shall be accurate to within one percent of the selected value or 0.1 second, whichever is greater.
- F.** Qualified Medical Physicist Support.
1. The services of a Qualified Medical Physicist shall be required in facilities having electronic brachytherapy devices. The Qualified Medical Physicist shall be responsible for:
 - a. Evaluation of the output from the electronic brachytherapy source;
 - b. Generation of the necessary dosimetric information;
 - c. Supervision and review of treatment calculations prior to initial treatment of any treatment site;
 - d. Establishing the periodic and day-of-use quality assurance checks and reviewing the data from those checks as required in subsection (J);
 - e. Consultation with the authorized user in treatment planning, as needed; and
 - f. Performing calculations/assessments regarding patient treatments that may constitute a medical event.
 2. If the Qualified Medical Physicist is not a full-time employee of the registrant, then the operating procedures required by subsection (G) shall also specifically address how the Qualified Medical Physicist is to be contacted for problems or emergencies, as well as the specific actions, if any, to be taken until the Qualified Medical Physicist can be contacted.
- G.** Operating Procedures.
1. Only individuals approved by the authorized user, Radiation Safety Officer, or Qualified Medical Physicist shall be present in the treatment room during treatment;
 2. Electronic brachytherapy devices shall not be made available for medical use unless the requirements of subsections (A), (H), and (I) have been met;
 3. The electronic brachytherapy device shall be inoperable, either by hardware or password, when unattended by qualified staff or service personnel;
 4. During operation, the electronic brachytherapy device operator shall monitor the position of all persons in the treatment room, and all persons entering the treatment room, to prevent entering persons from unshielded exposure from the treatment beam;
 5. If a patient must be held in position during treatment, mechanical supporting or restraining devices shall be used;
 6. Written procedures shall be developed, implemented, and maintained for responding to an abnormal situation. These procedures shall include:
 - a. Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions; and
 - b. The names and telephone numbers of the authorized users, the Qualified Medical Physicist, and the Radiation Safety Officer to be contacted if the device or console operates abnormally.
- H.** Safety Precautions for Electronic Brachytherapy Devices.
1. Any person in the treatment room, other than the person being treated, shall wear personnel monitoring devices;
 2. An authorized user and a Qualified Medical Physicist shall be physically present during the initiation of all new patient treatments involving the electronic brachytherapy device;
 3. After the first treatment one of the following individuals shall be physically present during continuation of all patient treatments involving the electronic brachytherapy device:
 - a. A Qualified Medical Physicist, or
 - b. An authorized user, or
 - c. A certified therapy technologist (CTT) certified by the Arizona Medical Radiologic Technology Board of Examiners, under the direct supervision of an authorized user, who has been trained in the operation and emergency response for the electronic brachytherapy device;
 4. When shielding is required by subsection (C)(4), surveys shall be conducted to ensure that the requirements of R9-7-408, R9-7-414, and R9-7-416 are met. Alternatively, a Qualified Medical Physicist shall designate shield locations sufficient to meet the requirements of R9-7-603(C) and R9-7-607(C) for any individual, other than the patient, in the treatment room; and
 5. All personnel in the treatment room are required to remain behind shielding during treatment. A Qualified Medical Physicist shall approve any deviation from this requirement and shall designate alternative radiation safety protocols, compatible with patient safety, to provide an equivalent degree of protection.
- I.** Electronic Brachytherapy Source Calibration Measurements.
1. Calibration of the electronic brachytherapy source output shall be performed by, or under the direct supervision of, a Qualified Medical Physicist. If the control console is integral to the electronic brachytherapy device, the required procedures shall be kept where the operator is located during electronic brachytherapy device operation;
 2. Calibration of the electronic brachytherapy source output shall be made for each electronic brachytherapy source, or after any repair affecting the x-ray beam generation, or when indicated by the electronic brachytherapy source quality assurance checks;

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3. Calibration of the electronic brachytherapy source output shall utilize a dosimetry system appropriate for the energy output of the unit and calibrated by the National Institute for Standards and Technology (NIST) or by an American Association of Physicists in Medicine (AAPM) Accredited Dosimetry Calibration Laboratory (ADCL). The calibration shall have been performed within the previous 24 months and after any servicing that may have affected system calibration;
 4. Calibration of the electronic brachytherapy source output shall include, as applicable, determination of:
 - a. The output within two percent of the expected value, if applicable, or determination of the output if there is no expected value;
 - b. Timer accuracy and linearity over the typical range of use;
 - c. Proper operation of back-up exposure control devices;
 - d. Evaluation that the relative dose distribution about the source is within five percent of that expected; and
 - e. Source positioning accuracy to within one millimeter within the applicator;
 5. Calibration of the x-ray source output required shall be in accordance with current published recommendations from a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of a calibration protocol published by a national professional association, the manufacturer's calibration protocol shall be followed.
 6. The registrant shall maintain a record of each calibration in an auditable form for the duration of the registration. The record shall include: the date of the calibration; the manufacturer's name, model number and serial number for the electronic brachytherapy device and a unique identifier for its electronic instrument or instruments brachytherapy source; the model numbers and serial numbers of the instrument or instruments used to calibrate the electronic brachytherapy device; and the name and signature of the Qualified Medical Physicist responsible for performing the calibration.
- J. Periodic and Day-of-Use Quality Assurance Checks for Electronic Brachytherapy Devices.**
1. Quality assurance checks shall be performed on each electronic brachytherapy device:
 - a. At the beginning of each day of use;
 - b. Each time the device is moved to a new room or site; and
 - c. After each x-ray tube installation.
 2. The registrant shall perform periodic quality assurance checks required in accordance with procedures established by the Qualified Medical Physicist;
 3. To satisfy the requirements of this subsection, radiation output quality assurance checks shall include at a minimum:
 - a. Verification that output of the electronic brachytherapy source falls within three percent of expected values, as appropriate for the device, as determined by:
 - i. Output as a function of time, or
 - ii. Output as a function of setting on a monitor chamber.
 - b. Verification of the consistency of the dose distribution to within three percent (or the manufacturer's or Qualified Medical Physicist's documented recommendation not to exceed five percent), observed at the source calibration required by subsection (I); and
 - c. Validation of the operation of positioning methods to ensure that the treatment dose exposes the intended location within one millimeter; and
 4. The registrant shall use a dosimetry system that has been intercompared within the previous 12 months with the dosimetry system described in this Section to make the quality assurance checks required in subsection (J)(3);
 5. The registrant shall review the results of each radiation output quality assurance check to ensure that:
 - a. An authorized user and Qualified Medical Physicist are immediately notified if any parameter is not within its acceptable tolerance, and the electronic brachytherapy device is not used until the Qualified Medical Physicist has determined that all parameters are within their acceptable tolerances;
 - b. If all radiation output quality assurance check parameters appear to be within their acceptable range, the acceptable quality assurance checklist shall be reviewed and signed by either the authorized user or Qualified Medical Physicist prior to the next patient use of the unit. In addition, the Qualified Medical Physicist shall review and sign the results of each radiation output quality assurance check at intervals not to exceed 30 days.
 6. To satisfy the requirements of subsection (J)(1), safety device quality assurance checks shall, at a minimum, assure:
 - a. Proper operation of radiation exposure indicator lights on the electronic brachytherapy device and on the control console;
 - b. Proper operation of viewing and intercom systems in each electronic brachytherapy facility, if applicable;
 - c. Proper operation of radiation monitors, if applicable;
 - d. The integrity of all cables, catheters or parts of the device that carry high voltages; and
 - e. Connecting guide tubes, transfer tubes, transfer-tube-applicator interfaces, and treatment spacers are free from any defects that interfere with proper operation.
 7. If the results of the safety device quality assurance checks required in subsection (J)(6) indicate the malfunction of any system, a registrant shall secure the control console in the OFF position and not use the electronic brachytherapy device except as may be necessary to repair, replace, or check the malfunctioning system.
 8. The registrant shall maintain a record of each quality assurance check required by this Section in a legible form for three years.
 - a. The record shall include the date of the quality assurance check; the manufacturer's name, model number and serial number for the electronic brachytherapy device; the name and signature of the individual who performed the periodic quality assurance check and the name and signature of the Qualified Medical Physicist who reviewed the quality assurance check;
 - b. For radiation output quality assurance checks required by subsection (J)(3), the record shall also include the unique identifier for the electronic brachytherapy source and the manufacturer's name; model number and serial number for the instrument or instruments used to measure the radiation output of the electronic brachytherapy device.
- K. Therapy-related Computer Systems.** The registrant shall perform acceptance testing on the treatment planning system of electronic brachytherapy-related computer systems in accor-

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dance with current published recommendations from a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of an acceptance testing protocol published by a national professional association, the manufacturer's acceptance testing protocol shall be followed.

1. Acceptance testing shall be performed by, or under the direct supervision of a Qualified Medical Physicist. At a minimum, the acceptance testing shall include, as applicable, verification of:
 - a. The source-specific input parameters required by the dose calculation algorithm;
 - b. The accuracy of dose, dwell time, and treatment time calculations at representative points;
 - c. The accuracy of isodose plots and graphic displays;
 - d. The accuracy of the software used to determine radiation source positions from radiographic images; and
 - e. If the treatment planning system is different from the treatment delivery system, the accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.
 2. The position indicators in the applicator shall be compared to the actual position of the source or planned dwell positions, as appropriate, at the time of commissioning.
 3. Prior to each patient treatment regimen, the parameters for the treatment shall be evaluated for correctness and approved by the authorized user and the Qualified Medical Physicist through means independent of that used for the determination of the parameters.
- L. Training for e-brachytherapy Authorized Users.**
1. The registrant for any therapeutic radiation machine subject to this Section shall require the authorized user to be a physician who is:
 - a. Certified in:
 - i. Radiation oncology or therapeutic radiology by the American Board of Radiology or radiology (combined diagnostic and therapeutic radiology program) by the American Board of Radiology prior to 1976; or
 - ii. Radiation oncology by the American Osteopathic Board of Radiology; or
 - iii. Radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or
 - iv. Therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; or
 - b. In the active practice of therapeutic radiology, and has completed 200 hours of instruction in basic radiation techniques applicable to the use of an external beam radiation therapy unit, 500 hours of supervised work experience, and a minimum of three years of supervised clinical experience.
 2. To satisfy the requirement in subsection (L)(1)(b) for:
 - a. Instruction, the classroom and laboratory training shall include:
 - i. Radiation physics and instrumentation;
 - ii. Radiation protection;
 - iii. Mathematics pertaining to the use and measurement of ionization radiation; and
 - iv. Radiation biology;
 - b. Supervised work experience, training shall be under the supervision of an authorized user and shall include:
 - i. Review of the full calibration measurements and periodic quality assurance checks;
 - ii. Evaluation of prepared treatment plans and calculation of treatment times or patient treatment settings or both;
 - iii. Using administrative controls to prevent medical events as described in R9-7-444;
 - iv. Implementing emergency procedures to be followed in the event of the abnormal operation of an external beam radiation therapy unit or console; and
 - v. Checking and using radiation survey meters; and
 3. A period of supervised clinical experience, training shall include one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Council on Postdoctoral Training of the American Osteopathic Association and an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user. The supervised clinical experience shall include:
 - i. Examining individuals and reviewing their case histories to determine their suitability for external beam radiation therapy treatment, and any limitations or contraindications or both;
 - ii. Selecting proper dose and how it is to be administered;
 - iii. Calculating the therapeutic radiation machine doses and collaborating with the authorized user in the review of patients' progress and consideration of the need to modify originally prescribed doses or treatment plans as warranted by patients' reaction to radiation or both; and
 - iv. Post-administration follow-up and review of case histories.
 4. A physician shall not act as an authorized user until such time as the physician's training has been reviewed and approved by the Department.
 5. Notwithstanding the requirements of subsections (L)(1) through (L)(3), the registrant for any therapeutic radiation machine subject to this Section may also submit the training of the prospective authorized user physician for Department review on a case-by-case basis if the training includes substantially equivalent training as that listed in subsections (L)(1)(b) and (L)(2) and the training includes dosimetry calculation training and experience.
- M. Training for Qualified Medical Physicist.** The registrant for any therapeutic radiation machine subject to this Section shall require the Qualified Medical Physicist to:
1. Be certified with the Department, as a provider of radiation services in the area of calibration and compliance surveys of external beam radiation therapy units; and
 2. Be certified by the American Board of Radiology in:
 - a. Therapeutic radiological physics; or
 - b. Roentgen-ray and gamma-ray physics; or
 - c. X-ray and radium physics; or
 - d. Radiological physics; or
 3. Be certified by the American Board of Medical Physics in Radiation Oncology Physics; or
 4. Be certified by the Canadian College of Physicists in Medicine; or
 5. Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied

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mathematics from an accredited college or university, and have completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of a Qualified Medical Physicist at a medical institution. This training and work experience shall be conducted in clinical radiation facilities that provide high-energy external beam radiation therapy (photons and electrons with energies greater than or equal to one MV/one MeV). To meet this requirement, the individual shall have performed the tasks listed in this subsection under the supervision of a Qualified Medical Physicist during the year of work experience.

N. Qualifications of Operators. Individuals who will be operating a therapeutic radiation machine for medical use shall be certified by the Department as a CTT by the Arizona Medical Radiologic Technology Board of Examiners.

O. Additional training requirements.

1. A registrant shall provide instruction, initially and at least annually, to all individuals who operate the electronic brachytherapy device, as appropriate to the individual's assigned duties, in the operating procedures identified in subsection (G). If the interval between patients exceeds one year, retraining of the individuals shall be provided.
2. In addition to the requirements of subsection (L) for therapeutic radiation machine authorized users and subsection (M) for Qualified Medical Physicists, these individuals shall also receive device-specific instruction initially from the manufacturer, and annually from either the manufacturer or other qualified trainer. The training shall be of a duration recommended by a recognized national professional association with expertise in electronic brachytherapy (when available). In the absence of any training protocol recommended by a national professional association, the manufacturer's training protocol shall be followed. The training shall include, but not be limited to:
 - a. Device-specific radiation safety requirements;
 - b. Device operation;
 - c. Clinical use for the types of use approved by the FDA;
 - d. Emergency procedures, including an emergency drill; and
 - e. The registrant's quality assurance program.
3. A registrant shall retain a record of individuals receiving manufacturer's instruction for three years. The record shall include a list of the topics covered, the date of the instruction, the name or names of the attendee or attendees, and the name or names of the individual or individuals who provided the instruction.

P. Mobile Electronic Brachytherapy Service. A registrant providing mobile electronic brachytherapy service shall, at a minimum:

1. Check all survey instruments before medical use at each address of use or on each day of use, whichever is more restrictive;
2. Account for the electronic brachytherapy x-ray tube in the electronic brachytherapy device before departure from the client's address; and
3. Perform, at each location on each day of use, all of the required quality assurance checks specified in this Section to assure proper operation of the device.

Q. Medical events shall be reported to the Department. For purposes of this Section "medical event" means a therapeutic radiation dose from a machine:

1. Delivered to the wrong patient;
2. Delivered using the wrong mode of treatment;

3. Delivered to the wrong treatment site; or
4. Delivered in one week to the correct patient, using the correct mode, to the correct therapy site, but greater than 130 percent of the prescribed weekly dose; or

R. A therapeutic radiation dose from a machine with errors in the calibration, time of exposure, or treatment geometry that result in a calculated total treatment dose differing from the final, prescribed total treatment dose by more than 20 percent, except for treatments given in 1 to 3 fractions, in which case a difference of more than 10 percent constitutes a medical event.

S. Reports of therapy medical events:

1. Within 24 hours after discovery of a medical event, a registrant shall notify the Department by telephone by speaking to a Department staff member. The registrant shall also notify the referring physician of the affected patient and the patient or a responsible relative or guardian, unless the referring physician personally informs the registrant either that he or she will inform the patient, or that in his or her medical judgment, telling the patient or the patient's responsible relative or guardian would be harmful to one or the other, respectively. If the Department staff member, referring physician, or the patient's responsible relative or guardian cannot be reached within 24 hours, the registrant shall notify them as soon as practicable. The registrant shall not delay medical care for the patient because of notification problems.
2. Within 15 days following the verbal notification to the Department, the registrant shall report, in writing, to the Department and individuals notified under subsection (S)(1). The written report shall include the registrant's name, the referring physician's name, a brief description of the event, the effect on the patient, the action taken to prevent recurrence, whether the registrant informed the patient or the patient's responsible relative or guardian, and if not, why not. The report shall not include the patient's name or other information that could lead to identification of the patient.
3. Each registrant shall maintain records of all medical events for Department inspection. The records shall:
 - a. Contain the names of all individuals involved in the event, including:
 - i. The physician,
 - ii. The allied health personnel,
 - iii. The patient,
 - iv. The patient's referring physician,
 - v. The patient's identification number if one has been assigned,
 - vi. A brief description of the event,
 - vii. The effect on the patient, and
 - viii. The action taken to prevent recurrence.
 - b. Be maintained for three years beyond the termination date of the affected registration.

Historical Note

New Section R9-7-611.01 recodified from R12-1-611.01 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-611.02. Other Use of Electronically-Produced Radiation to Deliver Superficial Therapeutic Radiation Dosage

A person shall not utilize any device which is designed to electrically generate a source of ionizing radiation to deliver superficial therapeutic radiation dosage, and which is not appropriately regu-

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lated under any existing category of therapeutic radiation machine, until:

1. The applicant or registrant has, at a minimum, provided the Department with:
 - a. A detailed description of the device and its intended application or applications;
 - b. Facility design requirements, including shielding and access control;
 - c. Documentation of appropriate training for authorized user physician or physicians and qualified medical physicist or physicists;
 - d. Methodology for measurement of dosages to be administered to patients or human research subjects;
 - e. Documentation regarding calibration, maintenance, and repair of the device, as well as instruments and equipment necessary for radiation safety;
 - f. Radiation safety precautions and instructions; and
 - g. Other information requested by the Department in its review of the application; and
2. The applicant or registrant has received written approval from the Department to utilize the device in accordance with the regulations and specific conditions the Department considers necessary for the medical use of the device; and
3. The applicant or registrant has submitted the application information and forms required by Article 2.
4. In addition to the requirements of this Section, a registrant using a device for x-ray radiation therapy shall meet the requirements of R9-7-611.01(Q), (R), and (S).

Historical Note

New Section R9-7-611.02 recodified from R12-1-611.02 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-612. Computed Tomography Systems**A. Definitions:**

1. "CT" means computed tomography.
2. "CT conditions of operation" means all selectable parameters governing the operation of a CT including nominal tomographic section thickness, and technique factors.
3. "CTDI" means computed tomography dose index, the integral of the dose profile along a line perpendicular to the tomographic plane divided by the product of the nominal tomographic thickness and the number of tomogram produced in a single scan.
4. "CTDI vol" means a value of a volume-weighted tomography dose index. The unit of the CTDI vol is Gray or subunits of the Gray. The value of the CTDI vol for patient scan is used to trigger a notification when the value exceeds or will exceed a threshold value.
5. "CTN" means CT number, the number used to represent the x-ray attenuation associated with each elemental area of the CT image.
6. "Dose profile" means the dose as a function of position along a line.
7. "DLP" means the dose-length product. The DLP is the mathematical product of the CTDI vol and the length of the scan. The unit DLP is the Gray-cm of subunits of the Gray-cm. The DLP is used to trigger a notification when the value exceeds or will exceed a threshold value.
8. "Elemental area" means the smallest area within a tomogram for which the x-ray attenuation properties of a body are depicted.
9. "Multiple tomogram system" means a CT system that obtains x-ray transmissions data simultaneously during a single scan to produce more than one tomogram.

10. "Nominal tomographic section thickness" means the full width at half-maximum of the sensitivity profile taken at the center of the cross section volume over which x-ray transmission data are collected.
11. "Reference plane" means a plane that is displaced from and parallel to the tomographic plane.
12. "Scan" means the complete process of collecting x-ray transmission data for the production of a tomogram. Data can be collected simultaneously during a single scan for the production of one or more tomograms.

B. Facility: A registrant shall ensure that a CT facility has:

1. An operable two-way communication system between the patient and the operator in each CT room.
2. A viewing system that will allow the operator to continuously view the patient from the control panel during each examination. If the viewing system malfunctions the CT shall not be used until the viewing system is repaired.

C. Equipment: A registrant shall ensure that:

1. There is a means to terminate x-ray exposure automatically in the event of equipment failure by:
 - a. De-energizing the x-ray source, or
 - b. Shuttering the x-ray beam.
2. The equipment shall provide the operator the ability to terminate the x-ray exposure at any time during the examination, provided the scan or series of scans is greater than one-half second duration.
 - a. If an operator terminates an x-ray exposure, the operator shall reset the CT conditions of operation before the initiation of another scan.
 - b. A visible signal shall indicate when an x-ray exposure has been terminated because of equipment failure.
3. A means is provided to permit visual determination of the tomographic plane for a single tomogram system, or the location of a reference plane offset from a single tomograph or multiple tomogram system.
 - a. If a light source is used to satisfy this requirement, it shall provide illumination of the tomographic plane or reference plane under ambient light conditions.
 - b. The difference between the actual plane location and the indicated location of a tomographic plane or reference plane shall not exceed 5 millimeters.
 - c. The deviation of indicated scan increment versus actual increment shall not exceed plus or minus 1 millimeter with any mass from 0 to 100 kilograms resting on the patient support device.
4. The control panel and gantry provides a visual indication, if x-rays are produced.
5. Emergency buttons and switches are marked by function.
6. Parameters of CT operation used during a patient examination are visible to the operator upon initiation of the scan. If an operational parameter is not adjustable by the operator, this subsection may be met by indicating on the control panel the parameter is not adjustable by the operator.
7. Radiation exposure does not exceed 100 mR in one hour at one meter in any direction from the tube port of an operating CT.
8. The angular position or positions where the maximum surface CTDI occurs is identified to allow for reproducible positioning of a CT dosimetry phantom, except in those cases where the x-ray tubes are designed to move, in which case, the maximum dose and associated tube position shall be evaluated according to manufacturer recommendations.

D. Operating Procedures: A registrant shall ensure that:

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1. Operating procedures are available at the control panel, or by electronic means, regarding the operation of a CT and evaluation of a CT's operation.
 2. The operating procedures contain the following information:
 - a. A copy of the latest evaluation of the CT's operation, to include output for each CT procedure, performed by a qualified expert;
 - b. Instructions on the use of the CT performance phantom by the qualified expert, a schedule of quality control tests with the results of the most recent quality control test, and the allowable variations for the indicated parameters;
 - c. The distance in millimeters between the tomographic plane and the reference plane if a reference plane is used; and
 - d. A current technique chart that contains the information required in R9-7-607(D)(4)(a) for both adult and pediatric patients, as applicable, is available at the CT operating console, and a procedure for determining whether a CT has been performed according to instructions of a physician.
 - e. A written or electronic log that contains the information required in R9-7-607(D)(5) as well as an entry in the record of any displayed values for the exam from either a CTDI vol or DLP measurement for each patient exam completed on equipment manufactured on or after January 1, 2011.
 3. If the evaluation of the CT's operation or quality control test identifies a parameter exceeding the tolerance established by a qualified expert, the use of a CT for patient examination is limited to those uses established in written instructions from the qualified expert.
- E. Quality control tests.** A registrant shall have a written quality control test procedure, developed by a qualified expert, and ensure that the quality control test procedure:
1. Incorporates the use of a CT performance phantom that is compatible with an approved accreditation program approved by the Medicare Improvements for Patients and Providers Act (MIPPA) or supplied by or approved for use by the manufacturer of the unit.
 2. Is followed in the evaluation of the CT's operation, that the interval between tests does not exceed those set forth in the application for accreditation or quarterly if not accredited by an organization approved by (MIPPA), and that system conditions are specified by the registrant's qualified expert.
 3. Includes obtaining quality control test images with the CT performance phantom using the same processing mode and CT conditions of operation that are used to perform the evaluation of the CT's operation.
 4. Requires that images obtained under subsection (E)(3) be retained until a new evaluation of the CT's operation is performed.
 5. Requires that any Alerts and Notification settings using CTDI vol or DLP are reviewed against preloaded techniques in the system and any missing fields are reviewed with the staff radiologist and noted in the annual report.
 6. Requires the quality control test procedure and records of quality control tests performed be maintained for three years for Department inspection.
- F. Evaluation of a CT's operation.** A registrant shall ensure that:
1. The evaluation of a CT's operation is performed by, or under the direct supervision of, a qualified expert who is physically present at the facility during the evaluation of the CT's operation.
 2. The evaluation of a CT's operation:
 - a. Is performed before initial patient use and annually (within two months of the annual due date) and after any change or replacement of components that could, in the opinion of the qualified expert, cause a change in radiation output; and
 - b. Shall measure the CTDI in a dosimetry phantom along the two axes specified in subsection (F)(4)(b).
 - c. A complete evaluation of a CT unit, performed before the annual due date shall clearly list if the new survey changes the annual due date for the unit. It shall be clearly noted on all documentation for the next three years that the survey has established a new annual due date based upon the date of the new survey.
 3. The evaluation of a CT's x-ray system is performed with a calibrated dosimetry system that:
 - a. Has been calibrated using a method that is traceable to the National Institute of Standards and Technology (NIST), and
 - b. Has been calibrated within the preceding two years.
 4. CT dosimetry phantoms used in determining radiation output are compatible with an approved accreditation program approved by (MIPPA) or supplied by or approved for use by the manufacturer of the unit; and
 - a. Are constructed in a way that the parameters used to image the most commonly imaged parts of the human body are evaluated; and
 - b. At a minimum, provide means for placement of a dosimeter along the axis of rotation and along a line parallel to the axis of rotation 1.0 centimeter from the outer surface and within the phantom.
 5. Any effects on the measured dose due to the removal of phantom material to accommodate the dosimeter are accounted for in the reported data or included in the statement of maximum deviation for the measured values.
- G. CT units designated for simulator use, veterinary use, dental use, podiatry use, and non-diagnostic use on humans** are exempt from the annual requirements in subsections (E) and (F) provided an initial evaluation is conducted by a qualified expert and the output does not exceed the manufacturers specified limits. The initial evaluation shall be maintained for Department review.

Historical Note

New Section R9-7-612 recodified from R12-1-612 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-613. Veterinary Medicine Radiographic Systems

- A. Equipment.** A registrant shall ensure that:
1. The total filtration permanently in the useful beam is not less than 1.5 millimeters aluminum-equivalent for equipment operating at up to 70 kVp and 2.0 millimeters aluminum-equivalent for equipment operating in excess of 70 kVp;
 2. A device is provided to terminate the exposure after a preset time or exposure;
 3. Each radiographic system has a "dead-man" exposure switch with an electrical cord of sufficient length to allow the operator to stand at least 1.82 meters (six feet) away from the useful beam during x-ray exposures.
- B. Procedures:** A registrant shall ensure that:
1. Unless required to restrain an animal, the operator stands at least 1.82 meters (6 feet) away from the useful beam and the animal during a radiographic exposure;

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2. An individual other than the operator is not in the x-ray room or area while an exposure is being made, unless the individual's assistance is required;
3. If possible, an animal is held in position during an x-ray exposure using mechanical supporting or restraining devices;
4. An individual holding an animal during an x-ray exposure is:
 - a. Wearing protective gloves and an apron of not less than 0.5 millimeter lead equivalent or positioned behind a whole-body protective barrier;
 - b. Wearing required personnel monitoring devices; and
 - c. Positioned so that no part of the person's body, except hands and arms, will be struck by the useful beam;
5. If an individual holds or supports an animal or a film during an x-ray exposure, the name of the individual is recorded in an x-ray log that contains the animal's name, the type of x-ray procedure, the number of exposures, and the date of the procedure; and
6. As a condition of employment an individual is not required to routinely hold or support animals, or hold film during radiation exposures.
7. The mammographic x-ray system with initial power drive:
 - a. Has compression paddles compatible with each size of image receptor;
 - b. Is capable of compressing the breast with a force of at least 25 pounds, but not more than 45 pounds, and maintaining the compression for at least three seconds; and
 - c. Is used in a manner so that the chest wall edge of the compression device is aligned just beyond the chest wall edge of the image receptor so that the chest wall edge of the compression device does not appear on the image receptor;
8. A mammographic x-ray system using screen-film image receptors has:
 - a. At least two different sizes of moving anti-scatter grids, including one for each size of image receptor utilized; and
 - b. Automatic exposure control;
9. All mammographic x-ray systems indicate or provide a means of determining, the mAs resulting from each exposure made with automatic exposure control;
10. The collimation provided limits the useful beam to the image receptor so that the beam does not extend beyond any edge of the image receptor at any designated source to image receptor distance by more than 2 percent of the source to image receptor distance;
11. The accuracy of the indicated kVp is within plus or minus 2kVp;
12. Mammographic x-ray systems operating with automatic exposure control are capable of maintaining a film density within plus or minus 0.15 optical density units over the clinical range of kVp used, for a breast having an equivalent phantom thickness from 2 to 6 centimeters. If a technique chart is used, the operator shall maintain the film density within plus or minus 0.15 optical density units of the mean optical density;
13. At a kVp of 28, the mammographic x-ray system is capable of generating at least 2.0 $\mu\text{C/kg/mAs}$ (8mR/mAs) and at least 200 $\mu\text{C/kg/second}$ (800 mR/second), measured at a point 4.5 centimeters above the surface of the patient support device when the Source-image receptor distance is at its maximum;
14. Screens are not used for mammography if one or more areas of greater than 1 centimeter squared of poor screen-film contact are seen when tested, using a 40 mesh screen test;
15. Mammographic image quality meets the minimum mammography film standards for phantom performance in Mammography Quality Control Manual, 1999 edition, published by the American College of Radiology (ACR). (This manual is incorporated by reference and available under R9-7-101. The incorporated material contains no future editions or amendments. The manual is available from ACR Publication Sales, P.O. Box 533, Annapolis Junction, MD 20701: toll free at (800) 227-7762; e-mail at: acr@brightkey.net).
16. The mean glandular dose for one cranio-caudal view of a 4.2 centimeter (1.8 inch) compressed breast, composed of 50 percent adipose and 50 percent glandular tissue, does not exceed 300 millirads (3 milligray); and
17. A radiologic physicist who meets the requirements in R9-7-615(A)(1)(c) evaluates the operation of a mammographic x-ray system:

Historical Note

New Section R9-7-613 recodified from R12-1-613 at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R.

2151, effective July 12, 2018 (Supp. 18-3).

R9-7-614. Mammography Systems**A. Equipment.** A registrant shall ensure that:

1. Only radiation machines specifically designed for mammographic examinations are used;
2. The film processor used in the registrant's facility is maintained in accordance with the film processor's and film manufacturer's recommendations;
3. Each facility has an image development system onsite unless the Department has approved an alternate system;
4. If used with screen-film image receptors, and the contribution to filtration made by the compression device is included, the useful beam has a half-value layer between the values of: "measured kVp/100 and measured kVp/100 + L millimeters" of aluminum equivalent, where $L = 0.12$ for Mo/Mo, $L = 0.19$ for Mo/Rh, $L = 0.22$ for Rh/Rh, $L = 0.30$ for W/Rh target filtration combinations and $L = 0.33$ for other target filtration combinations not otherwise specified.
5. The combination of focal spot size, source-to-image distance and magnification produces a radiograph with a resolution of at least 12 line pairs per millimeter at an object-to-image receptor distance of 4.5 centimeters; or the standards in Table 3-3 of the American Association of Physicists in Medicine (AAPM), Report No. 29, Equipment Requirements and Quality Control for Mammography, August 1990, published by the American Institute of Physics, Suite 1N01, 2 Huntington Quadrangle, Melville, NY 11747 (This report is incorporated by reference and available under R9-7-101. The incorporated material contains no future editions or amendments. The report is available online at: <http://www.aapm.org/pubs/reports>; print copies may be purchased from Medical Physics Publishing, 4513 Vernon Blvd., Madison, WI 53705; toll free at (800) 442-5778.);
6. The compression device used with the mammographic unit, unless specifically manufactured otherwise, is parallel to the imaging plane, not varying at any spot by more than 1 centimeter;

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- a. When first installed and annually thereafter,
- b. Following any major change in equipment or replacement of parts, and
- c. When quality assurance tests indicate calibration is necessary.

B. Operating Procedures. A registrant shall ensure that:

1. Each mammographic facility has a quality assurance program, and that the quality assurance program includes performance and documentation of the quality control tests in subsection (B)(2), conducted at the required time intervals. Test results shall fall within the specified limits in subsection (B)(2) or the registrant shall take corrective action and maintain documentation that the results are within specified limits before performing or processing any further examinations using the system that failed. A radiologic physicist, as defined in R9-7-615(A)(1)(c), shall review the program and make any recommendations necessary for the facility to comply with this Section;
2. The quality assurance program meets federal requirements (Contained in 21 CFR 900.12(d)(1), and (e)(1) through (e)(10), revised April 1, 2013, incorporated by reference and available under R9-7-101. This incorporated material contains no future editions or amendments.); or the following requirements:
 - a. Daily sensitometric and densitometric evaluation of the image processing system demonstrates that Base + Fog < +0.03 optical density of operating level, Mid Density \pm 0.15 optical density of operating level, and Density Difference \pm 0.15 optical density of operating level;
 - b. Weekly phantom image quality evaluations demonstrate the visualization of at least four fibers, three speck groups, and three masses with a background of greater than 1.40 optical density, not varying by 0.20 optical density of operating level;
 - c. Monthly technique chart evaluations demonstrate updates for all equipment changes and that all examinations are being performed according to a physicist's density control recommendation;
 - d. Quarterly fixer retention evaluations demonstrate an acceptable limit of less than or equal to 5.0 micrograms per square centimeter;
 - e. Quarterly repeat analysis demonstrates an acceptable limit of less than 2 percent increase in repeats;
 - f. Semiannual darkroom fog evaluations meet the limit of less than or equal to 0.05 optical density of fog, using the two minute exposed film method;
 - g. Semiannual screen film contact evaluations meet the limit of less than one area of poor contact of 1 centimeter squared, using a 40 mesh screen on all clinically-used screens;
 - h. Semiannual automatic compression force evaluations meet the limit of greater than or equal to 25 pounds (111 Newtons) and less than 45 pounds (200 Newtons);
 - i. A survey shall be conducted annually and whenever indicated for installation, major repairs, parts replacement, or as deemed necessary by a qualified expert when quality control test results indicate a survey is necessary; the survey shall include all of the following tests:
 - i. Automatic exposure control performance and thickness response;
 - ii. Accuracy and reproducibility of kVp;
 - iii. System resolution;

- iv. Breast entrance air kerma and automatic exposure control reproducibility;
- v. Average glandular dose;
- vi. X-ray field, light field, and image receptor alignment;
- vii. Compression paddle alignment;
- viii. Uniformity of screen speed;
- ix. System artifacts;
- x. Radiation output;
- xi. Decompression;
- xii. Beam quality and half value layer;
- j. For systems with image receptor modalities other than screen film:
 - i. The quality assurance and quality control program for the acquisition system meets or exceeds the recommendations by the manufacturer;
 - ii. The quality assurance and quality control program for the printer meets or exceeds the recommendations by the image receptor manufacturer. In the absence of recommendations by the image receptor manufacturer for the specified printer, the quality control and assurance program meets or exceeds the recommendations of the printer manufacturer; and
 - iii. The quality assurance and quality control program for the interpretation monitors meets or exceeds the recommendations by the image receptor manufacturer. In the absence of recommendations by the image receptor manufacturer for the specified monitor or monitors, the quality control and assurance program meets or exceeds the recommendations of the interpretation monitor or monitors manufacturer; and
- k. The registrant maintains records documenting compliance with the provisions in this subsection for three years from the date each requirement is met. The records shall be made available for Department inspection.

C. Mammographic films and reports.

1. A registrant shall maintain films and reports for a minimum of five years. In those cases where no subsequent mammographic procedures are performed, the registrant shall maintain films and associated reports for 10 years. If the mammographic facility is closed, the registrant shall make arrangements for storage of the films and associated reports for five years after the closure; and
2. A registrant shall make films and reports available for comparison upon request for temporary or permanent transfer to other mammographic facilities.

Historical Note

New Section R9-7-614 recodified from R12-1-614 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-615. Mammography Personnel**A. Personnel.**

1. Each registrant shall require personnel who perform mammography, which includes the production, processing, and interpretation of mammograms and related quality assurance activities, to meet the following requirements:
 - a. An interpreting physician shall meet federal requirements (Contained in 21 CFR 900.12(a)(1), revised April 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); or

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- i. Be licensed under A.R.S. Title 32, Chapters 13 or 17;
 - ii. Have initially completed 40 hours of medical education credits in mammography;
 - iii. Be certified by the American Board of Radiology or the American Osteopathic Board of Radiology or meet the requirements of the mammography quality standards act regulations for quality standards of interpreting physicians;
 - iv. Have interpreted or reviewed an average of 300 mammograms per year during the preceding two years or have completed a radiology residency that included mammogram image interpretation in the preceding two years;
 - v. Have completed 15 hours of continuing medical education credits in mammography during the preceding three years; and
 - vi. Have received at least eight hours of training specific to each mammographic modality before engaging in independent interpretation.
- b. A mammographic technologist shall meet federal requirements (Contained in 21 CFR 900.12(a)(2), revised April 1, 2013, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); or
- i. Possess a valid mammographic technologist certificate issued by the Medical Radiologic Technology Board of Examiners, as required in A.R.S. § 32-2841, or be pursuing mammography certification by training under the direct supervision of a technologist who possesses a valid mammographic technologist certificate;
 - ii. Have performed at least 200 mammographic examinations in the preceding two years;
 - iii. Have completed 15 hours of continuing medical education credits in mammography during the preceding three years; and
 - iv. Have received at least eight hours of training specific to each mammographic modality to be used by the technologist in performing mammographic examinations.
- c. A radiologic physicist shall meet federal requirements (Contained in 21 CFR 900.12(a)(3), revised April 1, 2013, incorporated by reference and available under R9-7-101. This incorporated material contains no future editions or amendments.); or
- i. Be certified by the American Board of Radiology, American Board of Medical Physics, or the American Board of Health Physics;
 - ii. Possess documentation of state approval;
 - iii. Hold a master's degree or higher in a physical science;
 - iv. Have, upon initial employment as a radiologic physicist, experience conducting, at least one mammographic facility survey and evaluating at least 10 mammographic units;
 - v. Have, after completing the experience requirements in subsection (A)(1)(c)(iv), continuing experience surveying two mammographic facilities and evaluating six mammographic units during the preceding two years;
 - vi. Have completed 15 hours of continuing medical education credits in mammography during the three preceding years; or
 - vii. Have received at least eight hours of training specific to any modality surveyed; and
2. Each registrant shall maintain records documenting the requirements in subsection (A)(1) for three years from the date the requirement is met and make the records available for Department inspection.
- B.** Radiologic physicists shall apply for and renew their certification on Department-approved forms. In addition to the Department-approved forms, applicants must also submit documentation showing education, mammography specific training, education, and board certification. Upon renewal, an applicant must submit documentation showing current continuing education requirements are met.

Historical Note

New Section R9-7-615 recodified from R12-1-615 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Information Submitted to the Department According to R9-7-604(A)(3)(c)

- A.** Name and address of the applicant and, if applicable, the name and address of any person within this state that is authorized to act on behalf of the applicant;
- B.** Disease or conditions to be diagnosed using the proposed x-ray examination;
- C.** A detailed description of each x-ray examination that will be used in the diagnosis;
- D.** A description of the population to be examined in the screening program, using characteristics such as age, sex, physical condition, and other descriptive information;
- E.** An evaluation of any known alternative diagnostic modalities not involving ionizing radiation that could achieve the same diagnosis as a screening program and why these modalities have not been chosen;
- F.** An evaluation by a qualified expert of the x-ray equipment used in the screening program, which demonstrates that the x-ray equipment satisfies the requirements of this Article;
- G.** A description of the quality control program;
- H.** A copy of the technique chart for the planned x-ray examination;
- I.** The qualifications of each individual who will be operating the x-ray equipment;
- J.** The qualifications of the individual who will be supervising each operator of the x-ray equipment;
- K.** The name and address of the individual who will interpret each radiographic image;
- L.** A description of the planned procedures for advising a screened individual and the screened individual's physician of the screening procedure results, and the need for further medical care, and
- M.** A description of the procedures for retention or disposition of the radiographic images and other records pertaining to the x-ray examination.

Historical Note

New Appendix A, recodified from 12 A.A.C. 1, Article 6, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 7. MEDICAL USES OF RADIOACTIVE MATERIAL

R9-7-701. License Required

- A.** A person may manufacture, produce, acquire, receive, possess, prepare, use, or transfer radioactive material for medical use only in accordance with a specific license issued by the Department, the NRC, or another Agreement State, or as allowed in subsection (B)(1) or (B)(2).

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- B.** A specific license is not needed for an individual who:
1. Receives, possesses, uses, or transfers radioactive material in accordance with the rules in this Chapter under the supervision of an authorized user as provided in R9-7-706, unless prohibited by license condition; or
 2. Prepares unsealed radioactive material for medical use in accordance with the rules in this Chapter under the supervision of an authorized nuclear pharmacist or authorized user.

Historical Note

New Section R9-7-701 recodified from R12-1-701 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-702. Definitions

“Authorized medical physicist” means an individual who meets the requirements in R9-7-711. For purposes of ensuring that personnel are adequately trained, an authorized medical physicist is a “qualified expert” as defined in Article 1.

“Authorized nuclear pharmacist” means a pharmacist who meets the requirements in R9-7-712.

“Authorized user” means a physician, dentist, or podiatrist who meets the requirements in R9-7-719, R9-7-721, R9-7-723, R9-7-727, R9-7-728, or R9-7-744.

“Brachytherapy” means a method of radiation therapy in which a sealed source or group of sealed sources is utilized to deliver beta or gamma radiation at a distance of up to a few centimeters, by surface, intracavitary, intraluminal, or interstitial application.

“CT” means computerized tomography.

“High dose rate afterloading brachytherapy” means the treating of human disease using the radiation from a radioactive sealed source containing more than 1 curie of radioactive material. The radioactive material is introduced into a patient’s body using a device that allows the therapist to indirectly handle the radiation source during the treatment. For purposes of the requirements in this Article “pulse dose rate afterloading brachytherapy” is included in this definition.

“Human research subject” means an individual who is or becomes a participant in research overseen by an IRB, either as a recipient of the test article or as a control. A subject may be either a healthy human, in research overseen by the RDRC, or a patient.

“Institutional review board” (IRB) is defined in R9-7-704(B).

“Manual brachytherapy” means a type of brachytherapy in which the brachytherapy sources (e.g., seeds, ribbons) are manually placed topically on or inserted either into the body cavities that are in close proximity to a treatment site or directly into the tissue volume.

“Medical event” means an event that meets the criteria in R9-7-745.

“Medical institution” means an organization in which several medical disciplines are practiced.

“Medical use” means the intentional internal or external administration of radioactive material, or the radiation from it, to an individual under the supervision of an authorized user.

“Nuclear cardiology” means the diagnosis of cardiac disease using radiopharmaceuticals.

“PET” means positron emission tomography.

“Physically present” means that a supervising medical professional is in proximity to the patient during a radiation therapy procedure so that immediate emergency orders can be communicated to ancillary staff, should the occasion arise.

“Prescribed dosage” means the specified activity or range of activity of unsealed radioactive material as documented:

In a written directive; or

In accordance with the directions of the authorized user for procedures performed in accordance with the uses described in Exhibit A.

“Prescribed dose” means:

For gamma stereotactic radiosurgery, the total dose as documented in the written directive;

For teletherapy, the total dose and dose per fraction as documented in the written directive;

For manual brachytherapy, either the total source strength and exposure time or the total dose, as documented in the written directive; or

For remote brachytherapy afterloaders, the total dose and dose per fraction as documented in the written directive.

“Radiation Safety Officer” (RSO) for purposes of this Article, and in addition to the definition in Article 1 means an individual who:

Meets the requirements in R9-7-710, or

Is identified as a radiation safety officer on:

A specific medical use license issued by the NRC or Agreement State; or

A medical use permit issued by a NRC master material licensee.

“Radioactive drug” is defined in 21 CFR 310.3(c) and includes a “radioactive biological product” as defined in 21 CFR 600.3, April 1, 2006, both of which are incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Department. These incorporated materials contain no future editions or amendments.

“Radioactive Drug Research Committee” (RDRC) means the committee established by the licensee to review all basic research involving the administration of a radioactive drug to human research subjects, taken from 21 CFR 361.1, April 1, 2006, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments. Research is considered basic research if it is done for the purpose of advancing scientific knowledge, which includes basic information regarding the metabolism (including kinetics, distributions, dosimetry, and localization) of a radioactive drug or regarding human physiology, pathophysiology, or biochemistry. Basic research is not intended for immediate therapeutic or diagnostic purposes and is not intended to determine the safety and effectiveness of a radioactive drug in humans.

“Radiopharmaceutical” means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or nuclide generator that is intended to be used in

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the preparation of any such substance. For purposes of this Article radiopharmaceutical is equivalent to radioactive drug.

“Remote afterloading brachytherapy device” means a device used in radiation therapy that allows the authorized user to insert, from a remote location, a radiation source into an applicator that has been previously inserted in an individual requiring treatment.

“Sealed Source and Device Registry” means the national registry that contains all the registration certificates, generated by both NRC and the Agreement States, that summarize the radiation safety information for the sealed sources and devices and describe the licensing and use conditions approved for the product.

“Stereotactic radiosurgery” means the use of external radiation in conjunction with a stereotactic guidance device to very precisely deliver a dose.

“Teletherapy” means therapeutic irradiation in which the sealed source of radiation is at a distance from the body.

“Therapeutic dosage” means a dosage of unsealed radioactive material that is intended to deliver a radiation dose to a patient or human research subject for palliative or curative treatment.

“Therapeutic dose” means a radiation dose delivered from a source containing radioactive material to a patient or human research subject for palliative or curative treatment.

“Treatment site” means the anatomical description of the tissue intended to receive a radiation dose, as described in a written directive.

“Unit dosage” means a dosage prepared for medical use for administration as a single dosage to a patient or human research subject without any further manipulation of the dosage after it is initially prepared.

“Written directive” means an authorized user’s written order for the administration of radioactive material or radiation from radioactive material to a specific patient or human research subject, as specified in R9-7-707.

Historical Note

New Section R9-7-702 recodified from R12-1-702 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-703. License for Medical Use of Radioactive Material

A. In addition to the requirements set forth in R9-7-309, the Department shall issue a specific license for medical use of radioactive material if:

1. The applicant has appointed a radiation safety committee, meeting the requirements in R9-7-705, that will oversee the use of licensed material throughout the licensee’s facility and associated radiation safety program;
2. The applicant possesses facilities for the clinical care of patients or human research subjects; and
3. The individual designated on the application as an authorized user has met the training and experience requirements in R9-7-719, R9-7-721, R9-7-723, R9-7-727, R9-7-728, or R9-7-744.

B. Specific licenses to individual authorized users for medical use of radioactive material:

1. The Department shall approve an application by a prospective individual authorized user or prospective group

of authorized users for a specific license governing the medical use of radioactive material if:

- a. The applicant satisfies the general requirements in R9-7-309;
- b. The application is for use in the applicant’s practice at an office outside of a medical institution;
- c. The applicant meets the training and experience requirements in subsection (A)(3); and
- d. The applicant has a radiation safety committee, if the criteria in R9-7-705 are applicable and a RDRC, if the use is basic research involving humans.

2. The Department shall not approve an application by a prospective authorized user or group of prospective authorized users for a specific license to receive, possess, or use radioactive material on the premises of a medical institution unless:

- a. The use of radioactive material is limited to:
 - i. The administration of radiopharmaceuticals for diagnostic or therapeutic purposes;
 - ii. The performance of diagnostic studies on patients or human research subjects to whom a radiopharmaceutical has been administered;
 - iii. The performance of in vitro diagnostic studies; or
 - iv. The calibration and quality control checks of radioactive assay instrumentation, radiation safety instrumentation, or diagnostic instrumentation;
- b. The authorized user brings the radioactive material and removes the radioactive material upon departure; and
- c. The medical institution does not hold a radioactive materials license under subsection (A).

C. Specific licenses for certain groups of medical uses of radioactive material:

1. The Department shall approve an application for a specific license under subsections (A) or (B), for any medical use or uses of radioactive material specified in Groups 100 through 1,000, in Exhibit A of this Article, for all of the materials within each group requested in the application if:

- a. The applicant satisfies the requirements of subsections (A) and (B);
- b. Each person involved in the preparation and use of the radioactive material is an authorized user, an authorized nuclear pharmacist, or certified as a nuclear medicine technologist by the Medical Radiologic Technology Board of Examiners (MRTBE);
- c. The applicant’s radiation detection and measuring instrumentation is adequate for conducting the procedures involved in the authorized uses selected from Group 100 through Group 1,000; and
- d. The applicant’s radiation safety operating procedures are adequate for handling and disposal of the radioactive material involved in the authorized uses selected from Group 100 through Group 1,000.

2. Any licensee who is authorized to use radioactive material:

- a. In unsealed form under Groups 100, 200, 300 or 1,000 listed in Exhibit A of this Article, shall do so using radiopharmaceuticals prepared in accordance with R9-7-311(I); or
- b. In sealed source form under Groups 400, 500, 600, or 1,000 listed in Exhibit A of this Article, shall do

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so using sealed sources that have been manufactured and distributed in accordance with R9-7-311(K);

- c. In any form under group 1,000 listed in Exhibit A of this Article, shall do so using sealed and unsealed sources that have been manufactured and distributed in accordance with the specific license issued by the Department.

- 3. Any licensee who is licensed according to subsection (C)(1), for one or more of the medical use groups in Exhibit A also is authorized to use radioactive material under the general license in R9-7-306(E) for the specified in vitro uses without filing Form ARRA-9 as required by R9-7-306(E)(2); provided, that the licensee is subject to the other provisions of R9-7-306(E).

- D. In addition to the other license application requirements in this Section, each applicant shall include in the radiation safety program required under subsection (A)(1) a system for ensuring that each syringe and vial that contains unsealed radioactive material is labeled in accordance with R9-7-431(D).

Historical Note

New Section R9-7-703 recodified from R12-1-703 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-704. Provisions for the Protection of Human Research Subjects

- A. A licensee may conduct basic research involving human research subjects and research involving patients receiving investigational new drugs or devices if the licensee only uses the radioactive material specified on the license for the uses authorized on the license.
- B. If research is conducted, funded, supported, or regulated by a federal agency that has implemented the federal Policy for Protection of Human Research Subjects (45 CFR 46, June 23, 2005, which is incorporated by reference, published by the Office of Federal Register, National Archives and Records Administration, Washington, DC 20408, on file with the Department, and contains no future editions or amendments), the licensee shall:
 - 1. Obtain review and approval of the research from an Institutional Review Board (IRB); and
 - 2. Obtain informed consent from the human research subject.
- C. If research will not be conducted, funded, supported, or regulated by a federal agency that has implemented the federal policy in subsection (B), a medical licensee shall, before conducting research, apply for and receive a specific amendment to its use license. The amendment request shall include a written commitment that the licensee will, before conducting research:
 - 1. Obtain review and approval of the research from an IRB, as defined and described in the federal policy; and
 - 2. Obtain informed consent from the human research subject.
- D. Before conducting the research described in subsection (A) the licensee shall apply to the Department for and receive a specific amendment to its medical use license. The amendment request shall include a written commitment that the licensee will, before conducting research:
 - 1. Obtain any review and approval required by this Section, and
 - 2. Obtain informed consent from the human research subject if applicable.
- E. Nothing in this Section relieves a licensee from complying with the other requirements in this Article.

Historical Note

New Section R9-7-704 recodified from R12-1-704 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-705. Authority and Responsibilities for the Radiation Protection Program

- A. A licensee's management shall appoint in writing a Radiation Safety Officer, who agrees, in writing, to be responsible for implementing the radiation protection program. The licensee, through the Radiation Safety Officer, shall ensure that radiation safety activities are being performed in accordance with licensee-approved procedures and regulatory requirements. A licensee's management may appoint, in writing, one or more Associate Radiation Safety Officers to support the Radiation Safety Officer. The Radiation Safety Officer, with written agreement of the licensee's management, must assign the specific duties and tasks to each Associate Radiation Safety Officer. These duties and tasks are restricted to the types of use for which the Associate Radiation Safety Officer is listed on a license. The Radiation Safety Officer may delegate duties and tasks to the Associate Radiation Safety Officer but shall not delegate the authority or responsibilities for implementing the radiation protection program. Each time the Radiation Safety Officer is changed, the licensee shall provide to the Department within 30 days an amendment request and a copy of the correspondence between the licensee's management and the candidate, accepting the position of Radiation Safety Officer.
- B. Licensees that are authorized for two or more different types of uses of radioactive material listed in Groups 300, 400, 600, and 1,000, or two or more types of units under group 600 or 1,000, shall establish a Radiation Safety Committee (RSC) to oversee all uses of radioactive material permitted by the license. At a minimum, the RSC shall include an authorized user of each type of use permitted by the license, the Radiation Safety Officer, a representative of the nursing service, and a representative of management who is neither an authorized user nor a Radiation Safety Officer.
- C. If a licensee or applicant is not a health care institution and is unable to meet the RSC membership requirements in subsection (B), the licensee or applicant may request an exemption in accordance with A.R.S. § 30-654(B)(13). The request for exemption shall be made to the Department in writing and list the reasons why the health care institution is unable to meet the requirements.
- D. A licensee shall ensure that the RSC meets, at a minimum, on an annual basis and maintain the RSC meeting minutes for Department review for three years after the date of the RSC meeting.
- E. A licensee shall notify the Department no later than 30 days after:
 - 1. An authorized user, an authorized nuclear pharmacist, a Radiation Safety Officer, an Associate Radiation Safety Officer, an authorized medical physicist, or ophthalmic physicist permanently discontinues performance of duties under the license or has a name change;
 - 2. The licensee permits an individual qualified to be a Radiation Safety Officer under R9-7-710 to function as a temporary Radiation Safety Officer and to perform the functions of a Radiation Safety Officer;
 - 3. The licensee's mailing address changes;
 - 4. The licensee's name changes, but the name change does not constitute a transfer of control of the license as described in R9-7-313(B);
 - 5. The licensee has added to or changed the areas of use identified in the application or on the license where byproduct material is used in accordance with R9-7-301,

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if the change does not include addition or relocation of either an area where PET radionuclides are produced or a PET radioactive drug delivery line from the PET radionuclide/PET radioactive drug production area; or

6. The licensee obtains a sealed source for use in manual brachytherapy from a different manufacturer or with a different model number than authorized by its license for which it did not require a license amendment as provided in R9-7-701. The notification must include the manufacturer and model number of the sealed source, the isotope, and the quantity per sealed source.

Historical Note

New Section R9-7-705 recodified from R12-1-705 at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 25 A.A.R.

3561, effective December 3, 2019 (Supp. 19-4).

R9-7-706. Supervision

- A. For purposes of this rule, “supervision” means the exercise of control over or direction of the use of radioactive material in the practice of medicine by an authorized user named on a radioactive material license. Supervision does not require a supervising physician’s constant physical presence if the supervising physician can be easily contacted by radio, telephone, or telecommunication.
- B. A physician may use radioactive material if the person is licensed by the Arizona Medical Board or Board of Osteopathic Examiners in Medicine and Surgery and is listed as an authorized user on the Arizona radioactive material license under which the radioactive material is obtained.
- C. A licensee that permits the receipt, possession, use, or transfer of radioactive material by an individual under the supervision of an authorized user, shall:
 1. Instruct the supervised individual in the licensee’s written radiation protection procedures, written directive procedures, rules, and license conditions with respect to the use of radioactive material; and
 2. Require the supervised individual to follow the instructions of the supervising authorized user for medical uses of radioactive material, written radiation protection procedures established by the licensee, written directive procedures, rules, and license conditions with respect to the medical use of radioactive material.
- D. A licensee that permits the preparation of radioactive material for medical use by an individual who is supervised by an authorized nuclear pharmacist or a physician, who is an authorized user, shall:
 1. Instruct the supervised individual in the preparation of radioactive material for medical use, as appropriate to that individual’s involvement with radioactive material; and
 2. Require the supervised individual to follow the instructions of the supervising authorized user or authorized nuclear pharmacist regarding the preparation of radioactive material for medical use, written radiation protection procedures established by the licensee, the rules, and license conditions.
- E. A licensee that permits supervised activities under subsections (C) and (D) is responsible for the acts and omissions of the supervised individual.
- F. A limited-service nuclear pharmacy licensee shall dispense radiopharmaceuticals only to a physician listed as an authorized user on a valid radioactive material license issued by the Department, an Agreement State, or the NRC. For purposes of this rule “limited-service nuclear pharmacy” is defined in R4-23-110.

Historical Note

New Section R9-7-706 recodified from R12-1-706 at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-707. Written Directives

- A. A licensee shall ensure that a written directive is dated and signed by an authorized user before the administration of I-131 sodium iodide greater than 1.11 MBq (30 microcuries (μCi)), any therapeutic dosage of unsealed radioactive material or any therapeutic dose of radiation from radioactive material. If, because of the emergent nature of the patient’s condition, a delay in order to provide a written directive would jeopardize the patient’s health, an oral directive is acceptable. The information contained in the oral directive shall be documented as soon as possible in writing in the patient’s record. A written directive shall be prepared within 48 hours of the oral directive.
- B. A written directive shall contain the patient or human research subject’s name and the following information:
 1. For any administration of quantities greater than 1.11 MBq (30 μCi) of sodium iodide I-131: the dosage;
 2. For an administration of a therapeutic dosage of unsealed radioactive material other than sodium iodide I-131: the radiopharmaceutical, dosage, and route of administration;
 3. For gamma stereotactic radiosurgery: the total dose, treatment site, and values for the target coordinate settings per treatment for each anatomically distinct treatment site;
 4. For teletherapy: the total dose, dose per fraction, number of fractions, and treatment site;
 5. For high dose-rate remote afterloading brachytherapy: the radionuclide, treatment site, dose per fraction, number of fractions, and total dose;
 6. For permanent implant brachytherapy:
 - a. Before implantation: the treatment site, radionuclide, and total strength; and
 - b. After implantation but before the patient leaves the post-treatment recovery area: the treatment site, number of sources implanted, total source strength implanted, and date; or
 7. For all other brachytherapy, including low, medium, and pulsed dose rate remote afterloaders:
 - a. Before implantation: the treatment site, radionuclide, and dose; and
 - b. After implantation but before completion of the procedure: the radionuclide, treatment site, number of sources, total source strength and exposure time (or the total dose), and date.
- C. The licensee shall retain a copy of the written directive for three years after creation of the record.

Historical Note

New Section R9-7-707 recodified from R12-1-707 at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 25 A.A.R.

3561, effective December 3, 2019 (Supp. 19-4).

R9-7-708. Procedures for Administrations Requiring a Written Directive

For any administration requiring a written directive, the licensee shall develop, implement, and maintain written procedures to provide high confidence that:

1. The patient’s or human research subject’s identity is verified before each administration; and
2. Each administration is in accordance with the written directive.

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Historical Note

New Section R9-7-708 recodified from R12-1-708 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-709. Sealed Sources or Devices for Medical Use

For medical use, a licensee may only use:

1. Sealed sources or devices manufactured, labeled, packaged, and distributed in accordance with a license issued under Article 3 of this Chapter or equivalent requirements of the NRC or another Agreement State;
2. Sealed sources or devices noncommercially transferred from another licensee under this Article or a licensee under equivalent requirements of the NRC or another Agreement State; or
3. Teletherapy sources manufactured and distributed in accordance with a license issued by the Department under Article 3 of this Chapter or the equivalent requirements of the NRC or another Agreement State.

Historical Note

New Section R9-7-709 recodified from R12-1-709 at 24
A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 30 A.A.R.
2681 (August 30, 2024), with an immediate effective date
of August 7, 2024 (Supp. 24-3).

R9-7-710. Radiation Safety Officer and Associate Radiation Safety Officer Training

A. A licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer, described in R9-7-705, to be an individual who:

1. Is certified by a specialty board whose certification process includes all of the requirements in subsection (A)(2)(a) and (B) and whose certification has been recognized by the Department, the NRC, or another Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Meet the following minimum requirements:
 - i. Hold a bachelor's or graduate degree from an accredited college or university in physical science or engineering or biological science with a minimum of 20 college credits in physical science;
 - ii. Have five or more years of professional experience in health physics (graduate training may be substituted for no more than two years of the required experience), including at least three years in applied health physics; and
 - iii. Pass an examination administered by diplomates of the specialty board, which evaluates knowledge and competence in radiation physics and instrumentation, radiation protection, mathematics pertaining to the use and measurement of radioactivity, radiation biology, and radiation dosimetry; or
 - b. Meet the following minimum requirements:
 - i. Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;
 - ii. Have at least two years of full-time practical training and/or supervised experience in medical physics;
 - (1) Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the

Department, the NRC, or another Agreement State; or

- (2) In clinical nuclear medicine facilities providing diagnostic and/or therapeutic services under the direction of physicians who meet the requirements for authorized users qualified under subsection (B), R9-7-721, or R9-7-723; and
 - iii. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical diagnostic radiological or nuclear medicine physics and in radiation safety;
2. Has:
 - a. Completed a structured educational program consisting of both:
 - i. 200 hours of didactic and laboratory training in the following areas:
 - (1) Radiation physics and instrumentation;
 - (2) Radiation protection;
 - (3) Mathematics pertaining to the use and measurement of radioactivity;
 - (4) Radiation biology; and
 - (5) Radiation dosimetry; and
 - ii. One year of full-time radiation safety experience under the supervision of the individual identified as the Radiation Safety Officer on a Department, a NRC, or another Agreement State license or permit issued by a NRC master material licensee that authorizes a similar type or types of use or uses of radioactive material involving the following:
 - (1) Shipping, receiving, and performing related radiation surveys;
 - (2) Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and instruments used to measure radionuclides;
 - (3) Securing and controlling radioactive material;
 - (4) Using administrative controls to avoid mistakes in the administration of radioactive material;
 - (5) Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures;
 - (6) Using emergency procedures to control radioactive material; and
 - (7) Disposing of radioactive material; and
 - b. Obtained written certification, signed by a preceptor Radiation Safety Officer or Associate Radiation Safety Officer, that the individual has satisfactorily completed the requirements in subsection (A)(2)(a) and has achieved a level of radiation safety knowledge sufficient to function independently as a Radiation Safety Officer or as an Associate Radiation Safety Officer for a medical use licensee;
 3. Is:
 - a. A medical physicist who has been certified by a specialty board whose certification process has been recognized by the Department, the NRC, or another Agreement State under R9-7-711(A) or equivalent, has experience with radiation safety aspects of similar types of use of radioactive material for which the licensee seeks the approval of the individual as

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Radiation Safety Officer or an Associate Radiation Safety Officer, and meets the requirements in subsection (B); or

- b. An authorized user, authorized medical physicist, or authorized nuclear pharmacist identified on the licensee's license and has experience with the radiation safety aspects of similar types of use of radioactive material for which the individual has Radiation Safety Officer responsibilities; or
 4. Has experience with the radiation safety aspects of the types of use of radioactive material for which the individual is seeking simultaneous approval both as the Radiation Safety Officer and the authorized user on the same new medical license and meets the requirements in subsection (B).
- B.** A licensee shall require an individual fulfilling the responsibilities of the Radiation Safety Officer to have training in the radiation safety, regulatory issues, and emergency procedures for the types of use for which the licensee seeks approval. This training requirement may be satisfied by completing training that is supervised by a Radiation Safety Officer, an Associate Radiation Safety Officer, authorized medical physicist, authorized nuclear pharmacist, or authorized user, as appropriate, who is authorized for the type or types of use for which the licensee is seeking approval.
- C.** The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- D.** Individuals who, under R9-7-712.01, need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.
- E.** Records Retention.
1. The licensee shall retain both a copy of the authority, duties, and responsibilities of the Radiation Safety Officer, as required by this Section, and a signed copy of each Radiation Safety Officer's agreement to be responsible for implementing the radiation safety program for the duration of the license. The records must include the signature of the Radiation Safety Officer and licensee management.
 2. For each Associate Radiation Safety Officer appointed under this Section, the licensee shall retain, for at least five years after the Associate Radiation Safety Officer is removed from the license, a copy of the written document appointing the Associate Radiation Safety Officer, signed by the licensee's management.

Historical Note

New Section R9-7-710 recodified from R12-1-710 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4). Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-711. Authorized Medical Physicist Training

- A.** A licensee shall require an authorized medical physicist to be an individual who:

1. Is certified by a specialty board whose certification process includes all of the training and experience requirements in subsections (A)(2)(a) and (B) and whose certification has been recognized by the Department, the NRC, or another Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Hold a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university;
 - b. Have at least two years of full-time practical training and/or supervised experience in medical physics:
 - i. Under the supervision of a medical physicist who is certified in medical physics by a specialty board recognized by the NRC or an Agreement State; or
 - ii. In clinical radiation facilities providing high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services under the direction of physicians who meet the requirements for authorized users in R9-7-710, R9-7-719, R9-7-721, R9-7-723, R9-7-727, R9-7-728, or R9-7-744; and
 - c. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in clinical radiation therapy, radiation safety, calibration, quality assurance, and treatment planning for external beam therapy, brachytherapy, and stereotactic radiosurgery; or
2. Meets the following alternative training requirements:
 - a. Holds a master's or doctor's degree in physics, medical physics, other physical science, engineering, or applied mathematics from an accredited college or university; and has completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of an individual who meets the requirements for an authorized medical physicist for the type or types of use for which the individual is seeking authorization. This training and work experience must be conducted in clinical radiation facilities that provide high-energy, external beam therapy (photons and electrons with energies greater than or equal to 1 million electron volts) and brachytherapy services and must include:
 - i. Performing sealed source leak tests and inventories;
 - ii. Performing decay corrections;
 - iii. Performing full calibration and periodic spot checks of external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and
 - iv. Conducting radiation surveys around external beam treatment units, stereotactic radiosurgery units, and remote afterloading units as applicable; and
 - b. Has obtained written attestation that the individual has satisfactorily completed the requirements in both subsections (A)(2)(a) and (B); and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation must be signed by a

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preceptor authorized medical physicist who meets the requirements in this Section, or equivalent Agreement State or NRC requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status.

- B. A licensee shall require an authorized medical physicist to be an individual who has training for the type or types of use for which authorization is sought that includes hands-on device operation, safety procedures, clinical use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training supervised by an authorized medical physicist authorized for the type or types of use for which the individual is seeking authorization.
- C. The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- D. Individuals who, under R9-7-712.01, need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.

Historical Note

New Section R9-7-711 recodified from R12-1-711 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4). Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-712. Authorized Nuclear Pharmacist Training

- A. A licensee shall require the authorized nuclear pharmacist to be a pharmacist who:
 - 1. Is certified as a nuclear pharmacist by a specialty board whose certification process has been recognized by the Department, the NRC, or another Agreement State. To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Have graduated from a pharmacy program accredited by the American Council on Pharmaceutical Education (ACPE) or have passed the Foreign Pharmacy Graduate Examination Committee (FPGEC) examination;
 - b. Hold a current, active license to practice pharmacy in Arizona;
 - c. Provide evidence of having acquired at least 4000 hours of training/experience in nuclear pharmacy practice. Academic training may be substituted for no more than 2000 hours of the required training and experience; and
 - d. Pass an examination in nuclear pharmacy administered by diplomates of the specialty board, that assesses knowledge and competency in procurement, compounding, quality assurance, dispensing, distribution, health and safety, radiation safety, provision of information and consultation, monitoring patient outcomes, research and development; or

- 2. Has completed 700 hours in a structured educational program consisting of both:
 - a. 200 hours of classroom and laboratory training in the following areas:
 - i. Radiation physics and instrumentation;
 - ii. Radiation protection;
 - iii. Mathematics pertaining to the use and measurement of radioactivity;
 - iv. Chemistry of radioactive material for medical use; and
 - v. Radiation biology; and
 - b. Supervised practical experience in a nuclear pharmacy involving:
 - i. Shipping, receiving, and performing related radiation surveys;
 - ii. Using and performing checks for proper operation of instruments used to determine the activity of dosages, survey meters, and, if appropriate, instruments used to measure alpha- or beta-emitting radionuclides;
 - iii. Calculating, assaying, and safely preparing dosages for patients or human research subjects;
 - iv. Using administrative controls to avoid medical events in the administration of radioactive material; and
 - v. Using procedures to prevent or minimize radioactive contamination and using proper decontamination procedures; and
- 3. Has obtained written attestation, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in subsection (A)(2) and has achieved a level of competency sufficient to function independently as an authorized nuclear pharmacist.

- B. The training and experience required in this Section shall be obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- C. Individuals who, under R9-7-712.01, need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.

Historical Note

New Section R9-7-712 recodified from R12-1-712 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-712.01. Training for Experienced Radiation Safety Officers, Teletherapy or Medical Physicists, Authorized Medical Physicists, Authorized Users, Nuclear Pharmacists, and Authorized Nuclear Pharmacists

- A. Exemptions from required training:
 - 1. An individual identified on a Department, a NRC, or another Agreement State license or a permit issued by the NRC or an Agreement State broad scope licensee or master material license permit or by a master material license permittee of broad scope as a Radiation Safety Officer, a teletherapy or medical physicist, an authorized medical physicist, a nuclear pharmacist or an authorized nuclear pharmacist on or before January 14, 2019, need not comply with the training requirements of R9-7-710, R9-7-

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711, or R9-7-712, respectively, except the Radiation Safety Officers and authorized medical physicists identified in this subsection must meet the training requirements in R9-7-710(B) or R9-7-711(B), as appropriate, for any material or uses for which they were not authorized prior to January 14, 2019.

2. Any individual certified by the American Board of Health Physics in Comprehensive Health Physics; American Board of Radiology; American Board of Nuclear Medicine; American Board of Science in Nuclear Medicine; Board of Pharmaceutical Specialties in Nuclear Pharmacy; American Board of Medical Physics in radiation oncology physics; Royal College of Physicians and Surgeons of Canada in nuclear medicine; American Osteopathic Board of Radiology; or American Osteopathic Board of Nuclear Medicine on or before October 24, 2005, need not comply with the training requirements of R9-7-710 to be identified as a Radiation Safety Officer or as an Associate Radiation Safety Officer on a Department, a NRC, or another Agreement State license or NRC master material license permit for those materials and uses that these individuals performed on or before October 24, 2005.
 3. Any individual certified by the American Board of Radiology in therapeutic radiological physics, Roentgen ray and gamma ray physics, x-ray and radium physics, or radiological physics, or certified by the American Board of Medical Physics in radiation oncology physics, on or before October 24, 2005, need not comply with the training requirements for an authorized medical physicist described in R9-7-711, for those materials and uses that these individuals performed on or before October 24, 2005.
 4. A Radiation Safety Officer, a medical physicist, or a nuclear pharmacist, who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses or in the practice of nuclear pharmacy at a Government agency or Federally recognized Indian Tribe before November 30, 2007, or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements of R9-7-710, R9-7-711, or R9-7-712, respectively, when performing the same uses. A nuclear pharmacist, who prepared only radioactive drugs containing accelerator-produced radioactive materials, or a medical physicist, who used only accelerator-produced radioactive materials, at the locations and during the time period identified in this subsection, qualifies as an authorized nuclear pharmacist or an authorized medical physicist, respectively, for those materials and uses performed before these dates, for the purposes of this Section.
- B. Exemptions from required training for physicians, dentists, or podiatrists:**
1. Physicians, dentists, or podiatrists identified as authorized users for the medical use of byproduct material on a license issued by the Department, the NRC, or another Agreement State, a permit issued by a NRC master material licensee, a permit issued by a NRC or an Agreement State broad scope licensee, or a permit issued by a NRC master material license broad scope permittee on or before January 14, 2019, who perform only those medical uses for which they were authorized on or before January 14, 2019, need not comply with the training requirements of Article 7, Exhibit A, Groups 100 through 600.
 2. Physicians, dentists, or podiatrists not identified as authorized users for the medical use of byproduct material on a license issued by the Department, the NRC, or another Agreement State, a permit issued by a NRC master material licensee, a permit issued by a NRS or an Agreement State broad scope licensee, or a permit issued in accordance with a NRC master material broad scope license on or before October 24, 2005, need not comply with the training requirements of Article 7, Exhibit A, Groups 100 through 600 for those materials and uses that these individuals performed on or before October 24, 2005, as follows:
 - a. For uses authorized under Article 7, Exhibit A, Group 100 or 200, or oral administration of sodium iodide I-131 requiring a written directive for imaging and localization purposes, a physician who was certified on or before October 24, 2005, in nuclear medicine by the American Board of Nuclear Medicine; diagnostic radiology by the American Board of Radiology; diagnostic radiology or radiology by the American Osteopathic Board of Radiology; nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or American Osteopathic Board of Nuclear Medicine in nuclear medicine;
 - b. For uses authorized under Article 7, Exhibit A, Group 300, a physician who was certified on or before October 24, 2005, by the American Board of Nuclear Medicine; the American Board of Radiology in radiology, therapeutic radiology, or radiation oncology; nuclear medicine by the Royal College of Physicians and Surgeons of Canada; or the American Osteopathic Board of Radiology after 1984;
 - c. For uses authorized under Article 7, Exhibit A, Group 400 or 600, a physician who was certified on or before October 24, 2005, in radiology, therapeutic radiology or radiation oncology by the American Board of Radiology; radiation oncology by the American Osteopathic Board of Radiology; radiology, with specialization in radiotherapy, as a British "Fellow of the Faculty of Radiology" or "Fellow of the Royal College of Radiology"; or therapeutic radiology by the Canadian Royal College of Physicians and Surgeons; and
 - d. For uses authorized under Article 7, Exhibit A, Group 500, a physician who was certified on or before October 24, 2005, in radiology, diagnostic radiology, therapeutic radiology, or radiation oncology by the American Board of Radiology; nuclear medicine by the American Board of Nuclear Medicine; diagnostic radiology or radiology by the American Osteopathic Board of Radiology; or nuclear medicine by the Royal College of Physicians and Surgeons of Canada.
 3. Physicians, dentists, or podiatrists who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses performed at a Government agency or Federally recognized Indian Tribe before November 30, 2007, or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC, need not comply with the training requirements Article 7, Exhibit A, Groups 100 through 600 when performing the same medical uses. A physician, dentist, or podiatrist, who used only accelerator-produced radioactive materials, discrete sources of radium-226, or both, for medical uses at the locations and time period identified in this subsection, qualifies as an authorized user for those materials and uses performed before these dates, for the purposes of this Section.

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- C. Individuals who need not comply with training requirements as described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department or NRC licenses for the same uses for which these individuals are authorized.

Historical Note

New Section made by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-713. Determination of Prescribed Dosages, and Possession, Use, and Calibration of Instruments

- A. A licensee shall determine and record the activity of each dosage before medical use.
- B. For a unit dosage, this determination shall be made by:
1. Direct measurement of radioactivity; or
 2. Decay correction, based on the activity or activity concentration determined by:
 - a. A manufacturer or preparer licensed under R9-7-311 or equivalent NRC or Agreement State requirements; or
 - b. A Department, a NRC, or an Agreement State licensee for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA or;
 - c. A PET radioactive drug producer licensed under 1 R9-7-311 or equivalent NRC or Agreement State requirements.
- C. For other than unit dosages, this determination shall be made by:
1. Direct measurement of radioactivity;
 2. Combination of measurement of radioactivity and mathematical calculations; or
 3. Combination of volumetric measurements and mathematical calculations based on the measurement made by a manufacturer or preparer licensed under R9-7-311, or equivalent NRC or Agreement State requirements.
- D. Unless otherwise directed by the authorized user, a licensee may not use a dosage if the dosage does not fall within the prescribed dosage range or if the dosage differs from the prescribed dosage by more than 20 percent.
- E. A licensee shall retain a record of the dosage determination required by this Section for Department inspection for three years.
- F. For direct measurements performed in accordance with subsection (B)(1), a licensee shall possess and use instrumentation to measure the activity of the dosage before it is administered to each patient or human research subject.
- G. A licensee shall calibrate the instrumentation required in subsection (F) in accordance with nationally recognized standards, the manufacturer's instructions, or the following procedures.
1. The procedures that may be followed are:
 - a. Check each dose calibrator for constancy with a dedicated check source at the beginning of each day of use;
 - b. Test each dose calibrator for accuracy upon installation and at least annually thereafter by assaying at least two sealed sources containing different radionuclides whose activity the manufacturer has determined within 5 percent of its stated activity, whose activity is at least 10 microcuries for radium-226 and 50 microcuries for any other photon-emitting radionuclide, and at least one of which has a principal photon energy between 100 keV and 500 keV;

- c. Test each dose calibrator for linearity upon installation and at least quarterly thereafter over a range from the highest dosage that will be administered to a patient or human research subject to 1.1 megabecquerels (30 microcuries);
- d. Test each dose calibrator for geometry dependence upon installation over the range of volumes and volume configurations for which it will be used. The licensee shall keep a record of this test for the duration of the use of the dose calibrator;
- e. Perform appropriate checks and tests required by this Section following adjustment or repair of the dose calibrator; and
- f. Mathematically correct dosage readings for any geometry or linearity error that exceeds 10 percent if the dosage is greater than 10 microcuries and shall repair or replace the dose calibrator if the accuracy or constancy error exceeds 10 percent.

2. A licensee shall maintain the dose calibrator in accordance with this subsection, even though the dose calibrator is only used to "verify" a dosage prepared by a supplier authorized in subsection (B)(2).
 3. A licensee shall maintain on file for Department review nationally recognized standards or manufacturer's instructions used to maintain a dose calibrator and meet the requirements of subsection (G).
- H. A licensee shall calibrate the survey instruments before first use, annually, and following a repair that affects the calibration. A licensee shall:
1. Calibrate all scales with readings up to 10 mSv (1000 mrem) per hour with a radiation source;
 2. Calibrate two separated readings on each scale or decade that will be used to show compliance; and
 3. Conspicuously note on the instrument the date of calibration.
- I. A licensee may not use survey instruments if the difference between the indicated exposure rate and the calculated exposure rate is more than 20 percent.
- J. A licensee shall retain records of instrument calibration for three years following the calibration.

Historical Note

New Section R9-7-713 recodified from R12-1-713 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-714. Authorization for Calibration, Transmission, and Reference Sources

Any person authorized by R9-7-703 for medical use of radioactive material may receive, possess, and use any of the following radioactive material for check, calibration, transmission, and reference use.

1. Sealed sources, not exceeding 1.11 GBq (30 mCi) each, manufactured and distributed by a person licensed under Article 3 of this Chapter or equivalent NRC or Agreement State regulations.
2. Sealed sources, not exceeding 1.11 GBq (30 mCi) each, redistributed by a licensee authorized to redistribute the sealed sources manufactured and distributed by a person licensed under Article 3 of this Chapter, providing the redistributed sealed sources are in the original packaging and shielding and are accompanied by the manufacturer's approved instructions.
3. Any radioactive material with a half-life not longer than 120 days in individual amounts not to exceed 0.56 GBq (15 mCi).
4. Any radioactive material with a half-life longer than 120 days in individual amounts not to exceed the smaller of

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7.4 MBq (200 μ Ci) or 1000 times the quantities in Article 4, Appendix B of this Chapter.

5. Technetium-99m in amounts as needed.
6. A licensee is limited to five sources of radiation authorized under subsections (1) through (3), unless otherwise specified in the licensee's radioactive material license.

Historical Note

New Section R9-7-714 recodified from R12-1-714 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-715. Requirements for Possession of Sealed Sources and Brachytherapy Sources

- A. A licensee in possession of any sealed source or brachytherapy source shall follow the radiation safety and handling instructions supplied by the manufacturer.
- B. A licensee in possession of a sealed source shall test the source for leakage in accordance with R9-7-417.
- C. A licensee in possession of sealed sources or brachytherapy sources, except for gamma stereotactic radiosurgery sources, shall conduct a physical inventory every six months of all sources in its possession. During the period of time between the inventories, the licensee shall add each acquired sealed source to the inventory record and remove from the inventory record each source that leaves the licensee's control.
- D. A licensee shall document the inventories conducted under subsection (C) and maintain inventory records in accordance with R9-7-450.

Historical Note

New Section R9-7-715 recodified from R12-1-715 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-716. Surveys of Ambient Radiation Exposure Rate, Surveys for Contamination, and PET Radiation Exposure Concerns

- A. In addition to the surveys required in Article 4 of this Chapter, a licensee shall survey with a radiation detection survey instrument at the end of each day of use all areas where unsealed radioactive material, requiring a written directive, is prepared for use or administered. In areas of routine use, that are to be released for unrestricted use, a licensee shall perform a survey of the area using an instrument appropriate for detecting contamination before releasing the area for unrestricted use.
- B. A licensee shall obtain the services of a person, experienced in the principles of radiation protection and installation design, to design a PET facility and perform a radiation survey when the facility is ready for patient imaging. The licensee shall provide a copy of the installation radiation survey to the Department within 30 days of imaging the first patient.
- C. The licensee shall use engineering controls or shield each PET use area with protective barriers necessary to comply with the radiation exposure limits in R9-7-408 and R9-7-416.
 1. At the time of application for a new license or amendment to an existing license, and before imaging of the first patient, the licensee shall provide to the Department a copy of the installation report signed by the contractor who installed the shielding material recommended by a person meeting the requirements in subsection (B) and a copy of the installation radiation survey required in subsection (B).
 2. The licensee shall perform shielding calculations in accordance with *AAPM Task Group 108: PET and PET/CT Shielding Requirements*, in Medical Physics, Vol. 33, No. 1, January 2006, which is incorporated by reference, published by the American Association of Physicists in Medicine, One Physics Ellipse, College Park, MD 20740, and on file with the Department. This incorporation by

reference contains no future editions or amendments. In lieu of these procedures, the licensee may use equivalent calculations approved by the Department.

- D. As part of the annual ALARA review required in R9-7-407, the licensee shall document a review of the PET patient workload and associated change, if any, in public exposure resulting from the installed facility shielding and other public radiation exposure controls in use at the time of the review.

Historical Note

New Section R9-7-716 recodified from R12-1-716 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-717. Release of Individuals Containing Radioactive Material or Implants Containing Radioactive Material

- A. A licensee may authorize the release from its control of any individual who has been administered unsealed radioactive material or implants containing radioactive material, if the total effective dose equivalent to any other individual from exposure to the released individual is not likely to exceed 5 millisieverts (0.5 rem).
- B. A licensee shall provide the released individual, or the individual's parent or guardian, with instructions, including written instructions, on actions recommended to maintain doses to other individuals as low as is reasonably achievable if the total effective dose equivalent to any other individual is likely to exceed 1 millisievert (0.1 rem). If the total effective dose equivalent to a nursing infant or child could exceed 1 millisievert (0.1 rem) assuming there were no interruption of breast-feeding, the instructions shall also include:
 1. Guidance on the interruption or discontinuation of breast-feeding; and
 2. Information on the potential consequences, if any, of failure to follow the guidance.
- C. A licensee shall maintain a record of the basis for authorizing the release of an individual and instructions provided to a breast-feeding female for three years from the date of the administration performed under subsection (A). Nothing in this rule relieves the licensee from the personnel exposure requirements in Article 4.

Historical Note

New Section R9-7-717 recodified from R12-1-717 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-718. Mobile Medical Service

- A. A licensee providing mobile medical service shall:
 1. Obtain a letter signed by the management of each client for which services are rendered that permits the use of radioactive material at the client's address and clearly delineates the authority and responsibility of the licensee and the client;
 2. Check instruments used to measure the activity of unsealed radioactive material for proper function before medical use at each client's address or on each day of use, whichever is more frequent. At a minimum, the check for proper function required by this sub-section shall include a constancy check;
 3. Check survey instruments for proper operation with a dedicated check source before use at each client's address; and
 4. Before leaving a client's address, survey all areas of use to ensure compliance with the requirements in Article 4 of this Chapter.
- B. A mobile medical service may not have radioactive material delivered from the manufacturer or the distributor to the client unless the client has a license allowing its possession. If appli-

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cable, radioactive material delivered to the client shall be received and handled in conformance with the client's license.

- C. A licensee providing mobile medical services shall retain the record of each survey required in subsection (A)(4) for at least three years after the date of the survey.

Historical Note

New Section R9-7-718 recodified from R12-1-718 at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 30 A.A.R.

2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-719. Training for Uptake, Dilution, and Excretion Studies

- A. Except as provided in R9-7-712.01, a licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 100 in Exhibit A, Medical Use Groups of this Article to be a physician who:

1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, the names of which are specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>. To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Complete 60 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed radioactive material for uptake, dilution, and excretion studies as described in subsections (A)(3)(a)(i) and (ii); and
 - b. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in radiation safety, radionuclide handling, and quality control;
2. Is an authorized user under R9-7-721, R9-7-723, or equivalent requirements of the NRC or another Agreement State; or
3. Has:
 - a. Completed 60 hours of training and experience, including a minimum of eight hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material for uptake, dilution, and excretion studies. The training and experience must include:
 - i. Classroom and laboratory training in the following areas:
 - (1) Radiation physics and instrumentation;
 - (2) Radiation protection;
 - (3) Mathematics pertaining to the use and measurement of radioactivity;
 - (4) Chemistry of radioactive material for medical use; and
 - (5) Radiation biology; and
 - ii. Work experience, under the supervision of an authorized user who meets the requirements in this Section, R9-7-712.01, R9-7-721, or R9-7-723, or equivalent requirements of the NRC or another Agreement State, involving:
 - (1) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
 - (2) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for

proper operation of survey meters;

- (3) Calculating, measuring, and safely preparing patient or human research subject dosages;
 - (4) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;
 - (5) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures; and
 - (6) Administering dosages of radioactive drugs to patients or human research subjects; and
- b. Obtained written attestation that the individual has satisfactorily completed the requirements in subsection (A)(1) or subsection (A)(3)(a) and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under Group 100 in Exhibit A, Medical Use Groups of this Article. The attestation must be obtained from either:
- i. A preceptor authorized user who meets the requirements in this Section, R9-7-712.01, R9-7-721, or R9-7-723 or equivalent requirements of the NRC or another Agreement State; or
 - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section, R9-7-712.01, R9-7-721, or R9-7-723 or equivalent requirements of the NRC or another Agreement State, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(3)(a).
- B. The training and experience in subsections (A)(1)(a) or (3)(a) shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.
- C. Individuals who, under R9-7-710(B), need not comply with training requirements described in this Section may serve as preceptors for, and supervisors of, applicants seeking authorization on Department licenses for the same uses for which these individuals are authorized.

Historical Note

New Section R9-7-719 recodified from R12-1-719 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4). Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-720. Permissible Molybdenum-99, Strontium-82, and Strontium-85 Concentrations

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- A. A licensee may not administer to humans a radiopharmaceutical that contains more than 0.15 kilobecquerel of molybdenum-99 per megabecquerel of technetium-99m (0.15 microcurie of molybdenum-99 per millicurie of technetium-99m) or, more than 0.02 kilobecquerel of strontium-82 per megabecquerel of rubidium-82 chloride injection (0.02 microcurie of strontium-82 per millicurie of rubidium-82 chloride); or more than 0.2 kilobecquerel of strontium-85 per megabecquerel of rubidium-82 chloride injection (0.2 microcurie of strontium-85 per millicurie of rubidium-82).
 - B. A licensee that uses molybdenum-99/technetium-99m generators for preparing a technetium-99m radiopharmaceutical shall measure the molybdenum-99 concentration in each eluate from a generator to demonstrate compliance with subsection (A).
 - C. A licensee that uses a strontium-82/rubidium-82 generator for preparing a rubidium-82 radiopharmaceutical shall, before the first patient use of the day, measure the concentration of radionuclides strontium-82 and strontium-85 to demonstrate compliance with subsection (A).
 - D. A licensee shall maintain a record of each molybdenum-99 concentration measurement or strontium-82 and strontium-85 concentrations measurements for at least three years following completion of the measurement.
 - E. A licensee shall notify by telephone the Department and the distributor of the generator within seven calendar days after discovery that an eluate exceeded the permissible concentration listed in subsection (A) at the time of generator elution. The telephone report to the Department must include the manufacturer, model number, and serial number (or lot number) of the generator; the results of the measurement; the date of the measurement; whether dosages were administered to patients or human research subjects; when the distributor was notified; and the action taken.
 - F. A licensee shall submit a written report, according to R9-7-1907(1) through (3), to the Department within 30 calendar days after discovery of an eluate exceeding the permissible concentration at the time of generator elution. The written report must include the action taken by the licensee; the patient dose assessment; the methodology used to make this dose assessment if the eluate was administered to patients or human research subjects; and the probable cause and an assessment of failure in the licensee's equipment, procedures, or training that contributed to the excessive readings if an error occurred in the licensee's breakthrough determination; and the information in the telephone report required by subsection (E).
- ognized, a specialty board shall require all candidates for certification to:
 - a. Complete 700 hours of training and experience in basic radionuclide handling techniques and radiation safety applicable to the medical use of unsealed radioactive material for imaging and localization studies as described in subsection (3)(a); and
 - b. Pass an examination, administered by diplomates of the specialty board, that assesses knowledge and competence in radiation safety, radionuclide handling, and quality control;
 2. Is an authorized user under R9-7-723 and meets the requirements in subsection (3)(a)(ii)(7) or equivalent NRC or Agreement State requirements; or
 3. Has:
 - a. Completed 700 hours of training and experience, including a minimum of 80 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material for imaging and localization studies. The training and experience must include:
 - i. Classroom and laboratory training in the following areas:
 - (1) Radiation physics and instrumentation;
 - (2) Radiation protection;
 - (3) Mathematics pertaining to the use and measurement of radioactivity;
 - (4) Chemistry of radioactive material for medical use; and
 - (5) Radiation biology; and
 - ii. Work experience, under the supervision of an authorized user who meets the requirements in this Section; R9-7-712.01; or both subsection (3)(a)(ii)(7) and R9-7-723; or the equivalent requirements of the NRC or another Agreement State. An authorized nuclear pharmacist who meets the requirements in R9-7-712 may provide the supervised work experience for subsection (3)(a)(ii)(7). Work experience must involve:
 - (1) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
 - (2) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
 - (3) Calculating, measuring, and safely preparing patient or human research subject dosages;
 - (4) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;
 - (5) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures;
 - (6) Administering dosages of radioactive drugs to patients or human research subjects; and
 - (7) Eluting generator systems appropriate for preparation of radioactive drugs for imaging and localization studies, measuring and testing the elate for radionuclide purity, and processing the elate with reagent kits to prepare labeled radioactive drugs; and

Historical Note

New Section R9-7-720 recodified from R12-1-720 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
 Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).
 Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-721. Training for Imaging and Localization Studies Not Requiring a Written Directive

Except as provided in R9-7-712.01, a licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 200 in Exhibit A, Medical Use Groups of this Article to be a physician who:

1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, the names of which are specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>. To have its certification process rec-

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- b. Obtained written attestation that the individual has satisfactorily completed the requirements in subsection (3)(a) and is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under Groups 100 and 200 in Exhibit A, Medical Use Groups of this Article. The attestation must be obtained from either:
 - i. A preceptor authorized user who meets the requirements in this Section; R9-7-712.01; or both subsection (3)(a)(ii)(7) and R9-7-723; or equivalent NRC or Agreement State requirements; or
 - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section; R9-7-712.01; or both subsection (3)(a)(ii)(7) and R9-7-723; or equivalent NRC or Agreement State requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (3)(a).
- background radiation level with a radiation detection survey instrument set on its most sensitive scale and with no interposed shielding, or handle the material and items as radioactive waste.
- C. A licensee shall notify the Radiation Safety Officer, or his or her designee, and the authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.
- D. A licensee may use any unsealed byproduct material identified in R9-7-723(A)(2)(b)(vi) prepared for medical use and for which a written directive is required that is:
 - 1. Obtained from:
 - a. A manufacturer or preparer licensed under R9-7-311 or equivalent Agreement State requirements, or
 - b. A PET radioactive drug producer licensed under R9-7-311 or equivalent Agreement State requirements;
 - 2. Excluding production of PET radionuclides, prepared by:
 - a. An authorized nuclear pharmacist;
 - b. A physician who is an authorized user and who meets the requirements specified R-7-723; or
 - c. An individual under the supervision, as specified in R9-7-712, of the authorized nuclear pharmacist in subsection (D)(2)(a) or the physician who is an authorized user in subsection (D)(2)(b);
 - 3. Obtained from and prepared by an NRC or Agreement State licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA; or
 - 4. Prepared by the licensee for use in research in accordance with an Investigational New Drug (IND) protocol accepted by FDA.
- E. A licensee shall retain records of instruction and safety procedures performed under this rule for three years from the date of the activity.

Historical Note

New Section R9-7-721 recodified from R12-1-721 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4). Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-722. Safety Instruction and Precautions for Use of Unsealed Radioactive Material Requiring a Written Directive

- A. A licensee shall provide radiation safety instruction, initially and at least annually, for all personnel caring for the patient or human research subject receiving radiopharmaceutical therapy and hospitalized for compliance with R9-7-717. To satisfy this requirement, the instruction shall describe the licensee's procedures for:
 - 1. Patient or human research subject control,
 - 2. Visitor control,
 - 3. Contamination control, and
 - 4. Waste control.
- B. For each patient or human research subject who cannot be released under R9-7-717, a licensee shall:
 - 1. Quarter the patient or the human research subject in a private room with a private sanitary facility;
 - 2. Visibly post the patient's or the human research subject's room with a "Radioactive Materials" sign;
 - 3. Note on the door or in the patient's or human research subject's chart where and how long visitors may stay in the patient's or the human research subject's room; and
 - 4. Monitor material and items removed from the patient's or the human research subject's room to determine that their radioactivity cannot be distinguished from the natural

Historical Note

New Section R9-7-722 recodified from R12-1-722 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-723. Training for Use of Unsealed Radioactive Material Requiring a Written Directive, Including Treatment of Hyperthyroidism, and Treatment of Thyroid Carcinoma

- A. Except as provided in R9-7-712.01, a licensee shall require an authorized user of unsealed radioactive material for the uses authorized under Group 300 in Exhibit A, Medical Use Groups of this Article to be a physician who:
 - 1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, the names of which are specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>, and who meets the requirements in subsection (A)(2). To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Successfully complete residency training in a radiation therapy or nuclear medicine training program or a program in a related medical specialty. These residency training programs must include 700 hours of training and experience as described in subsection (A)(2)(a). Eligible training programs must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education, the Royal College of Physicians and Surgeons of Canada, or the Committee on Post-Gradu-

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- ate Training of the American Osteopathic Association; and
- b. Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, and quality assurance, and clinical use of unsealed radioactive material for which a written directive is required; or
2. Has:
 - a. Completed 700 hours of training and experience, including a minimum of 200 hours of classroom and laboratory training, in basic radionuclide handling techniques applicable to the medical use of unsealed radioactive material requiring a written directive. The training and experience must include:
 - i. Classroom and laboratory training in the following areas:
 - (1) Radiation physics and instrumentation;
 - (2) Radiation protection;
 - (3) Mathematics pertaining to the use and measurement of radioactivity;
 - (4) Chemistry of radioactive material for medical use; and
 - (5) Radiation biology; and
 - ii. Work experience, under the supervision of an authorized user who meets the requirements in this Section, R9-7-712.01, or equivalent NRC or Agreement State requirements. A supervising authorized user, who meets the requirements in subsection (A)(2), must also have experience in administering dosages in the same dosage category or categories, as specified in subsection (A)(2)(a)(ii)(6), as the individual requesting authorized user status. The work experience must involve:
 - (1) Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
 - (2) Performing quality control procedures on instruments used to determine the activity of dosages and performing checks for proper operation of survey meters;
 - (3) Calculating, measuring, and safely preparing patient or human research subject dosages;
 - (4) Using administrative controls to prevent a medical event involving the use of unsealed radioactive material;
 - (5) Using procedures to contain spilled radioactive material safely and using proper decontamination procedures;
 - (6) Administering dosages of radioactive drugs to patients or human research subjects from the following three categories, with radioactive drugs containing radionuclides in categories not included being regulated under Group 1000 in Exhibit A, Medical Use Groups of this Article. This work experience must involve a minimum of three cases in each of the following categories for which the individual is requesting authorized user status:
 - (a) Oral administration of less than or equal to 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131, for which a written directive is required
 - (b) Oral administration of greater than 1.22 gigabecquerels (33 millicuries) of sodium iodide I-131; and
 - (c) Parenteral administration of any radioactive drug that contains a radionuclide that is primarily used for the radionuclide's electron emission, beta radiation characteristics, alpha radiation characteristics, or photon energy less than 150 keV, for which a written directive is required; and
 - b. Obtained written attestation, that the individual has satisfactorily completed the requirements in subsection (A)(2)(a) and is able to independently fulfill the radiation safety-related duties as an authorized user for the medical uses authorized under Group 300 in Exhibit A, Medical Use Groups of this Article for which the individual is requesting authorized user status. The attestation must be obtained from either:
 - i. A preceptor authorized user who meets the requirements in this Section or equivalent Agreement State or NRC requirements and has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status; or
 - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency program faculty where at least one faculty member is an authorized user who meets the requirements in this Section, R9-7-712.01, or equivalent Agreement State or NRC requirements, has experience in administering dosages in the same dosage category or categories as the individual requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a).
- B. Except as provided in R9-7-712.01, a licensee shall require an authorized user of iodine-131 for the oral administration of sodium iodide I-131 requiring a written directive in quantities less than or equal to 1.22 gigabecquerels (33 millicuries) to be a physician who has completed the training requirements in 10 CFR 35.392, July 16, 2018, which is incorporated by reference, available under R9-7-101, and containing no future editions or amendments.
 - C. Except as provided in R9-7-712.01, a licensee shall require an authorized user of iodine-131 for the oral administration of sodium iodide I-131 requiring a written directive in quantities greater than 1.22 gigabecquerels (33 millicuries) to be a physician who has completed the training requirements in 10 CFR 35.394, July 16, 2018, which is incorporated by reference, available under R9-7-101, and containing no future editions or amendments.

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- D. Except as provided in R9-7-712.01, a licensee shall require an authorized user for the parenteral administration of unsealed radioactive material requiring a written directive to be a physician who has completed the training requirements in 10 CFR 35.396, July 16, 2018, which is incorporated by reference, available under R9-7-101, and containing no future editions or amendments.
- E. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

Historical Note

New Section R9-7-723 recodified from R12-1-723 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
 Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).
 Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4). Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3). Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-724. Surveys after Brachytherapy Source Implant and Removal; Accountability

- A. A licensee shall make a survey to locate and account for all sources that have not been implanted immediately after implanting sources in a patient or a human research subject.
- B. A licensee shall make a survey of the patient or the human research subject with a radiation detection survey instrument immediately after removing the last temporary implant source to confirm that all sources have been removed.
- C. A licensee shall maintain accountability at all times for all sources in storage or use.
- D. A licensee shall return brachytherapy sources to a secure storage area as soon as possible after removing sources from a patient or a human research subject.
- E. A licensee shall record the procedures performed in subsections (A) through (D) and retain the records for three years following completion of the record.
- F. A licensee must use only brachytherapy sources:
 - 1. Approved in the Sealed Source and Device Registry for manual brachytherapy medical use. The manual brachytherapy sources may be used for manual brachytherapy uses that are not explicitly listed in the Sealed Source and Device Registry, but must be used in accordance with the radiation safety conditions and limitations described in the Sealed Source and Device Registry; or
 - 2. In research to deliver therapeutic doses for medical use in accordance with an active Investigational Device Exemption (IDE) application accepted by the U.S. Food and Drug Administration, provided the requirements of R9-7-450(A) are met.

Historical Note

New Section R9-7-724 recodified from R12-1-724 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
 Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-725. Safety Instructions and Precautions for Brachytherapy Patients that Cannot be Released Under R9-7-717

- A. In addition to the training requirements in Article 10, a licensee shall provide radiation safety instruction, initially and at least annually, to personnel caring for patients or human research subjects who are receiving brachytherapy and cannot be released under R9-7-717. To satisfy this requirement, the instruction shall be commensurate with the duties of the personnel and include the:
 - 1. Size and appearance of the brachytherapy sources;
 - 2. Safe handling and shielding instructions;
 - 3. Patient or human research subject control;
 - 4. Visitor control, including both:
 - a. Routine visitation of hospitalized individuals in accordance with Article 4 of this Chapter,
 - b. Visitation authorized in accordance with Article 4 of this Chapter, and
 - 5. Notification of the radiation safety officer, or his or her designee, and an authorized user if the patient or the human research subject has a medical emergency or dies.
- B. For each patient or human research subject who is receiving brachytherapy and cannot be released under R9-7-717, a licensee shall:
 - 1. Not quarter the patient or the human research subject in the same room as an individual who is not receiving brachytherapy;
 - 2. Visibly post the patient's or human research subject's room with a "Radioactive Materials" sign; and
 - 3. Note on the door or in the patient's or human research subject's chart where and how long visitors may stay in the patient's or human research subject's room.
- C. A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:
 - 1. Dislodged from the patient; and
 - 2. Lodged within the patient following removal of the source applicators.
- D. A licensee shall notify the radiation safety officer, or the RSO's designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.
- E. A licensee shall record the instructions given under subsection (A) and retain the records for three years after recording the instructions.

Historical Note

New Section R9-7-725 recodified from R12-1-725 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-726. Calibration Measurements of Brachytherapy Sources, Decay of Sources Used for Ophthalmic Treatments, and Computerized Treatment Planning Systems

- A. Before the first medical use of a brachytherapy source after the effective date of this rule, a licensee shall have:
 - 1. Determined the source output or activity using a dosimetry system that meets the requirements of R9-7-733(A);
 - 2. Determined source positioning accuracy within applicators; and
 - 3. Used published protocols currently accepted by nationally recognized bodies to meet the requirements of subsections (A)(1) and (A)(2).
- B. A licensee may use measurements provided by the source manufacturer or by a calibration laboratory accredited by the American Association of Physicists in Medicine that are made in accordance with subsection (A).
- C. A licensee shall mathematically correct the outputs or activities determined in subsection (A) for physical decay at intervals consistent with one percent physical decay.

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- D. Only an authorized medical physicist shall calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay shall be based on the activity determined under subsection (A).
- E. A licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing shall include, as applicable, verification of:
 - 1. The source-specific input parameters required by the dose calculation algorithm;
 - 2. The accuracy of dose, dwell time, and treatment time calculations at representative points;
 - 3. The accuracy of isodose plots and graphic displays; and
 - 4. The accuracy of the software used to determine sealed source positions from radiographic images.
- F. A licensee shall retain records of each source activity determination and ophthalmic source decay correction, and documentation of the acceptance testing protocol required under subsection (E) for three years after the date of the procedure required in subsections (A) and (D), and for the records created in conjunction with subsection (E), the record shall be maintained for three years from the last date of the protocol's use.

Historical Note

New Section R9-7-726 recodified from R12-1-726 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-727. Training for Use of Manual Brachytherapy Sources and Training for the Use of Strontium-90 Sources for Treatment of Ophthalmic Disease

- A. Except as provided in R9-7-712.01, a licensee shall require an authorized user of a manual brachytherapy source for the uses authorized under Group 400 in Exhibit A, Medical Use Groups of this Article to be a physician who:
 - 1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, the names of which are specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>, and who meets the requirements in subsection (A)(2). To have its certification process recognized, a specialty board shall require all candidates for certification to:
 - a. Successfully complete a minimum of three years of residency training in a radiation oncology program approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association; and
 - b. Pass an examination, administered by diplomates of the specialty board, that tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of manual brachytherapy; or
 - 2. Has completed a structured educational program in basic radionuclide handling techniques applicable to the use of manual brachytherapy sources that includes:
 - a. 200 hours of classroom and laboratory training in the following areas:
 - i. Radiation physics and instrumentation;
 - ii. Radiation protection;
 - iii. Mathematics pertaining to the use and measurement of radioactivity;
 - iv. Radiation biology;
- B. Except as provided in R9-7-712.01, a licensee shall require the authorized user of strontium-90 for ophthalmic radiotherapy to be a physician who:
 - b. 500 hours of work experience, under the supervision of an authorized user who meets the requirements in this Section, R9-7-712.01, or equivalent NRC or Agreement State requirements at a medical institution authorized to use byproduct materials under Group 400 in Exhibit A, Medical Use Groups of this Article, involving:
 - i. Ordering, receiving, and unpacking radioactive materials safely and performing the related radiation surveys;
 - ii. Checking survey meters for proper operation;
 - iii. Preparing, implanting, and removing brachytherapy sources;
 - iv. Maintaining running inventories of material on hand;
 - v. Using administrative controls to prevent a medical event involving the use of radioactive material;
 - vi. Using emergency procedures to control radioactive material;
 - c. At least three years of supervised clinical experience in radiation oncology, under an authorized user who meets the requirements in this Section, R9-7-712.01, or equivalent NRC or Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by subsection (A)(2)(b); and
 - d. Obtaining written attestation that the individual has satisfactorily completed the requirements in subsections (A)(2)(a) through (c) and is able to independently fulfill the radiation safety-related duties as an authorized user of manual brachytherapy sources for the medical uses authorized under Group 400 in Exhibit A, Medical Use Groups of this Article. The attestation must be obtained from either:
 - i. A preceptor authorized user who meets the requirements in this Section, R9-7-712.01, or equivalent Agreement State or NRC requirements; or
 - ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency pro-gram faculty where at least one faculty member is an authorized user who meets the requirements in this Section, R9-7-712.01, or equivalent Agreement State or NRC requirements, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsections (A)(2)(a) through (c).

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1. Is an authorized user under subsection (A) or equivalent Agreement State or NRC requirements; or
 2. Has:
 - a. Completed at least 24 hours of classroom and laboratory training applicable to the medical use of strontium-90 for ophthalmic radiotherapy, including:
 - i. Radiation physics and instrumentation,
 - ii. Radiation protection,
 - iii. Mathematics pertaining to the use and measurement of radioactivity, and
 - iv. Radiation biology;
 - b. Supervised clinical training in ophthalmic radiotherapy under the supervision of an authorized user at a medical institution, clinic, or private practice that includes the use of strontium-90 for the ophthalmic treatment of five individuals, including:
 - i. Examination of each individual to be treated,
 - ii. Calculation of the dose to be administered,
 - iii. Administration of the dose, and
 - iv. Follow up and review of each individual's case history; and
 - c. Obtained written attestation, signed by a preceptor authorized user who meets the requirements in subsection (A) or (B), R9-7-712.01, or equivalent Agreement State or NRC requirements, that the individual has satisfactorily completed the requirements in subsections (B)(2)(a) and (b) and is able to independently fulfill the radiation safety-related duties as an authorized user of strontium-90 for ophthalmic use.
- C. A licensee who uses strontium-90 for ophthalmic treatments must ensure that certain activities as specified in subsection (D) are performed by either:
1. An authorized medical physicist; or
 2. An individual who:
 - a. Is identified as an ophthalmic physicist on a:
 - i. Specific medical use license issued by the Department, the NRC, or another Agreement State,
 - ii. Permit issued by the Department or an NRC or other Agreement State broad scope medical use licensee,
 - iii. Medical use permit issued by an NRC master material licensee, or
 - iv. Permit issued by an NRC master material licensee broad scope medical use permittee;
 - b. Holds a master's or doctor's degree in physics, medical physics, other physical sciences, engineering, or applied mathematics from an accredited college or university;
 - c. Has successfully completed one year of full-time training in medical physics and an additional year of full-time work experience under the supervision of a medical physicist; and
 - d. Has documented training in:
 - i. The creation, modification, and completion of written directives;
 - ii. Procedures for administrations requiring a written directive; and
 - iii. Performing the calibration measurements of brachytherapy sources as detailed in R9-7-726.
- D. The individuals who are identified in subsection (C)(1) or (2) shall:
1. Calculate the activity of each strontium-90 source that is used to determine the treatment times for ophthalmic treatments. The decay must be based on the activity determined under R9-7-726; and
 2. Assist the licensee in developing, implementing, and maintaining written procedures to provide high confidence that the administration is in accordance with the written directive. These procedures must include the frequencies that the individual meeting the requirements in subsection (A) will observe treatments, review the treatment methodology, calculate treatment time for the prescribed dose, and review records to verify that the administrations were in accordance with the written directives.
- E. Licensees shall retain a record of the activity of each strontium-90 source in accordance with R9-7-313.
- F. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

Historical Note

New Section R9-7-727 recodified from R12-1-727 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
 Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).
 Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4). Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-728. Training for Use of Sealed Sources for Diagnosis

- A. Except as provided in R9-7-712.01, a licensee shall require the authorized user of a diagnostic sealed source for use in a device authorized under Group 500 in Exhibit A, Medical Use Groups of this Article to be a physician, dentist, or podiatrist who:
1. Is certified by a medical specialty board whose certification process has been recognized by the NRC or an Agreement State, the names of which are specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>, and who meets the requirements in subsections (A)(3) and (B);
 2. Is an authorized user for uses listed in Group 200 of Exhibit A, Medical Use Groups of this Article or equivalent NRC or Agreement State requirements; or
 3. Has completed at least eight hours of classroom and laboratory training in basic radionuclide handling techniques specifically applicable to the use of the device, including:
 - a. Radiation physics and instrumentation;
 - b. Radiation protection;
 - c. Mathematics pertaining to the use and measurement of radioactivity;
 - d. Radiation biology.
- B. A licensee shall require the authorized user of a diagnostic sealed source for use in a device authorized under Group 500 in Exhibit A, Medical Use Groups of this Article to have completed training in the use of the device for the uses requested.
- C. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

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Historical Note

New Section R9-7-728 recodified from R12-1-728 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).
Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-729. Surveys of Patients and Human Research Subjects Treated with a Remote Afterloader Unit

- A. Before releasing a patient or a human research subject from licensee control, a licensee shall survey the patient or the human research subject and the remote afterloader unit with a portable radiation detection survey instrument to confirm that each source has been removed from the patient or human research subject and returned to the safe shielded position.
- B. A licensee shall make records of these surveys conducted under subsection (A) and retain them for three years from the date of each survey.

Historical Note

New Section R9-7-729 recodified from R12-1-729 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-730. Installation, Maintenance, Adjustment, and Repair of an Afterloader Unit, Teletherapy Unit, or Gamma Stereotactic Radiosurgery Unit

- A. Only a person specifically licensed by the Department, the NRC, or an Agreement State shall install, maintain, adjust, or repair a remote afterloader unit, teletherapy unit, or gamma stereotactic radiosurgery unit that involves work on any source shielding, the source's driving unit, or other electronic or mechanical component that could expose a source, reduce the shielding around a source, or compromise the radiation safety of a unit or a source.
- B. Except for low dose-rate remote afterloader units, only a person specifically licensed by the Department, the NRC, or an Agreement State shall install, replace, relocate, or remove a sealed source or source contained in other remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units.
- C. For a low dose-rate remote afterloader unit, only a person specifically licensed by the Department, the NRC, or an Agreement State or an authorized medical physicist shall install, replace, relocate, or remove a sealed source contained in the unit.
- D. A licensee shall retain a record of the installation, maintenance, adjustment, and repair of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units for three years from the completion date of the activity listed in this Section.

Historical Note

New Section R9-7-730 recodified from R12-1-730 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-731. Safety Procedures and Instructions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

- A. A licensee shall:
 - 1. Secure the unit, the console, the console keys, and the treatment room when not in use or unattended;
 - 2. Permit only individuals approved by the authorized user, Radiation Safety Officer, or authorized medical physicist to be present in the treatment room during treatment with a source;

- 3. Prevent dual operation of more than one radiation producing device in a treatment room if applicable; and
- 4. Develop, implement, and maintain written procedures for responding to an abnormal situation when the operator is unable to place a source in the shielded position, or remove the patient or human research subject from the radiation field with controls from outside the treatment room. These procedures shall include:
 - a. Instructions for responding to equipment failures and the names of the individuals responsible for implementing corrective actions;
 - b. The process for restricting access to and posting of the treatment area to minimize the risk of inadvertent exposure; and
 - c. The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.
- B. A licensee shall post instructions at the unit console to inform the operator of:
 - 1. The location of the procedures required by subsection (A)(4); and
 - 2. The names and telephone numbers of the authorized users, the authorized medical physicist, and the Radiation Safety Officer to be contacted if the unit or console operates abnormally.
- C. A licensee shall provide instruction, initially and at least annually, to all individuals who operate the unit, as appropriate to the individual's assigned duties, in:
 - 1. The procedures identified in subsection (A)(4); and
 - 2. The operating procedures for the unit.
- D. A licensee shall ensure that operators, authorized medical physicists, and authorized users participate in drills of the emergency procedures, initially and at least annually.
- E. A licensee shall retain a record of individuals receiving instruction required by subsection (C) for three years from the date of the instruction.
- F. A licensee shall maintain a copy of the procedures required by subsections (A)(4) and (C)(2) for Department review. The copy shall be maintained for three years beyond the termination date of the activities for which the procedures were written.
- G. Prior to the first use for patient treatment of a new unit or an existing unit with a manufacturer upgrade that affects the operation and safety of the unit, a licensee shall ensure that vendor operational and safety training is provided to all individuals who will operate the unit. The vendor operational and safety training must be provided by the device manufacturer or by an individual certified by the device manufacturer to provide the operational and safety training.
- H. A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during each source replacement to assure proper functioning of the source exposure mechanism and other safety components. The interval between each full-inspection servicing shall not exceed five years for each teletherapy unit and shall not exceed seven years for each gamma stereotactic radiosurgery unit.
- I. A licensee shall:
 - 1. Ensure that inspection and servicing are performed only by persons specifically licensed to do so by the Department, the NRC or another Agreement State, and
 - 2. Keep a record of the inspection and servicing for three years after termination.
- J. A licensee shall maintain a record of safety instruction required by R9-7-722, R9-7-725 and this Section and the oper-

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ational and safety instructions for three years after the date of the instruction. The record must include a list of the topics covered, the date of the instruction, the name(s) of the attendee(s), and the name(s) of the individual(s) who provided the instruction.

Historical Note

New Section R9-7-731 recodified from R12-1-731 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).

R9-7-732. Safety Precautions for Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

- A. A licensee shall control access at each entrance to a treatment room.
- B. A licensee shall equip each entrance to the treatment room with an electrical interlock system that will:
 1. Prevent the operator from initiating the treatment cycle unless each treatment room entrance door is closed;
 2. Cause each source to be shielded when an entrance door is opened; and
 3. Prevent any source from being exposed following an interlock interruption until all treatment room entrance doors are closed and the source's on-off control is reset at the console.
- C. A licensee shall require any individual entering the treatment room to assure, through the use of appropriate radiation monitors, that radiation levels have returned to ambient levels.
- D. Except for low-dose remote afterloader units, a licensee shall construct or equip each treatment room with viewing and intercom systems to permit continuous observation of the patient or the human research subject from the treatment console during irradiation.
- E. For licensed activities where sources are placed within the patient's or human research subject's body, a licensee shall only conduct treatments which allow for expeditious removal of a decoupled or jammed source.
- F. In addition to the requirements specified in subsections (A) through (E), a licensee shall:
 1. For medium dose-rate and pulsed dose-rate remote afterloader units, require:
 - a. An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during the initiation of all patient treatments involving the unit; and
 - b. An authorized medical physicist and either an authorized user or an individual, under the supervision of an authorized user, who has been trained to remove each source applicator in the event of an emergency involving the unit, to be immediately available during continuation of all patient treatments involving the unit.
 2. For high dose-rate remote afterloader units, require:
 - a. An authorized user and an authorized medical physicist to be physically present during the initiation of all patient treatments involving the unit; and
 - b. An authorized medical physicist and either an authorized user or a physician, under the supervision of an authorized user, who has been trained in the operation and emergency response for the unit, to be physically present during continuation of all patient treatments involving the unit.

3. For gamma stereotactic radiosurgery units, require an authorized user and an authorized medical physicist to be physically present throughout all patient treatments involving the unit. As used in this provision, physically present means to be within hearing distance of normal voice, and does not include the use of portable communication devices, intercoms, or other devices that could be used to amplify the human voice.
4. Notify the radiation safety officer, or radiation safety officer's designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.

- G. A licensee shall have applicable emergency response equipment available near each treatment room to respond to a source:
 1. Remaining in the unshielded position; or
 2. Lodged within the patient following completion of the treatment.

Historical Note

New Section R9-7-732 recodified from R12-1-732 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-733. Dosimetry Equipment

- A. Except for low dose-rate remote afterloader sources where the source output or activity is determined by the manufacturer, a licensee shall have a calibrated dosimetry system available for use. To satisfy this requirement, one of the following two conditions shall be met.
 1. The system shall have been calibrated using a system or source traceable to the National Institute of Science and Technology (NIST) and published protocols accepted by nationally recognized bodies; or by a calibration laboratory accredited by the American Association of Physicists in Medicine (AAPM). The calibration shall have been performed within the previous two years and after any servicing that may have affected system calibration; or
 2. The system shall have been calibrated within the previous four years. Eighteen to 30 months after that calibration, the system shall have been intercompared with another dosimetry system that was calibrated within the past 24 months by NIST or by a calibration laboratory accredited by the AAPM. The results of the intercomparison shall indicate that the calibration factor of the licensee's system had not changed by more than two percent. The licensee may not use the intercomparison result to change the calibration factor. When intercomparing dosimetry systems to be used for calibrating sealed sources for therapeutic units, the licensee shall use a comparable unit with beam attenuators or collimators, as applicable, and sources of the same radionuclide as the source used at the licensee's facility.
- B. The licensee shall have a dosimetry system available for use for spot-check output measurements, if applicable. To satisfy this requirement, the system may be compared with a system that has been calibrated in accordance with subsection (A). This comparison shall have been performed within the previous year and after each servicing that may have affected system calibration. The spot-check system may be the same system used to meet the requirement in subsection (A).
- C. The licensee shall retain, for three years from the date of the procedure, a record of each calibration, intercomparison, and comparison.

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Historical Note

New Section R9-7-733 recodified from R12-1-733 at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-734. Full Calibration Measurements on Teletherapy Units

- A.** A licensee authorized to use a teletherapy unit for medical use shall perform full calibration measurements on each teletherapy unit:
1. Before the first medical use of the unit; and
 2. Before medical use under the following conditions:
 - a. Whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;
 - b. Following replacement of the source or following reinstallation of the teletherapy unit in a new location;
 - c. Following any repair of the teletherapy unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and
 3. At intervals not exceeding one year.
- B.** To satisfy the requirement of subsection (A), full calibration measurements shall include determination of:
1. The output within ± 3 percent for the range of field sizes and for the distance or range of distances used for medical use;
 2. The coincidence of the radiation field and the field indicated by the light beam localizing device;
 3. The uniformity of the radiation field and its dependence on the orientation of the useful beam;
 4. Timer accuracy and linearity over the range of use;
 5. On-off error; and
 6. The accuracy of all distance measuring and localization devices in medical use.
- C.** A licensee shall use the dosimetry system described in R9-7-733(A) to measure the output for one set of exposure conditions. The remaining radiation measurements required in subsection (B)(1) may be made using a dosimetry system that indicates relative dose rates.
- D.** A licensee shall make full calibration measurements required by subsection (A) in accordance with published protocols accepted by nationally recognized bodies.
- E.** A licensee shall mathematically correct the outputs determined in subsection (B)(1) for physical decay for intervals not exceeding one month for cobalt-60, six months for cesium-137, or at intervals consistent with 1 percent decay for all other nuclides.
- F.** Full calibration measurements required by subsection (A) and physical decay corrections required by subsection (E) shall be performed by an authorized medical physicist.
- G.** A licensee shall retain a record of each calibration for three years from the date it was completed.

Historical Note

New Section R9-7-734 recodified from R12-1-734 at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-735. Full Calibration Measurements on Remote Afterloader Units

- A.** A licensee authorized to use a remote afterloader unit for medical use shall perform full calibration measurements on each unit:
1. Before the first medical use of the unit;
 2. Before medical use under the following conditions:

- a. Following replacement of the source or following reinstallation of the unit in a new location outside the facility; and
 - b. Following any repair of the unit that includes removal of the source or major repair of the components associated with the source exposure assembly; and
3. At intervals not exceeding one quarter for high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader units with sources whose half-life exceeds 75 days; and
 4. At intervals not exceeding one year for low dose-rate remote afterloader units.
- B.** To satisfy the requirement of subsection (A), full calibration measurements shall include, as applicable, determination of:
1. The output within ± 5 percent;
 2. Source positioning accuracy to within ± 1 millimeter;
 3. Source retraction with backup battery upon power failure;
 4. Length of the source transfer tubes;
 5. Timer accuracy and linearity over the typical range of use;
 6. Length of the applicators; and
 7. Function of the source transfer tubes, applicators, and transfer tube-applicator interfaces.
- C.** A licensee shall use the dosimetry system described in R9-7-733(A) to measure the output.
- D.** A licensee shall make full calibration measurements required by subsection (A) in accordance with published protocols accepted by nationally recognized bodies.
- E.** In addition to the requirements for full calibrations for low dose-rate remote afterloader units in subsection (B), a licensee shall perform an autoradiograph of the sources to verify inventory and source arrangement at intervals not exceeding one quarter.
- F.** For low dose-rate remote afterloader units, a licensee may use measurements provided by the source manufacturer that are made in accordance with subsections (A) through (E).
- G.** A licensee shall mathematically correct the outputs determined in subsection (B)(1) for physical decay at intervals consistent with 1 percent physical decay.
- H.** Full calibration measurements required by subsection (A) and physical decay corrections required by subsection (G) shall be performed by an authorized medical physicist.
- I.** A licensee shall retain a record of each calibration for three years from the date it was completed.

Historical Note

New Section R9-7-735 recodified from R12-1-735 at 24

A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-736. Full Calibration Measurements on Gamma Stereotactic Radiosurgery Units

- A.** A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform full calibration measurements on each unit:
1. Before the first medical use of the unit;
 2. Before medical use under the following conditions:
 - a. Whenever spot-check measurements indicate that the output differs by more than 5 percent from the output obtained at the last full calibration corrected mathematically for radioactive decay;
 - b. Following replacement of the sources or following reinstallation of the gamma stereotactic radiosurgery unit in a new location; and
 - c. Following any repair of the gamma stereotactic radiosurgery unit that includes removal of the

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sources or major repair of the components associated with the source assembly; and

3. At intervals not exceeding one year, with the exception that relative helmet factors need only be determined before the first medical use of a helmet and following any damage to a helmet.
- B. To satisfy the requirement of subsection (A), full calibration measurements shall include determination of:
 1. The output within ± 3 percent;
 2. Relative helmet factors;
 3. Isocenter coincidence;
 4. Timer accuracy and linearity over the range of use;
 5. On-off error;
 6. Trunnion centricity;
 7. Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;
 8. Helmet microswitches;
 9. Emergency timing circuits; and
 10. Stereotactic frames and localizing devices (trunnions).
- C. A licensee shall use the dosimetry system described in R9-7-733(A) to measure the output for one set of exposure conditions. The remaining radiation measurements required in subsection (B)(1) may be made using a dosimetry system that indicates relative dose rates.
- D. A licensee shall make full calibration measurements required by subsection (A) in accordance with published protocols accepted by nationally recognized bodies.
- E. A licensee shall mathematically correct the outputs determined in subsection (B)(1) at intervals not exceeding one month for cobalt-60 and at intervals consistent with 1 percent physical decay for all other radionuclides.
- F. Full calibration measurements required by subsection (A) and physical decay corrections required by subsection (E) shall be performed by an authorized medical physicist.
- G. A licensee shall retain a record of each calibration for three years from the date of the procedure.

Historical Note

New Section R9-7-736 recodified from R12-1-736 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-737. Periodic Spot-checks for Teletherapy Units

- A. A licensee authorized to use teletherapy units for medical use shall perform output spot-checks on each teletherapy unit once in each calendar month that include determination of:
 1. Timer accuracy, and timer linearity over the range of use;
 2. On-off error;
 3. The coincidence of the radiation field and the field indicated by the light beam localizing device;
 4. The accuracy of all distance measuring and localization devices used for medical use;
 5. The output for one typical set of operating conditions measured with the dosimetry system described in R9-7-733(B); and
 6. The difference between the measurement made in subsection (A)(5) and the anticipated output, expressed as a percentage of the anticipated output.
- B. A licensee shall perform measurements required by subsection (A) in accordance with written procedures established by an authorized medical physicist. That individual need not actually perform the spot-check measurements.
- C. A licensee shall have an authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.
- D. A licensee authorized to use a teletherapy unit for medical use shall perform safety spot-checks of each teletherapy facility

once in each calendar month and after each source installation to assure proper operation of:

1. Electrical interlocks at each teletherapy room entrance;
 2. Electrical or mechanical stops installed for the purpose of limiting use of the primary beam of radiation (restriction of source housing angulation or elevation, carriage or stand travel and operation of the beam on-off mechanism);
 3. Source exposure indicator lights on the teletherapy unit, on the control console, and in the facility;
 4. Viewing and intercom systems;
 5. Treatment room doors from inside and outside the treatment room; and
 6. Electrically assisted treatment room doors with the teletherapy unit electrical power turned off.
- E. If the results of the checks required in subsection (D) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
 - F. A licensee shall retain a record of each spot-check required by subsections (A) and (D) for three years from the date of the procedure, and a copy of the procedures required by subsection (B) until licensee terminates all medical activities involving the teletherapy unit.

Historical Note

New Section R9-7-737 recodified from R12-1-737 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-738. Periodic Spot-checks for Remote Afterloader Units

- A. A licensee authorized to use a remote afterloader unit for medical use shall perform spot-checks of each remote afterloader facility and on each unit:
 1. Before the first use of a high dose-rate, medium dose-rate, or pulsed dose-rate remote afterloader unit on a given day;
 2. Before each patient treatment with a low dose-rate remote afterloader unit; and
 3. After each source installation.
- B. A licensee shall perform the measurements required by subsection (A) in accordance with written procedures established by an authorized medical physicist. That individual need not actually perform the spot-check measurements.
- C. A licensee shall have an authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.
- D. To satisfy the requirements of subsection (A), spot-checks shall, at a minimum, assure proper operation of:
 1. Electrical interlocks at each remote afterloader unit room entrance;
 2. Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;
 3. Viewing and intercom systems in each high dose-rate, medium dose-rate, and pulsed dose-rate remote afterloader facility;
 4. Emergency response equipment;
 5. Radiation monitors used to indicate the source position;
 6. Timer accuracy;
 7. Clock (date and time) in the unit's computer; and
 8. Decayed source activity in the unit's computer.
- E. If the results of the checks required in subsection (D) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may

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be necessary to repair, replace, or check the malfunctioning system.

- F. A licensee shall retain a record of each spot-check required by subsections (A) and (D) for three years from the date of the procedure, and a copy of the procedures required by subsection (B) until licensee terminates all medical activities involving the afterloader unit.

Historical Note

New Section R9-7-738 recodified from R12-1-738 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-739. Periodic Spot-checks for Gamma Stereotactic Radiosurgery Units

- A. A licensee authorized to use a gamma stereotactic radiosurgery unit for medical use shall perform spot-checks of each gamma stereotactic radiosurgery facility and on each unit:
1. Monthly;
 2. Before the first use of the unit on a given day; and
 3. After each source installation.
- B. A licensee shall:
1. Perform the measurements required by subsection (A) in accordance with written procedures established by an authorized medical physicist. That individual need not actually perform the spot-check measurements.
 2. Have the authorized medical physicist review the results of each spot-check within 15 days. The authorized medical physicist shall notify the licensee as soon as possible in writing of the results of each spot-check.
- C. To satisfy the requirements of subsection (A)(1), spot-checks shall, at a minimum:
1. Assure proper operation of:
 - a. Treatment table retraction mechanism, using backup battery power or hydraulic backups with the unit off;
 - b. Helmet microswitches;
 - c. Emergency timing circuits; and
 - d. Stereotactic frames and localizing devices (trunnions).
 2. Determine:
 - a. The output for one typical set of operating conditions measured with the dosimetry system described in R9-7-733(B);
 - b. The difference between the measurement made in subsection (C)(2)(a) and the anticipated output, expressed as a percentage of the anticipated output;
 - c. Source output against computer calculation;
 - d. Timer accuracy and linearity over the range of use;
 - e. On-off error; and
 - f. Trunnion centricity.
- D. To satisfy the requirements of subsections (A)(2) and (A)(3), spot-checks shall assure proper operation of:
1. Electrical interlocks at each gamma stereotactic radiosurgery room entrance;
 2. Source exposure indicator lights on the gamma stereotactic radiosurgery unit, on the control console, and in the facility;
 3. Viewing and intercom systems;
 4. Timer termination;
 5. Radiation monitors used to indicate room exposures; and
 6. Emergency off buttons.
- E. A licensee shall arrange for the repair of any system identified in subsection (C) that is not operating properly as soon as possible.
- F. If the results of the checks required in subsection (D) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may

be necessary to repair, replace, or check the malfunctioning system.

- G. A licensee shall retain a record of each check required by subsections (C) and (D) for three years from the date of the procedure, and a copy of the procedures required by subsection (B) until licensee terminates all medical activities involving the radiosurgery unit.

Historical Note

New Section R9-7-739 recodified from R12-1-739 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-740. Additional Requirements for Mobile Remote Afterloader Units

- A. A licensee providing mobile remote afterloader service shall:
1. Check survey instruments before medical use at each address of use or on each day of use, whichever is more frequent; and
 2. Account for all sources before departure from a client's address of use.
- B. In addition to the periodic spot-checks required by R9-7-738, a licensee authorized to use mobile afterloaders for medical use shall perform checks on each remote afterloader unit before use at each address of use. At a minimum, checks shall be made to verify the operation of:
1. Electrical interlocks on treatment area access points;
 2. Source exposure indicator lights on the remote afterloader unit, on the control console, and in the facility;
 3. Viewing and intercom systems;
 4. Applicators, source transfer tubes, and transfer tube-applicator interfaces;
 5. Radiation monitors used to indicate room exposures;
 6. Source positioning (accuracy); and
 7. Radiation monitors used to indicate whether the source has returned to a safe shielded position.
- C. In addition to the requirements for checks in subsection (B), a licensee shall ensure overall proper operation of the remote afterloader unit by conducting a simulated cycle of treatment before use at each address of use.
- D. If the results of the checks required in subsection (B) indicate the malfunction of any system, a licensee shall lock the control console in the off position and not use the unit except as may be necessary to repair, replace, or check the malfunctioning system.
- E. A licensee shall retain a record of each check required by subsection (B) for three years from the date of the procedure.

Historical Note

New Section R9-7-740 recodified from R12-1-740 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-741. Additional Radiation Surveys of Sealed Sources used in Radiation Therapy

- A. In addition to the survey requirement in Article 4 of this Chapter, a person licensed to use sealed sources in the practice of radiation therapy shall make surveys to ensure that the maximum radiation levels and average radiation levels from the surface of the main source safe with each source in the shielded position do not exceed the levels stated in the Sealed Source and Device Registry.
- B. A licensee shall make the survey required by subsection (A) at installation of a new source and following repairs to any source shielding, a source's driving unit, or other electronic or mechanical component that could expose the source, reduce the shielding around a source, or compromise the radiation safety of the unit or the source.

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- C. A licensee shall retain a record of the radiation surveys required by subsection (A) for three years from the date of each survey.

Historical Note

New Section R9-7-741 recodified from R12-1-741 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-742. Five-year Inspection for Teletherapy and Gamma Stereotactic Radiosurgery Units

- A. A licensee shall have each teletherapy unit and gamma stereotactic radiosurgery unit fully inspected and serviced during source replacement or at intervals not to exceed five years, whichever comes first, to assure proper functioning of the source exposure mechanism.
- B. This inspection and servicing may only be performed by persons specifically licensed to do so by the Department, the NRC, or an Agreement State.
- C. A licensee shall keep a record of each five-year inspection for three years from the date of the inspection, if the inspection determined that service was unnecessary, and three years from the date of the completed service if the inspection determined that service was needed.

Historical Note

New Section R9-7-742 recodified from R12-1-742 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-743. Therapy-related Computer Systems

The licensee shall perform acceptance testing on the treatment planning system of therapy-related computer systems in accordance with published protocols accepted by nationally recognized bodies. At a minimum, the acceptance testing shall include, as applicable, verification of:

1. The source-specific input parameters required by the dose calculation algorithm;
2. The accuracy of dose, dwell time, and treatment time calculations at representative points;
3. The accuracy of isodose plots and graphic displays;
4. The accuracy of the software used to determine sealed source positions from radiographic images; and
5. The accuracy of electronic transfer of the treatment delivery parameters to the treatment delivery unit from the treatment planning system.

Historical Note

New Section R9-7-743 recodified from R12-1-743 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-744. Training for Use of Remote Afterloader Units, Teletherapy Units, and Gamma Stereotactic Radiosurgery Units

- A. Except as provided in R9-7-712.01, a licensee shall require an authorized user of a sealed source for a use authorized under Group 600 in Exhibit A, Medical Use Groups of this Article to be a physician who:
1. Is certified by a medical specialty board whose certification process has been recognized by the Department, the NRC or another Agreement State and who meets the requirements in subsection (A)(2)(e). The names of board certifications that have been recognized by the Department, the NRC or another Agreement State are specified in the NRC's Medical Uses Licensee Toolkit available through <https://www.nrc.gov>. To have its certification process recognized, a specialty board shall require all candidates to:
 - a. Successfully complete a minimum of three years of residency training in a radiation therapy program

approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Post-Graduate Training of the American Osteopathic Association; and

- b. Pass an examination, administered by diplomates of the specialty board, which tests knowledge and competence in radiation safety, radionuclide handling, treatment planning, quality assurance, and clinical use of stereotactic radiosurgery, remote after-loaders and external beam therapy; or
2. Has completed a structured educational program in basic radionuclide techniques applicable to the use of a sealed source in a therapeutic medical unit that includes:
- a. 200 hours of classroom and laboratory training in the following areas:
 - i. Radiation physics and instrumentation;
 - ii. Radiation protection;
 - iii. Mathematics pertaining to the use and measurement of radioactivity;
 - iv. Chemistry of radioactive material for medical use; and
 - v. Radiation biology;
 - b. 500 hours of work experience, under the supervision of an authorized user who meets the requirements in subsection (A), R9-7-712.01, or equivalent Agreement State or NRC requirements at a medical institution, involving:
 - i. Reviewing full calibration measurements and periodic spot-checks;
 - ii. Preparing treatment plans and calculating treatment doses and times;
 - iii. Using administrative controls to prevent a medical event involving the use of radioactive material;
 - iv. Implementing emergency procedures to be followed in the event of the abnormal operation of the medical unit or console;
 - v. Checking and using survey meters; and
 - vi. Selecting the proper dose and how it is to be administered;
 - c. Completing at least three years of supervised clinical experience in radiation therapy, under an authorized user who meets the requirements in subsection (A), R9-7-712.01, or equivalent Agreement State or NRC requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by subsection (A)(2)(b); and
 - d. Obtaining written attestation that the individual has satisfactorily completed the requirements in subsections (A)(2)(a) through (c) and (B), and is able to independently fulfill the radiation safety-related duties as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be obtained from either:
 - i. A preceptor authorized user who meets the requirements in subsection (A), R9-7-712.01, NRC requirements, or equivalent Agreement

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State requirements for the type or types of therapeutic medical unit for which the individual is requesting authorized user status; or

- ii. A residency program director who affirms in writing that the attestation represents the consensus of the residency pro-gram faculty where at least one faculty member is an authorized user who meets the requirements in this Section, NRC requirements, or equivalent Agreement State requirements, for the type or types of therapeutic medical unit for which the individual is requesting authorized user status, and concurs with the attestation provided by the residency program director. The residency training program must be approved by the Residency Review Committee of the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada or the Council on Postdoctoral Training of the American Osteopathic Association and must include training and experience specified in subsection (A)(2)(a) through (c).

- B. A licensee shall require an authorized user of a sealed source for a use authorized under Group 600 in Exhibit A, Medical Use Groups of this Article to receive training in device operation, safety procedures, and clinical use for the type or types of use for which authorization is sought. This training requirement may be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an authorized user or authorized medical physicist, as appropriate, who is authorized for the type or types of use for which the individual is seeking authorization.
- C. The training and experience shall have been obtained within the seven years preceding the date of application or the individual shall have had related continuing education and experience since the required training and experience was completed.

Historical Note

New Section R9-7-744 recodified from R12-1-744 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 25 A.A.R. 3561, effective December 3, 2019 (Supp. 19-4).
Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4). Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-745. Report and Notification of a Medical Event

- A. A licensee shall report any "medical" event, except for an event that results from patient intervention, in which the administration of radioactive material or radiation from radioactive material results in:
 1. A dose that differs from the prescribed dose or dose that would have resulted from the prescribed dosage by more than 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin; and
 - a. The total dose delivered differs from the prescribed dose by 20 percent or more;
 - b. The total dosage delivered differs from the prescribed dosage by 20 percent or more or falls outside the prescribed dosage range; or

- c. The fractionated dose delivered differs from the prescribed dose, for a single fraction, by 50 percent or more.

2. A dose that exceeds 0.05 Sv (5 rem) effective dose equivalent, 0.5 Sv (50 rem) to an organ or tissue, or 0.5 Sv (50 rem) shallow dose equivalent to the skin from any of the following:
 - a. An administration of a wrong radiopharmaceutical containing radioactive material;
 - b. An administration of a radiopharmaceutical containing radioactive material by the wrong route of administration;
 - c. An administration of a dose or dosage to the wrong individual or human research subject;
 - d. An administration of a dose or dosage delivered by the wrong mode of treatment; or
 - e. A leaking sealed source.
3. A dose to the skin or an organ or tissue other than the treatment site that exceeds by 0.5 Sv (50 rem) to an organ or tissue and 50 percent or more of the dose expected from the administration defined in the written directive (excluding, for permanent implants, seeds that were implanted in the correct site but migrated outside the treatment site).

- B. A licensee shall report any event resulting from intervention of a patient or human research subject in which the administration of radio-active material or radiation from radioactive material results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.
- C. The licensee shall notify by telephone the Department no later than the next calendar day after discovery of the medical event.
- D. The licensee shall submit a written report to the Department within 15 days after discovery of the medical event.
 1. The written report shall include:
 - a. The licensee's name;
 - b. The name of the prescribing physician;
 - c. A brief description of the event;
 - d. Why the event occurred;
 - e. The effect, if any, on each individual who received the administration;
 - f. What actions, if any, have been taken or are planned to prevent recurrence; and
 - g. Certification that the licensee notified each individual (or the individual's responsible relative or guardian), and if not, why not.
 2. The report may not contain an individual's name or any other information that could lead to identification of the individual.
- E. The licensee shall provide notification of the event to the referring physician and also notify the individual who is the subject of the medical event no later than 24 hours after its discovery, unless the referring physician personally informs the licensee either that he or she will inform the individual or that, based on medical judgment, telling the individual would be harmful. The licensee is not required to notify the individual without first consulting the referring physician. If the referring physician or the affected individual cannot be reached within 24 hours, the licensee shall notify the individual as soon as possible thereafter. The licensee may not delay any appropriate medical care for the individual, including any necessary remedial care as a result of the medical event, because of any delay in notification. To meet the requirements of this subsection, the notification of the individual who is the subject of the medical event may be made instead to that individual's responsible

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relative or guardian. If a verbal notification is made, the licensee shall inform the individual, or appropriate responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide such a written description if requested.

- F. Aside from the notification requirement, nothing in this Section affects any rights or duties of licensees and physicians in relation to each other, to individuals affected by the medical event, or to that individual's responsible relatives or guardians.
- G. A licensee shall:
 1. Annotate a copy of the report provided to the Department with the:
 - a. Name of the individual who is the subject of the event; and
 - b. Identification number or, if no other identification number is available, the Social Security number of the individual who is the subject of the event; and
 2. Provide a copy of the annotated report to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

Historical Note

New Section R9-7-745 recodified from R12-1-745 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-746. Report and Notification of a Dose to an Embryo, Fetus, or Nursing Child

- A. A licensee shall report any dose to an embryo/fetus that is greater than 50 mSv (5 rem) dose equivalent that is a result of an administration of radioactive material or radiation from radioactive material to a pregnant individual unless the dose to the embryo/fetus was specifically approved, in advance, by the authorized user.
- B. A licensee shall report any dose to a nursing child that is a result of an administration of radioactive material to a breastfeeding individual that:
 1. Is greater than 50 mSv (5 rem) total effective dose equivalent; or
 2. Has resulted in unintended permanent functional damage to an organ or a physiological system of the child, as determined by a physician.
- C. The licensee shall notify the Department by telephone no later than the next calendar day after discovery of a dose to the embryo, fetus, or nursing child that requires a report in subsections (A) or (B).
- D. The licensee shall submit a written report to the Department within 15 days after discovery of a dose to the embryo, fetus, or nursing child that requires a report in subsections (A) or (B). The written report shall include:
 1. The licensee's name;
 2. The name of the prescribing physician;
 3. A brief description of the event;
 4. Why the event occurred;
 5. The effect, if any, on the embryo/fetus or the nursing child;
 6. What actions, if any, have been taken or are planned to prevent recurrence; and
 7. Certification that the licensee notified the pregnant individual or mother (or the mother's or child's responsible relative or guardian), and if not, why not.
- E. The report, required in subsection (D), shall not contain the individual's or child's name or any other information that could lead to identification of the individual or child.

- F. The licensee shall provide notification of the event to the referring physician and also notify the pregnant individual or mother, both here-after referred to as the mother, no later than 24 hours after discovery of an event that would require reporting under subsections (A) or (B), unless the referring physician personally informs the licensee either that he or she will inform the mother or that, based on medical judgment, telling the mother would be harmful. The licensee is not required to notify the mother without first consulting with the referring physician. If the referring physician or mother cannot be reached within 24 hours, the licensee shall make the appropriate notifications as soon as possible thereafter. The licensee shall not delay any appropriate medical care for the embryo, fetus, or for the nursing child, including any necessary remedial care as a result of the event, because of any delay in notification. To meet the requirements of this subsection, the notification may be made to the mother's or child's responsible relative or guardian instead of the mother. If a verbal notification is made, the licensee shall inform the mother, or the mother's or child's responsible relative or guardian, that a written description of the event can be obtained from the licensee upon request. The licensee shall provide the written description upon request.

- G. A licensee shall:

1. Make a copy of the report provided to the Department and include with it the:
 - a. Name of the pregnant individual or the nursing child who is the subject of the event; and
 - b. Identification number or, if no other identification number is available, the Social Security number of the pregnant individual or the nursing child who is the subject of the event; and
2. Provide the copy of the information required in subsection (G)(1) to the referring physician, if other than the licensee, no later than 15 days after the discovery of the event.

Historical Note

New Section R9-7-746 recodified from R12-1-746 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

Exhibit A. Medical Use Groups**Group 100**

Included is the use of any unsealed radioactive material for use in uptake, dilution, or excretion studies and not requiring a written directive: Except for quantities that require a written directive under R9-7-707, a licensee may use unsealed byproduct material prepared for medical use for uptake, dilution, or excretion studies that is:

1. Obtained from:
 - a. A manufacturer or preparer licensed under R9-7-703(C)(2)(a), or equivalent NRC or Agreement State requirements; or
 - b. A PET radioactive drug producer licensed under R9-7-703 or equivalent NRC or an Agreement State license;
2. Excluding production of PET radionuclides, prepared by:
 - a. An authorized nuclear pharmacist who meets the requirements in R9-7-712;
 - b. A physician who is an authorized user and who meets the requirements specified in R9-7-721 or both R9-7-721(3)(a)(ii)(7) and R9-7-723; or
 - c. An individual under the supervision, as specified in R9-7-706, of the authorized nuclear pharmacist in

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subsection (2)(a) or the physician who is an authorized user in subsection (2)(b); or

3. If a research protocol:
 - a. Obtained from and prepared by a Department, NRC, or another Agreement State licensee for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA; or
 - b. Prepared by the licensee for use in research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA.

Group 200

Included is the use of any unsealed radioactive material for use in imaging and localization not requiring a written directive. Except for quantities that require a written directive under R9-7-707, a licensee may use unsealed byproduct material prepared for medical use for imaging and localization studies that is:

1. Obtained from:
 - a. A manufacturer or preparer licensed under R9-7-703(C)(2)(a), or equivalent NRC or Agreement State requirements; or
 - b. A PET radioactive drug producer licensed under R9-7-703 or equivalent NRC or an Agreement State license;
2. Excluding production of PET radionuclides, prepared by:
 - a. An authorized nuclear pharmacist who meets the requirements in R9-7-712;
 - b. A physician who is an authorized user and who meets the requirements specified in R9-7-721 or both R9-7-721(3)(a)(ii)(7) and R9-7-723; or
 - c. An individual under the supervision, as specified in R9-7-706, of the authorized nuclear pharmacist in subsection (2)(a) or the physician who is an authorized user in subsection (2)(b); or
3. If a research protocol:
 - a. Obtained from and prepared by a Department, NRC, or another Agreement State licensee for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA; or
 - b. Prepared by the licensee for use in research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA.

Group 300

Included is the use of any unsealed byproduct radioactive material, identified in R9-7-723(A)(2)(a)(ii)(6), prepared for use and for which a written directive is required that is:

1. Obtained from:
 - a. A manufacturer or preparer licensed under R9-7-703(C)(2)(a), or equivalent NRC or Agreement State requirements; or
 - b. A PET radioactive drug producer licensed under R9-7-703 or equivalent NRC or an Agreement State license;
2. Excluding production of PET radionuclides, prepared by:
 - a. An authorized nuclear pharmacist who meets the requirements in R9-7-712;
 - b. A physician who is an authorized user and who meets the requirements specified in R9-7-721 or R9-7-723; or

- c. An individual under the supervision, as specified in R9-7-706, of the authorized nuclear pharmacist in subsection (2)(a) or the physician who is an authorized user in subsection (2)(b); or

3. If a research protocol:
 - a. Obtained from and prepared by a Department, NRC, or another Agreement State licensee for use in research in accordance with a Radioactive Drug Research Committee-approved protocol or an Investigational New Drug (IND) protocol accepted by FDA; or
 - b. Prepared by the licensee for use in research in accordance with a Radioactive Drug Research Committee-approved application or an Investigational New Drug (IND) protocol accepted by FDA.

Group 400

Included is the use of sources for manual brachytherapy. A licensee must use only brachytherapy sources:

1. Approved in the Sealed Source and Device Registry for manual brachytherapy medical use. The manual brachytherapy sources may be used for manual brachytherapy uses that are not explicitly listed in the Sealed Source and Device Registry, but must be used in accordance with the radiation safety conditions and limitations described in the Sealed Source and Device Registry; or
2. In research to deliver therapeutic doses for medical use in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA, provided that the requirements of R9-7-709 are met.

Group 500

Included is the use of sealed sources and medical devices for diagnosis.

1. A licensee may only use sealed sources that are not in medical devices for diagnostic medical uses if the sealed sources are approved in the Sealed Source and Device Registry for diagnostic medicine. The sealed sources may be used for diagnostic medical uses that are not explicitly listed in the Sealed Source and Device Registry, but must be used in accordance with the radiation safety conditions and limitations described in the Sealed Source and Device Registry.
2. A licensee may only use medical devices containing sealed sources for diagnostic medical uses if both the sealed sources and medical devices are approved in the Sealed Source and Device Registry for diagnostic medical uses. The diagnostic medical devices may be used for diagnostic medical uses that are not explicitly listed in the Sealed Source and Device Registry, but must be used in accordance with the radiation safety conditions and limitations described in the Sealed Source and Device Registry.
3. Sealed sources and devices for diagnostic medical uses may be used in research in accordance with an active Investigational Device Exemption (IDE) application accepted by the U.S. Food and Drug Administration provided the requirements of R9-7-709(1) are met.

Group 600

Included is the use of sealed sources in remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units.

A. A licensee must only use sealed sources:

1. Approved and as provided for in the Sealed Source and Device Registry in photon emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosur-

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gery units to deliver therapeutic doses for medical uses:
or

2. In research involving photon-emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units in accordance with an active Investigational Device Exemption (IDE) application accepted by the U.S. Food and Drug Administration provided the requirements of R9-7-709(1) are met.

B. A licensee must use photon-emitting remote afterloader units, teletherapy units, or gamma stereotactic radiosurgery units:

1. Approved in the Sealed Source and Device Registry to deliver a therapeutic dose for medical use. These devices may be used for therapeutic medical treatments that are not explicitly provided for in the Sealed Source and Device Registry, but must be used in accordance with radiation safety conditions and limitations described in the Sealed Source and Device Registry; or
2. In research in accordance with an active Investigational Device Exemption (IDE) application accepted by the FDA provided the requirements of R9-7-709(1) are met.

Group 1000

A licensee may use byproduct material or a radiation source approved for medical use which is not specifically addressed in this Article if:

1. The applicant or licensee has submitted the information required by this Article; and
2. The applicant or licensee has received written approval from the Department in a license or license amendment and uses the material in accordance with the rules and specific conditions the Department considers necessary for the medical use of the material.

Historical Note

New Article 7, Exhibit A recodified from 12 A.A.C. 1., Article 7, Exhibit A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Exhibit A, Group 100, Group 200, and Group 1000 amended by final exempt rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Exhibit A, Groups 100 through 600 and Group 1000 amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

ARTICLE 8. RADIATION SAFETY REQUIREMENTS FOR ANALYTICAL X-RAY OPERATIONS

R9-7-801. Scope

The rules in this Article establish requirements for the use of analytical x-ray equipment by persons registered under R9-7-204. The provisions of this Article supplement other applicable provisions of this Chapter.

Historical Note

New Section R9-7-801 recodified from R12-1-801 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-802. Definitions

“Analytical x-ray equipment” means devices or machines used for x-ray diffraction or x-ray induced fluorescence analysis.

“Analytical x-ray system” means a group of components utilizing x-rays to determine the elemental composition or to examine the microstructure of materials.

“Enclosed beam x-ray system” means an analytical x-ray system constructed in such a way that access to the interior of the enclosure housing the x-ray source is precluded during operation except through bypassing of interlocks or other safety devices to perform maintenance or servicing.

“Fail-safe characteristic” means a design feature which causes beam port shutters to close, or otherwise prevents emergence of the primary beam, upon the failure of a safety or warning device.

“Local component” means part of an analytical x-ray system and includes each area that is struck by x-rays, such as radiation source housings, port and shutter assemblies, collimators, sample holders, cameras, goniometers, detectors and shielding, but does not include power supplies, transformers, amplifiers, readout devices, and control panels.

“Normal operating procedures” means instructions or procedures including, but not limited to, sample insertion and manipulation, equipment alignment, routine maintenance by the registrant, and data recording procedures which are related to radiation safety.

“Open beam x-ray system” means an analytical x-ray system which permits an individual to place some body part in the primary beam path during normal operation.

“Primary beam” means radiation which passes through an aperture of the source housing on a direct path from the x-ray tube.

Historical Note

New Section R9-7-802 recodified from R12-1-802 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-803. Enclosed-beam X-ray Systems

- A.** Enclosed beam x-ray systems are exempt from other equipment requirements contained in this Article provided the enclosed beam x-ray systems are designed and constructed so that radiation levels measured at 5 cm from any accessible surface of the enclosure housing the x-ray source do not exceed 5 μ Sv (0.5 mrem) in one hour.
- B.** A registrant using enclosed beam x-ray systems shall comply with applicable provisions R9-7-804(A), R9-7-805(B), and 9 A.A.C. 7, Article 4.
- C.** A person who maintains or services analytical x-ray systems, shall:
 1. Obtain permission in advance from the radiation safety officer before bypassing interlocks or other safety devices,
 2. Label equipment as “out of service” until maintenance or service is completed,
 3. Wear extremity personnel monitoring devices, and
 4. Ensure that interlocks or other safety devices are operating upon completion of maintenance or service.

Historical Note

New Section R9-7-803 recodified from R12-1-803 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-804. Open-beam X-ray Systems

- A.** A registrant shall label open beam x-ray systems with a readily discernible sign or signs bearing the radiation symbol and the words:
 1. “CAUTION -- HIGH INTENSITY X-RAY BEAM,” or a similar warning, on the x-ray source housing; and
 2. “CAUTION RADIATION -- THIS EQUIPMENT PRODUCES RADIATION WHEN ENERGIZED” or a similar warning, near any switch that energizes an x-ray tube if the radiation source is an x-ray tube.
- B.** A registrant shall ensure that an open beam x-ray system has all of the following warning devices:
 1. X-ray tube status (On-Off) indicator in systems where the primary beam is controlled in this fashion;

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2. Shutter status (Open-Closed) indicators near each port on the radiation housing for systems which control the primary beam; and
 3. A clearly visible warning light labeled with the words "X-RAY ON," or a similar warning located near any switch that energizes an x-ray tube, illuminated only when the tube is energized; and
 4. The warning devices in subsections (B)(1) through (3) shall be labeled so that their purpose is easily identified.
- C.** A registrant shall ensure that any apparatus utilized in beam alignment procedures is designed in such a way that excessive radiation will not strike the operator. Particular attention shall be given to viewing devices, in order to ascertain that lenses and other transparent components attenuate the beam to an acceptable level.
- D.** A registrant shall provide an interlock device which prevents entry of any portion of an individual's body into the primary beam or causes the primary beam to be shut off upon entry into its path on all open-beam x-ray systems. A registrant may apply to the Department for an exemption from the requirements of a safety device. An application for exemption shall include:
1. A description of the various safety devices that have been evaluated;
 2. The reason each device cannot be used; and
 3. A description of the alternative methods that will be used to minimize accidental exposure, including procedures to assure that operators and others in the area will be informed of the absence of safety devices.
- E.** A registrant shall use only systems constructed so that:
1. Each x-ray tube housing is equipped with an interlock that automatically shuts off the tube if the tube is removed from the radiation source housing or the housing is disassembled; and
 2. With all shutters closed, radiation measured at a distance of 5 centimeters from the surface of the system is not capable of producing a dose that exceeds 25 Sv (2.5 mRem) in one hour for the specified tube rating of the x-ray tube.
- F.** A registrant shall supply each x-ray generating system with a protective cabinet that limits leakage radiation measured at a distance of 5 cm (2 in) from the cabinet surface, so that the system is not capable of producing a dose equivalent that exceeds 25 μ Sv (2.5 mrem) in one hour.
- G.** A registrant shall ensure that the local components of an analytical x-ray system are located and arranged and have sufficient shielding or access control for the specified tube rating to prevent the radiation level in any area adjacent to the local component group from exceeding the dose limits in R9-7-416.
- H.** A registrant shall perform a radiation survey of the local component group of each analytical x-ray system to demonstrate compliance with subsection (G) upon:
1. Installation,
 2. Change in configuration, or
 3. Maintenance that affects the radiation level in any area adjacent to the local component group.
- I.** A registrant shall maintain a record of each survey for three years or until the analytical x-ray system is no longer used, whichever period is shorter.
1. Establish and maintain operational procedures so that the radiation exposure of each worker is kept ALARA;
 2. Instruct all personnel who work with or near radiation producing machines in safety practices;
 3. Maintain a system of personnel monitoring;
 4. Establish radiation control areas, including placement of appropriate radiation warning signs or devices;
 5. Provide a radiation safety inspection of radiation producing machines on a routine basis;
 6. Review modifications to x-ray systems, including x-ray tube housing, cameras, diffractometers, shielding, and safety interlocks;
 7. Investigate and report proper authorities any case of excessive exposure to personnel and take remedial action; and,
 8. Be familiar with all applicable rules for control of ionizing radiation.
- B.** An individual shall not be permitted to operate or maintain an open beam analytical x-ray system unless the individual has received instruction in and demonstrated competence in all of the following:
1. Identification of radiation hazards associated with the use of the equipment;
 2. Significance of all radiation warning and safety devices, interlocks incorporated into the equipment, or the reasons that devices or interlocks have not been installed on certain pieces of equipment and the extra precautions required in lieu of these precautions;
 3. Proper operating procedures for the equipment;
 4. Recognition of symptoms of acute localized radiation exposure; and
 5. Proper procedure for reporting an actual or suspected exposure.
- C.** A registrant shall maintain records of instruction and competence for Department inspection for three years from the date of course completion or demonstration.

Historical Note

New Section R9-7-805 recodified from R12-1-805 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-806. Operating Requirements

- A.** A radiation safety officer shall establish written emergency procedures and post the procedures in a conspicuous location. The procedures shall include the telephone number of the radiation safety officer.
- B.** A registrant shall ensure that written operating procedures are available for all analytical x-ray equipment workers. An individual shall not operate analytical x-ray equipment in any manner other than that specified in the procedures unless the individual obtains the radiation safety officer's written approval.
- C.** An individual shall not bypass a safety device or interlock unless the individual has obtained Radiation Safety Officer approval. The approval shall be for a specific period of time. When a safety device or interlock has been bypassed, the Radiation Safety Officer shall place a readily discernible sign on the radiation source housing, warning the reader of the unsafe condition. A registrant shall maintain the written record of the bypass approval for three years after the approval expires.
- D.** Except as authorized in subsection (C), an individual shall not perform an operation involving removal of covers, shielding materials, or tube housings or modification of shutters, collimators, or beam stops without ascertaining that the tube is off and that it will remain off until all protective devices have been restored to the normal operating condition. An individual

Historical Note

New Section R9-7-804 recodified from R12-1-804 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-805. Administrative Responsibilities

- A.** A registrant shall designate a radiation safety officer who shall:

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repairing analytical x-ray equipment shall use the main switch, rather than interlocks, for routine shutdown in preparation for repairs.

- E. A registrant shall ensure that unused ports on radiation source housings are closed and secured against unauthorized access to the radiation source.
- F. Finger or wrist personnel monitoring devices shall be used by:
 1. Operators of open beam analytical x-ray equipment not equipped with a safety device; and
 2. Personnel performing maintenance procedures that require the presence of a primary x-ray beam when any local component is disassembled or removed.
- G. A registrant shall ensure that each safety and warning device is tested for proper operation at intervals that do not exceed one month and maintain a record of each test for three years from the date the test is completed.

Historical Note

New Section R9-7-806 recodified from R12-1-806 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-807. Surveys

- A. To ensure that personnel exposure does not result in a dose to an individual that exceeds the dose limits specified in Article 4, a registrant shall perform a radiation survey upon:
 1. Installation of the equipment and at least once each year after installation;
 2. Change in the initial arrangement, number, or type of local components in the system;
 3. Maintenance that involves disassembly or removal of a local component in the system;
 4. Maintenance that involves alignment, if alignment requires the generation of the primary x-ray beam while any local component of the system is disassembled or removed;
 5. A visual inspection of the local components in the system that reveals an abnormal condition; or
 6. Determination that personnel are being exposed to radiation in excess of established levels recorded in monitoring records for personnel during previous monitoring periods or the occupational dose limits specified in Article 4.
- B. The radiation surveys in subsection (A) are not required if the registrant demonstrates that the local components of an analytical x-ray system are located and arranged, and have sufficient shielding or access control, to limit personnel exposure to a level that is ALARA and below the occupational dose limits in Article 4. The Department shall determine ALARA radiation levels based on the specified x-ray tube rating.

Historical Note

New Section R9-7-807 recodified from R12-1-807 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-808. Posting

A registrant shall conspicuously post each area or room that contains analytical x-ray equipment with a sign or signs that bear the radiation symbol and the words "CAUTION – X-RAY EQUIPMENT" or words with a similar meaning.

Historical Note

New Section R9-7-808 recodified from R12-1-808 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-809. Training

A registrant shall not be allowed to operate or maintain analytical x-ray equipment unless the individual has received training and demonstrated competence in:

1. Identifying radiation hazards associated with use of the equipment;
2. Recognizing and using radiation warning and safety devices, including interlocks that are incorporated into the equipment, and understanding why these devices are sometimes not installed;
3. Taking precautions associated with use of the equipment;
4. Recognizing symptoms of an acute localized exposure; and
5. Following proper procedure for reporting a suspected personnel exposure.

Historical Note

New Section R9-7-809 recodified from R12-1-809 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 9. PARTICLE ACCELERATORS**R9-7-901. Purpose and Scope**

- A. This Article establishes procedures and requirements for the registration and the use of particle accelerators.
- B. In addition to the requirements of this Article, all registrants are subject to the requirements of Articles 1, 2, 4 and 10. Registrants engaged in industrial radiographic operations are subject to the requirements of Article 11, and registrants engaged in the healing arts are subject to the requirements of Article 6 of this Chapter. Registrants using a particle accelerator for the production of radioactive material are subject to the requirements of Article 3, and if the radioactive material is used for medical purposes, Article 7.

Historical Note

New Section R9-7-901 recodified from R12-1-901 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-902. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

"Added filter" (See R9-7-602).

"Arc therapy" means radiation therapy that uses electrons to treat large, superficial volumes that follow curved surfaces, as in post-mastectomy patients.

"Authorized medical physicist" means an individual who meets the requirements in R9-7-711. For purposes of ensuring that personnel are adequately trained, an authorized medical physicist is a "qualified expert" as defined in Article 1.

"Beam-limiting device" (See R9-7-602)

"Beam-monitoring system" means a set of devices that will monitor the useful beam, as defined in R9-7-602, during irradiation and terminate irradiation when a preselected number of monitor units has been accumulated.

"Collimator" (See R9-7-602)

"Control panel" (See R9-7-602)

"Full beam detector" means a radiation detector of such size that the total cross section of the maximum size useful beam is intercepted.

"Gantry" means that part of a linear accelerator that supports the radiation source so that it can rotate about a horizontal axis.

"General supervision" means that a radiation therapy technologist is furnished with a procedure for performing therapy under an authorized user's overall direction and control, and the authorized user is responsible for ensuring that the procedure is followed, but the authorized user's presence is not

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required in a medical institution during the performance of the procedure.

“Intensity-Modulated Radiation Therapy (IMRT)” means an advanced mode of high-precision radiotherapy that uses computer-controlled linear accelerators to deliver precise radiation doses to a tumor or specific areas within the tumor.

“Isocenter” means the point of intersection of the collimator axis and the axis of rotation of the gantry.

“Monitor unit” means a unit response from the beam monitoring system from which the absorbed dose can be calculated.

“Moving beam therapy” means radiation therapy in which there is displacement of the useful beam relative to the patient. Moving beam therapy includes arc therapy, skip therapy, and rotational beam therapy.

“Radiation therapy technologist” means an individual certified according to 9 A.A.C. 16, Article 6, whose scope of practice is specified according to A.A.C. R9-16-608(D).

“Rotational beam therapy” means radiation therapy that is administered to a patient from a radiation source that rotates around the patient’s body or the patient is rotated while the beam is held fixed.

“Skip therapy” means rotational beam therapy that is administered in a way that maximizes the dose to an area of interest and minimizes the dose to surrounding healthy tissue.

“Special procedure” means a type of therapy through which radiation is delivered to a patient through five or fewer fractions or with a dose per fraction greater than 6 Gy.

“Spot check” (See R9-7-602)

“Stationary beam therapy” means radiation therapy that involves a beam from a radiation source that is aimed at the patient from different directions. The distance of the source from the isocenter remains constant irrespective of the beam direction.

“Virtual source” means a point from which radiation appears to originate.

Historical Note

New Section R9-7-902 recodified from R12-1-902 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 30 A.A.R. 385 (March 1, 2024), with an immediate effective date of February 8, 2024 (Supp. 24-1).

R9-7-903. General Registration Requirements

- A. The requirements in this Section supplement the registration requirements in 9 A.A.C. 7, Article 2.
- B. The Department shall approve a registration application for use of a particle accelerator only if the Department determines that:
 1. The applicant is qualified by training and experience to use the accelerator for the purpose in the application submitted to the Department under Article 2;
 2. The applicant’s proposed equipment, facilities, and operating and emergency procedures are adequate to protect public health;
 3. The applicant satisfies any other applicable requirements in this Section; and
 4. The applicant has appointed a radiation safety officer.

Historical Note

New Section R9-7-903 recodified from R12-1-903 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-904. Registration of Particle Accelerators Used in the Practice of Medicine or Human Research

- A. The requirements in this Section supplement the registration requirements in R9-7-903.
- B. An applicant that is a “medical institution,” as defined in Article 7 of this Chapter, and performing human research shall appoint a radiation safety committee that:
 1. Consists of at least four individuals including:
 - a. An authorized user of each type of use permitted by the registration,
 - b. The Radiation Safety Officer,
 - c. A representative of the nursing service,
 - d. A representative of management who is neither an authorized user nor a Radiation Safety Officer, and
 - e. Any other members the registrant selects;
 2. Meets at least once in each 12-month period, unless otherwise specified by registration condition;
 3. Only conducts business if at least 50 percent of the membership of the committee are present including the Radiation Safety Officer and the management representative;
 4. Includes in the minutes of each radiation safety committee meeting a reference to any discussion or documents related to the review required in R9-7-407(C);
 5. Reviews the radiation safety program for all sources of radiation as required in R9-7-407(C);
 6. Establishes a table that contains investigational levels for occupational and public dose that, when exceeded, will initiate an investigation and consideration of actions by the Radiation Safety Officer; and
 7. Establishes the safety objectives of the quality management program required by subsection (E).
- C. The applicant shall ensure that an individual designated as an authorized user is an Arizona licensed physician, approved by the radiation safety committee, if applicable, who has documentation that the individual is either:
 1. Certified in radiation oncology by the:
 - a. American Board of Radiology;
 - b. American Osteopathic Board of Radiology; or
 - c. Royal College of Physicians and Surgeons of Canada; or
 2. Engaged in the active practice of therapeutic radiology and has completed:
 - a. At least 200 hours of instruction in basic techniques applicable to the use of a particle accelerator, including classroom and laboratory training in all of the following subjects:
 - i. Radiation physics and instrumentation,
 - ii. Radiation protection,
 - iii. Mathematics pertaining to the use and measurement of radiotherapy, and
 - iv. Radiation biology;
 - b. At least 500 hours of supervised work experience under the supervision of an authorized user at a medical institution, including:
 - i. Reviewing full calibration measurements and periodic spot checks,
 - ii. Preparing treatment plans and calculating treatment times,
 - iii. Using administrative controls to prevent misadministration,

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- iv. Implementing emergency procedures to be followed in the event of the abnormal operation of a particle accelerator, and
 - v. Checking and using survey meters;
 - c. A minimum of three years of supervised clinical experience:
 - i. Consisting of:
 - (1) At least one year in a formal training program approved by the Residency Review Committee for Radiology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association, and
 - (2) At least an additional two years of clinical experience in therapeutic radiology under the supervision of an authorized user at a medical institution; and
 - ii. Including:
 - (1) Examining individuals and reviewing their case histories to determine their suitability for treatment, noting any limitations or contraindications;
 - (2) Selecting the proper dose and how it is to be administered;
 - (3) Calculating the therapy doses and collaborating with the authorized user in the review of patients' or human research subjects' progress and consideration of the need to modify originally prescribed doses, as warranted by patients' or human research subjects' reaction to radiation; and
 - (4) Post-administration follow up and review of case histories; and
 - d. Is qualified to independently act as an authorized user, signed by the individual supervising the clinical experience in subsection (C)(2)(c).
- D.** With the application the applicant shall provide the name of each authorized user to the Department so the names can be listed on the registration form, and so that the Department can determine whether the authorized user's training and experience satisfies the requirements in subsection (C).
- E.** Each registrant shall establish and maintain a written quality management program to provide high confidence that the radiation produced by the particle accelerator will be administered as directed by an authorized user. The quality management program shall include, at minimum, the tests and checks listed in Appendix A.
- F.** Each registrant shall ensure that a particle accelerator is calibrated by an authorized medical physicist who meets the training and experience qualifications in R9-7-711.
- G.** At the time of application for registration or when a therapy program is expanded to multiple sites, each applicant or registrant shall provide the Department with:
- 1. A description of the quality management program, developed, maintained, and implemented according to the American Society for Radiation Oncology's 2019 "Safety is No Accident: A Framework for Quality Radiation Oncology Care," incorporated by reference, available under R9-7-101, and containing no future editions;
 - 2. A listing of the professional staff assigned to the facility; and
 - 3. The expected ratio of patient workload to staff member.
- H.** If the staffing ratio exceeds the recommended levels in the document incorporated by reference in subsection (G)(1), the applicant shall provide to the Department for approval the justification for the larger ratio and the safety considerations that have been addressed in establishing the program.
- I.** A registrant shall ensure that:
- 1. Two radiation therapy technologists are at the treatment console for all procedures;
 - 2. An authorized user and authorized medical physicist are:
 - a. At the treatment console for all single fraction special procedures, such as stereotactic radiosurgery (SRS), a method of external beam radiotherapy that delivers a precisely targeted high dose of radiation in a single session;
 - b. At the treatment console for the first fraction of all special procedures using multiple fractions, such as:
 - i. Stereotactic radiotherapy (SRT), a method of external beam radiotherapy in which radiotherapy is delivered from many different angles around the body of a patient, with the beams meeting at the tumor in such a manner that the tumor receives a high dose of radiation and the tissues around the tumor receive a much lower dose; or
 - ii. Stereotactic body radiation therapy (SBRT), a method of external beam radiotherapy that delivers a precisely targeted high dose of radiation to an extracranial target in five or fewer fractions; and
 - c. On-site and within range for patient care access for subsequent fractions of the special procedures specified in subsection (I)(2)(b);
 - 3. For all Intensity-Modulated Radiation Therapy (IMRT), the planned doses are verified by direct measurement;
 - 4. Except as provided in subsection (J), an authorized user is on-site and available for consultation about patient care; and
 - 5. The health and safety of a patient are maintained.
- J.** If a registrant meets the requirements of a Critical Access Hospital, according to 42 CFR, Part 485, Subpart F, Conditions of Participation: Critical Access Hospitals, the registrant may allow a radiation therapy technologist to perform a procedure under general supervision if the registrant ensures that:
- 1. The registrant or an authorized user:
 - a. Has established a written protocol for the application of radiation to a patient for each procedure that may be conducted by a radiation therapy technologist under the general supervision of an authorized user, including follow-up instructions for the patient;
 - b. Reviews and, as necessary, revises the written protocols in subsection (J)(1)(a) at least annually; and
 - c. Documents the review in subsection (J)(1)(b) with a signature and date of signature;
 - 2. The procedure is not a special procedure;
 - 3. A radiation therapy technologist follows the applicable written protocol established according to subsection (J)(1)(a) when delivering radiation to a patient; and
 - 4. At least every six months, an authorized user:
 - a. Observes each radiation therapy technologist, while the radiation therapy technologist is performing a procedure, for adherence to the applicable written protocol in subsection (J)(1)(a); and
 - b. Documents the observation and the assessment in subsection (J)(4)(a);
 - 5. An authorized user is on-site and available for consultation about patient care at least once every five working days, as shown in documentation maintained by the registrant; and

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6. The health and safety of a patient are maintained.
- K. A registrant that uses the general supervision in compliance with subsection (J) shall develop, maintain, and implement policies and procedures to monitor:
1. The performance of a procedure by a radiation therapy technologist under general supervision, and
 2. The quality of patient care.

Historical Note

New Section R9-7-904 recodified from R12-1-904 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4). Amended by final expedited rulemaking at 30 A.A.R. 385 (March 1, 2024), with an immediate effective date of February 8, 2024 (Supp. 24-1).

R9-7-905. Medical Particle Accelerator Equipment, Facility and Shielding, and Spot Checks**A. Equipment**

1. Leakage radiation
 - a. X-ray leakage radiation from the source housing assembly shall not exceed 0.1 percent of the maximum dose equivalent rate of the unattenuated useful beam.
 - b. Neutron leakage radiation from the source housing assembly shall not exceed 0.5 percent of the maximum dose equivalent rate of the unattenuated useful beam.
 - c. Leakage radiation measurements made at any point 1 meter from the path of the charged particle between its point of origin and the target, window or scattering foil shall meet the requirements of subsection (A)(1)(a) and (b) when computed as a percentage of the dose rate equivalent of the unattenuated useful beam measured at 1 meter from the virtual source. Leakage radiation measurements at each point shall be averaged over an area up to but not exceeding 100 square centimeters (15.5 square inches).
 - d. The registrant shall maintain, for inspection by the Department, records that show leakage radiation measurements for the life of the operation.
2. Beam limiting devices (not to include blocks or wedges). Adjustable or interchangeable beam limiting devices shall be provided and shall transmit no more than 2 percent of the useful beam for the portion of the useful beam that is to be attenuated by the beam limiting device. The neutron component of the useful beam shall not be included in this requirement. Measurements shall be averaged over an area up to but not exceeding 100 square centimeters (15.5 square inches) at the normal treatment distance.
3. Filters. The following requirements apply to systems that use a system of wedge filters, interchangeable field flattening filters, or interchangeable beam scattering filters:
 - a. Irradiation shall not be possible until a selection of a filter has been made at the treatment control panel;
 - b. An interlock system shall be provided to prevent irradiation if the filter selected is not in the correct position;
 - c. An indication of the wedge filter orientation with respect to the treatment field shall be provided at the control panel, by direct observation, or by electronic means, when wedge filters are used;
 - d. A display shall be provided at the treatment control panel showing the filter or filters in use;
 - e. Each filter that is removable from the system shall be clearly identified as to that filter's material of construction, thickness, and the nominal wedge angle for wedge filters, or a record tracing these factors for each filter shall be maintained at the system console; and
 - f. An interlock shall be provided to prevent irradiation if any filter selection operation carried out in the treatment room does not agree with the filter selection operation carried out at the treatment control panel.
4. Beam monitor. Equipment installed after the effective date of this Section shall be provided with at least one radiation detector in the radiation head. This detector shall be incorporated into a primary system so that all of the following criteria are met:
 - a. Each primary system shall have a detector that is a transmission detector and a full beam detector and that is placed on the patient side of any fixed added filters other than a wedge filter;
 - b. The detectors shall be removable only with tools and shall be interlocked to prevent incorrect positioning;
 - c. Each detector shall be capable of independently monitoring and controlling the useful beam;
 - d. Each detector shall form part of a dose-monitoring system from which the absorbed dose can be calculated at a reference point in the treatment volume;
 - e. Each dose monitoring system shall have a legible display at the treatment control panel that:
 - i. Maintains a reading until intentionally reset to zero;
 - ii. Has only one scale and no scale multiplying factors in replacement equipment; and
 - iii. Utilizes a design such that increasing dose is displayed by increasing numbers and is designed so that, in the event of an overdosage of radiation, the absorbed dose may be accurately determined under all nominal conditions of use or foreseeable failures;
 - f. In the event of power failure, the dose monitoring information required in subsection (A)(4) displayed at the control panel at the time of failure shall be retrievable in at least one system; and
 - g. Selection and display of dose monitor units;
 - i. Irradiation shall not be possible until a selection of dose monitor units has been made at the treatment control panel.
 - ii. Each primary system shall terminate irradiation when the preselected number of dose monitor units has been detected by the system.
 - iii. Each secondary system shall terminate irradiation when 110 percent of the preselected number of dose monitor units has been detected by the system.
 - iv. It shall be possible to interrupt irradiation and equipment movements at any time from the operator's position at the treatment control panel. Following an interruption, it shall be possible to restart irradiation by operator action without any reselection of operating conditions. If any change is made of a preselected value during an interruption the equipment shall go to termination condition.

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- v. It shall be possible to terminate irradiation and equipment movements, or go from an interruption condition to termination conditions at any time from the operator's position at the treatment control panel.
 - 5. Beam monitoring system. All accelerator systems shall be provided with a beam monitoring system in the radiation head capable of monitoring and terminating irradiation.
 - a. Each beam monitoring system shall have a display at the treatment control panel that registers the accumulated monitor units.
 - b. The beam monitoring system shall terminate irradiation if the preselected number of monitor units has been detected by the system.
 - c. For units with a secondary beam monitoring system, the primary beam monitoring system shall terminate irradiation if the preselected number of monitor units has been detected. The secondary beam monitoring system shall terminate irradiation if the primary system fails.
 - d. In the event of a power failure, the display information required in subsection (A)(5)(a) shall be retained in at least one system following the power failure.
 - e. An interlock device shall prevent irradiation if any beam monitoring system is inoperable.
 - f. For purposes of this rule:
 - i. "Beam monitoring system" means a system of devices that will monitor the useful beam during irradiation and will terminate irradiation if a preselected number of monitor units is accumulated.
 - ii. "Monitor unit" means a unit response from the beam monitoring system from which the absorbed dose can be calculated.
 - 6. Treatment beam mode selection. In equipment capable of both x-ray and electron therapy:
 - a. Irradiation shall not be possible until a selection of radiation type is made at the treatment control panel;
 - b. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations indicated at the treatment control panel;
 - c. An interlock system shall be available and in operating condition on a therapy machine, and shall be used to prevent unwanted x-ray or electron irradiation when preparing for, or performing radiation therapy procedures. The interlock system need not be available for use, if the therapy machine is only used to make an image of an inanimate object; and
 - d. The radiation type selected shall be displayed at the treatment control panel before and during irradiation.
 - 7. Treatment beam energy selection. Equipment capable of generating radiation beams of different energies shall meet all of the following requirements:
 - a. Irradiation shall not be possible until a selection of energy is made at the treatment control panel;
 - b. An interlock system shall be provided to ensure that the equipment can emit only the energy of radiation that is selected;
 - c. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations indicated at the treatment control panel; and
 - d. The energy selected shall be displayed at the treatment control panel before and during irradiation.
 - 8. Selection of stationary or moving beam therapy. Equipment capable of both stationary and moving beam therapy modes shall meet all of the following requirements:
 - a. Irradiation shall not be possible until a selection of stationary beam therapy or moving beam therapy is made at the treatment control panel;
 - b. An interlock system shall be provided to ensure that the equipment can operate only in the mode that is selected;
 - c. An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations indicated at the treatment control panel;
 - d. An interlock system shall be provided to terminate irradiation if the movement stops during moving beam therapy;
 - e. Moving beam therapy shall be so controlled that the required relationship between the number of dose monitor units and movement is obtained; and
 - f. The mode of operation shall be displayed at the treatment control panel.
 - 9. Focal spot location and beam orientation. The registrant shall determine, or obtain from the manufacturer, the location in reference to an accessible point on the radiation head of all of the following:
 - a. The x-ray target or the virtual source of x-rays,
 - b. The electron window or the scattering foil, and
 - c. All possible orientations of the useful beam.
 - 10. System checking facilities. Capabilities shall be provided for checking of all safety interlock systems.
- B. Facility and shielding requirements.**
 - 1. In addition to protective barriers sufficient to ensure compliance with R9-7-907, all of the following design requirements apply:
 - a. Except for entrance doors or beam interceptors, all the required barriers shall be fixed barriers;
 - b. The treatment control panel shall be located outside the treatment room;
 - c. Windows, mirrors, operable closed-circuit television, or other equivalent viewing systems shall be provided to permit continuous observation of the patient during irradiation and shall be so located that the operator may observe the patient from the treatment control panel;
 - d. Provision shall be made for two-way oral communication between the patient and the operator at the treatment control panel;
 - e. Each point of entry into the treatment room shall be provided with warning lights that will indicate when the useful beam is "on" in a readily observable position outside of the room; and
 - f. Interlocks shall be provided and shall result in all entrance doors being closed before treatment can be initiated or continued. If the radiation beam is interrupted by any door opening, it shall be possible to restore the machine to operation only by closing the door and reinitiating exposure by manual action at the control panel.
 - 2. An authorized medical physicist, trained and experienced in the principles of radiation protection, shall perform a radiation protection survey on all installations before human use and after any change in an installation that

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might produce a radiation hazard. The authorized medical physicist shall provide the survey results in writing to the individual in charge of the installation and transmit a copy of the survey results to the Department.

3. Calibrations.

- a. Calibration of the therapy system, including radiation output calibration, shall be performed before placing new installations into operation for the purpose of irradiation of patients. Subsequent calibrations shall be made at intervals not to exceed 12 months, and after any change that may cause the calibration of the therapy system to change.
- b. Calibration of the radiation output of the therapy beam shall be performed with an instrument that has been calibrated using a method that is traceable to the National Institute of Standards and Technology (NIST), within the preceding two years.
- c. Calibration of a particle accelerator shall be performed by, or under the supervision of an authorized medical physicist who meets the qualification requirements specified in R9-7-711, and a copy of the calibration report shall be maintained by the registrant for inspection by the Department.
- d. Calibration of the therapy beam shall include, but not necessarily be limited to, all of the following determinations:
 - i. Verification that the equipment is operating within the design specifications concerning the light localizer, the side light and back pointer alignment with the isocenter, when applicable, variation in the axis of rotation for the table, gantry and jaw system, and beam flatness and symmetry at specific depths;
 - ii. The exposure rate or dose rate in air or at various depths of water for the range of field sizes used for each effective energy, and for each treatment distance used for radiation therapy;
 - iii. The congruence between the radiation field and the field defined by the localizing device;
 - iv. The uniformity of the radiation field and its dependency upon the direction of the useful beam; and
 - v. The calibration determinations above shall be provided in sufficient detail, to allow the absorbed dose to tissue in the useful beam to be calculated to within plus or minus 5 percent.
- e. Records of calibrations shall be maintained for three years following the date the calibration was performed.
- f. A copy of the current calibration report shall be available in the therapy facility for use by the operator, and the report shall contain the following information:
 - i. The action taken by the authorized medical physicist performing the calibration if it indicates a change has occurred since the last calibration,
 - ii. A listing of the persons informed of the change in calibration results, and
 - iii. A statement as to the effect the change in calibration has had on the therapy doses prior to the current calibration finding.

C. Spot checks.

1. The spot check procedures shall be in writing and shall have been developed by an authorized medical physicist trained and experienced in performing calibrations.

2. The measurements taken during spot checks shall demonstrate the degree of consistency of the operating characteristics which can affect the radiation output of the system or the radiation dose delivered to a patient during a therapy procedure.
3. The written spot check procedure shall indicate the frequency at which tests or measurements are to be performed, not to exceed monthly.
4. The spot check procedure shall note conditions that require recalibration of the therapy system before further human irradiation.
5. Records of spot checks shall be maintained and available for inspection by the Department for three years following the spot check measurements. Records of spot checks not performed by an authorized medical physicist shall be signed by an authorized medical physicist within 15 days of the spot check.

D. Operating procedures.

1. Only the patient shall be in the treatment room during irradiation.
2. If a patient must be held in position during treatment only, mechanical supporting or restraining devices shall be used for this purpose.

Historical Note

New Section R9-7-905 recodified from R12-1-905 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-906. Limitations

A. A registrant shall not permit an individual to act as:

1. A particle accelerator operator of any type unless the individual:
 - a. Has received copies of and instruction in this Article and the registrant's operating and emergency procedures,
 - b. Demonstrates an understanding of the material, and
 - c. Has demonstrated competence in the use the particle accelerator, related equipment, and survey instruments that will be employed during the operation of the particle accelerator;
 2. A medical particle accelerator operator unless the individual is certified as required in A.R.S. § 32-2811 or the operator meets the requirements in R9-7-603(B); or
 3. An industrial particle accelerator operator unless the individual has been instructed in radiation safety.
- B.** A registrant shall provide either the Radiation Safety Committee or the Radiation Safety Officer with the authority to terminate operations at a particle accelerator facility if this is necessary to protect health and safety or property.
- C.** If equipment is capable of both stationary and moving beam therapy, the registrant shall ensure that:
1. Irradiation is not possible unless either stationary or moving beam therapy has been selected at the control panel,
 2. An interlock is provided to ensure that the machine will operate only in the mode that has been selected,
 3. An interlock is provided that terminates irradiation if the gantry fails to move properly during moving beam therapy,
 4. A means is provided to prevent movement during stationary therapy, and
 5. The mode of operation is displayed at the control panel.

Historical Note

New Section R9-7-906 recodified from R12-1-906 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-907. Shielding and Safety Design

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- A. An authorized medical physicist experienced in the principles of radiation protection and installation design shall be consulted in the design of a particle accelerator installation and called upon to perform a radiation survey when the accelerator is first capable of producing radiation. The registrant shall provide a copy of the installation radiation survey to the Department before a Department inspection conducted according to R9-7-914.
- B. The registrant shall shield each particle accelerator installation with the primary and secondary protective barriers necessary to comply with R9-7-408 and R9-7-416.
- C. At the time of application for registration and before treatment of the first patient, the applicant shall provide to the Department a copy of an installation report, signed by the contractor who installed required shielding material recommended by the authorized medical physicist who performed the shielding calculations for the particle accelerator facility.
- D. As part of the annual radiation protection program review required in R9-7-407(C), the registrant shall document installed facility shielding and other radiation exposure controls, review patient workload, and note associated changes, if any, in public exposure that are the result of installed facility shielding, increased workload, and other radiation exposure controls in use at the time of the review.

Historical Note

New Section R9-7-907 recodified from R12-1-907 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-908. Particle Accelerator Controls and Interlock Systems

A registrant shall ensure that:

1. Instrumentation, readouts and controls on the particle accelerator control panel are clearly identified and easily discernible;
2. All entrances into the area that contains the particle accelerator room, target room, or other high radiation area, are provided with interlocks that shut down the machine if an entrance door is opened;
3. If an interlock system connected to an entrance door that provides access to the therapy suite has been tripped, it is not possible to resume operation of the particle accelerator by resetting the interlock switch at the entrance where it had been tripped;
4. Each safety interlock is on a circuit that allows it to operate independently of all other safety interlocks;
5. If possible, the interlock system is fail-safe in design, so that any defect or component failure in the interlock system prevents operation of the particle accelerator; and
6. A scram button or other emergency power cutoff switch is located and easily identifiable in the area that contains the particle accelerator. The registrant shall ensure that the scram button prevents persons from restarting the particle accelerator at the accelerator control panel without resetting the button or switch.

Historical Note

New Section R9-7-908 recodified from R12-1-908 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-909. Warning Systems

A registrant shall ensure that:

1. High radiation areas and entrances to the high radiation areas in medical facilities are equipped with a continuously-operating warning light system that operates when, and only when, radiation is produced;
2. High radiation areas and entrances to the high radiation areas in nonmedical facilities are equipped with an easily-

- observable flashing or rotating warning light system that operates when, and only when, radiation is produced;
3. High radiation areas associated with nonmedical particle accelerators have an audible warning device that is activated for 15 seconds before creation of the high radiation area; and the warning device is clearly discernible in all high radiation areas and all radiation areas; and
4. High radiation areas associated with any particle accelerator are posted according to R9-7-428 and R9-7-429.

Historical Note

New Section R9-7-909 recodified from R12-1-909 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-910. Operating Procedures

- A. A registrant shall secure from use a particle accelerator when it is not being used to prevent unauthorized use.
- B. A particle accelerator operator shall use the switch on the control panel to turn the accelerator beam on and off during normal operations. The safety interlock system may be used to turn off the accelerator beam in emergencies.
- C. A registrant shall ensure that all safety and warning systems, including interlocks, are tested for proper operation at intervals not to exceed three months, and maintain a record of each test for Department inspection for at least three years from the date of the test.
- D. A registrant shall keep current electrical circuit diagrams of a particle accelerator and the associated interlock systems, and maintain the diagrams for inspection by the Department.
- E. A registrant shall not bypass an interlock unless the by-pass is:
 1. Authorized in writing by the Radiation Safety Committee or Radiation Safety Office,
 2. Recorded in a permanent log with a notice of the by-pass posted at any affected interlock and at the control panel, and
 3. Terminated as soon as possible.
- F. A registrant shall maintain a copy of the current operating and emergency procedures at the particle accelerator control panel.

Historical Note

New Section R9-7-910 recodified from R12-1-910 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-911. Radiation Surveys

- A. The registrant shall ensure that a portable survey instrument is available at all times in a particle accelerator facility.
- B. An authorized medical physicist shall:
 1. Check the operation of the portable survey instrument required in subsection (A), using a known radiation source, before each use;
 2. Perform and document a radiation protection survey when changes have been made in shielding, operation, equipment, or occupancy of adjacent areas;
 3. For particle accelerator facilities greater than 30 Mev, establish a program of radiation protection surveys that will evaluate the airborne radiation hazards, and ensure that the particulate radioactivity present in the accelerator facility will not result in personnel exposure that exceeds the limits in Article 4; and
 4. Perform radiation protection surveys, including smear surveys of the particle accelerator facility, as prescribed in the written procedures established by the Radiation Safety Officer of the particle accelerator facility and approved by the Department at the time of application for registration.
- C. The registrant shall maintain the following records:

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1. Radiation protection surveys required in subsection (B)(2), and the associated facility description, required in R9-7-202, until the registration is terminated; and
2. Records of the surveys required in subsections (B)(3) and (4) for three years following the measurement.

Historical Note

New Section R9-7-911 recodified from R12-1-911 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-912. Reserved**Historical Note**

Section R9-7-912 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-913. Misadministration**A.** For purposes of this rule “misadministration” means:

1. A therapeutic radiation dose from a machine:
 - a. Delivered to the wrong patient;
 - b. Delivered using the wrong mode of treatment;
 - c. Delivered to the wrong treatment site; or
 - d. Delivered in one week to the correct patient, using the correct mode, to the correct therapy site, but greater than 130 percent of the prescribed weekly dose; or
2. A therapeutic radiation dose from a machine with errors in the calibration, time of exposure, or treatment geometry that result in a calculated total treatment dose differing from the final, prescribed total treatment dose by more than 20 percent, except for treatments given in 1 to 3 fractions, in which case a difference of more than 10 percent constitutes a misadministration.

B. Reports of therapy misadministration

1. Within 24 hours after discovery of a misadministration, a registrant shall notify the Department by telephone. The registrant shall also notify the referring physician of the affected patient and the patient or a responsible relative or guardian, unless the referring physician personally informs the registrant either that he or she will inform the patient, or that in his or her medical judgment, telling the patient or the patient’s responsible relative or guardian would be harmful to one or the other, respectively. If the referring physician or the patient’s responsible relative or guardian cannot be reached within 24 hours, the registrant shall notify them as soon as practicable. The registrant shall not delay medical care for the patient because of notification problems.
2. Within 15 days following the verbal notification to the Department, the registrant shall report, in writing, to the Department and individuals notified under subsection (B)(1). The written report shall include the registrant’s name, the referring physician’s name, a brief description of the event, the effect on the patient, the action taken to prevent recurrence, whether the registrant informed the patient or the patient’s responsible relative or guardian, and if not, why not. The report shall not include the patient’s name or other information that could lead to identification of the patient.
3. Each registrant shall maintain records of all misadministrations for Department inspection. The records shall:
 - a. Contain the names of all individuals involved in the event, including:
 - i. The physician,
 - ii. The allied health personnel,
 - iii. The patient,
 - iv. The patient’s referring physician,

- v. The patient’s identification number if one has been assigned,
 - vi. A brief description of the event,
 - vii. The effect on the patient, and
 - viii. The action taken to prevent recurrence.
- b. Be maintained for three years beyond the termination date of the affected registration.

Historical Note

New Section R9-7-913 recodified from R12-1-913 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-914. Initial Inspections of Particle Accelerators Used in the Practice of Medicine

The Department shall inspect a particle accelerator, used in the practice of medicine, before its initial use to treat human disease.

Historical Note

New Section R9-7-914 recodified from R12-1-914 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Quality Control Program**A.** Mechanical Tests

1. Patient support assembly motions,
2. Gantry angle indicators,
3. Optical distance indicators,
4. Alignment lights,
5. Congruence of radiation beam and light field,
6. Accuracy of field size indicators,
7. Mechanical isocenter-gantry and collimator,
8. Mechanical interlocks.

B. Radiation Beam Tests

1. Machine operating parameters,
2. Dose per monitor unit for x-ray and electron beams,
3. Dose per degree for moving beam therapy,
4. Radiation isocenter,
5. Flatness and symmetry,
6. Wedge transmission factors,
7. Shadow tray transmission factors,
8. Energy check on central axis,
9. Radiation output versus field size.

C. Control Panel Checks

1. Radiation “ON” condition,
2. Indicator lamp check,
3. Computer control of accelerator,
4. Interlock display,
5. Digital display,
6. Analog display,
7. Status display,
8. Reset display.

D. Facility Checks

1. Patient audio-visual communication,
2. Entrance door interlock,
3. Warning lights,
4. Emergency off button.

E. Dose Output Check

1. Each registrant shall use the services of a third party authorized medical physicist or third party TLD system to verify the accelerator’s radiation output every two years.
2. If the output check is not within plus or minus 5 percent of the calibrated output, the accelerator shall be recalibrated and the discrepancy investigated.
3. Records of output checks shall be maintained for three years.

F. Patient Dosimetry Calculation Checks

1. Calculation of patient treatment times,
2. Computer calculation of patient treatment times.

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Historical Note

New Article 9, Appendix A recodified from 12 A.A.C. 1, Article 9, Appendix A, 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 10. NOTICES, INSTRUCTIONS, AND REPORTS TO RADIATION WORKERS; INSPECTIONS**R9-7-1001. Purpose and Scope**

This Article establishes requirements for notices, instructions, and reports by licensees or registrants to individuals working for a licensee or registrant. This Article explains the options available to these individuals in connection with Department inspections of licensees or registrants regarding radiological working conditions. The rules in this Article apply to all persons who receive, possess, use, own, or transfer sources of radiation licensed or registered by the Department.

Historical Note

New Section R9-7-1001 recodified from R12-1-1001 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1002. Posting of Notices for Workers

- A. Each licensee or registrant shall post current copies of the following documents:
 1. The rules in this Chapter;
 2. The license, certificate of registration, conditions, or documents incorporated into the license or registration by reference, and any amendments to the license or registration;
 3. The operating procedures applicable to work under the license or registration;
 4. Any notice of violation involving radiological working conditions, proposed imposition of a civil penalty, or order issued under 9 A.A.C. 7, Article 12, and any response from the licensee or registrant.
- B. If posting of a document specified in subsections (A)(1), (2) and (3) is not practicable, the licensee or registrant may post a notice which describes the document and states where it may be examined.
- C. Form ARRA-6 (shown following R9-7-1008), "Notice to Employees" shall be posted by each licensee or registrant wherever individuals work in or frequent any portion of a restricted area.
- D. Each licensee or registrant shall post documents, notices, or forms, as required by this Section, so that they are conspicuous and appear in a sufficient number of places to permit individuals engaged in work under the license or registration to observe them on the way to or from any particular work location to which the document applies and shall replace any document if it is defaced or altered.
- E. Department documents posted as required in subsection (A)(4) shall be posted within two working days after receipt of the documents from the Department; the licensee's or registrant's response, if any, shall be posted within two working days after dispatch from the licensee or registrant. The documents shall remain posted for a minimum of five working days or until action correcting the violation has been completed, whichever is later.

Historical Note

New Section R9-7-1002 recodified from R12-1-1002 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1003. Instructions for Workers

- A. A licensee or registrant shall ensure that each individual who, in the course of employment, is likely to receive in a year an occupational dose in excess of 1 mSv (100 mrem), receives instruction in all of the following subjects:

1. Storage, transfer, or use of radiation and radioactive material;
2. Health protection problems associated with exposure to radiation or radioactive material, precautions or procedures to minimize exposure, and purposes and functions of protective devices;
3. Applicable provisions in Department rules, licenses, and registrations that protect of personnel from exposure to radiation or radioactive material, with an emphasis on the duties of workers;
4. The duty to promptly report to the licensee or registrant any condition that may lead to or cause a violation of a provision in a Department rule, license, or registration or unnecessary exposure to radiation or radioactive material;
5. Correct response to warnings in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and
6. Radiation exposure reports that a worker may request according to R9-7-1004.

- B. In determining whether subsection (A) applies to an individual, a licensee or registrant shall take into consideration assigned activities during normal and abnormal situations that involve exposure to radiation or radioactive material and could reasonably be expected to occur during the life of a facility. The licensee or registrant shall provide instruction that is commensurate with potential radiological health protection problems present in the work place.

Historical Note

New Section R9-7-1003 recodified from R12-1-1003 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1004. Notifications and Reports to Individuals

- A. A licensee or registrant shall report radiation exposure data for an individual and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body to the individual as specified in this Section. The information reported shall include data and results obtained under Department rules, orders, or license conditions, as shown in records maintained by the licensee or registrant. Each notification and report shall be in writing; include appropriate identifying data, such as the name of the licensee or registrant, the name of the individual, and the individual's Social Security number; include the individual's exposure information; and contain the following statement:

"This report is furnished to you under the provisions of 9 A.A.C. 7. You should preserve this report for future reference."
- B. Each licensee or registrant shall make dose information available to workers as shown in records maintained by the licensee or registrant under the provisions of Article 4. Each licensee or registrant shall provide annual notification of exposure to radiation or radioactive material for each worker, as shown in records maintained by the licensee or registrant under R9-7-419(E) if:
 1. The individual's occupational dose exceeds 1 mSv (100 mrem) TEDE or 1 mSv (100 mrem) to any individual organ or tissue; or
 2. The individual requests his or her annual dose report.
- C. At the request of a worker formerly engaged in work controlled by the licensee or the registrant, each licensee or registrant shall furnish to the worker a report of the worker's exposure to radiation or radioactive material. The report shall be furnished within 30 days from the time the request is made, or within 30 days after the exposure of the individual has been determined by the licensee or registrant, whichever is later; the report shall cover, within the period of time specified in the

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request, each calendar quarter in which the worker's activities involved exposure to radiation from radioactive material licensed by, or radiation machines registered with, the Department; and the report shall include the dates and locations of work under the license or registration in which the worker participated during this period.

- D. Reports to individuals of their exposure to radiation shall be made according to R9-7-446.

Historical Note

New Section R9-7-1004 recodified from R12-1-1004 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1005. Licensee, Registrant, and Worker Representation During Department Inspection

- A. As a condition of licensure or registration, each licensee or registrant shall afford to the Department, at all reasonable times and without undue delay, an opportunity to inspect materials, machines, activities, facilities, premises, and records.
- B. During an inspection, the licensee or registrant shall permit Department inspectors to consult privately with workers as specified in R9-7-1006. The licensee or registrant may accompany Department inspectors during other phases of an inspection.
- C. A worker authorized to consult with an Department inspector under R9-7-1006 may authorize another individual to represent the worker's interests during the Department inspection. The licensee or registrant shall notify the inspectors of the worker's authorization and give the worker's representative an opportunity to accompany the inspectors during the inspection of physical working conditions.
- D. Each worker's representative shall be routinely engaged in work under control of the licensee or registrant or shall have received instructions under R9-7-1003.
- E. Different representatives of licensees or registrants and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the inspection. However, only one worker's representative at a time may accompany the inspectors.
- F. With the approval of the licensee or registrant and the worker's representative an individual who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the worker's representative, shall be afforded the opportunity to accompany Department inspectors during the inspection of physical working conditions.
- G. Notwithstanding the other provisions of this Section, Department inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to any area containing proprietary information the worker's representative for that area shall be an individual previously authorized by the licensee or registrant to enter that area. With regard to areas containing information classified by an agency of the U.S. Government in the interest of national security, any individual who accompanies an inspector may have access to such information only if authorized by the classifying agency.

Historical Note

New Section R9-7-1005 recodified from R12-1-1005 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1006. Consultation with Workers During Inspections

- A. A licensee or registrant shall afford Department inspectors talking to a licensee or registrant representative the opportunity to consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of Department rules, licenses, and regis-

trations to the extent the inspectors deem consultation necessary for conducting an effective and thorough inspection.

- B. During the course of an inspection, any worker may privately bring to the attention of the inspectors, either orally or in writing, any past or present condition which the worker has reason to believe may have contributed to or caused any violation of the Act, these rules, or a license or registration condition, or any unnecessary exposure of an individual to radiation from licensed radioactive material or a registered radiation machine under the licensee's or registrant's control. If this notification is in writing, the worker shall comply with the requirements of R9-7-1007(A).
- C. The provisions of subsection (B) shall not be interpreted as authorization to disregard instructions required by R9-7-1003.

Historical Note

New Section R9-7-1006 recodified from R12-1-1006 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-1007. Inspection Requests by Workers

- A. Any worker or representative of workers who believes that a violation of the Act, these rules, license, or registration conditions exists, or has occurred with regard to radiological working conditions in which the worker is engaged, may request an inspection of the facility by the Department. Any request shall be in writing, addressed to the Director, set forth the specific grounds for the request, and be signed by the worker or representative of the workers. The Department shall provide a copy to the licensee or registrant no later than at the time of inspection except that, upon the request of the worker, the Department shall protect the worker's name and the name of individuals referred to in the request to the extent authorized by law, except for good cause shown.
- B. If, upon receipt of a request for inspection, the Department Director determines that there are reasonable grounds to believe that the alleged violation exists or has occurred, the Director shall initiate an inspection as soon as practicable, to determine if the alleged violation exists or has occurred. Inspections performed under this subsection need not be limited to matters referred to in the complaint.
- C. A licensee or registrant shall not discharge or in any manner discriminate against any worker because the worker has filed any complaint or caused to be instituted any proceeding under these rules or has testified or is about to testify in the instituted proceeding or because the worker exercises on behalf of the worker or others, any option afforded by this Article.

Historical Note

New Section R9-7-1007 recodified from R12-1-1007 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1008. Inspection not Warranted; Review

If the Department determines, with respect to a complaint under R9-7-1007, that an inspection is not warranted or there are no reasonable grounds to believe that a violation exists or has occurred, the Department shall notify the complainant in writing of the determination. The complainant may obtain review of the determination by submitting a written request for hearing to the Department. The Department shall provide for a hearing before the Radiation Regulatory Hearing Board under 9 A.A.C. 7, Article 12 and A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section R9-7-1008 recodified from R12-1-1008 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Exhibit A. Form ARRA-6 (2012) Notice to Employees

ARRA-6 (2012) Arizona Department of Health Services, Bureau of Radiation Control

NOTICE TO EMPLOYEES**STANDARDS FOR PROTECTION AGAINST RADIATION;
NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS;
INSPECTIONS**

In Article 4 of the Arizona Department of Health Services, Bureau of Radiation Control rules for the Control of Radiation, the Arizona Department of Health Services, Bureau of Radiation Control has established standards for your protection against radiation hazards. In Article 10 of the rules for the Control of Radiation, the Arizona Department of Health Services, Bureau of Radiation Control has established certain provisions for the options of workers engaged in work under a license or registration issued by the Arizona Department of Health Services, Bureau of Radiation Control.

YOUR EMPLOYER'S RESPONSIBILITY

Your employer is required to -

1. Apply these rules to work involving sources of radiation.
2. Post or otherwise make available to you a copy of the Arizona Department of Health Services, Bureau of Radiation Control rules, licenses, and operating procedures which apply to work you are engaged in, and explain their provisions to you.
3. Post notice of violation involving radiological working conditions, proposed imposition of civil penalties, and orders.

YOUR RESPONSIBILITY AS A WORKER

You should familiarize yourself with those provisions of the Arizona Department of Health Services, Bureau of Radiation Control rules and the operating procedures which apply to the work you are engaged in. You should observe their provisions for your own protection and protection of your co-workers.

WHAT IS COVERED BY THESE RULES

1. Limits on exposure to radiation and radioactive material in restricted and unrestricted areas;
2. Measures to be taken after accidental exposure;
3. Personnel monitoring, surveys, and equipment;
4. Caution signs, labels, and safety interlock equipment;
5. Exposure records and reports;
6. Options for workers regarding inspections by the Arizona Department of Health Services, Bureau of Radiation Control; and
7. Related matters.

REPORTS ON YOUR RADIATION EXPOSURE HISTORY

1. The Arizona Department of Health Services, Bureau of Radiation Control rules require that your employer give you a written report if you receive an exposure in excess of any applicable limit set forth in the rules or in the

license. The basic limits for exposure to employees are set forth in Article 4 of the rules. These Sections specify limits on exposure to radiation and exposure to concentrations of radioactive material in air and water.

2. If you work where personnel monitoring is required, and if you request information on your radiation exposures,
 - a. Your employer must give you a written report, upon termination of your employment, of your radiation exposures; and
 - b. Your employer must advise you annually of your exposure to radiation.

INSPECTIONS

All licensed or registered activities are subject to inspection by representatives of the Arizona Department of Health Services, Bureau of Radiation Control. In addition, any worker or representative of workers who believes that there is a violation of the regulations issued thereunder, or the terms of the employer's license or rules with regard to radiological working conditions in which the worker is engaged, may request an inspection by sending a notice of the alleged violation to the Arizona Department of Health Services, Bureau of Radiation Control. The request must set forth the specific grounds for the notice and must be signed by the worker on his own behalf or as a representative of the workers. During inspections, inspectors of the Arizona Department of Health Services, Bureau of Radiation Control may confer privately with workers, and any worker may bring to the attention of the inspectors any past or present condition which he believes contributed to or caused any violation as described above.

INQUIRIES

Inquiries dealing with the matters outlined above can be sent to the:

**ARIZONA DEPARTMENT OF HEALTH SERVICES,
BUREAU OF RADIATION CONTROL**

POSTING REQUIREMENT

IN ACCORDANCE WITH A.A.C. R9-7-1002, COPIES OF THIS NOTICE SHALL BE POSTED IN SUCH A MANNER TO PERMIT EMPLOYEES WORKING IN OR FREQUENTING ANY PORTION OF A RESTRICTED AREA, USED FOR ACTIVITIES LICENSED OR REGISTERED PURSUANT TO ARTICLE 2 OR ARTICLE 3 OF THE ARIZONA DEPARTMENT OF HEALTH SERVICES, BUREAU OF RADIATION CONTROL'S RULES, TO OBSERVE A COPY OR COPIES ON THE WAY TO OR FROM THEIR WORK AREA.

Historical Note

New Article 10, Exhibit A recodified from 12 A.A.C.1, Article 10, Exhibit A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

**ARTICLE 11. INDUSTRIAL USES OF X-RAYS, NOT
INCLUDING ANALYTICAL X-RAY SYSTEMS****R9-7-1101. Reserved****Historical Note**

Section R9-7-1101 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1102. Definitions

"Access point" means any door or cover that is designed to be removed or opened for maintenance or service purposes, opened using tools, and used to provide access to the interior of a cabinet x-ray unit.

"Annual refresher safety training" means a review provided by the registrant for its employees on radiation safety aspects of industrial radiography. The review shall include, as applicable, the results of internal inspections, new procedures or equip-

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ment, new or revised statutes or rules, accidents, or errors that have occurred, and provide opportunities for employees to ask safety questions.

“Aperture” means any opening in the outside surface of a cabinet x-ray unit, other than a port, which remains open during generation of x-radiation.

“Door” means any barrier that is designed to be movable or opened for routine operation purposes, rather than opened using tools, and used to provide access to the interior of the cabinet x-ray unit.

“Ground fault” means an accidental electrical grounding of an electrical conductor.

“Hands-on experience” means the accumulation of knowledge or skill in any area relevant to radiography.

“Port” means any opening in the outside surface of a cabinet x-ray unit that is designed to remain open, during generation of x-rays, for conveying material that is being irradiated into and out of the cabinet, or for partial insertion of an object for irradiation if the dimensions of the object do not permit complete insertion into the cabinet x-ray unit.

“Practical examination” means a demonstration, through practical application of safety rules and principles of industrial radiography, which includes use of all radiography equipment and tests knowledge of radiography procedures.

“Radiographic operations” means all activities associated with use of a radiographic x-ray system. This includes performing surveys to confirm the adequacy of boundaries, setting up equipment, and conducting any activity inside restricted area boundaries.

Historical Note

New Section R9-7-1102 recodified from R12-1-1102 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1103. Reserved**Historical Note**

Section R9-7-1103 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1104. Registration Requirements

- A. The Department shall review an application for registration of a radiation machine for use in industrial radiography and approve the registration if an applicant meets all of the following requirements:
 1. The applicant satisfies the general requirements in Article 2 and any special requirements contained in this Article,
 2. The applicant submits a program for training radiographer’s assistants that complies with R9-7-1146, and
 3. The applicant submits procedures for verifying and documenting the certification status of each radiographer and for ensuring that the certification remains valid.
- B. An applicant shall submit written operating and emergency procedures, as prescribed in R9-7-1128.
- C. An applicant shall submit a description of a program for review of job performance of each radiographer and radiographer’s assistant at intervals that do not exceed six months, as prescribed in R9-7-1146(E).
- D. An applicant shall submit a description of the applicant’s overall organizational structure as it applies to radiation safety responsibilities in industrial radiography, including specified delegation of authority and responsibility.
- E. An applicant shall submit and list the qualifications of each individual designated as an RSO under R9-7-1120 and indi-

cate which designee is responsible for ensuring that the registrant’s radiation safety program is implemented.

- F. If an applicant intends to perform “in-house” calibrations of survey instruments, the applicant shall describe each calibration method to be used, the relevant experience of each person who will perform a calibration, and procedures to ensure that all calibrations are performed according to the procedures prescribed in R9-7-1108.
- G. An applicant shall identify and describe the location of all field stations and permanent radiographic installations.
- H. An applicant shall identify each location where records required by this Chapter will be maintained.

Historical Note

New Section R9-7-1104 recodified from R12-1-1104 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1105. Reserved**Historical Note**

Section R9-7-1105 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1106. Equipment Performance

A registrant shall ensure that each x-ray machine has a lock or other security system designed to prevent unauthorized use or accidental production of radiation and is secured against unauthorized use at all times, except when under the direct surveillance of a radiographer or radiographer’s assistant.

Historical Note

New Section R9-7-1106 recodified from R12-1-1106 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1107. Reserved**Historical Note**

Section R9-7-1107 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1108. Radiation Survey Instruments

- A. A registrant shall maintain at least two calibrated and operable radiation survey instruments at each location where sources of radiation are present to make radiation surveys required by this Article and Article 4 of this Chapter. Instrumentation required by this Section shall be capable of measuring a range from 0.02 millisieverts (2 millirems) per hour through 0.01 sievert (1 rem) per hour.
- B. A registrant shall ensure that each radiation survey instrument required under subsection (A) is calibrated:
 1. At intervals that do not exceed six months, and after instrument servicing, except for battery changes;
 2. For linear scale instruments, at two points located approximately one-third and two-thirds of full-scale on each scale; for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and for digital instruments, at 3 points between 0.02 and 10 millisieverts (2 and 1000 millirems) per hour; and
 3. So that an accuracy within plus or minus 20% of the calibration source can be demonstrated at each point checked.
- C. A registrant shall make a record each time a radiation survey instrument is calibrated, and maintain each record for three years after it is made.

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Historical Note

New Section R9-7-1108 recodified from R12-1-1108 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1109. Reserved**Historical Note**

Section R9-7-1109 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1110. Quarterly Inventory

- A. A registrant shall conduct a quarterly physical inventory to account for all x-ray machines received and possessed under the registration.
- B. A registrant shall maintain a record of the quarterly inventory required under subsection (A) for three years after it is made.
- C. The record required by subsection (B) shall include the date of the inventory, name of the individual who conducted the inventory, location of each x-ray machine, and manufacturer, model, and serial number of each x-ray machine.

Historical Note

New Section R9-7-1110 recodified from R12-1-1110 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1111. Reserved**Historical Note**

Section R9-7-1111 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1112. Utilization Logs

- A. A registrant shall maintain for each x-ray machine a utilization log that provides all of the following information:
 - 1. A description, including the make, model, and serial number of each x-ray machine;
 - 2. The identity and signature of the radiographer using the machine; and
 - 3. The plant or site where the machine is used and dates of use, including each date when the machine is removed from or returned to storage.
- B. A registrant shall retain a log required by subsection (A) for three years after the log is made.

Historical Note

New Section R9-7-1112 recodified from R12-1-1112 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1113. Reserved**Historical Note**

Section R9-7-1113 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1114. Inspection and Maintenance of Radiation Machines, Survey Instruments, and Associated Equipment

- A. A registrant shall perform visual and operability checks on survey instruments and radiation machines before use on each day the equipment is to be used to ensure that the equipment is in good working condition and required labeling is present. Survey instrument operability checks shall be performed using check sources or other authorized means. If equipment problems are found, the registrant shall remove the equipment from service until it is repaired.
- B. A registrant shall have written inspection and maintenance procedures for radiation machines and survey instruments that require inspection and maintenance, at intervals that do not exceed three months or before first use of the equipment and to ensure the proper functioning of components important to safety. Replacement components shall meet design specifications. If equipment problems are discovered, the registrant

shall remove the equipment from service until the equipment is repaired.

- C. A registrant shall maintain records of equipment problems found in daily checks and quarterly inspections and retain each record for three years after it is made. The record shall include the date of the check or inspection, name of the inspector, equipment involved, any problems found, and any repair or needed maintenance performed.

Historical Note

New Section R9-7-1114 recodified from R12-1-1114 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1115. Reserved**Historical Note**

Section R9-7-1115 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1116. Surveillance

During each radiographic operation a radiographer, or the radiographer's assistant as permitted by R9-7-1118, shall maintain continuous direct visual surveillance of the operation to protect against unauthorized entry into a high radiation area, except at permanent radiographic installations where all entrances are locked and the registrant is in compliance with R9-7-1136.

Historical Note

New Section R9-7-1116 recodified from R12-1-1116 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1117. Reserved**Historical Note**

Section R9-7-1117 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1118. Industrial Radiographic Operations

- A. If industrial radiography is performed at a location other than a permanent radiographic installation, a registrant shall ensure that the radiographer is accompanied by at least one other radiographer or radiographer's assistant, qualified under R9-7-1146. The additional radiographer or radiographer's assistant shall observe the operations and be capable of providing immediate assistance to prevent unauthorized entry. The registrant shall not allow industrial radiography if only one qualified individual is present.
- B. A registrant shall ensure that each industrial radiographic operation is conducted at a location of use authorized on the registration of a permanent radiographic installation, unless another permanent location is specifically authorized by the Department.

Historical Note

New Section R9-7-1118 recodified from R12-1-1118 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1119. Reserved**Historical Note**

Section R9-7-1119 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1120. Radiation Safety Officer (RSO)

- A. A registrant shall have a radiation safety officer (RSO) who is responsible for implementing procedures and regulatory requirements in the daily operation of the radiation safety program.
- B. A registrant shall ensure that the RSO has satisfied the following minimum requirements:
 - 1. The training and testing requirements in R9-7-1146;

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2. Two thousand hours of hands-on experience as a qualified radiographer for an industrial radiographic operation; and
3. Formal training in the establishment and maintenance of a radiation safety program.

C. A registrant may use an individual in the position of RSO who does not have the training and experience required in subsection (B), if the registrant provides the Department with a description of the individual's training and experience in the field of ionizing radiation and training with respect to the establishment and maintenance of a radiation safety protection program.

D. The specific duties and authorities of the RSO include, but are not limited to:

1. Establishing and overseeing operating, emergency, and ALARA procedures as required in Article 4 of this Chapter, and reviewing the procedures every year to ensure that they conform to current Department rules and registration conditions;
2. Overseeing and approving all phases of the training program for radiographic personnel, ensuring that appropriate and effective radiation protection practices are taught;
3. Overseeing radiation surveys and associated documentation to ensure that the surveys are performed in accordance with the rules and taking corrective measures if levels of radiation exceed established action limits;
4. Overseeing the personnel monitoring program to ensure that monitoring devices are calibrated and used properly by occupationally exposed personnel and ensuring that records are kept of the monitoring results and timely notifications are made as required in R9-7-444; and
5. Overseeing operations to ensure that they are conducted safely and instituting corrective actions, which may include ceasing operations if necessary.

Historical Note

New Section R9-7-1120 recodified from R12-1-1120 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1121. Reserved**Historical Note**

Section R9-7-1121 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1122. Expired**Historical Note**

New Section R9-7-1122 recodified from R12-1-1122 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1122 expired under A.R.S. § 41-1056(J) at 24 A.A.R. 3240, effective September 28, 2018 (Supp. 18-4).

R9-7-1123. Reserved**Historical Note**

Section R9-7-1123 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1124. Reserved**Historical Note**

Section R9-7-1124 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1125. Reserved**Historical Note**

Section R9-7-1125 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1126. Posting

A registrant shall post any area in which industrial radiography is being performed as required by R9-7-429. Exceptions listed in R9-7-430 do not apply to industrial radiographic operations.

Historical Note

New Section R9-7-1126 recodified from R12-1-1126 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1127. Reserved**Historical Note**

Section R9-7-1127 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1128. Operating and Emergency Procedures

A. A registrant shall have operating and emergency procedures that include, at minimum, instructions in the following, as applicable:

1. Use of radiation machines, so that persons are not exposed to radiation that exceeds the limits in Article 4 of this Chapter;
2. Methods and occasions for conducting radiation surveys;
3. Methods for controlling access to radiographic areas;
4. Methods and occasions for locking and securing a radiation machine;
5. Personnel monitoring and associated equipment;
6. Inspection, maintenance, and operability checks of a radiation machine and survey instruments;
7. Actions to be taken immediately by radiography personnel if a pocket dosimeter is found to be off-scale or an alarm rate meter sounds an alarm;
8. Procedures for identifying and reporting defects and non-compliance, as required by R9-7-448;
9. The procedure for notifying the RSO and the Department in the event of an accident;
10. Minimizing exposure of persons in the event of an accident, and
11. Maintenance of records.

B. The registrant shall maintain copies of current operating and emergency procedures until the Department terminates the registration. Superseded procedures shall be maintained for three years after a change is made. Additionally, records shall be maintained in accordance with R9-7-1138.

Historical Note

New Section R9-7-1128 recodified from R12-1-1128 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1129. Reserved**Historical Note**

Section R9-7-1129 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1130. Personnel Monitoring

A. An individual shall not act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, the individual wears, on the trunk of the body, a direct reading dosimeter, an operating alarm rate meter, and either a film badge, a TLD, or an optically stimulated luminescence (OSL) dosimeter. At permanent radiography installations where other required alarm or warning devices are in routine use, an alarm rate meter is not required.

1. A registrant shall provide pocket dosimeters that have a range from zero to 2 millisieverts (200 millirems) and

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ensure that the dosimeters are recharged at the start of each shift. Electronic personnel dosimeters are permitted in place of ion-chamber pocket dosimeters.

2. The registrant shall assign a film badge, TLD, or OSL dosimeter to one individual, who shall wear the assigned equipment.
 3. The registrant shall replace film badges at least monthly and replace TLDs or OSL dosimeters at least quarterly.
 4. After replacement, the registrant shall ensure that each film badge or TLD is processed as soon as possible.
- B.** A radiographer or radiographer's assistant shall record exposures noted from direct reading dosimeters, such as pocket dosimeters or electronic personnel dosimeters, at the beginning and end of each shift.
- C.** A registrant shall check each pocket dosimeter or electronic personnel dosimeter at least yearly for correct response to radiation, and discontinue use of a dosimeter if it is not accurate within plus or minus 20% of the true radiation exposure.
- D.** If an individual's pocket dosimeter has an off-scale reading, or the electronic personnel dosimeter reads greater than 2 millisieverts (200 millirems), and radiation exposure cannot be ruled out as the cause, a registrant shall send the individual's film badge, TLD, or OSL dosimeter for processing within 24 hours. The registrant shall not allow the individual to work with a radiation machine until the individual's radiation exposure is determined. Using the information from the badge or dosimeter, the RSO or the RSO's designee shall calculate the affected individual's cumulative radiation exposure, as prescribed in Article 4 of this Chapter and include the results in records maintained in accordance with subsection (G).
- E.** If an individual's monitoring device is lost or damaged, the individual shall cease work immediately until the registrant provides a replacement film badge, TLD, or OSL dosimeter and the RSO or the RSO's designee calculates the exposure for the time period from issuance to discovery of a lost or damaged film badge, TLD, or OSL dosimeter. The registrant shall include the calculated exposure and the time period for which the film badge, TLD, or OSL dosimeter was lost or damaged in the records maintained in accordance with subsection (G).
- F.** For each alarm rate meter a registrant shall ensure that:
1. At the start of a shift each individual with an alarm rate meter checks that the alarm functions (sounds) before using the device;
 2. Each device is set to give an alarm signal at a preset dose rate of 5 mSv/hr (500 mrem/hr) with an accuracy of plus or minus 20% of the true radiation dose rate;
 3. A special means is necessary to change the preset alarm function on the device; and
 4. Each device is calibrated at periods that do not to exceed 12 months for correct response to radiation
- G.** Each registrant shall maintain the following personnel monitoring records:
1. Each dosimeter reading and the yearly operability check required by subsections (B) and (C) for three years after each record is made;
 2. A record of each alarm rate meter calibration for three years after the record is made;
 3. Any report received from the film badge, TLD, or OSL processor. The registrant shall maintain these records until the Department terminates the registration; and
 4. Any estimation of an exposure evidenced by an off-scale personnel direct-reading dosimeter or a lost or damaged film badge, TLD, or OSL dosimeter. The records shall be maintained until the Department terminates the registration.

Historical Note

New Section R9-7-1130 recodified from R12-1-1130 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1131. Reserved**Historical Note**

Section R9-7-1131 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1132. Supervision of a Radiographer's Assistant

If a radiographer's assistant uses a radiation machine or conducts a radiation survey required by R9-7-1134(B), the registrant shall ensure that the assistant is under the personal supervision of a radiographer. For purposes of this Section "personal supervision" means:

1. The radiographer is physically present at the site where the radiation machine is being used;
2. The radiographer is available to give immediate assistance if required; and
3. The radiographer is able to observe directly the assistant's performance.

Historical Note

New Section R9-7-1132 recodified from R12-1-1132 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1133. Reserved**Historical Note**

Section R9-7-1133 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1134. Radiation Surveys

- A.** A registrant shall conduct surveys with a calibrated and operable radiation survey instrument that meets the requirements of R9-7-1108.
- B.** A registrant shall conduct a survey of a radiographic machine any time the machine is placed in storage to ensure that the machine will not expose personnel to radiation.
- C.** A registrant shall maintain a record of each exposure survey conducted before a machine is placed in storage under subsection (B), if that survey is the last one performed during the workday. Each record shall be maintained for three years after it is made.

Historical Note

New Section R9-7-1134 recodified from R12-1-1134 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1135. Reserved**Historical Note**

Section R9-7-1135 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1136. Permanent Radiographic Installations

- A.** If a registrant maintains a permanent radiographic installation that does not fall within the definition of "enclosed radiography" in R9-7-102, the registrant shall ensure that each entrance used for personnel access to the high radiation area has either:
1. An entrance control device of the type described in R9-7-420(A)(1), which reduces the radiation level upon entry into the area, or
 2. Both conspicuous visible and audible alarm signals to warn of the presence of radiation. The registrant shall ensure that the visible signal is actuated by radiation if the x-ray tube is energized and the audible signal is actuated if a person attempts to enter the installation while the x-ray tube is energized.

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- B.** A registrant shall test the alarm system for proper operation with a radiation source each day before the installation is used for radiographic operations. The test shall include a check of both the visible and audible signals. The registrant shall test each device referenced in subsection (A)(1) monthly. If an entrance control device or alarm signal is operating improperly, the registrant shall immediately label the device or signal as “defective” and repair the device or signal within seven calendar days. The registrant may continue to use the facility during this seven-day period, if the registrant implements continuous surveillance requirements of R9-7-1116 and uses an alarm rate meter.
- C.** A registrant shall maintain each record of alarm system and entrance control device tests for three years after the record is made.

Historical Note

New Section R9-7-1136 recodified from R12-1-1136 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1137. Reserved**Historical Note**

Section R9-7-1137 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1138. Location of Documents and Records

- A.** A registrant shall maintain a copy of each record required by this Article and other applicable Articles of this Chapter at the location specified on the registration application.
- B.** A registrant shall maintain a copy of the following at each field station and temporary job site:
1. The registration that authorizes use of a radiation machines;
 2. A copy of Articles 4, 10, and 11 of this Chapter;
 3. Utilization logs for each radiation machine dispatched from that location, as required by R9-7-1112;
 4. Records of equipment problems identified in daily checks of equipment, as required by R9-7-1114;
 5. Records of alarm system and entrance control device checks, as required by R9-7-1136;
 6. Records of direct-reading dosimeters such as pocket dosimeters and electronic personnel dosimeters, as required by R9-7-1130;
 7. Operating and emergency procedures, as required by R9-7-1128;
 8. A report on the most recent calibration of the radiation survey instruments in use at the site, as required by R9-7-1108;
 9. A report on the most recent calibration of each alarm rate meter and operability check of each pocket dosimeter, or electronic personnel dosimeter, as required by R9-7-1130;
 10. Most recent survey record, as required by R9-7-1134; and
 11. If a registrant is operating in the state under R9-7-207, a copy of the out-of-state machine registration and a written authorization from the Department to operate in the state.

Historical Note

New Section R9-7-1138 recodified from R12-1-1138 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1139. Reserved**Historical Note**

Section R9-7-1139 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1140. Enclosed Radiography

- A.** The Department has determined that any certified or certifiable cabinet x-ray system, as defined in Article 1, is exempt from the requirements of Article 11, provided that both of the following conditions are met:
1. The registrant makes, or causes to be made, an evaluation of each certified and certifiable cabinet x-ray system, at intervals that do not exceed 12 months, to determine whether the system conforms to the standards for certified and certifiable cabinet x-ray systems defined in Article 1. Records of each evaluation shall be maintained for three years from the date the record is created; and
 2. The registrant performs a physical radiation survey with a survey instrument calibrated within the preceding 12 months and designed for the energy range and levels of radiation that will be assessed.
- B.** A registrant with a cabinet x-ray system that is not exempt under subsection (A) shall comply with the recordkeeping requirements of this Article and the following special requirements. The registrant shall:
1. Ensure that radiation levels measured at 5 centimeters (2 inches) from any accessible exterior surface of the enclosure do not exceed 50 microsievert (0.5 milliroentgen) in one hour for any combination of technical factors (i.e., mA, kVp);
 2. Ensure that access to the interior of the enclosure is possible only through interlocked doors or panels that prevent production of radiation unless all interlocked doors or panels are securely closed. The registrant shall ensure that opening a door or panel results in immediate termination of radiation production and subsequent reactivation of the x-ray tube is only possible at the control panel;
 3. Provide visible warning signals, activated only during production of radiation, at the control panel and at each access point to the interior of the enclosure;
 4. Before using an x-ray system make, or cause to be made, an initial evaluation of the x-ray system to determine compliance with this Article, and subsequently evaluate the x-ray system at intervals that do not exceed three months. The registrant shall maintain a record of each evaluation for two years, and
 5. Using instrumentation that complies with R9-7-1108, perform a physical radiation survey to satisfy the requirements of subsection (B)(4).
- C.** A registrant with a shielded room x-ray systems shall comply with the recordkeeping requirements of this Article and the following special requirements. The registrant shall:
1. Shield each x-ray room so that every location on the exterior meets the requirements for an “unrestricted area” as specified in R9-7-416;
 2. Provide access to the interior of a shielded x-ray room only through doors or panels that are interlocked. The registrant shall ensure that radiation production is possible only when all interlocked doors and panels are securely closed, opening of any interlocked door or panel results in immediate termination of radiation production; and subsequent reactivation of the x-ray tube is only possible at the control panel;
 3. Provide each access point with two interlocks, each on a separate circuit, so that failure of one interlock will not affect the performance of the other interlock;

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4. Provide visible warning signals, activated only during production of radiation at the control panel and each access point to the shielded room;
 5. Make, or cause to be made, an initial evaluation of each shielded room x-ray system to determine compliance with this Article, and subsequently evaluate the x-ray system at intervals that do not exceed three months. The registrant shall maintain a record of each evaluation for two years;
 6. Perform radiation surveys to determine exposure with an instrument that meets the requirements of R9-7-1108;
 7. Inspect electrical interlocks and warning devices for correct operation before each use, and maintain a record of each inspection for two years;
 8. Not permit an individual to operate an x-ray machine for shielded room radiography unless the individual has received a copy of, and instruction in, the operating procedures and demonstrated competence in the safe use of the equipment;
 9. Ensure that an individual does not occupy the interior of any shielded room x-ray system during production of radiation;
 10. Provide personnel monitoring devices that meet the requirements of R9-7-1130 to each shielded room x-ray machine operator, and require that each operator use the devices;
 11. Maintain records of:
 - a. Quarterly inventories for mobile systems, as prescribed in R9-7-1110; and
 - b. Utilization logs for all systems, as prescribed in R9-7-1112; and
 12. Maintain records for three years from the date of the quarterly inventory or utilization log.
- D.** A registrant shall connect an enclosed radiography machine to the electrical system in a manner that will prevent a ground fault from generating x-radiation.

Historical Note

New Section R9-7-1140 recodified from R12-1-1140 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1141. Reserved**Historical Note**

Section R9-7-1141 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1142. Baggage and Package Inspection Systems

- A.** For x-ray systems designed to screen carry-on baggage or packages at airlines, railroads, bus terminals, package inspection facilities, or similar facilities, a registrant shall ensure the x-ray system has an operator present at the control area in a position that permits surveillance of the ports and doors during generation of x-radiation to prevent exposure to passengers and other members of the public.
- B.** For an exposure or preset succession of exposures of one-half second or greater duration, a registrant shall use a system that enables the operator to terminate the exposure or preset succession of exposures at any time.
- C.** For an exposure or preset succession of exposures of less than one-half second duration, a registrant shall use a system that allows the operator to complete the exposure in progress, but prevent additional exposures.
- D.** A registrant shall operate a baggage or package inspection system according to the manufacturer's instructions.
- E.** A registrant shall not disconnect or otherwise tamper with the safety systems of a baggage or package inspection system, except for maintenance purposes.

- F.** In addition to the requirements in this Section, a registrant using a baggage or package inspection system shall meet the requirements in R9-7-1140(A), (B), and (D).

Historical Note

New Section R9-7-1142 recodified from R12-1-1142 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1143. Reserved**Historical Note**

Section R9-7-1143 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1144. Reserved**Historical Note**

Section R9-7-1144 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1145. Reserved**Historical Note**

Section R9-7-1145 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1146. Training

- A.** A registrant shall not allow an individual to act as a radiographer until the individual has received training in the subjects in subsection (G), has participated in a minimum of two months of on-the-job training, and is certified through a radiographer certification program by a independent certifying organization in accordance with the criteria specified in Appendix A.
 1. A registrant shall provide the Department with proof of an individual's certification upon request.
 2. A registrant shall maintain proof of an individual's certification at the job site where the individual is performing field radiography.
 3. A registrant that employs a certified radiographer in Arizona shall ensure that:
 - a. The radiographer has obtained initial certification or recertification within the last five years; and
 - b. An uncertified radiographer works only as a radiographer's assistant until certified.
 4. A radiographer shall recertify every five years by:
 - a. Taking an approved radiography certification examination in accordance with this subsection; or
 - b. Providing written evidence that the radiographer is active in the practice of industrial radiography and has participated in continuing education during the previous five-year period.
 5. If an individual cannot provide the written evidence required in subsection (4)(b), the individual shall retake the certification examination.
 6. A radiographer shall provide the registrant with proof of certification in the form of a card issued by the certifying organization that contains:
 - a. A picture of the certified radiographer,
 - b. The radiographer's certification number,
 - c. The date the certification expires, and
 - d. The radiographer's signature.
- B.** A registrant shall not allow an individual to act as a radiographer until the individual:
 1. Receives copies of and instruction in the requirements of this Article, applicable Sections of Articles 4 and 10 and R9-7-107, the Department registration or registrations under which the individual will perform industrial radiography, and the registrant's operating and emergency procedures;

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2. Demonstrates an understanding of the registrant's registration and operating and emergency procedures by successful completion of a written or oral examination that covers the relevant material;
 3. Receives training in:
 - a. Use of the registrant's radiation machine,
 - b. Daily inspection of the radiation machine, and
 - c. Use of radiation survey instruments; and
 4. Demonstrates an understanding of the use of the radiation machines and survey instruments described in subsection (B)(3) by successful completion of a practical examination covering this material.
- C.** A registrant shall not allow an individual to act as a radiographer's assistant until the individual:
1. Receives copies of and instruction in the requirements of this Article, applicable Sections of Articles 4 and 10 and R9-7-107, the Department registration or registrations under which the radiographer will perform industrial radiography, and the registrant's operating and emergency procedures;
 2. Develops competence to use, under the personal supervision of the radiographer, the registrant's radiation machine and radiation survey instruments; and
 3. Demonstrates understanding of the instructions provided under subsection (C)(1) by successfully completing a written test on the subjects covered and demonstrates competence using the hardware described in subsection (C)(2) by successfully completing a practical examination.
- D.** A registrant shall provide refresher safety training for each radiographer and radiographer's assistant at intervals that do not exceed 12 months.
- E.** Except where an individual serves both as a radiographer and an RSO, the RSO or the RSO's designee shall design and implement an inspection program to examine the job performance of each radiographer and radiographer's assistant and ensure that the Department's rules and registration requirements, and the registrant's operating and emergency procedures, are followed. The inspection program shall:
1. Include observation of the performance of each radiographer and radiographer's assistant during an actual industrial radiographic operation, at intervals that do not exceed six months; and
 2. Provide that, if a radiographer or a radiographer's assistant has not participated in an industrial radiographic operation for more than six months since the last inspection, each radiographer shall demonstrate knowledge of the training requirements in subsection (B)(3) and each radiographer's assistant shall demonstrate knowledge of the training requirements of subsection (C)(2) by a practical examination before these workers can participate in a radiographic operation.
- F.** A registrant shall maintain records of the training required in this Section, including certification documents, written and practical examinations, refresher safety training documents, and inspection documents, in accordance with subsection (I).
- G.** A registrant shall include the following subjects in the training required under subsection (A):
1. Fundamentals of radiation safety, including:
 - a. Characteristics of x-ray radiation;
 - b. Units of radiation dose and quantity of radioactivity;
 - c. Hazards of exposure to radiation;
 - d. Levels of radiation from x-ray machines; and
 - e. Methods of controlling radiation dose (time, distance, and shielding);
 2. Radiation detection instruments, including:
 - a. Use, operation, calibration, and limitations of radiation survey instruments;
 - b. Survey techniques; and
 - c. Use of personnel monitoring equipment;
 3. Equipment topics, including:
 - a. Operation and control of radiation machines; and
 - b. Inspection and maintenance of each radiation machine and survey instrument;
 4. The requirements of pertinent Department rules; and
 5. Case histories of accidents in radiography.
- H.** A registrant shall maintain records of radiographer certification in accordance with subsection (I)(1) and provide proof of certification as required in subsection (A)(1).
- I.** A registrant shall maintain the following records for three years after each record is made:
1. Records of training for each radiographer and each radiographer's assistant. For radiographers, the records shall include radiographer certification documents and verification of certification status. All records shall include copies of written tests, dates of oral and practical examinations, and names of individuals who conducted and took the oral and practical examinations; and
 2. Records of annual refresher safety training and semi-annual inspections of job performance for each radiographer and each radiographer's assistant. The records for the annual refresher safety training shall list topics discussed during training, the date of training, and names of each instructor and attendee. For inspections of job performance, the records shall include a list of items checked during the inspection and any non-compliance observed by the RSO.

Historical Note

New Section R9-7-1146 recodified from R12-1-1146 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Standards for Organizations that Provide Radiography Certification

Note: For purposes of this Article an "independent certifying organization" means an organization that meets all of the criteria in this Appendix.

I. Requirements for an Organization that Provides Radiographer Certification

To qualify to provide radiography certification, an organization shall:

- A.** Be a society or association, with members who participate in, or have an interest in, the field of industrial radiography;
- B.** Not restrict membership because of race, color, religion, sex, age, national origin, or disability;
- C.** Have a certification program that is open to nonmembers, as well as members;
- D.** Be an incorporated, nationally recognized organization that is involved in setting national standards of practice within its fields of expertise;
- E.** Have a staff comparable to other nationally recognized organizations, a viable system for financing its operations, and a policy-and decision-making review board;
- F.** Have a set of written, organizational by-laws and policies that address conflicts of interest and provide a system for monitoring and enforcing the by-laws and policies;
- G.** Have a committee, with members who can carry out their responsibilities impartially, review and approve the certification guidelines and procedures, and advise the organization's staff in implementing the certification program;

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- H. Have a committee, with members who can carry out their responsibilities impartially, review complaints against certified individuals, and determine sanctions;
- I. Have written procedures that describe all aspects of the organization's certification program;
- J. Maintain records of the current status of each individual's certification and administration of the certification program;
- K. Have procedures to ensure that certified individuals are provided due process with respect to administration of the certification program, including a process for becoming certified and a process for imposing sanctions against certified individuals;
- L. Have procedures for proctoring examinations and qualifying proctors. The organization, through these procedures, shall ensure that an individual who proctors an examination is not employed by the same company or corporation (or a wholly-owned subsidiary of the company or corporation) that employs an examinee;
- M. Exchange information about certified individuals with the Department, other independent certifying organizations, the NRC, or Agreement States and allow periodic review of its certification program and related records; and
- N. Provide a description to the Department of its procedures for choosing examination sites and providing a favorable examination environment.

II. Requirements for a Certification Program

An independent certifying organization shall ensure that its certification program:

- A. Requires an applicant for certification to:
 1. Obtain training in the subjects listed in R9-7-1146(G), and
 2. Satisfactorily complete a written examination that covers these subjects;
- B. Require an applicant for certification to provide documentation demonstrating that the applicant has:
 1. Received training in the subjects listed in R9-7-1146(G);
 2. Satisfactorily completed the on-the-job training required in R9-7-1146(A); and
 3. Received verification from a registrant that the applicant has demonstrated the capability of independently working as a radiographer;
- C. Provides procedures that protect examination questions from disclosure;
- D. Provides procedures for denying certification to an applicant and revoking, suspending, and reinstating a certificate;
- E. Provides a certification period that is not less than three years or more than five years, procedures for renewing certifications and, if the procedures allow renewals without examination, a system for assessing evidence of recent full-time employment and annual refresher training; and
- F. Provides a timely response to inquiries, by telephone or letter, from members of the public, about an individual's certification status.

III. Requirements for a Written Examination

An independent certifying organization shall ensure that its examination:

- A. Is designed to test an individual's knowledge and understanding of the subjects listed in R9-7-1146(G) or equivalent NRC or Agreement State requirements;
- B. Is written in a multiple-choice format; and
- C. Has psychometrically valid questions drawn from a question bank and based on the material in R9-7-1146(G).

Historical Note

New Article 11, Appendix A, recodified from 12 A.A.C.

1, Article 11, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 12. ADMINISTRATIVE PROVISIONS**R9-7-1201. Timeliness**

- A. Any application, request, response, or report required by any rule, order, application, or letter shall be considered timely if it is postmarked on or before the due date, or hand-delivered to the Department office before 5:00 p.m. on the due date. If the due date falls on a Saturday, a Sunday, or a legal holiday, the due date is extended to the end of the next day that is not a Saturday, a Sunday, or legal holiday.
- B. As used in this Article, "working days" are all days other than Saturdays, Sundays, or legal holidays prescribed in A.R.S. § 1-301.

Historical Note

New Section R9-7-1201 recodified from R12-1-1201 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1202. Administrative Hearings

- A. All hearings shall be governed by Title 41, Chapter 6, Article 10.
- B. If the Radiation Regulatory Hearing Board is conducting a hearing, all motions and rulings shall be in writing, except those made during the hearing may be oral. The Board shall ensure that any agreements reached during a conference are incorporated in the record, and that all hearings are recorded.
- C. If it is necessary for an administrative law judge or the Board to visit the site of an alleged violation or activity that is regulated by the Department in order to supplement testimonial or documentary evidence presented at the hearing, the party that proposed the visit shall enter the purpose of the visit and all pertinent observations into the record.

Historical Note

New Section R9-7-1202 recodified from R12-1-1202 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1203. Expired**Historical Note**

New Section R9-7-1203 recodified from R12-1-1203 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1203 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1204. Expired**Historical Note**

New Section R9-7-1204 recodified from R12-1-1204 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1204 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1205. Expired**Historical Note**

New Section R9-7-1205 recodified from R12-1-1205 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1205 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1206. Reserved**Historical Note**

Section R9-7-1206 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1207. Expired**Historical Note**

New Section R9-7-1207 recodified from R12-1-1207 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

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Section R9-7-1207 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1208. Reserved**Historical Note**

Section R9-7-1208 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1209. Expired**Historical Note**

New Section R9-7-1209 recodified from R12-1-1209 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1209 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1210. Expired**Historical Note**

New Section R9-7-1210 recodified from R12-1-1210 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1210 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1211. Expired**Historical Note**

New Section R9-7-1211 recodified from R12-1-1211 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1211 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1212. Expired**Historical Note**

New Section R9-7-1212 recodified from R12-1-1212 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1212 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1213. Severity Levels of Violations**A.** The following violations are classified as severity level I violations:

1. Any failure, malfunction, or insufficiency of a safety system which may result in
 - a. Radiation exposure to a person,
 - b. A concentration of radionuclides; or
 - c. A radiation level, in excess of 10 times the limits specified in 9 A.A.C. 7, or 10 times the prescribed therapeutic patient dose.
2. Any inaccurate or incomplete information that is intentionally provided by a licensee or registrant official, and if the information had been complete and accurate at the time it was provided, would have likely resulted in action such as an immediate order required to protect the public health and safety.
3. Any information that the Department requires be kept by a licensee or registrant that is incomplete or inaccurate because of falsification by or with the knowledge of a licensee or registrant official, and if the information had been complete and accurate at the time it was reviewed by the Department, would have likely resulted in action such as an immediate order required to protect the public health and safety.
4. Any concealment or attempted concealment of a severity level I violation of the Act, 9 A.A.C. 7, or a license condition. This is a separate violation in addition to the original violation.
5. Any concealment or attempted concealment of a severity level II violation of the Act, 9 A.A.C. 7, or a license con-

dition. This violation shall increase the severity level of the original violation by one level.

6. For the purposes of subsections (A)(2) and (3) above the term "licensee or registrant official" means the owner, a partner, a corporate officer, a radiation safety officer, the individual signing an application for a license or registration, or the chairman of any radiation safety committee supervising the radiation safety program of the licensee or registrant.

B. The following violations are classified as severity level II violations:

1. Any failure, malfunction, or insufficiency of a safety system which may result in:
 - a. Radiation exposure to a person,
 - b. A concentration of radionuclides, or
 - c. A radiation level, in excess of two times the limits specified in 9 A.A.C. 7, or two times the prescribed therapeutic patient dose.
2. Any attempt to prevent a Department inspection.
3. Any concealment or attempted concealment of a severity level III violation of the Act, 9 A.A.C. 7, or a license condition by a licensee or registrant official as defined in subsection (A)(6). This violation shall increase the severity level of the original violation by one level.
4. Significant information provided and designated by a licensee or registrant and not previously provided to the Department because of careless disregard on the part of a licensee official or registrant.

C. The following violations are classified as severity level III violations:

1. Any failure, malfunction, or insufficiency of a safety system, or loss of control over a radiation source, which may result in:
 - a. Radiation exposure to a person,
 - b. A concentration of radionuclides, or
 - c. A radiation level in excess of the limits specified in 9 A.A.C. 7, or 20% higher than the prescribed therapeutic patient dose.
2. Any concealment or attempted concealment of a severity level IV or V violation of the Act, 9 A.A.C. 7, or a registration or license condition. This violation shall increase the severity level of the original violation by one level.
3. Any violation of the safety requirements for the use, storage, disposal, or the preparation for transportation of sources of radiation, as prescribed in the Act, 9 A.A.C. 7, or in a license or registration condition, provided the violation does not meet the criteria for a severity level I or II violation and the licensee or registrant does not maintain a radiation protection program meeting the requirements of R9-7-407.
4. Any factually incorrect statement upon which the Department relied or would have relied in consideration of any action.
5. Any unlawful attempt to interfere with the progress of an inspection by the Department.
6. The acquisition of any source of radiation without the applicable current registration or license, unless otherwise authorized by these rules; or use of the source outside the scope of the current registration or license.
7. The continued use of sources of radiation after April 1, if the annual fee has not been paid for the current year.

D. The following violations are classified as severity level IV violations:

1. Any violation of R9-7-407;
2. Any violation of the safety requirements for the use, storage, disposal, or preparation for transportation of sources

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of radiation, prescribed in the Act, 9 A.A.C. 7, or in a license or registration condition, provided the violation does not meet the criteria for a severity level I, II or III violation;

3. Failure to maintain records of mammography quality control tests required in R9-7-614.
4. Any failure to comply with the reporting requirements in the Act or 9 A.A.C. 7.

E. The following violations are classified as severity level V violations:

1. Failure of a registrant or a licensee to comply with the recordkeeping requirements of:
 - a. The Act;
 - b. 9 A.A.C. 7; or
 - c. A registration or facility certification, or license condition, provided that all safety requirements prescribed in the Act, 9 A.A.C. 7, or in a license or registration condition are met or otherwise demonstrated.
2. If compliance with all safety requirements cannot be demonstrated by the registrant or licensee the failure to comply with the recordkeeping requirements is classified as a level IV violation.

Historical Note

New Section R9-7-1213 recodified from R12-1-1213 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1214. Mitigating Factors

A. The Department may refrain from issuing a Notice of Violation for Severity Level IV or V violations identified by the registrant or licensee provided the severity level IV or V violations are identified in an inspection report, the report includes a brief description of the corrective action, and the violation meets all of the following criteria:

1. It was identified by the licensee, as a result of an event discovered by the licensee or registrant;
2. It was not a violation that could reasonably be expected to have been prevented by the licensee's or registrant's corrective action for a previous violation or a previous licensee or registrant finding;
3. It was or will be corrected within a reasonable time, by specific corrective action committed to by the registrant or licensee by the end of the inspection. The corrective action shall include comprehensive measures that will prevent reoccurrence;
4. It was not a willful violation or, if it was willful:
 - a. The violation was reported to the Department;
 - b. The violation appears to be the isolated action of an employee without management involvement and the violation was not caused by lack of management oversight;
 - c. Significant remedial action was taken by the licensee or registrant, demonstrating the seriousness of the violation to all affected personnel.

B. The Director may:

1. Reduce the scheduled civil penalty, including any augmentation, by 50% for the discovery, remedy, and voluntary reporting of a severity level I or II violation by the registrant or licensee; or
2. Waive the scheduled civil penalty, including augmented civil penalties, for the discovery, remedy, and voluntary reporting of a severity level III, IV, or V violation by the registrant or licensee. For the purposes of this rule, "voluntary reporting" means that the registrant or licensee has notified the Department of a violation, the reporting of which may or may not be required under 9 A.A.C. 7.

Historical Note

New Section R9-7-1214 recodified from R12-1-1214 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1215. License and Registration Divisions

A. Each registrant or license type is classified into one of three administrative sanction divisions.

1. Division I licenses and registrations:
 - a. Broad Academic Class A,
 - b. Broad Academic Class B,
 - c. Broad Academic Class C,
 - d. Broad Industrial Class A,
 - e. Broad Medical,
 - f. Class C Laser Facility,
 - g. Distribution,
 - h. Fixed Gauge Class A,
 - i. Industrial Radiography Class A,
 - j. Low Level Radioactive Waste Disposal Site,
 - k. Major Accelerator Facility,
 - l. Medical Materials Class A,
 - m. Medical Teletherapy,
 - n. NORM Commercial Disposal Site,
 - o. Nuclear Laundry,
 - p. Nuclear Pharmacy,
 - q. Open Field Irradiator,
 - r. Secondary Uranium Recovery,
 - s. Waste Processor Class A,
 - t. Well Logging,
 - u. X-Ray Machine Class A.
2. Division II licenses and registrations:
 - a. Broad Industrial Class B,
 - b. Broad Industrial Class C,
 - c. Class B Industrial Radiofrequency Facility,
 - d. Class B Laser Facility,
 - e. Class C Industrial Radiofrequency Facility,
 - f. Fixed Gauge Class B,
 - g. Health Physics Class A,
 - h. Industrial Radiation Machine,
 - i. Industrial Radiography Class B,
 - j. Laser Light Show,
 - k. Limited Academic,
 - l. Medical Imaging Facility,
 - m. Medical Laser,
 - n. Medical Materials Class B,
 - o. Medical Radiofrequency Device Facility,
 - p. NORM Commercial Disposal Site,
 - q. Research and Development,
 - r. Self Shielded Irradiator,
 - s. Tanning Facility,
 - t. Waste Processor Class B,
 - u. X-Ray Machine Class B.
3. Division III licenses and registrations:
 - a. Class A Industrial Radiofrequency Facility,
 - b. Class A Laser Facility,
 - c. Gas Chromatograph,
 - d. General Depleted Uranium,
 - e. General Industrial,
 - f. General Medical,
 - g. General Veterinary Medicine,
 - h. Health Physics Class B,
 - i. Laboratory,
 - j. Leak Detector,
 - k. Limited Industrial,
 - l. Medical Materials Class C,
 - m. Other Ionizing Radiation Machine,
 - n. Other Nonionizing Radiation Machine,

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- o. Portable Gauge,
 - p. Possession Only,
 - q. Radioactive waste transfer-for-disposal,
 - r. Unclassified,
 - s. Veterinary Medicine,
 - t. X-ray Machine Class C,
 - u. Class A Medical (non-cosmetic) Radiofrequency Facility,
 - v. Class B Medical (non-cosmetic) Radiofrequency Facility,
 - w. Class C Medical (non-cosmetic) Radiofrequency Facility,
 - x. Class D Medical (non-cosmetic) Radiofrequency Facility.
- B.** Any person required by the Act to register the use of a general license with the Department, or to obtain a specific license from the Department, is considered a licensee of the appropriate type notwithstanding the failure of the person to register or obtain a license.
- C.** The Department shall classify each person that possesses an out-of-state specific license for the use of radioactive material and operates in Arizona under reciprocal recognition, as prescribed in R9-7-320 and authorized in R9-7-1302(D)(16), by placing the person into the administrative sanction division listed in subsection (A) that best defines the out-of-state, licensed activities.
- D.** For administrative purposes, the following persons are classified with the Division III licensees and registrants in subsection (A)(3):
- 1. Any person not required to register the use of a general license,
 - 2. Any person not required to obtain a specific license,
 - 3. Any person not required to register a source of radiation who violates the Act or 9 A.A.C. 7, and
 - 4. Any person registered to provide x-ray machine service.

Historical Note

New Section R9-7-1215 recodified from R12-1-1215 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1216. Civil Penalties

- A.** Except as augmented by R9-7-1217, the schedule of civil penalties is as follows:
- 1. Severity level I violations:
 - a. Division I registration or license -- \$4,000;
 - b. Division II registration or license -- \$3,000;
 - c. Division III registration or license -- \$2,000.
 - 2. Severity level II violations:
 - a. Division I registration or license -- \$3,000;
 - b. Division II registration or license -- \$2,000;
 - c. Division III registration or license -- \$1,000.
 - 3. Severity level III violations:
 - a. Division I registration or license -- \$2,000;
 - b. Division II registration or license -- \$1,000;
 - c. Division III registration or license -- \$500.
 - 4. Severity level IV violations:
 - a. Division I registration or license -- \$1,000;
 - b. Division II registration or license -- \$500;
 - c. Division III registration or license -- \$250.
 - 5. Severity level V violations:
 - a. Division I registration or license -- \$500,
 - b. Division II registration or license -- \$250,
 - c. Division III registration or license -- \$125.
- B.** Payment of civil penalties for severity level I and severity level II violations may not be avoided merely by rectifying the condition; however, the Board may mitigate or waive the penalty upon determining a violation meets all of the following:
- 1. It was not a violation that could reasonably be expected to have been prevented by the licensee's or registrant's corrective action for a previous violation or a previous licensee or registrant finding;
 - 2. It was or will be corrected within the time given for corrections, by specific corrective action committed to by the licensee or registrant by the end of the inspection, which includes immediate and comprehensive measures to prevent recurrence;
 - 3. It was not a willful violation.
- C.** The Director or Board shall waive payment of penalties for severity level III through severity level V violations provided:
- 1. The violation is not subject to augmentation under R9-7-1217; and
 - 2. The registrant or licensee submits a timely and adequate response to the notice; rectifies the conditions which appear to have caused the violation; and complies with the Act, 9 A.A.C. 7, registration, and license conditions.

Historical Note

New Section R9-7-1216 recodified from R12-1-1216 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1217. Augmentation of Civil Penalties

- A.** A continuing violation, for the purposes of calculating the proposed civil penalty, is considered a separate violation for each day it continues. The second (or successive) day of a continuing violation is not considered a repeat violation of the violation occurring on the first day.
- B.** If a second severity level I violation is committed within five years, the Department shall increase the base civil penalty by 100%, provided the registration or license is not revoked under R9-7-1219.
- C.** If a second severity level II violation is committed within a period of five years, the Department shall increase the base civil penalty by 50%, provided the registration or license is not revoked under R9-7-1219.
- D.** If a severity level III violation is repeated within five years, the Department shall increase the base civil penalty by 50%. If the same severity level III violation is repeated a second time within five years, the base civil penalty shall be increased by 100%, provided the registration or license is not revoked under R9-7-1219.
- E.** If a severity level IV violation is repeated within five years, the Department shall propose the base civil penalty.
- 1. If the same violation occurs three times within five years, the Department shall increase the base civil penalty by 50%.
 - 2. If the same violation occurs four times within five years, the Department shall increase the base civil penalty by 100%, provided the registration or license is not revoked under R9-7-1219.
- F.** If more than three severity level V violations are observed during two consecutive inspections, the Department shall impose a civil penalty for each violation. The base civil penalty for each violation is the base civil penalty assessed for a severity level V violation. If the inspection shows repetition of a violation the base civil penalty for each repeat violation is the base civil penalty assessed for a severity level IV violation. Subsection (E) does not apply to penalties under this subsection.
- G.** Other rights and procedures are not affected by the repeat nature of a violation.
- H.** A person may avoid the penalties in subsections (D) and (E) by demonstrating to the Director in the response to the penalty that the violation meets all of the following criteria:

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1. It was not a violation that could reasonably be expected to have been prevented by the licensee's or registrant's corrective action for a previous violation or a previous licensee or registrant finding;
 2. It was or will be corrected within the time given for correction, by specific corrective action committed to by the licensee or registrant by the end of the inspection, which includes immediate and comprehensive measures to prevent recurrence;
 3. It was not a willful violation.
- I.** Notwithstanding any other provision of this Section, the Department shall not impose a penalty that exceeds a maximum of \$5,000 for each violation for each day up to a maximum of \$25,000 for any 30-day period.

Historical Note

New Section R9-7-1217 recodified from R12-1-1217 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1218. Expired**Historical Note**

New Section R9-7-1218 recodified from R12-1-1218 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1218 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1219. Additional Sanctions-Show Cause

- A.** If a severity level I violation is repeated or if any second severity level I violation is committed within 10 years, the Department shall require the registrant or licensee to show cause why the registration or license should not be suspended or revoked.
- B.** If any second severity level II violation is committed within five years, or if a severity level II violation involving radioactive effluent releases, excessive radiation levels, or radiation overexposure to an individual is committed within five years of a similar severity level I violation, the Department shall require the registrant or licensee to show cause why the registration or license should not be suspended or revoked.
- C.** If repeated or different severity level III violations are committed on three separate occasions within any five year period, the Department may require the registrant or licensee to show cause why the registration or license should not be suspended or revoked.

Historical Note

New Section R9-7-1219 recodified from R12-1-1219 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1220. Escalated Enforcement

- A.** The Director may issue an order to suspend, revoke, or modify a registration or license, or impound a radiation source for:
 1. Any severity level I violation; or
 2. Any of the following occurring within a five-year period:
 - a. A repeat severity level II violation,
 - b. A different second severity level II violation, or
 - c. A severity level II violation after a severity level I violation.
- B.** The Director may issue an order impounding the radiation source or suspending, revoking, or modifying the registration or license upon determining that conditions exist which cause a potential for a severity level I or severity level II violation.
- C.** The Department shall hold hearings according to A.R.S. § 30-688.
- D.** An order to impound a radiation source, or an order to suspend, revoke, or modify a registration or a license shall remain in effect until the order is suspended or modified by the Board according to A.R.S. § 30-688.

Historical Note

New Section R9-7-1220 recodified from R12-1-1220 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1221. Reserved**Historical Note**

Section R9-7-1221 reserved when this Chapter was recodified (Supp. 18-1).

R9-7-1222. Expired**Historical Note**

New Section R9-7-1222 recodified from R12-1-1222 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Section R9-7-1222 expired under A.R.S. § 41-1056(J) at 27 A.A.R. 826, effective November 3, 2020 (Supp. 21-2).

R9-7-1223. Registration and Licensing Time-frames

The Department shall perform an administrative completeness review and substantive review of an application for a new or renewal license or registration; or an amendment to a license or registration within the time-frames in Table A. The Department shall review an application for an amendment to an existing license or registration that changes the license category listed in R9-7-1306, using the time-frames specified for the requested category.

Historical Note

New Section R9-7-1223 recodified from R12-1-1223 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Table A. Registration and Licensing Time-frames**REGISTRATION AND LICENSING TIME-FRAMES**

License or Registration category in R9-7-1306	Administrative Completeness Review Time-frame, in days	Substantive Review Time-frame, in days	Overall Time-frame, in days
A1	90	30	120
A2	90	30	120
A3	90	30	120
A4	60	30	90
B1	90	30	120
B2	90	30	120
B3	90	30	120
B4	90	30	120
B5	90	30	120

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B6	40	20	60
C1	60	30	90
C2	60	30	90
C3	60	30	90
C4	60	30	90
C5	60	30	90
C6	60	30	90
C7	60	30	90
C8	90	30	120
C9	60	30	90
C10	40	20	60
C11	90	30	120
C12	90	30	120
C13	90	30	120
C14	90	30	120
C15	90	30	120
C16	90	30	120
C17	90	30	120
D1	90	30	120
D2	90	30	120
D3	90	30	120
D4	40	20	60
D5	40	20	60
D6	90	30	120
D7	40	20	60
D8	60	30	90
D9	90	30	120
D10	90	30	120
D11	1095	365	1460
D12	730	180	910
D13	365	90	455
D14	90	30	120
D15	40	20	60
D16	20	10	30
D17	40	20	60
D18	90	30	120
D19	365	120	485
E1	40	20	60
E2	40	20	60
E3	40	20	60
E4	40	20	60
E5	90	30	120
E6	90	30	120
F1	40	20	60
F2	40	20	60
F3	40	20	60
F4	40	20	60
F5	20	10	30
F6	40	20	60
F7	40	20	60

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F8	40	20	60
F9	40	20	60
F10	40	20	60
F11	40	20	60
F12	40	20	60
F13	40	20	60
F14	40	20	60
F15	40	20	60
F16	90	30	120

Footnote: “administrative completeness review time-frame”; “substantive review time-frame,” and “overall time-frame” are defined in A.R.S. § 41-1072.

Historical Note

New Article 12, Table 1, recodified from 12 A.A.C. 1, Article 12, Table 1 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 13. LICENSE AND REGISTRATION FEES

R9-7-1301. Definition

“Combined” means the Department has granted authorized activities contained in two or more license types in a single license document, requiring the payment of a single license fee for the more expensive license of the planned combination.

Historical Note

New Section R9-7-1301 recodified from R12-1-1301 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1302. License and Registration Categories

A. Category A licenses are those specific licenses that authorize a school, college, university, or other teaching facility to possess and use radioactive materials for instructional or research purposes.

1. A broad academic class A license is any category A license that meets the specifications of R9-7-310(A)(1).
2. A broad academic class B license is any category A license other than a broad academic class A license that meets the specifications of R9-7-310(A)(2).
3. A broad academic class C license is any category A license other than a broad academic class A or B license that meets the specifications of R9-7-310(A)(3).
4. A limited academic license is any category A license that authorizes only those radioisotopes, forms, and quantities individually specified in the license.

B. Category B licenses are those specific or general licenses that authorize the application of radioactive material or the radiation from it to a human being for medical diagnostic, therapeutic, or research purposes, or the use of radioactive material in medical laboratory testing. Except for a type B6, general medical license, the Department shall not combine a category B license with a license of any other category.

1. A broad medical license is any category B license that meets the specifications of R9-7-310(A)(1) and meets the requirements of 9 A.A.C. 7, Article 7. A broad medical license may authorize any medical use other than teletherapy.
2. A medical materials class A license is any specific category B license other than a broad medical license, that authorizes the use of radiopharmaceuticals and sealed sources containing radioactive materials for a therapeutic purpose in quantities that require hospitalization of the patient for radiation safety purposes. The license may authorize other radioactive materials and other medical uses, except teletherapy.
3. A medical materials class B license is any specific category B license that authorizes the diagnostic or therapeutic

use, other than teletherapy, of radioactive materials only in limited quantities such that the patient need not be hospitalized for radiation safety purposes.

4. A medical materials class C license is any specific category B license that authorizes possession of specified radioisotopes only in the form of sealed sources for treatment of the eye or skin or for use in diagnostic medical imaging devices.
 5. A medical teletherapy license is a specific category B license that solely authorizes radioisotopes in the form of multi-curie sealed sources for use in external beam therapy. The Department shall not combine a medical teletherapy license with any other type of category B license.
 6. A general medical license is one that authorizes the use of radioactive material pursuant to R9-7-306(D) or R9-7-306(E). A general medical license may be combined into a broad medical, medical materials class A, or medical materials class B license.
- C. Category C licenses are those specific or general licenses that authorize the use of radioactive materials in any activity other than those authorized by a category A, B, or D license. Except as specifically authorized in this Section, the Department shall not combine a category C license with any other type of license.
1. A broad industrial class A license is any category C license that meets the specifications of R9-7-310(A)(1). The Department may combine a broad industrial class A license with any other category C license except industrial radiography, open field irradiator, or well logging licenses.
 2. A broad industrial class B license is any category C license other than a broad industrial class A license that meets the specifications of R9-7-310(A)(2). The Department may combine a broad industrial class B license with any other category C license except industrial radiography, open field irradiator, or well logging licenses.
 3. A broad industrial class C license is any category C license other than a broad industrial class A or B license that meets the specifications of R9-7-310(A)(3). The Department may combine a broad industrial class C license with any other category C license except industrial radiography, open field irradiator, or well logging licenses.
 4. A limited industrial license is a specific category C license that authorizes the possession of the radioactive materials authorized in R9-7-305(A), or R9-7-306(A), (C), or (F) for uses authorized in those subsections, but in quantities greater than authorized by those subsections.

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5. A portable gauge license is a specific category C license that authorizes radioactive materials in the form of sealed sources for use in measuring or gauging devices designed and manufactured to be transported to the location of use. The Department may combine a portable gauge license with any broad scope industrial license or a fixed gauge class A license.
 6. A fixed gauge class A license is a specific category C license that authorizes the possession of 50 or more measuring or gauging devices containing radioactive materials, where each device is permanently mounted for use at a single location.
 7. A fixed gauge class B license is a specific category C license that authorizes the possession of 1 through 49 measuring or gauging devices containing radioactive materials, where each device is permanently mounted for use at a single location.
 8. A leak detector license is a specific category C license that authorizes the use of radioisotopes in the form of a gas to test hermetic seals on electronic packages.
 9. A gas chromatograph license is a specific category C license that authorizes the use of radioactive materials as ionization sources in gas chromatography or electron capture devices.
 10. A general industrial license is one that authorizes the use of a material, source, or device generally licensed pursuant to R9-7-305 or R9-7-306, except R9-7-305(B), R9-7-306(D), or R9-7-306(E).
 11. An industrial radiography class A license is a specific category C license that authorizes industrial radiography using sealed radioisotope sources at specific facilities identified in the license conditions or at temporary field job sites.
 12. An industrial radiography class B license is a specific category C license that authorizes industrial radiography using sealed radioisotope sources only at specific facilities identified in the license conditions.
 13. An open field irradiator license is a specific category C license that authorizes the use of radioisotopes in the form of sealed sources not permanently mounted within a shielding container, for irradiation of materials.
 14. A self-shielded irradiator license is a specific category C license that authorizes the use of radioisotopes in the form of sealed sources for irradiation of materials in a shielding device from which the sources are not removed during irradiation. The Department may combine a self-shielded irradiator license with any broad license.
 15. A well logging license is a specific category C license that authorizes the use of radioactive material in sealed or unsealed sources for wireline services or field tracer studies.
 16. A research and development license is a specific category C license that authorizes a licensee to utilize radioactive material in unsealed and sealed form for industrial, scientific, or biomedical research, not including administration of radiation or radioactive material to human beings.
 17. A laboratory license is a specific category C license that authorizes a licensee to perform specific in-vitro or in-vivo medical or veterinary testing, while possessing quantities of radioactive material greater than the general license quantities authorized in R9-7-306.
- D. Category D licenses are the following specific or general radioactive material licenses. Except for type D4, general industrial; type D5, depleted uranium; type D8 and D9, health physics; and type D14, additional facilities licenses, the**
- Department shall not combine a category D license with any other license.
1. A distribution license is one that authorizes the commercial distribution of radioactive materials or radioisotopes in products to persons holding an appropriate general or specific license. The Department shall ensure that a distribution license does not:
 - a. Authorize distribution of radiopharmaceuticals or distribution to persons exempt from regulatory control, or
 - b. Authorize any other use of the radioactive material. An appropriate category C license is required for possession of radioisotopes and their incorporation into products.
 2. A nuclear pharmacy license is one that authorizes the preparation, compounding, packaging, or dispensing of radiopharmaceuticals for use by other licensees.
 3. A nuclear laundry license is one that authorizes the collection and cleaning of items contaminated with radioactive materials.
 4. A general industrial gauging device license is one that authorizes the use of a gauging device in accordance with R9-7-306(A). The Department may combine a general industrial gauging device license with a class A, B, or C broad industrial, limited industrial, portable gauge, or class A or B fixed gauge license.
 5. A general depleted uranium license is one that authorizes the use of the general license authorized pursuant to R9-7-305(C) or the use of depleted uranium as a concentrated mass or as shielding for another radiation source within a device or machine. The Department may combine a general depleted uranium license with a medical teletherapy; class A, B, or C broad industrial; portable gauge; class A or B fixed gauge; class A or B industrial radiography; or self-shielded irradiator license. For licensing purposes, an applicant shall follow the requirements in R9-7-305(C).
 6. A veterinary medicine license is one that authorizes the use of radioactive materials for specific applications in veterinary medicine as authorized in the license.
 7. A general veterinary medicine license is one that authorizes the use of the general license authorized in R9-7-306(E) in veterinary medicine.
 8. A health physics class A license is one that authorizes the use of radioactive materials for performing instrument calibrations, processing leak test or environmental samples, or providing radiation dosimetry services or the performance of maintenance on devices containing radioactive materials.
 9. A health physics class B license is one that authorizes only the collection, possession, and transfer of radioactive materials in the form of leak test samples for processing by others.
 10. A secondary uranium recovery license is one that authorizes the extraction of natural uranium or thorium from an ore stream or tailing that is being or has been processed primarily for the extraction of another mineral. The Department shall not combine a secondary uranium recovery license with any other license.
 11. A low-level, radioactive waste disposal facility license is a license that is issued for a "disposal facility," as that term is used in R9-7-439 and R9-7-442, that has a closure or long-term care plan and is constructed and operated according to the requirements in 10 CFR 61, revised January 1, 2015, incorporated by reference, available under R9-7-101 and containing no future editions or amendments.

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12. A waste processor class A license is one that authorizes the incineration, compaction, repackaging, or any other treatment or processing of low-level radioactive waste prior to transfer to another person authorized to receive or dispose of the waste. The Department shall not combine a waste processor class A license with any other license.
 13. A waste processor class B license is one that authorizes a waste broker to receive prepackaged, low-level radioactive waste from other licensees; combine the waste into shipments; and transfer the waste without treating or processing the waste in any manner and without repackaging except to place damaged or leaking packages into overpacks. The Department shall not combine a waste processor class B license with any other license.
 14. An additional storage and use site license is an endorsement, by license condition to an existing specific license, authorizing one or more additional separate facilities where radioactive material may be stored or used for a period exceeding six months.
 15. A possession-only license is a license of any other category that authorizes only the possession in storage, but no use of, the authorized materials. A license that has been suspended as an enforcement action is not considered a possession-only license.
 16. A reciprocal license is the general license authorized by R9-7-320. This license is subject to a special fee as provided by R9-7-1306(C) but is exempt from annual fees.
 17. Reserved
 18. An "unclassified" radioactive material license is one that authorizes radioisotopes, physical or chemical forms, possession limits, or uses not included in any other type of license specified in this Section.
 19. A NORM commercial disposal site license is one that authorizes the receipt of waste material contaminated with naturally occurring radioactive material from other licensees for permanent disposal, provided the concentration of the radioactive material does not exceed 74kBq (2,000 picocuries)/gram.
- E.** Category E registrations are those that register the possession of x-ray machine(s) under 9 A.A.C. 7, Article 2. The Department shall not combine category E registrations with any other registration.
1. An X-ray machine class A registration is one authorizing the possession of X-ray machines in a hospital or other facility offering inpatient care.
 2. An X-ray machine class B registration is one authorizing the possession of X-ray machines in a medical, osteopathic, or chiropractic office or clinic not offering inpatient care; or the possession of X-ray machines in a school, college, university, or other teaching facility.
 3. An X-ray machine class C registration is one authorizing the possession of X-ray machines in dental, podiatry, or veterinarian offices or clinics.
 4. An industrial radiation machine registration is one authorizing the possession of X-ray machines, or the possession of particle accelerators not capable of producing a high radiation area, in a nonmedical facility.
 5. An accelerator facility registration is one authorizing the possession and operation of one or more particle accelerators of any kind capable of accelerating any particle and producing a high radiation area.
 6. An "other" ionizing radiation machine registration is one authorizing possession or use of an ionizing radiation machine not included in any other category specified in subsection (E).
- F.** Category F registrations are those that register non-ionizing radiation producing sources regulated under 9 A.A.C. 7, Article 14. The Department shall not combine category F registrations with any other registration categories that have a difference in fee per unit.
1. A tanning registration authorizes the commercial operation of one or more tanning booths, beds, cabinets, or other devices in a single establishment.
 2. A Class A laser registration authorizes the operation of one to 10 laser devices subject to R9-7-1433.
 3. A Class B laser registration authorizes the operation of 11 to 49 laser devices subject to R9-7-1433.
 4. A Class C laser registration authorizes operation of 50 or more laser devices subject to R9-7-1433.
 5. A laser light show or laser demonstration registration authorizes the operation of a laser device subject to R9-7-1441.
 6. A medical laser registration authorizes the operation of one or more laser devices subject to R9-7-1440.
 7. A Class II surgical device registration authorizes the operation of one or more Class II surgical devices subject to R9-7-1438. A device is designated as a Class II surgical device by the USFDA and is labeled as such by the manufacturer.
 8. A cosmetic radiofrequency device registration authorizes the operation of one or more medical radiofrequency devices for non-ionizing cosmetic procedures.
 9. A class A industrial radiofrequency device registration authorizes the operation of one to five radiofrequency devices.
 10. A class B industrial radiofrequency device registration authorizes the operation of six to 20 radiofrequency devices.
 11. A class C industrial radiofrequency device registration authorizes the operation more than 20 radiofrequency devices.
 12. A medical radiofrequency device registration authorizes the operation of one or more medical radiofrequency devices for non-ionizing, non-cosmetic procedures.
 13. An "other" non-ionizing radiation device registration authorizes the operation of a non-ionizing radiation device or other device not included in any other category specified in subsection (F).

Historical Note

New Section R9-7-1302 recodified from R12-1-1302 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4). Amended by final expedited rulemaking at 28 A.A.R. 1855 (July 29, 2022), effective July 6, 2022 (Supp. 22-3).

R9-7-1303. Fee for Initial License and Initial Registration

An applicant shall remit for a new license or new registration the appropriate fee as prescribed in R9-7-1306 and Table 13.1. Table of Fees.

Historical Note

New Section R9-7-1303 recodified from R12-1-1303 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-7-1304. Annual Fees for Licenses and Registrations

- A.** Each license or registration issued by the Department shall identify the category by a letter and number corresponding to

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the appropriate subsection of R9-7-1302 or the category and type listed in Table 13.1. Table of Fees.

- B. Except as specified in R9-7-1306(C), (D), and (E), each licensee or registrant shall submit payment of the annual fee in the amount prescribed in Table 13.1 Table of Fees on or before January 1 of each year. This single annual fee will cover any and all renewals, amendments, and regular inspections of the license during the forthcoming calendar year.
- C. If a licensee or registrant fails to pay the annual fee by January 1, the license is not current.
- D. If a licensee or registrant fails to pay the annual fee by April 1, the Department shall apply administrative sanction provisions of Article 12 of this Chapter.
- E. A licensee who is required to pay an annual fee under this Article may qualify as a small entity and pay the reduced annual fee in Table 13.2 if the licensee has the following characteristics:
 1. For a business not engaged in manufacturing or a not-for-profit organization, having a three-year average of gross annual receipts of \$6.5 million or less;
 2. For an entity engaged in manufacturing, having an annual average of no more than 500 employees;
 3. For a government jurisdiction, not including publicly supported educational institutions, having no more than 50,000 residents in the jurisdiction;
 4. For a publicly supported educational institution, having no more than 50,000 faculty, staff, and students; and
 5. For an educational institution that is not publicly supported, having no more than 500 faculty and staff.
- F. A licensee who seeks to establish status as a small entity for the purpose of paying an annual fee in Table 13.2, rather than the annual fee in Table 13.1, shall file with the Department a certification statement annually on Department Form 333, accessed through the Department website at <https://azdhs.gov/documents/licensing/radiation-regulatory/forms/ram-small-entity-form.pdf>, for each license under which the licensee is billed.
- G. If a licensee qualifies as a small entity and provides the Department with the certification required in subsection (F), the licensee may pay the applicable reduced annual fee shown in Table 13.2. Small Entity Fees. Failure to file a small entity certification, according to subsection (F), in a timely manner may result in the licensee being required to pay the applicable fee in Table 13.1. Table of Fees.

Historical Note

New Section R9-7-1304 recodified from R12-1-1304 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-7-1305. Method of Payment

- A. An applicant licensee or registrant shall pay fees by check or money order, payable to the "State of Arizona" at the address shown on the application, license, registration, or renewal notice.
- B. Once a license or registration has been issued, no portion of the application fee or any annual fee will be refunded.

Historical Note

New Section R9-7-1305 recodified from R12-1-1305 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1306. Application Fees and Annual Fees

- A. The application fee or annual fee for each category and type is shown in Table 13.1. Table of Fees.

- B. The fee for a category D11 license, for a low-level radioactive waste disposal site, is \$6,000,000 for years one through five. Based on data gathered during the first five years, the Department shall set a reasonable fee after consideration of the following factors:
 1. Unrecovered costs that the Department may charge under A.R.S. § 30-654(B)(18), and
 2. Actual costs incurred by the Department in regulating the licensee.
- C. The fee for a category D16 license, providing reciprocal recognition under R9-7-320 of a radioactive materials license issued by the NRC or another Agreement state, is half of the annual fee for an Arizona license of the appropriate category and type. If there is no Arizona license of the appropriate category and type, the Department shall assess the "Full Cost" fee according to subsection (D) or (E), as applicable. The fee is due and payable at the time reciprocity is requested, and the general license does not become current until the fee is paid.
- D. "Full Cost" for an application fee is based on professional personnel time for preparation, travel, onsite inspection, any reports, review of findings, and preparation of the license or registration or denial charged at \$99 per hour and mileage charged at 44.5¢ per mile. The Department shall assess the licensee or registrant 90% of the estimated full cost of issuing the license or registration. The Department will assess for any remaining costs when it is prepared to issue the license, registration, denial, or if Department costs for the requested activity exceed \$10,000.
- E. "Full Cost" for an annual fee is based on professional personnel time for preparation, travel, onsite inspection, preparation of reports, review of findings, and preparation for any inspections or completion of any amendments to the license, registration or denials charged at \$99 per hour and mileage charged at 44.5¢ per mile for the preceding 12 months.

Historical Note

New Section R9-7-1306 and Table 13.1 recodified from R12-1-1306 and Table 13.1 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Table 13.1 under subsection (A) repealed; Section amended by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-7-1307. Repealed**Historical Note**

New Section R9-7-1307 recodified from R12-1-1307 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Repealed by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-7-1308. Fee for Requested Inspections

- A. A licensee or registrant may request an inspection of its facility at any time. The Department shall assess the licensee or registrant the full cost of the inspection, based on personnel time for preparation, travel, onsite inspection, review of findings, and preparation of a report, charged at \$99 per hour and mileage charged at 44.5¢ per mile.
- B. The fee specified in this Section does not apply to:
 1. Regular inspections as scheduled by the Department,
 2. Enforcement reinspections conducted to ensure the correction of violations or safety hazards, or
 3. Inspections requested by workers pursuant to R9-7-1007.

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Historical Note

New Section R9-7-1308 recodified from R12-1-1308 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1309. Abandonment of License or Registration Application

- A.** Any license or registration application for which the applicant has been provided a written notification of deficiencies in the application and for which the applicant does not make a written attempt to supply the requested information or request an extension in writing within 90 days of the date of the written notice of deficiencies, is considered abandoned and will not be processed.

- B.** If an applicant does not act in the time-frame specified in subsection (A), the applicant shall submit a new application with the appropriate fee.

Historical Note

New Section R9-7-1309 recodified from R12-1-1309 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Table 1. Repealed**Historical Note**

New Article 13, Table 1, recodified from 12 A.A.C. 1, Article 13, Table 1 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Table 1, Small Entity Fees repealed by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

Table 13.1. Table of Fees

Category	Type	Application/Annual Fee
A1	Broad academic class A	\$10,000
A2	Broad academic class B	\$10,000
A3	Broad academic class C	\$10,000
A4	Limited academic	\$2,500
B1	Broad medical	\$20,000
B2	Medical materials class A	\$4,000
B3	Medical materials class B	\$4,000
B4	Medical materials class C	\$4,000
B5	Medical teletherapy	\$8,000
B6	General medical	\$500
C1	Broad industrial class A	\$20,000
C2	Broad industrial class B	\$20,000
C3	Broad industrial class C	\$6,000
C4	Limited industrial	\$1,500
C5	Portable gauge	\$2,000
C6	Fixed gauge class A	\$2,000
C7	Fixed gauge class B	\$2,000
C8	Leak detector	\$2,000
C9	Gas chromatograph	\$2,000
C10	General industrial	\$300
C11	Industrial radiography class A	\$10,000
C12	Industrial radiography class B	\$10,000
C13	Open field irradiator	\$10,000
C14	Shelf-shielded irradiator	\$5,000
C15	Well logging	\$5,000
C16	Research and development	\$5,000
C17	Laboratory	\$3,000
D1	Distribution	\$5,000
D2	Nuclear pharmacy	\$10,000
D3	Nuclear laundry	\$25,000
D4	General industrial gauging device	\$500
D5	General depleted uranium	\$200
D6	Veterinary medicine	\$2,000
D7	General veterinary medicine	\$500

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D8	Health physics class A	\$5,000
D9	Health physics class B	\$3,000
D10	Secondary uranium recovery	\$8,000
D11	Low-level radioactive waste disposal facility	According to R9-7-1306(B)
D12	Waste processor class A	\$10,000
D13	Waste processor class B	\$8,000
D14	Additional storage and use site	30% of the applicable fee for each additional site
D15	Possession-only	50% of the applicable fee for the category under which storage will occur
D16	Reciprocal	According to R9-7-1306(C)
D17	Reserved	
D18	Unclassified radioactive material	Full Cost, according to R9-7-1306(D) or (E)
D19	NORM commercial disposal site	\$600,000
E1	X-ray machine class A (per tube)	\$145
E2	X-ray machine class B (per tube)	\$95
E3	X-ray machine class C (per tube)	\$90
E4	Industrial radiation machine (per device)	\$95
E5	Accelerator facility	\$2,500
E6	Other ionizing radiation machine	Full Cost, according to R9-7-1306(D) or (E)
F1	Tanning device (per device)	\$50
F2	Class A laser (1 to 10 laser devices)	\$300
F3	Class B laser (11 to 49 laser devices)	\$600
F4	Class C laser (50 or more laser devices)	\$1,000
F5	Laser light show or laser demonstration	\$500
F6	Medical laser (per laser device)	\$100
F7	Class II surgical device (per device)	\$100
F8	Cosmetic radiofrequency device (per device)	\$100
F9	Class A industrial (1 to 5 radiofrequency devices)	\$150
F10	Class B industrial (6 to 20 radiofrequency devices)	\$350
F11	Class C industrial (more than 20 radiofrequency devices)	\$600
F12	Medical radiofrequency (one or more device)	\$100
F13	Other non-ionizing radiation device	Full Cost, according to R9-7-1306(D) or (E)

Historical Note

Table 13.1 under subsection R9-7-1306(A) repealed; new Table 13.1 Table of Fees made by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4). Amended by final expedited rulemaking at 28 A.A.R. 1855 (July 29, 2022), effective July 6, 2022 (Supp. 22-3).

Table 13.2. Small Entity Fees

Licensee qualifying as a small entity under R9-7-1304(E)(1)	
<i>Gross Annual Receipts</i>	<i>Fee</i>
\$350,000 to \$6.5 million	\$2,200
<\$350,000	\$500
Licensee qualifying as a small entity under R9-7-1304(E)(2)	
<i>Number of Employees</i>	<i>Fee</i>
35 to 500 employees	\$2,200
<35 employees	\$500
Licensee qualifying as a small entity under R9-7-1304(E)(3)	
<i>Number of Residents</i>	<i>Fee</i>

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20,000 to 50,000	\$2,200
<20,000	\$500
Licensee qualifying as a small entity under R9-7-1304(E)(4)	
<i>Number of Faculty, Staff, and Students</i>	<i>Fee</i>
20,000 to 50,000	\$2,200
<20,000	\$500
Licensee qualifying as a small entity under R9-7-1304(E)(5)	
<i>Number of Faculty and Staff</i>	<i>Fee</i>
35 to 500 employees	\$2,200
<35 employees	\$500

Historical Note

Table 13.2, Small Entity Fees made by final rulemaking at 26 A.A.R. 2939, with an immediate effective date of November 3, 2020 (Supp. 20-4).

ARTICLE 14. REGISTRATION OF NONIONIZING RADIATION SOURCES AND STANDARDS FOR PROTECTION AGAINST NONIONIZING RADIATION

R9-7-1401. Registration of Nonionizing Radiation Sources and Service Providers

- A. A person shall not use a nonexempt nonionizing radiation source, unless the source is registered by the Department.
- B. A person who possesses a nonexempt nonionizing source shall submit to the Department an application for registration within 30 days of its first use.
 1. A person who possesses a nonexempt source listed in R9-7-1302(F) shall register the source with the Department.
 2. A person applying for the registration of a nonexempt source shall use an application form provided by the Department.
 3. An applicant shall provide the information identified in Appendix B of this Article.
- C. A registrant shall notify the Department within 30 days of any change to the information contained in the registration, or sale of a source that results in termination of the activities conducted under the registration.
- D. In addition to the application form, an applicant shall remit the applicable registration fee, specified in R9-7-1306.
- E. A person who is operating more than one facility, where one or more nonexempt nonionizing sources are used, shall apply for a separate registration for each facility.
- F. A person in the business of installing or servicing nonexempt nonionizing sources shall apply to the Department for registration 30 days before furnishing the service. The person shall apply for registration on a form furnished by the Department and shall provide the information required by A.R.S. § 30-672.01.

Historical Note

New Section R9-7-1401 recodified from R12-1-1401 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1402. Definitions

General definitions:

“Controlled area” means any area to which human access is restricted for the purpose of protection from nonionizing radiation.

“Direct supervision” means that a licensed practitioner supervises the use of a source for medical purposes while the practitioner is present inside the facility where the source is being used.

“Indirect supervision” means for lasers or IPL devices used for hair removal procedures, there is at a minimum, responsible supervision and control by a licensed practitioner who is easily accessible by telecommunication.

“Licensed practitioner” (See R9-7-102)

“Medical director” means a licensed practitioner, as defined in R9-7-102, who delegates a laser, IPL, or other light-emitting medical device procedure to a non-physician and is qualified to perform the procedure within the scope of practice of the license.

“Nonexempt nonionizing source” means any system or device that contains a nonionizing source listed in R9-7-1302(F).

“Operator” means a person who is trained in accordance with this Article and knowledgeable about the control and function of a nonionizing device regulated under this Article.

“Other cosmetic procedure” means a method of using medical lasers or intense pulse light (IPL) devices approved by the Federal Food and Drug Administration (FDA), for the cosmetic purpose of spider vein removal, skin rejuvenation, non-ablative skin resurfacing, skin resurfacing, port wine stain removal, epidermal pigmented skin lesion removal, or tattoo removal; and does not include hair removal.

Laser definitions:

“Accessible emission limit (AEL)” means the maximum accessible emission level of laser or collateral radiation permitted within a particular class.

“Accessible radiation” means laser or collateral radiation to which human access is possible.

“Angular subtense” means the apparent visual angle, α , as calculated from the source size and distance from the eye.

“Aperture” means an opening in the protective housing or other enclosure of a laser product, through which laser or collateral radiation is emitted, allowing human access to the radiation.

“Aperture stop” means an opening serving to limit the size and to define the shape of the area over which radiation is measured.

“Certified laser product” means that the product is certified by a manufacturer in accordance with the requirements of 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on

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file with the Department. This incorporation by reference contains no future editions or amendments.

“CDRH” means the Center for Devices and Radiological Health.

“Classes of lasers” means the following categories of lasers, defined in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department: Class 1, Class 2, Class 2a, Class 3, Class 3a, Class 3b, and Class 4. This incorporation by reference contains no future editions or amendments.

“Collateral radiation” means any electronic product radiation, except laser radiation, emitted by a laser product as a result of operation of the laser or any component of the laser product that is physically necessary for operation of the laser. The accessible emission limits for collateral radiation are specified in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“Continuous wave” (cw) means the output of a laser that is operated in a continuous rather than a pulsed mode. For purposes of this Article, a laser operating with a continuous output for a period ≥ 0.25 seconds, is regarded as a cw laser.

“Cosmetic procedure protocol” means a delegated written authorization to select specific laser or IPL settings, initiate a laser or IPL procedure, and conduct necessary follow-up procedures.

“Demonstration laser” means any laser manufactured, designed, intended, or used for purposes of demonstration, entertainment, advertising display, or artistic composition.

“Embedded laser” means an enclosed laser with an assigned class number higher than the inherent capability of the laser system in which it is incorporated, where the system’s lower classification is due to engineering features that limit accessible emission.

“Enclosed laser” means a laser that is contained within its own protective housing or the protective housing of a laser or laser system in which it is incorporated. Opening or removing the protective housing provides more access to laser radiation above the applicable MPE than is possible with the protective housing in place. (An embedded laser is a type of enclosed laser.)

“Federal performance standards for light-emitting products” means the regulations in 21CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives, and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“Human access” means the capacity to intercept laser or collateral radiation by any part of the human body.

“Incident” means an event or occurrence that results in actual or suspected accidental exposure to laser radiation that has caused or is likely to cause biological damage.

“Integrated radiance” means radiant energy per unit area of a radiating surface per unit solid angle of emission, expressed in joules per square centimeter per steradian.

“Irradiance” means the time-averaged radiant power incident on an element of a surface divided by the area of that element, expressed in watts per square centimeter.

“Laser” See the definition in Article 1.

“Laser energy source” means any device intended for use in conjunction with a laser to supply energy for the operation of the laser. General energy sources, such as electrical supply mains or batteries, are not considered laser energy sources by the Department.

“Laser facility” means a facility where one or more lasers are used. For purposes of this definition a Class 1 facility is a facility that has one or more Class 1 lasers; a Class 2 facility is a facility that has one or more Class 2 or 2a lasers; a Class 3 facility is a facility that has one or more Class 3, 3a, or 3b lasers, and a Class 4 facility is a facility that has one or more Class 4 lasers. Facilities that contain more than one laser class are classified according to the highest laser class in use at the facility.

“Laser product” means any manufactured product or assemblage of components that constitutes, incorporates, or is intended to incorporate a laser or laser system. A laser or laser system that is intended for use as a component of an electronic product is itself considered a laser product.

“Laser protective device” means any device used to reduce or prevent exposure of personnel to laser radiation. This includes: protective eyewear, garments, engineering controls, and operational controls.

“Laser radiation” means all electromagnetic radiation emitted by a laser product, within the spectral range specified in the definition of “laser,” which is produced as a result of controlled stimulated emission or that is detectable with radiation so produced through the appropriate aperture stop and within the appropriate solid angle of acceptance.

“Laser Safety Officer (LSO)” means any individual, qualified by training and experience in the evaluation and control of laser hazards, who is designated by the registrant and has the authority and responsibility to establish and administer the laser radiation protection program for a particular class of facility.

“Laser system” means a laser in combination with an appropriate laser energy source with or without additional incorporated components.

“Limited exposure duration (T_{\max})” means an exposure duration that is specifically limited by design or intended use.

“Maintenance” means performance of those adjustments or procedures specified in operator information provided by the manufacturer with the laser product, which are to be performed by the operator to ensure the intended performance of the product. The term does not include operation or service as defined in this Section.

“Maximum permissible exposure (MPE)” means the level of laser radiation to which a person may be exposed without hazardous effect or adverse biological changes in the eye or skin. MPE values for eye and skin exposure are listed in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.

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“Medical laser product” means any laser product that is a medical device defined in 21 U.S.C. 321(h) and is manufactured, designed, intended, or promoted for in vivo laser irradiation of any part of the human body for the purpose of: diagnosis, surgery, therapy, or relative positioning of the human body.

“Operation” means the performance of the laser product over the full range of its function. It does not include maintenance or service as defined in this Section.

“Protective housing” means those portions of a laser product that are designed to prevent human access to laser or collateral radiation in excess of the prescribed accessible emission limits under conditions specified in this Article.

“Pulse duration” means the time increment measured between the half-peak-power points at the leading and trailing edges of a pulse.

“Pulse interval” means the period of time between identical points on two successive pulses.

“Radiance” means the time-averaged radiant power per unit area of a radiating surface per unit solid angle of emission, expressed in watts per square centimeter per steradian.

“Radiant energy” means energy emitted, transferred, or received in the form of radiation, expressed in joules.

“Radiant exposure” means the radiant energy incident on an element of a surface divided by the area of that element, expressed in joules per square centimeter.

“Radiant power” means the time-averaged power emitted, transferred, or received in the form of radiation, expressed in watts.

“Rule of nines” means a method for estimating the extent of burns, expressed as a percentage of total body surface. In this method the body is divided into sections of 9 percent or multiples of 9 percent, each: head and neck, 9 percent; anterior trunk, 18 percent; posterior trunk, 18 percent; upper limbs, 18 percent; lower limbs, 36 percent; and genitalia and perineum, 1 percent.

“Safety interlock” means a device associated with the protective housing of a laser product to prevent human access to excessive radiation.

“Sampling interval” means the time interval during which the level of accessible laser or collateral radiation is sampled by a measurement process. The magnitude of the sampling interval in units of seconds is represented by the symbol “t”.

“Secured enclosure” means an area to which casual access is impeded by various means, such as a door secured by a lock, latch, or screws.

“Service” means the performance of those procedures or adjustments described in the manufacturer’s service instructions that may affect any aspect of the product’s performance. The term does not include maintenance or operation as defined in this Section.

“T_{max}” See limited exposure duration.

“Uncertified laser product” means any laser that has not been certified in accordance with the requirements of 21CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Radio frequency and microwave radiation definitions:

“Accessible emission level” means the level of radio frequency radiation emitted from any source, expressed in terms of power density in milliwatts per square centimeter or electric and magnetic field strength, as applicable, and to which human access is normally possible.

“Far field region” means the area in which locally uniform distribution of electric and magnetic field strengths exists in planes transverse to the direction of propagation. The far field region is presumed to exist at distances greater than $2D^2/\lambda$ from the antenna, where λ is the wavelength and D is the largest antenna aperture dimension.

“Maximum permissible exposure MPE” means the rms and peak electric and magnetic field strengths, their squares, or the plane-wave equivalent power densities associated with these fields and the induced and contact currents to which a person may be exposed without harmful effect and with an acceptable safety factor.

“Near field region” means the area near an antenna in which the electric and magnetic field components vary considerably in strength from point to point. For most antennas the outer boundary of the region is presumed to exist at a distance $\lambda/2\pi$ from the antenna surface, where λ is the wavelength.

“Radio frequency controlled area” means any location to which access is controlled for the purpose of protection from radio frequency radiation.

“Radio frequency source” means a source or system that produces electromagnetic radiation in the radio frequency spectrum.

“Radio frequency radiation” means electromagnetic radiation (including microwave radiation) with frequencies in the range of 0.3 megahertz to 100 gigahertz.

“Root-mean-square (rms)” means the effective value, or the value associated with joule heating, of a periodic electromagnetic wave. The rms is obtained by taking the square root of the mean of the squared value of a function.

“Safety device” means any mechanism incorporated into a radio frequency source that is designed to prevent human access to excessive levels of radio frequency radiation.

Ultraviolet, high intensity light, and intense pulsed light source definitions:

“EPA” means the United States Environmental Protection Agency.

“FDA” means the United States Food and Drug Administration.

“High intensity mercury vapor discharge (HID) lamp” means any lamp, including a mercury vapor or metal halide lamp that incorporates a high-pressure arc discharge tube with a fill that consists primarily of mercury and is contained within an outer envelope, except the tungsten filament self-ballasted mercury vapor lamp.

“Intense pulsed light device (IPL)” means, for purposes of R9-7-1438, any lamp-based device that produces an incoherent, filtered, and intense light.

“Maximum exposure time” means the greatest continuous exposure time interval recommended by the manufacturer of a product.

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“Protective sunlamp eyewear” means any device designed to be worn by a user of a product to reduce exposure of the eyes to radiation emitted by the product.

“Sanitize” means treat the surfaces of equipment and devices using an EPA or FDA registered product that provides a specified concentration of chemicals, for a specified period of time, to reduce the bacterial count, including pathogens, to a safe level.

“Self-extinguishing lamp” means any HID lamp that ceases operation in conformance with the requirements of the performance standard in 21 CFR 1040.30(d), April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

“Sunlamp product” means any electronic product designed to incorporate one or more ultraviolet lamps and intended for irradiation of any part of the living human body, by ultraviolet radiation with wavelengths in air between 200 and 400 nanometers, to induce skin tanning.

“Timer” means any device incorporated into a product that terminates radiation emission after a preset time interval.

“Ultraviolet lamp” means any light source that produces ultraviolet radiation and that is intended for use in any sunlamp product.

“Ultraviolet radiation” means electromagnetic radiation in the wavelength interval from 200 to 400 nanometers in air.

“User” means any member of the public who is provided access to a tanning device in exchange for a fee or other compensation, or any individual who, in exchange for a fee or other compensation, is afforded use of a tanning device as a condition or benefit of membership or access.

Historical Note

New Section R9-7-1402 recodified from R12-1-1402 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1403. General Safety Provisions and Exemptions

- A.** Based on consideration of the following factors, the Department may waive compliance with specific requirements of this Article:
- Whether compliance requires product replacement or substantial modification of a product’s current installation, and
 - Whether the registrant provided information requested by the Department to determine if there are alternative methods of achieving the same or a greater level of radiation protection.
- B.** The registrant shall:
- Ensure that any nonionizing source is operated by an individual who is trained and has demonstrated competence in the safe use of the source.
 - Provide safety rules to each individual who operates a nonionizing radiation source and determine whether the individual is aware of operating restrictions and procedures associated with the safe use of the source.
 - Make, or cause to be made, any physical radiation surveys required by this Article.
 - Maintain the following records for three years for Department review:
 - Results of any physical survey or calibration required by this Article;

- Radiation source inventories;
- Maintenance, service, and modification records; and
- Incident reports of known or suspected exposure to nonionizing radiation that exceeds any MPE specified in this Article.

- C.** A registrant shall not operate a nonionizing radiation source unless the source complies with all of the applicable requirements of this Article.

Historical Note

New Section R9-7-1403 recodified from R12-1-1403 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1404. Radio Frequency Equipment

- A.** A registrant shall operate a radiation source that emits radio frequency radiation in a radio frequency controlled area, in a manner that will prevent human exposure that exceeds the MPE specified in IEEE Std C95.1-1999, Institute of Electrical and Electronics Engineers Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3kHz to 300 GHz, 1999 edition, which is incorporated by reference, published by the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, NY 10017, and on file with the Department. This incorporation by reference contains no future editions or amendments. The registrant shall post each point of access into a radio frequency controlled area according to R9-7-1406.
- B.** If a registrant is required to operate a radio frequency source in a controlled area, the registrant shall employ visual or audible emission indicators that function only during production of radiation.
- C.** If a source of radio frequency emissions is physically separate from the source’s means of activation by a distance greater than 2 meters, the registrant shall place a visual or an audible emission indicator at the source and the point of activation.
- D.** A registrant shall place each visual emission indicator so that the location of the indicator does not require human exposure to radio frequency radiation that exceeds the applicable MPE.
- E.** A registrant shall inspect each safety device designed to prevent human exposure to excessive radio frequency radiation for proper operation at intervals that do not exceed one month.
- F.** If a machine emits mechanically scanned radio frequency radiation, a registrant shall ensure that the machine cannot, as the result of scan failure or any other malfunction, cause a change in angular velocity or amplitude, allowing human exposure that exceeds the applicable MPE.
- G.** A registrant shall physically secure each radio frequency sources to prevent unauthorized use and tampering.

Historical Note

New Section R9-7-1404 recodified from R12-1-1404 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1405. Radio Frequency Radiation: Maximum Permissible Exposure

- A.** A registrant shall not expose a person to radio frequency radiation that exceeds the applicable MPE specified in IEEE Std C95.1-1999, Institute of Electrical and Electronics Engineers Standard for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3kHz to 300 GHz, 1999 edition, which is incorporated by reference, published by the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, NY 10017, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- B.** At frequencies between 300 kHz and 100 GHz a registrant may exceed the applicable MPE if exposure conditions can be shown by laboratory procedures to produce specific absorption

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rates (SARs) above 0.4 watts per kilogram, averaged over the whole body, and spatial peak SAR values above 8 watts per kilogram, averaged over 1 gram of tissue.

- C. At frequencies between 300 kHz and 1 GHz, a registrant may exceed the applicable MPE, if the radio frequency input power to the radiating device is seven watts or less.

Historical Note

New Section R9-7-1405 recodified from R12-1-1405 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1406. Radio Frequency Hazard Caution Signs, Symbols, Labeling, and Posting

- A. A registrant shall post each point of access to a controlled area with caution signs of the type designated in Figure 1.



Fig. 1

- B. A registrant shall post operating procedure restrictions or limitations, used to prevent unnecessary or excessive exposure to radio frequency radiation, in a location visible to the operator.
- C. A registrant shall place each warning sign or label so that an observer is not exposed to radio frequency radiation that exceeds the applicable MPE.

Historical Note

New Section R9-7-1406 recodified from R12-1-1406 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1407. Microwave Ovens

A person shall register with the Department any microwave oven that does not meet the requirements in 21 CFR 1030.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1407 recodified from R12-1-1407 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1408. Reporting of Radio Frequency Radiation Incidents

- A. A registrant shall report in writing to the Department within 15 days of a known or suspected personnel exposure to radiation that exceeds the applicable MPE incorporated by reference in R9-7-1405.
- B. A registrant shall report to the Department within 24 hours of a known or suspected personnel exposure to radiation that

exceeds 150% of an applicable MPE incorporated by reference in R9-7-1405.

- C. A registrant shall immediately report to the Department a known or suspected personnel exposure to radiation that exceeds 500% of an applicable MPE incorporated by reference in R9-7-1405.

Historical Note

New Section R9-7-1408 recodified from R12-1-1408 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1409. Medical Surveillance for Workers Who May Be Exposed to Radio Frequency Radiation

- A. Upon request by the Department, a registrant shall provide a medical examination to an individual exposed to radiation reported to the Department according to R9-7-1408.
- B. A registrant shall provide a copy of the results to the Department if an individual undergoes a medical examination, requested under subsection (A).

Historical Note

New Section R9-7-1409 recodified from R12-1-1409 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1410. Radio Frequency Compliance Measurements

- A. For obtaining measurements to determine compliance with R9-7-1405, the Department shall use an instrument capable of measuring the field strength and frequency of radiation.
- B. The Department shall ensure that each instrument used for compliance measurements is calibrated every 12 months. The calibration shall be performed in a manner that meets the standards in IEEE Std C95.1-1999, incorporated by reference in R9-7-1404(A).
- C. For compliance measurements of exposure conditions in the near field, the Department shall obtain measurements of both the electric and magnetic field components. The applicable protection standards for near field measurements are the mean squared electric and magnetic field strengths (using the applicable MPE) referenced in R9-7-1405.
- D. If the Department is obtaining measurements to determine compliance in far field exposure conditions, the Department may use measurements of power density in milliwatts per square centimeter or the calculated equivalent plane wave power density, based on measurement of either the electric or magnetic field strength. The applicable protection standards are the power density values (using the applicable MPE) referenced in R9-7-1405.
- E. In obtaining measurements in accordance with this Section, the Department shall measure the electric and magnetic field strength:
1. Obtained at an emission frequency of 300 megahertz or less; and
 2. Expressed in terms of power density.
- F. For mixed or broadband fields at frequencies for which there are different protection standards, the Department shall determine the fraction of the applicable MPE incurred within each frequency interval. To achieve compliance the sum of all the fractions shall not exceed unity (1).
- G. The Department shall obtain compliance measurements at a distance of five centimeters or greater from any object.
- H. A registrant shall obtain measurements that are averaged over a six-minute period for pulsed and non-pulsed modes of radio frequency emission and make a correction for duty cycle in determining the average field strength.

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Historical Note

New Section R9-7-1410 recodified from R12-1-1410 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1411. Reserved**Historical Note**

Section R9-7-1411 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1412. Tanning Operations

A registrant shall establish and maintain written policies and procedures that are part of a radiation safety program to assure compliance with the requirements in R9-7-1412 through R9-7-1416.

Historical Note

New Section R9-7-1412 recodified from R12-1-1412 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1413. Tanning Equipment Standards

- A. A registrant operating a tanning facility shall use sunlamp products that are certified by the manufacturer to comply with 21 CFR 1040.20, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments. For sunlamp products in use before the effective date of this Article, the Department shall determine compliance based on the standard in effect at the time of manufacture, as shown on the equipment identification label.
- B. A registrant shall replace burned-out or defective lamps or filters, before any use of a tanning device.
- C. A registrant shall replace a burned-out or defective lamp or filter with a lamp or filter intended for use in that equipment, as specified on the sunlamp product label, or that is equivalent to a lamp or filter specified on the sunlamp product label under the FDA regulations and policies applicable to the sunlamp product at the time of manufacture. If an equivalent lamp or filter is used instead of the Original Equipment Manufacturer (OEM) lamp or filter specified on the product label, the registrant shall maintain a copy of the equivalency certification, provided by the lamp supplier, on file for review by Department inspectors.
- D. A registrant shall ensure that each sunlamp product has a timer and control system that complies with 21 CFR 1040.20(c), April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments. In addition the registrant shall ensure that:
 1. The timer interval does not exceed the manufacturer's maximum, recommended exposure time;
 2. The timer is functional and accurate to within +/- 10% of the maximum timer interval of the product;
 3. The timer does not automatically reset and cause radiation emission to resume for a period greater than the unused portion of the timer cycle;
 4. The timer is tested annually for accuracy;
 5. For a new facility (including existing facilities with change of ownership) a remote timer control system is installed before operation of sunlamp products. For an existing facility that has sunlamp products not equipped with a remote timer control system, a remote timer control system (outside of the sunlamp product room) is installed no later than 6 months after the effective date of this Section; and

6. Each sunlamp product is equipped with an emergency shutoff mechanism that allows manual termination of the UV exposure by the user.

- E. A registrant shall provide physical barriers between each sunlamp product to protect users from injury caused by touching or breaking a lamp.
- F. A registrant that employs a stand-up sunlamp product shall:
 1. Use physical barriers, handrails, floor markings, or other methods to indicate the proper exposure distance between the ultraviolet lamps and the user's skin;
 2. Construct each tanning booth so that it can withstand the stress of use and the impact of a falling person;
 3. Provide access to a tanning booth with doors of rigid construction that open outward, handrails, and non-slip floors; and
 4. Control the interior temperature of a sunlamp product so that it never exceeds 100 degrees Fahrenheit (38 degrees Centigrade).

Historical Note

New Section R9-7-1413 recodified from R12-1-1413 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1414. Tanning Equipment Operators

- A. A registrant shall ensure that at least one operator is present during operating hours. The operator shall:
 1. Limit the occupancy of the tanning room to one person when the tanning equipment is in use;
 2. Prevent use of the tanning equipment by anyone under 18 years of age unless the person has written permission from a parent or guardian;
 3. Limit exposure time to the manufacturer's recommendation on the equipment label or in the operator's manual;
 4. Limit exposure time during a 24-hour period to the maximum recommended for a 24-hour period by the manufacturer; and
 5. Maintain a record of each user's total number of tanning visits and exposure times for Department inspection. The registrant shall maintain the records for three years from the date on the record.
- B. Before use of tanning equipment, an operator shall:
 1. Provide the user sanitized protective sunlamp eyewear and directions for its use;
 2. Demonstrate the use of any physical aids, necessary to maintain correct exposure distance for the user, as recommended by the manufacturer of the tanning equipment;
 3. Set the exposure timer so that the user is not exposed to excess radiation;
 4. Instruct the user on the maximum exposure time and correct distance from the radiation source as recommended by the manufacturer of the tanning equipment; and
 5. Instruct the user about the location and correct operation of the emergency shutoff switch.
- C. An operator shall control a sunlamp's timer. A registrant shall:
 1. Provide training to operators that covers:
 - a. The requirements of this Section;
 - b. Facility operating procedures, including:
 - i. Determination of skin type and associated duration of exposure;
 - ii. Procedures for use of minor and adult user consent forms;
 - iii. Potential harm associated with photosensitizing foods, cosmetics, and medications;
 - iv. Requirements for use of protective eyewear by users of the equipment; and
 - v. Proper sanitizing procedures for the facility, equipment, and eyewear;

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- c. The manufacturer's procedures for operation and maintenance of tanning equipment;
- d. Recognition of injury or overexposure; and
- e. Emergency procedures used in the case of an injury.
- 2. Maintain records of training for Department review, which include dates and material covered, for three years from the date the training is provided.
- 3. Post a list of operators at the facility.
- D. Before the first use of a tanning facility in each calendar year by a user:
 - 1. An operator shall request that the user read a copy of the warnings in R9-7-1415(A);
 - 2. The operator shall obtain the user's signature on a statement as an acknowledgment that the user has heard or read and understands the warnings in R9-7-1415(A); and
 - 3. For illiterate or visually handicapped persons, the operator shall read the warnings in R9-7-1415(A) in the presence of a witness. Both the witness and the operator shall sign the statement described in subsection (D)(2).

Historical Note

New Section R9-7-1414 recodified from R12-1-1414 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1415. Tanning Facility Warning Signs

- A. A registrant shall post the warning sign shown in this subsection within 1 meter (39.37 inches) of each tanning device, ensuring that the sign is clearly visible and easily viewed by the user before the tanning device is operated.
- B. A registrant shall post a warning sign, which contains the statement shown, at or near the reception area.
 PERSONS UNDER AGE 18 ARE REQUIRED TO HAVE
 PARENT OR LEGAL GUARDIAN SIGN AN AUTHORIZATION
 TO TAN IN THE PRESENCE OF A TANNING
 FACILITY OPERATOR
- C. The lettering on each warning sign shall be at least 10 millimeters high for all words shown in capital letters and at least 5 millimeters high for all lower case letters.

DANGER - ULTRAVIOLET RADIATION

- 1. Follow instructions.
- 2. Avoid overexposure. As with natural sunlight, exposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause premature aging of the skin, dryness, wrinkling, and skin cancer.
- 3. Wear protective eyewear.

FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG TERM INJURY TO THE EYES.

- 4. Medications or cosmetics may increase your sensitivity to the ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications or have a history of skin problems or believe you are especially sensitive to sunlight.
- 5. If you do not tan in the sun, you are unlikely to tan from use of this device.

Historical Note

New Section R9-7-1415 recodified from R12-1-1415 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1416. Reporting of Tanning Injuries

- A. A registrant shall report any incident involving an eye injury; skin burn; fall injury, if the fall occurs within the tanning device or while entering or exiting the device; laceration; infection believed to have been transmitted by use of the tanning device; or any other injury reasonably related to the use of the tanning device.
- B. A registrant shall provide a written report of an incident to the Department within 10 working days of its occurrence or within 10 working days of the date the registrant became aware of the incident.
- C. The report shall include:
 - 1. The name of the user;
 - 2. The name and location of the tanning facility;
 - 3. A description of and the circumstances associated with the injury;
 - 4. The name and address of the health care provider treating the user, if any; and
 - 5. Any other information the registrant considers relevant to the incident.

Historical Note

New Section R9-7-1416 recodified from R12-1-1416 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1417. Reserved**Historical Note**

Section R9-7-1417 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1418. High Intensity Mercury Vapor Discharge (HID) Lamps

A person shall register with the Department any HID lamp that does not meet the requirements in 21 CFR 1040.30, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1418 recodified from R12-1-1418 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1419. Reserved**Historical Note**

Section R9-7-1419 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1420. Reserved

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Historical Note

Section R9-7-1420 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1421. Laser Safety

- A. The requirements contained in this Section apply to laser products that are used in accordance with the manufacturer's classification and instructions. If certain engineering controls are impractical during manufacture or research and development activities, the LSO shall specify alternate requirements to obtain equivalent laser safety protection.
- B. A registrant shall establish and maintain a laser radiation safety program.
- C. If R9-7-1433 is applicable, a registrant shall conduct a laser radiation protection survey to ensure compliance with R9-7-1433 before initial use, following system modifications, and at intervals that do not exceed six months. During a survey the registrant shall:
 - 1. Determine whether each laser protective device is labeled correctly, functioning within the design specifications, and meets required standards for the type and class of laser in use;
 - 2. Determine whether each warning device is functioning within design specifications;
 - 3. Determine whether each controlled area is identified, controlled, and posted with accurate warning signs in accordance with this Article;
 - 4. Reevaluate potential hazards from surfaces that are associated with Class 3 and Class 4 beam paths; and
 - 5. Evaluate the laser and collateral radiation hazard incident to the use of lasers.
- D. The registrant shall maintain records of:
 - 1. Results of all physical surveys made to determine compliance with this Article;
 - 2. Any restriction in operating procedures necessary to prevent unnecessary or excessive exposure to laser or collateral radiation;
 - 3. Any incident for which reporting to the Department is required pursuant to R9-7-1436;
 - 4. Results of medical surveillance to determine extent of injury resulting from exposure to laser or collateral radiation;
 - 5. Inventory to account for all sources of radiation possessed by the licensee.
- E. A registrant shall provide the Laser Safety Officer with training that covers the subjects listed in Appendix D.

Historical Note

New Section R9-7-1421 recodified from R12-1-1421 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1422. Laser Protective Devices

- A. A registrant shall ensure that each laser product has a protective housing that prevents access to laser and collateral radiation if it exceeds the exposure limits for Class 1 lasers in R9-7-1426. If a laser's accessible emission levels must exceed the limits for Class 1 lasers, the registrant shall use a laser from the lowest class that will enable the registrant to perform the intended function.
- B. To prevent access to radiation above the applicable MPE, a registrant shall ensure that each laser has a safety interlock, which prevents operation of the laser if a person has removed any portion of the protective housing that can be removed or displaced without the use of tools during normal operation or maintenance. The registrant shall ensure that:
 - 1. Service, testing, or maintenance of a laser does not render the interlocks inoperative or increase radiation outside the

protective housing to levels that exceed the applicable MPE, unless a controlled area is established as specified in R9-7-1433;

- 2. For pulsed lasers, interlocks are designed to prevent the laser from firing;
- 3. For Class 3b and 4 continuous wave (cw) lasers, interlocks turn off the power supply or interrupt the beam.
- 4. An interlock does not allow automatic accessibility to radiation emission above the applicable MPE when the interlock is closed; and
- 5. Multiple safety interlocks or a means to preclude removal or displacement of the interlocked portion of the protective housing is provided if failure of a single interlock could result in:
 - a. Human access to levels of laser radiation that exceed the radiant power accessible emission limit for Class 3a laser radiation, or
 - b. Laser radiation that exceeds the accessible emission limit for Class 2, emitted directly through the opening created by removal or displacement of a portion of the protective housing.
- C. A registrant shall ensure that a laser with viewing ports, viewing optics, or display screens, included as an integral part of the enclosed laser or laser system has:
 - 1. A suitable means to attenuate laser and collateral radiation transmitted through the optical system to less than the accessible emission limit for collateral radiation required by 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments; and
 - 2. Specific written administrative procedures developed by the LSO, and use controls, such as interlocks or filters, if there is increased hazard to the eye or skin associated with the use of optical systems such as lenses, telescopes, or microscopes.
- D. A registrant shall ensure that each Class 3 or 4 laser product provides a visual or audible indication before the emission of accessible laser radiation that exceeds the limits for Class 1, as follows:
 - 1. For Class 3, except for laser products that allow access to less than 5 milliwatts peak visible laser radiation, and Class 4 lasers, the indication occurs before the emission of the radiation and allows enough time for action to avoid exposure;
 - 2. Any visual indicator is clearly visible through protective eyewear designed specifically for the wavelength of the emitted laser radiation;
 - 3. If the laser and laser energy source are housed separately and can be operated at a separation distance of greater than 2 meters, both the laser and laser energy source incorporate visual or audible indicators; and
 - 4. Any visual indicators are positioned so that viewing does not require human access to laser radiation that exceeds the applicable MPE.
- E. In addition to the information signs, symbols, and labels prescribed in R9-7-1427, R9-7-1428, and R9-7-1429, each registrant shall provide, near the signs, symbols, and labels within the laser facility, operating procedure restrictions and any other safety information required to ensure compliance with this Article and minimize exposure to laser and collateral radiation.

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Historical Note

New Section R9-7-1422 recodified from R12-1-1422 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1423. Laser Prohibitions

- A. A registrant shall not require or permit an individual to look directly into a laser beam or directly at specular reflections of a laser beam, or align a laser by eye while looking along the axis of the laser beam if the intensity of the beam or the beam's reflections exceeds the applicable MPE.
- B. A registrant shall not permit an individual to enter a controlled area if the skin exposure exceeds the applicable MPE, unless the registrant provides and requires the use of protective clothing, gloves, and shields.
- C. A registrant shall ensure that any laser product, emitting spatially scanned laser radiation, does not, as a result of scan failure or any other failure that causes a change in angular velocity or amplitude, permit human access to laser radiation that exceeds the accessible emission limits applicable to that class of product.

Historical Note

New Section R9-7-1423 recodified from R12-1-1423 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1424. Reserved**Historical Note**

Section R9-7-1424 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1425. Laser Product Classification

- A. Each laser product is classified on the basis of emission level, emission duration, and wavelength of accessible laser radiation emitted over the full range of resulting operational capability, any time during the useful life of the product, according to the federal performance standards for light-emitting products contained in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- B. Any person that modifies a certified laser product in a manner that affects any aspect of performance or intended functions of the product, shall recertify and reidentify the product in accordance with 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- C. Any laser system that is incorporated into a laser product that is subject to the requirements of this Article, and capable, without modification, of producing laser radiation when removed from the laser product, is considered a laser product, subject to the applicable requirements of this Article. Upon removal of the laser system described in this subsection, the laser product is classified on the basis of accessible laser radiation emission.

Historical Note

New Section R9-7-1425 recodified from R12-1-1425 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1426. Laser and Collateral Radiation Exposure Limits

- A. A registrant shall not use, or permit the use of a laser product that will result in a human exposure that exceeds the applicable MPE or accessible emission limit (AEL) listed in ANSI Z136.1-2000, American National Standard for Safe Use of

Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. Accessible emission limits are listed in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. These incorporations by reference contain no future editions or amendments.

- B. A registrant shall not allow exposure to collateral radiation that exceeds any accessible emission limit in 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1426 recodified from R12-1-1426 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1427. Laser Caution Signs, Symbols, and Labels

- A. Except as otherwise authorized by the Department, a registrant shall use signs, symbols, and labels prescribed by this Section and the design and colors specified in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- B. A registrant shall ensure that the word "invisible" immediately precedes the word "radiation" on labels and signs required by this Section for lasers that only produce wavelengths of laser and collateral radiation that are outside of the range of 400 to 710 nanometers.
- C. A registrant shall ensure that the words "visible and invisible" immediately precede the word "radiation" on labels and signs required by this Section for lasers that produce wavelengths of laser and collateral radiation that are both within and outside the range of 400 to 710 nanometers.
- D. A registrant shall position any label placed on lasers or signs posted in laser facilities so that the reader of the label or sign is not exposed to laser or collateral radiation that exceeds the applicable MPE or accessible emission limit while reading the label or sign.
- E. A registrant shall use labels and signs that are clearly visible, legible, and permanently attached to the laser or facility.
- F. A registrant shall ensure that a permanent and legible label is affixed to each laser, identifying the classification of the laser in accordance with 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.
- G. For a Class 3 or Class 4 laser a registrant shall ensure that a permanent and legible label is affixed to each laser, specifying the maximum output of laser radiation, the pulse duration if applicable, and the laser medium or emitted wavelength.
- H. For a Class 3 or Class 4 laser, used in the practice of medicine, a registrant shall ensure that a permanent and legible label is affixed to each laser providing one or more of the following warnings near each aperture that emits laser radiation or collateral radiation that exceeds the applicable MPE, as follows:

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1. "AVOID EXPOSURE - Laser radiation is emitted from this aperture" if the radiation emitted through the aperture is laser radiation;
2. "AVOID EXPOSURE - Hazardous electromagnetic radiation is emitted from this aperture" if the radiation emitted through the aperture is collateral radiation; or
3. "AVOID EXPOSURE - Hazardous x-rays are emitted from this aperture" if the radiation emitted through the aperture is collateral x-ray radiation.

I. A registrant shall ensure that there is a label on each non-interlocked or defeatable interlocked portion of the protective housing or enclosure that permits human access to laser or collateral radiation. The label shall include one or more of the following warnings, as applicable:

1. For laser radiation that exceeds the applicable accessible emission limit for a Class 1 or Class 2 laser, but does not exceed the applicable accessible emission limit for a Class 3 laser, the warning: "DANGER - Laser radiation when open, AVOID DIRECT EXPOSURE TO THE BEAM."
2. For laser radiation that exceeds the applicable accessible emission limit for a Class 3 laser, the warning: "DANGER - Laser radiation when open, AVOID EYE OR SKIN EXPOSURE TO DIRECT OR SCATTERED RADIATION."
3. For collateral radiation that exceeds an applicable accessible emission limit:
 - a. If the applicable limit for collateral laser radiation is exceeded, the warning: "CAUTION - Hazardous electromagnetic radiation when open"; and
 - b. If the applicable limit for collateral x-ray radiation is exceeded, the warning: "CAUTION - Hazardous x-ray radiation".
4. For a protective housing or an enclosure that has a defeatable interlock, the warning "and interlock defeated" in addition to the warnings in subsections (1) through (3).

Historical Note

New Section R9-7-1427 recodified from R12-1-1427 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1428. Reserved**Historical Note**

Section R9-7-1428 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1429. Posting of Laser Facilities

Unless other methods are approved by the Department, a registrant shall post each laser facility in accordance with ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1429 recodified from R12-1-1429 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1430. Reserved**Historical Note**

Section R9-7-1430 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1431. Reserved**Historical Note**

Section R9-7-1431 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1432. Reserved**Historical Note**

Section R9-7-1432 reserved when this Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1433. Laser Use Areas that are Controlled

- A.** A registrant shall establish a controlled area for a laser if it is possible for a person to be exposed to laser radiation from a Class 3b laser, except a Class 3b laser of less than 5 milliwatts visible peak power, or a Class 4 laser that exceeds the applicable MPE or AEL in R9-7-1426.
- B.** A registrant shall ensure that a controlled area associated with a Class 3b laser is:
 1. The responsibility of a LSO;
 2. Posted in accordance with this Article; and
 3. Access controlled by the LSO or a trained, designated representative.
- C.** A registrant shall ensure that a controlled area associated with a Class 4 laser is:
 1. The responsibility of a LSO;
 2. Posted in accordance with this Article;
 3. Access controlled by the LSO or a trained, designated representative; and
 4. If an indoor controlled area:
 - a. Equipped with latches, interlocks, or another means of preventing unexpected entry into the controlled area;
 - b. Equipped with a control-disconnect switch, panic button, or an equivalent device for deactivating the laser during an emergency;
 - c. Operated so that the person in charge of the controlled area can momentarily override the safety interlocks during tests that require continuous operation to provide access to other personnel if there is no optical radiation hazard at the point of entry and the entering personnel are wearing required protective devices; and
 - d. Controlled in a way that reduces the transmitted values of laser radiation through optical paths such as windows, to levels at or below the applicable ocular MPE and AEL in R9-7-1426. If a laser beam with an irradiance or radiant-exposure above the applicable MPE or AEL will exit the indoor controlled area (as in the case of exterior atmospheric beam paths), the registrant and the operator are responsible for ensuring that the beam path is limited to controlled air space or controlled ground space.
- D.** If a panel or protective cover is removed or an interlock bypassed for service, testing, or maintenance, a registrant shall establish an accessible controlled area. The registrant, through a LSO or a designated representative, shall comply with laser safety requirements for all potentially-exposed individuals.

Historical Note

New Section R9-7-1433 recodified from R12-1-1433 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1434. Laser Safety Officer (LSO)

- A.** Each registrant shall designate a Laser Safety Officer (LSO).
- B.** The LSO shall administer the laser radiation protection program and shall:
 1. Ensure that maintenance or service for Class 3b and Class 4 lasers is performed only by technicians trained to pro-

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- vide the maintenance or service by either the manufacturer's service organization or the registrant;
2. Approve or reject written service, maintenance, and operating procedures;
 3. Investigate, document, and report all incidents as required by R9-7-1436;
 4. Select protective eyewear as required by R9-7-1435, along with any other protective equipment;
 5. For health care facilities, establish authorization and operating procedures, including preoperative and postoperative checklists, for use by operating room personnel;
 6. Ensure that authorized personnel are trained in the assessment and control of laser hazards;
 7. Select signs, symbols, and labels as required by R9-7-1427;
 8. Perform laser radiation protection surveys as required by R9-7-1421 and R9-7-1441;
 9. Classify or verify the classification of lasers and laser systems used under the LSO's jurisdiction;
 10. Evaluate the hazard of laser use areas, treatment areas, and controlled areas, as required by R9-7-1421(C).

Historical Note

New Section R9-7-1434 recodified from R12-1-1434 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1435. Laser Protective Eyewear

- A. A registrant shall require that protective eyewear, as specified by the LSO, be worn by an individual who has access to:
 1. Class 4 laser radiation; or
 2. Class 3b laser radiation.
- B. A registrant shall, through the LSO, provide protective eyewear that is:
 1. Marked with a label that indicates the optical density protection afforded for the relevant laser wavelength;
 2. Maintained so that the protective properties of the eyewear are preserved;
 3. Inspected at intervals that do not exceed six months to ensure integrity of the protective properties; and
 4. Removed from service if the protective properties of the eyewear fall below the optical density on the label.
- C. A registrant shall maintain records of protective eyewear maintenance, inspection, and removal from service for five years.

Historical Note

New Section R9-7-1435 recodified from R12-1-1435 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1436. Reporting Laser Incidents

- A. A registrant shall notify the Department by telephone within 24 hours of any incident that has caused or may have caused:
 1. Permanent loss of sight in either eye; or
 2. Third-degree burns of the skin involving more than 5 percent of the body surface as estimated by the rule of nines.
- B. A registrant shall notify the Department by telephone within five working days of any incident that has or may have caused:
 1. Any second-degree burn of the skin larger than one inch (2.54 centimeter) in greatest diameter; or
 2. Any third-degree burn of the skin; or
 3. An eye injury with any potential loss of sight.
- C. Each registrant shall file a written report with the Department of any known exposure of an individual to laser radiation or collateral radiation within 30 days of its discovery, describing:
 1. Each exposure of the individual to laser or collateral radiation that exceeds the applicable MPE; and
 2. Any incident that triggered a notice requirement in subsections (A) or (B).

- D. Each report required by subsection (C) shall describe the extent of exposure to each individual including:
 1. An estimate of the individual's exposure;
 2. The level of laser or collateral radiation involved;
 3. The cause of the exposure; and
 4. The corrective steps taken or planned to prevent a recurrence.
- E. A registrant shall not operate or permit the operation of any laser product or system that does not meet the applicable requirements in this Article.

Historical Note

New Section R9-7-1436 recodified from R12-1-1436 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1437. Special Lasers

A registrant operating a laser system with an unenclosed beam path shall:

1. Conduct an evaluation before operating the laser to determine the expected beam path and the potential hazards from reflective surfaces. Based on the evaluation the registrant shall exclude reflective surfaces from the beam path at all points where the laser radiation exceeds an applicable MPE;
2. Evaluate the stability of the laser platform to determine the constraints placed upon the beam traverse and the extent of the range of control; and
3. Refrain from operating or making a laser ready for operation until the area along all points of the beam path, where the laser radiation will exceed the applicable MPE, is clear of individuals, unless the individuals are wearing the correct protective devices.

Historical Note

New Section R9-7-1437 recodified from R12-1-1437 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1438. Hair Removal and Other Cosmetic Procedures Using Laser and Intense Pulsed Light

- A. In addition to the definitions in A.R.S. § 32-516 and R9-7-102 and R9-7-1402, the following definitions apply in this Section and R9-7-1439 unless otherwise specified:
 1. "Prescribing health professional" means a health professional who is authorized by the health professional's regulatory board to order and use a "prescription-only device," as defined in A.R.S. § 32-1901.
 2. "Cosmetic procedure" means any of the following:
 - a. Hair reduction,
 - b. Skin rejuvenation,
 - c. Non-ablative skin resurfacing,
 - d. Spider vein reduction,
 - e. Skin tightening,
 - f. Wrinkle reduction,
 - g. Laser peel,
 - h. Telangiectasia reduction,
 - i. Acquired adult hemangioma reduction,
 - j. Facial erythema reduction,
 - k. Solar lentigo reduction (age spots),
 - l. Ephelis reduction (freckles),
 - m. Acne scar reduction,
 - n. Photo facial,
 - o. Tattoo removal,
 - p. Cellulite reduction, or
 - q. Another, as approved by the Department after consultation with other health professional boards as defined in A.R.S. § 32-516(F)(3) or 32-3233(D)(1).
- B. A person who seeks to perform hair removal or other cosmetic procedures shall apply for registration, under R9-7-

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1302(F)(7), of any medical laser or IPL device that is a Class II surgical device, certified by the manufacturer as complying with the labeling standards in 21 CFR 801.109, revised June 15, 2016, incorporated by reference, available under R9-7-101, and including no future editions or amendments.

C. An applicant for registration shall submit to the Department:

1. The following information, in a Department-provided format:
 - a. The name, mailing address, billing address if different from the mailing address, telephone number, and email address of the applicant;
 - b. Any other names by which the applicant is known;
 - c. The applicant's type of business organization, including:
 - i. For a corporation, information as registered with the Arizona Corporation Commission;
 - ii. For a partnership, the name and address of each partner and percentage of ownership;
 - iii. For a sole proprietorship, the name of the owner; and
 - iv. For a governmental entity, documentation showing the applicant is a governmental entity;
 - d. The type of facility;
 - e. For the medical laser or IPL device, as applicable:
 - i. The class and type, and
 - ii. The name of the manufacturer and model of the medical laser or IPL device;
 - f. The physical address of the location at which the medical laser or IPL device, as applicable, will be used;
 - g. The name, title, telephone number, and e-mail address of:
 - i. A point of contact for the applicant at the location of use, and
 - ii. A billing point of contact;
 - h. The name, telephone number, and e-mail address of the prescribing health professional who will be responsible for the use of the medical laser or IPL device in subsection (C)(1)(e), including the prescribing health professional's regulatory board and professional license number;
 - i. The name, telephone number, and e-mail address of the Laser Safety Officer required in R9-7-1434;
 - j. Whether the applicant agrees to allow the Department to submit supplemental requests for information under A.R.S. § 41-1075(A);
 - k. Attestation that the prescribing health professional in subsection (C)(1)(h):
 - i. Is qualified in accordance with A.R.S. § 32-516 or 32-3233 and subsection (E);
 - ii. Is responsible for the use of the medical laser or IPL device;
 - iii. If applicable, will provide indirect supervision of a laser technician certified under 9 A.A.C. 16, Article 7, using the medical laser or IPL device for hair removal; and
 - iv. If applicable, will provide direct supervision of a laser technician certified under 9 A.A.C. 16, Article 7, using the medical laser or IPL device for a cosmetic procedure other than hair removal;
 - l. Attestation that the information or documents submitted to the Department are true and correct; and
 - m. The signature of both the applicant and prescribing health professional and the date signed;

2. Documentation for the individual specified according to subsection (C)(1)(c)(iii) or (g)(i), as applicable, that complies with A.R.S. § 41-1080;
3. Documentation demonstrating that the prescribing health professional in subsection (C)(1)(h) meets the requirements in subsection (E);
4. Documentation demonstrating that the Laser Safety Officer in subsection (C)(1)(i) has completed the training specified according to Appendix D; and
5. The fee in Table 13.1(F)(7).

D. If a registrant is using a medical laser or an IPL device in subsection (A), the registrant shall:

1. Designate a Laser Safety Officer, as required in R9-7-1434, who:
 - a. May be the registrant or the prescribing health professional; and
 - b. Has completed the training in Appendix D, as required in R9-7-1421(E);
2. Ensure that policies and procedures are developed, documented, and implemented that:
 - a. Address the applicable requirements in R9-7-1403, R9-7-1421, R9-7-1427, R9-7-1429, R9-7-1433, R9-7-1434, R9-7-1435, and R9-7-1436;
 - b. Include procedures to ensure that the prescribing health professional purchases or orders the medical laser or IPL device;
 - c. If applicable, cover situations in which the prescribing health professional is not present in the facility, according to subsection (D)(8); and
 - d. Cover the knowledge, skills, and experience of individuals authorized to use the medical laser or IPL device;
3. Ensure that the prescribing health professional:
 - a. Has established a written protocol for the application of radiation to a patient for each cosmetic procedure that may be conducted using the medical laser or IPL device, including follow-up instructions for the patient;
 - b. Reviews and, as necessary revises, the written protocols in subsection (D)(3)(a) at least annually; and
 - c. Documents the review in subsection (D)(3)(b) with a signature and date of signature;
4. Ensure that the registrant has a written order from the prescribing health professional before the application of radiation to a patient;
5. Ensure that the medical laser or IPL device is only used by:
 - a. A health professional described in A.R.S. §§ 32-516(F)(3) and 32-3233(D)(1) who meets the requirements in subsection (E);
 - b. A laser technician, certified under 9 A.A.C. 16, Article 7, for the cosmetic procedure to be performed, who:
 - i. When performing a hair removal procedure, is working under the indirect supervision of a prescribing health professional described in A.R.S. §§ 32-516(C)(1) and 32-3233(D) and (H)(1); and
 - ii. When performing a cosmetic procedure other than hair removal, is working under the direct supervision of a prescribing health professional described in A.R.S. §§ 32-516(C)(1) and 32-3233(D) and (H)(1); or
 - c. An individual who has a provisional certificate for course completion issued according to R9-7-1439(E)(3) and:

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- i. Is receiving hands-on training under the supervision of an individual qualified according to R9-7-1439(F)(2); and
 - ii. If applicable, when a prescribing health professional is providing indirect supervision to a supervising laser technician in R9-7-1439(F)(2)(b);
 - 6. Ensure that a laser technician follows the applicable written protocol established by the prescribing health professional according to subsection (D)(3)(a) when applying radiation to a patient using the medical laser or IPL device;
 - 7. Ensure that, at least every six months, the prescribing health professional:
 - a. Observes each laser technician, while the laser technician is performing a hair removal procedure, for adherence to the applicable written protocol in subsection (D)(3)(a); and
 - b. Documents the observation and the assessment in subsection (D)(7)(a);
 - 8. If the registrant is authorized by the Department to conduct hair removal procedures or other cosmetic procedures without a prescribing health professional being present in the facility:
 - a. Establish a method for emergency medical care of a patient; and
 - b. Assume legal liability for the services rendered in the facility by:
 - i. An indirectly-supervised certified laser technician performing hair removal procedures, or
 - ii. A health professional performing any cosmetic procedure;
 - 9. Ensure that a laser technician using the medical laser or IPL device displays a valid original certificate, as issued by the Department under A.A.C. R9-16-703, R9-16-704, or R9-16-705, in a location that is viewable by the public;
 - 10. Ensure that labels and signs are used, according to the applicable requirements in R9-7-1427 and R9-7-1429; and
 - 11. Maintain on the premises of the facility:
 - a. The policies and procedures in subsection (D)(2),
 - b. The written protocols in subsection (D)(3)(a),
 - c. Documentation of the review of the written protocols in subsection (D)(3)(b) for at least three years after the date of the review,
 - d. Documentation of the observation and assessment in subsection (D)(7)(b) for at least three years after the date of the assessment,
 - e. Documentation of the radiation safety training required in subsection (F) for at least three years after the last date of employment, and
 - f. Documentation of the training required in subsection (D)(1)(b) for as long as the individual is acting as a Laser Safety Officer.
 - E. A registrant shall verify that a health professional is qualified to perform a cosmetic procedure using a medical laser or IPL device by obtaining documentation that the health professional:
 - 1. Meets the requirements in A.R.S. §§ 32-516(F)(3) and 32-3233(D)(1); and
 - 2. Has:
 - a. A certificate of completion of 24 hours of didactic training issued to the health professional by a training program according to Appendix C; or
 - b. Has been in practice since before October 1, 2010 and has at least 24 hours of training on the subjects in Appendix C.
 - F. A registrant shall:
 - 1. Provide radiation safety training to all individuals involved with performing cosmetic procedures under subsection (D), consistent with the individual's knowledge, skills, and duties; and
 - 2. Document the radiation safety training, including the date of the training, topics covered, name and qualifications of the individual providing the training, and names of individuals receiving the training.
 - G. A registrant shall ensure that:
 - 1. A medical laser or IPL device is secured so that the medical laser or IPL device cannot be removed from the facility, and
 - 2. The on/off switch is turned to the "off" position with the key removed when a laser technician or a health professional is not present in the room where the medical laser or IPL device is located.
- Historical Note**
 New Section R9-7-1438 recodified from R12-1-1438 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
 Amended by final expedited rulemaking at 30 A.A.R. 164 (January 26, 2004), with an immediate effective date of January 4, 2024 (Supp. 24-1).
- R9-7-1438.01. Repealed**
- Historical Note**
 New Section R9-7-1438.01 recodified from R12-1-1438.01 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Repealed by final expedited rulemaking at 30 A.A.R. 164 (January 26, 2004), with an immediate effective date of January 4, 2024 (Supp. 24-1).
- R9-7-1439. Laser Technician Training Programs**
- A. The Department shall maintain a list of Department-certified training programs for laser technicians according to A.R.S. § 32-3233 on the Department's website at https://docs.google.com/document/u/3/d/e/2PACX-1vT_KRgZkYEV-vg5VRGZzvpWZ-RzMVOWSCo8clPNrxMGQ6z-Lkuyci-UQ_7EEbT7dn6Ps8Lxysg6JNmdd/pub.
 - B. An applicant may request to become a Department-certified training program for laser technicians or renew approval as a Department-certified training program for laser technicians by submitting to the Department an application packet that contains:
 - 1. The following information, in a Department-provided format:
 - a. The name and address of the school providing the training program;
 - b. The name, title, telephone number, and email address of the administrator or designee of the school;
 - c. A list of each training course for which approval is being requested;
 - d. A statement that the applicant will comply with the requirements in subsection (E); and
 - e. The signature and date of signature of the individual specified according to subsection (B)(1)(b);
 - 2. A copy of the syllabus for each course that contains:
 - a. The course title and course description,
 - b. The number of hours of instruction provided,
 - c. The duration of the course,
 - d. The subjects covered,
 - e. Any included learning activities, and

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- f. The name and license number or other credentials of each instructor for the course; and
- 3. A nonrefundable fee of \$100.
- C. The Department shall:
 - 1. Review each application packet specified in subsection (B) according to R9-7-1223;
 - 2. If the application is approved:
 - a. Notify the applicant that certification is issued for 12 months and expires on the last day of the month;
 - b. For an initial certification, add the applicant's school to the list of Department-certified training programs in subsection (A); and
 - c. For a renewal of certification, retain the applicant's school on the list of Department-certified training programs in subsection (A); and
 - 3. If the Department learns of non-compliance with the requirements in subsection (E) or, if applicable (F), remove the training program's school from the list of Department-certified training programs in subsection (A).
- D. A certified training program may provide a course in any of the cosmetic procedures included in the definition in R9-7-1438(A)(2).
- E. The administrator of a Department-certified training program shall ensure that:
 - 1. A course to prepare an individual to become a laser technician:
 - a. Includes at least 40 hours of didactic training;
 - b. Includes federal and state legal requirements;
 - c. Is specific to the medical laser or IPL device in use and the clinical procedures to be performed, including:
 - i. A description of the medical laser or IPL device;
 - ii. Fundamentals of laser radiation or IPL device radiation;
 - iii. The potential biological effects of laser or IPL device light, including absorption and wavelength effects;
 - iv. Operation of the medical laser or IPL device;
 - v. Typical laser or IPL device settings for hair removal or cosmetic procedures; and
 - vi. Criteria for setting the levels of Maximum Permissible Exposure (MPE) for eye and skin associated hazards;
 - d. Addresses hazards associated with laser or IPL device use, including:
 - i. The bioeffects of laser radiation on the eye and skin;
 - ii. Explosive, electrical, chemical, and other hazards; and
 - iii. Thermal effects;
 - e. Addresses safety considerations and methods to minimize the hazards associated with laser or IPL device use, including:
 - i. Controlled access to an area while the laser or IPL device is in use;
 - ii. Use of protective eyewear or other protective devices, as applicable; and
 - iii. Other methods to minimize the hazards associated with laser or IPL device use and to improve safety;
 - f. Addresses treatment considerations, including:
 - i. Anatomy and physiology of skin areas to be treated,
 - ii. Pre- and post-care of a patient,
 - iii. Expected patient response to treatment, and
 - iv. Potential adverse reactions to treatment
 - g. Is provided by a:
 - i. Health professional acting within the health professional's scope of practice; or
 - ii. Laser technician, who is certified under 9 A.A.C. 16, Article 7, with a minimum of 100 hours of hands-on experience using a medical laser or IPL device; and
 - h. Includes an examination for the course that consists of at least 50 multiple-choice questions on the subjects covered;
 - 2. The minimum score for passing the examination in subsection (E)(1)(h) is 80%;
 - 3. An individual who completes the course in subsection (E)(1) and achieves a score of at least 80% on the examination required according to subsection (E)(1)(h) is provided with a provisional certificate for course completion, as specified in A.R.S. § 32-3233(E)(1), that includes:
 - a. Identification of the training program,
 - b. Identification of the 40-hour didactic course completed,
 - c. The name of the individual who completed the course,
 - d. The date the individual completed all course requirements,
 - e. Attestation that the individual has met all course requirements, and
 - f. The signature or electronic signature of the training program administrator and the date of signature or electronic signature; and
 - 4. Documentation related to a course is maintained for at least three years after the end of a course session and includes:
 - a. The syllabus for the course,
 - b. The name and credentials of the individual providing the course,
 - c. The name and attendance record of each individual taking the course, and
 - d. The results of the examination for each individual taking the course.
- F. A Department-certified training program may offer hands-on training in the use of a medical laser or IPL device if:
 - 1. The individual receiving the hands-on training has a provisional certificate for course completion issued according to subsection (E)(3);
 - 2. The hands-on training is supervised by a:
 - a. Health professional acting within the health professional's scope of practice; or
 - b. Laser technician, who is certified under 9 A.A.C. 16, Article 7, with a minimum of 100 hours of hands-on experience using a medical laser or IPL device;
 - 3. For hands-on training in the use of a medical laser or IPL device for hair removal:
 - a. The hands-on training includes at least 24 hours of use of a medical laser or IPL device by the individual while the supervising health professional or laser technician in subsection (F)(2) is present in the room with the individual, and
 - b. The supervising health professional or laser technician verifies the successful completion of the hands-on training by the individual according to subsection (G);
 - 4. For hands-on training in the use of a medical laser or IPL device for a cosmetic procedure other than hair removal:

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- a. The individual receiving the hands-on training has documentation of the successful completion of the hands-on training in subsection (F)(3);
 - b. The individual specifies the types of cosmetic procedures, as specified in subsection (D), on which the individual will receive hands-on training and for which the individual will request certification;
 - c. The hands-on training includes at least 24 hours of use of a medical laser or IPL device for each type of cosmetic procedure specified according to subsection (F)(4)(b) while the supervising health professional or laser technician in subsection (F)(2) is present in the room with the individual;
 - d. The individual performs at least 10 cosmetic procedures of each type specified according to subsection (F)(4)(b); and
 - e. The supervising health professional or laser technician verifies the successful completion of the hands-on training by the individual according to subsection (G); and
5. Documentation related to the hands-on training is maintained for at least three years after the end of the hands-on training and includes:
 - a. The type of cosmetic procedure,
 - b. The type of each medical laser or IPL device used during the hands-on training,
 - c. The name and credentials of the individual providing the hands-on training,
 - d. The name of each individual taking the hands-on training, and
 - e. Any assessments by the individual providing the hands-on training of an individual taking the hands-on training.
- G.** A supervising health professional or laser technician in subsection (F)(2) verifying the successful completion of an individual's hands-on training shall specify the following:
1. The name of the individual completing the hands-on training;
 2. The name, title, e-mail address, and telephone number of the supervising health professional or laser technician, including, as applicable:
 - a. The health professional's professional license number, or
 - b. The laser technician's certification number;
 3. The type of license or certification held by the supervising health professional or laser technician;
 4. Each type of cosmetic procedure on which the individual has completed hands-on training;
 5. An attestation by the supervising health professional or laser technician that:
 - a. The individual specified according to subsection (G)(1) has completed the training according to subsection (F)(3) or (4), as applicable, for each cosmetic procedure specified according to subsection (G)(4);
 - b. The supervising health professional or laser technician was present in the room during the use of a medical laser or IPL device by the individual;
 - c. The supervising health professional or laser technician is qualified, according to A.R.S. § 32-3233, to provide the supervision; and
 - d. The supervising health professional or laser technician understands that, if the Department determines that the supervising health professional or laser technician has falsified documentation related to the hands-on training, the Department may, as applicable:
 - i. Report the falsification to the health professional's licensing board, or
 - ii. Take disciplinary action against the laser technician; and
6. The signature of the supervising health professional or laser technician and date of signing.

Historical Note

New Section R9-7-1439 recodified from R12-1-1439 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 30 A.A.R. 164 (January 26, 2004), with an immediate effective date of January 4, 2024 (Supp. 24-1).

R9-7-1440. Medical Lasers

- A.** A registrant shall ensure that a Class 3 and Class 4 laser product used in the practice of medicine has a means for measuring the level of laser radiation with an error in measurement of no greater than +20%, when calibrated in accordance with the laser product manufacturer's calibration procedure.
- B.** A registrant shall calibrate a laser used in the practice of medicine according to the manufacturer's specified calibration procedure, at intervals that do not exceed those specified by the manufacturer.
- C.** In a medical facility where several medical disciplines or a number of different practitioners use Class 3b and Class 4 lasers, a registrant shall form a Laser Safety Committee to govern laser activity, establish use criteria, and approve operating procedures, as follows:
1. With regard to membership of the committee the registrant shall include at least one representative of the Nursing staff, the LSO, one management representative, and one representative of each medical discipline that uses the lasers;
 2. The committee shall review actions by the LSO related to hazard evaluation and the monitoring and control of laser hazards; and
 3. The committee shall approve or deny requests by potential operators and ancillary personnel to operate or assist in the operation of a laser under the direction of a licensed practitioner.
- D.** A registrant shall use Class 3b and Class 4 Lasers that have a guard mechanism on the switch to control patient exposure and prevent inadvertent exposure.
- E.** A registrant shall establish a written laser safety training program that provides a thorough understanding of established procedures for each type of laser in use and the medical procedures associated with use of the laser. The registrant shall make program documentation available for Department review and, at minimum, address all of the following in the documentation:
1. Regulatory requirements and the laser classification system;
 2. Fundamentals of laser operation and the significance of specular and diffuse reflections;
 3. Biological effects of laser radiation on the eye and skin;
 4. Non-beam hazards (for example: electrical, chemical, and reaction by-product hazards) and ionizing radiation hazards (for example: x-rays from power sources and target interactions, if applicable) of lasers; and
 5. Responsibilities of management and employees regarding control measures.

Historical Note

New Section R9-7-1440 recodified from R12-1-1440 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1441. Laser Light Shows and Demonstrations

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- A. Before a conducting laser light show or laser demonstration, a registrant shall provide documentation to the Department that a variance from 21 CFR 1040.10 has been obtained from the FDA.
- B. A registrant shall notify the Department in writing, at least three working days in before a proposed laser light show or demonstration, and include all of the following information:
 - 1. The location, time, and date of the light show or demonstration;
 - 2. Sketches showing the locations of each laser, operator, performer, laser beam path, viewing screen, wall, mirror ball, or any other reflective or diffuse surface that could be hit by or reflect the laser beam;
 - 3. Scanning beam patterns, scan velocity, and frequency in occupied areas; and
 - 4. Physical surveys and calculations made to comply with this Article.
- C. A registrant shall supply any additional information required by the Department for the safety evaluation of the proposed activity.
- D. Before an outdoor laser light show, a registrant shall notify the Federal Aviation Administration of the proposed show.
- E. If a light show or demonstration involves laser radiation emissions outside the spectral range of 400 to 700 nanometers, a registrant shall prevent the emissions from exceeding the applicable Class 1 accessible emission limit.
- F. If it is likely that an audience member or any operator, performer, or employee will view laser or collateral radiation, a registrant shall prevent the radiation from exceeding the applicable Class 1 accessible emission limit.
- G. Even if it is unlikely that an individual, including any operator, performer, or employee in the vicinity of a laser light show or demonstration will view or be exposed to laser or collateral radiation, a registrant shall prevent the radiation from exceeding the applicable Class 2 accessible emission limit.
- H. A registrant shall identify any area where levels of laser radiation exceed the applicable Class 2 accessible emission limit by posting warning signs and using barriers or guards to prevent entry.
- I. If a registrant uses a scanning device, the registrant shall not use a device which, as a result of scan failure or any other failure, can change its angular velocity or amplitude, permitting audience exposure to laser radiation that exceeds the applicable Class 1 accessible emission limit.
- J. If a mirror ball is used with a scanning laser, a registrant shall meet the requirements of subsections (F) and (G) when the mirror ball is stationary or during any failure mode that results in a change in the rotational speed of the mirror ball.
- K. A registrant shall ensure that an operator is at all times directly and personally supervising a laser light show or demonstration, except in cases where the maximum laser power output level is less than 5 milliwatts (all spectral lines) and the laser beam path is located at all times at least 6 meters above any surface upon which an individual in the audience is permitted to stand, and at any point, more than 2.5 meters in lateral separation from any position where an individual in the audience is permitted during the performance.
- L. A registrant shall prevent laser radiation levels from exceeding the applicable Class 2 accessible emission limit at any point less than three meters above any surface upon which an individual in the audience is permitted to stand and 2.5 meters in lateral separation from any position where an individual in the audience is permitted, unless physical barriers are present that prevent human access to the radiation.
- M. A registrant shall limit the maximum power output of any laser to a level sufficient to produce the desired effect.
- N. If a registrant is required to limit output power to a level less than the available power to meet the requirements of this Article, the registrant shall adjust, measure, and record the laser output power before the laser light show or demonstration.
- O. A registrant shall functionally test and evaluate all safety devices and procedures necessary to comply with this Article after setup, and before a laser light show or demonstration.
- P. A registrant shall secure a laser system, when not in use, against unauthorized operation or tampering.
- Q. A registrant shall perform laser alignment procedures with the laser output power reduced to the lowest practicable level, and ensure that any operator, performer, or other employee wears protective eyewear as necessary to prevent exposure to radiation levels that exceed the applicable MPE. The registrant shall only allow individuals who are performing the alignment be present during alignment procedures.
- R. A registrant shall not conduct a laser light show or demonstration unless the Department has specifically exempted the show or demonstration from the requirements of 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1441 recodified from R12-1-1441 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1442. Measurements and Calculations to Determine MPE Limits for Lasers

A registrant shall take measurements to determine MPE values in a manner consistent with the procedures contained in ANSI Z136.1-2000, American National Standard for Safe Use of Lasers, 2000 edition, which is incorporated by reference, published by the Laser Institute of America, 13501 Ingenuity Drive, Suite 128, Orlando, FL 32826, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1442 recodified from R12-1-1442 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1443. Laser Compliance Measurement Instruments

A registrant shall ensure that the radiation output measurement is performed with an instrument that is calibrated and designed for use with the laser that is being evaluated for compliance. The registrant shall specify the date of calibration, accuracy of calibration, wavelength range, and power or energy of calibration on a legible, clearly visible label attached to the instrument.

Historical Note

New Section R9-7-1443 recodified from R12-1-1443 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1444. Laser Classification Measurements

- A. A registrant shall measure accessible emission for classification:
 - 1. Under the operational conditions and procedures that maximize accessible emission levels, including start-up, stabilized operation, and shutdown of the laser or laser facility;
 - 2. With all controls and adjustments listed in the operating and service instructions adjusted for the maximum accessible emission level of laser radiation that is not expected to be detrimental to the functional integrity of the laser or enclosure;

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3. At points in space to which human access is possible for a given laser configuration. If operations include the defeat of safety interlocks or removal of portions of the protective housing or enclosure, the registrant shall measure accessible emission at points accessible in that configuration;
4. With the measuring instrument detector positioned so that the maximum possible radiation is measured by the instrument; and
5. With the laser coupled to the type of laser energy source specified as compatible by the laser manufacturer and producing the maximum emission of accessible laser radiation.

- B.** A registrant shall perform measurements of accessible emission levels, used to classify laser and collateral radiation in accordance with 21 CFR 1040.10, April 1, 2004, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Department. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R9-7-1444 recodified from R12-1-1444 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix A. Radio Frequency Devices (Include, but are not limited to, the following)

Dielectric heaters and sealers
 Medical diathermy units
 Radar
 R.F. activated alarm systems
 Sputter devices
 R.F. activated lasers
 Edge gluers
 Industrial microwave ovens and dryers
 Asher-etcher equipment
 R.F. welding equipment
 Medical surgical coagulators

Historical Note

New Article 14, Appendix A recodified from 12 A.A.C. 1, Article 14, Appendix A at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix B. Application Information

The Department shall issue a registration if an applicant provides the following information and fee as required in R9-7-1401(D). The Department shall provide an application form to the applicant with a guide and upon request, assist the applicant to ensure that correct information is provided on the application form.

Name and mailing address of applicant
 Person responsible for radiation safety program
 Type of facility
 Legal structure and ownership
 Radiation source information
 Shielding information
 Equipment operator instructions and restrictions
 Classification of professional in charge
 Type of request: amendment, new, or renewal
 Protection survey results, if applicable
 Radiation Safety Officer name, if applicable
 Laser class and type, if applicable
 Information required by Article 14 for the specific source
 Use location
 Telephone number
 Facility subtype
 Signature of certifying agent

Equipment identifiers
 Scale drawing
 Physicist name and training, if applicable
 Contact person
 Applicable fee listed in Article 13 schedule

Historical Note

New Article 14, Appendix B recodified from 12 A.A.C. 1, Article 14, Appendix B at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Appendix C. Health Professional Training Program

1. General Considerations. An applicant shall ensure that:
 - a. The training program is specific to the medical laser or IPL device in use and the clinical procedures to be performed;
 - b. Program content is consistent with facility policy and procedure and applicable federal and state law; and
 - c. The training program addresses hazards associated with laser or IPL device use.
2. Technical Considerations. The applicant's training program shall cover all of the following technical subjects:
 - a. Laser and IPL device descriptions
 - b. Definitions
 - c. Laser and IPL device radiation fundamentals
 - d. Laser mediums, types of lasers, and other light-emitting devices – solid, liquid, gas, and IPL devices
 - e. Biological effects of laser or IPL device light
 - f. Damage mechanisms
 - i. Eye hazard
 - ii. Skin hazard (includes information regarding skin type and skin anatomy)
 - iii. Absorption and wavelength effects
 - iv. Thermal effects
 - g. Photo chemistry
 - h. Criteria for setting the Maximum Permissible Exposure (MPE) for eye and skin associated hazards
 - i. Explosive, electrical, and chemical hazards
 - j. Photosensitive medications
 - k. Fire, ionizing radiation, cryogenic hazards, and other hazards, as applicable
3. Medical Considerations. The applicant's training program shall cover all of the following medical subjects:
 - a. Local anesthesia techniques, including ice, EMLA cream, and other applicable topical treatments
 - b. Typical laser and IPL device settings for hair removal and cosmetic procedures
 - c. Expected patient response to treatment
 - d. Potential adverse reactions to treatment
 - e. Anatomy and physiology of skin areas to be treated
 - f. Indications and contraindications for use of pigment and vascular-specific lasers for cutaneous procedures
4. General Laser or IPL device safety. The applicant's training program shall cover the following general safety subjects:
 - a. Laser and IPL device classifications
 - b. Control measures (includes information regarding protective equipment)
 - c. Manager and operator responsibilities
 - d. Medical surveillance practices
 - e. Federal and state legal requirements
 - f. Related safety issues
 - i. Controlled access
 - ii. Plume management

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- iii. Equipment testing, aligning, and troubleshooting

Historical Note

New Article 14, Appendix C recodified from 12 A.A.C. 1, Article 14, Appendix C at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 30 A.A.R. 164 (January 26, 2004), with an immediate effective date of January 4, 2024 (Supp. 24-1).

Appendix D. Laser Operator and Laser Safety Officer Training

1. Operators and personnel that work around lasers:
 - a. Fundamentals of laser operation (for example: physical principles, construction, and other basic information)
 - b. Bioeffects of laser radiation on the eye and skin
 - c. Significance of specular and diffuse reflections
 - d. Non-beam hazards of lasers (for example: electrical, chemical, and reaction byproducts)
 - e. Ionizing radiation hazards (includes information regarding x-rays from power sources and target interactions, if applicable)
 - f. Laser and laser system classifications
 - g. Control measures
 - h. Responsibilities of managers and operators
 - i. Medical surveillance practices (if applicable)
 - j. CPR for personnel servicing lasers with exposed high voltages, the capability of producing potentially lethal electrical currents, or both.
2. The LSO or other individual responsible for the safety program, evaluation of hazards, and implementation of control measures, or any others, if directed by management to obtain a thorough knowledge of laser safety:
 - a. The subjects covered in subsection (1)
 - b. Laser terminology
 - c. Laser types, wavelengths, pulse shapes, modes, power and energy
 - d. Basic radiometric units and measurement devices
 - e. MPE levels for eye and skin under all conditions
 - f. Laser hazard evaluations, range equations, and other calculations
3. Technical Considerations
 - a. Laser and IPL device descriptions
 - b. Definitions
 - c. Laser and IPL device radiation fundamentals
 - d. Laser mediums, types of lasers, and other light-emitting devices (includes information regarding diodes and solid, liquid, gas, and IPL devices)
 - e. Biological effects of laser or IPL device light
 - f. Damage mechanisms
 - i. Eye hazard
 - ii. Skin hazard (includes information regarding skin type and skin anatomy)
 - iii. Absorption and wavelength effects
 - iv. Thermal effects
 - g. Photo chemistry
 - h. Photosensitive medications
 - i. Criteria for setting the Maximum Permissible Exposure (MPE) levels for eye and skin associated hazards
 - j. Explosive, electrical, and chemical hazards
 - k. Fire, ionizing radiation, cryogenic hazards, and other hazards as applicable.

Historical Note

New Article 14, Appendix D recodified from 12 A.A.C. 1, Article 14, Appendix D at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 15. TRANSPORTATION**R9-7-1501. Requirement for License**

- A. A person shall not transport radioactive material or deliver radioactive material to a carrier for transport unless the person is authorized in a general or specific license issued by the Department or exempt under R9-7-103(A).
- B. This Article applies to any licensee to transfer licensed material if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on public highways. No provision of this Article authorizes possession of licensed material.

Historical Note

New Section R9-7-1501 recodified from R12-1-1501 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1502. Definitions

Terms defined in Article 1 have the same meaning when used in this Article.

Historical Note

New Section R9-7-1502 recodified from R12-1-1502 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1503. Transportation of Licensed Material

Each licensee that transports licensed material outside the site of usage, as specified in a Department license, or where transport is on public highways, or that delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the U.S. Department of Transportation regulations listed in 10 CFR 71.5, revised January 1, 2008, incorporated by reference and available under R9-7-101. This incorporated material contains no future editions or amendments.

Historical Note

New Section R9-7-1503 recodified from R12-1-1503 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1504. Intrastate Transportation and Storage of Radioactive Materials

- A. A general license is issued to:
 1. Any common or contract carrier not exempt under R9-7-103 to receive, possess, transport, and store radioactive material in the regular course of carriage for others or to store radioactive material incident to the transport activities, provided the transportation or storage is in accordance with applicable requirements for the mode of transport of the U.S. Department of Transportation, 49 CFR 171 through 180, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
 2. Any private carrier or licensee who transports and stores radioactive material, provided the transportation and storage are in accordance with the requirements applicable to the mode of transport, of the U.S. Department of Transportation, 49 CFR 171 through 180, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

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- B. Any notification of incidents required under federal regulations in subsection (A) shall also be filed with, or made to, the Department.
- C. A person who transports or stores radioactive material according to the general license in this Section is exempt from the requirements of Article 4 and Article 10 of this Chapter to the extent that this Section applies to transportation of the radioactive material.

Historical Note

New Section R9-7-1504 recodified from R12-1-1504 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1505. Storage of Radioactive Material in Transport

- A. A carrier shall not store, for any period in excess of 72 hours, any package that contains radioactive material bearing a Department of Transportation Yellow II or Yellow III label, unless the radioactive material is stored in an area other than, and not adjacent to, any food storage area or area that is normally occupied by an individual.
- B. A carrier shall not store a package that contains radioactive material with other hazardous materials, except as authorized by U.S. Department of Transportation regulations in 49 CFR 177.848, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C. Whenever a package containing radioactive material is stored in excess of 48 hours, the storage area shall be conspicuously posted according to the requirements of Article 4.
- D. When transit is interrupted and storage is required for an extended period, the following requirements apply:
 - 1. When radioactive materials are stored for longer than 48 hours during transit, the carrier shall notify the local fire department and provide the following information:
 - a. Warehouse location and carrier name and telephone number;
 - b. Radionuclide(s);
 - c. Activity per package in curies or becquerels and number of packages;
 - d. Form (solid, metallic, liquid, gas);
 - e. Flammability (if flammable);
 - f. Specific location in warehouse;
 - g. Estimated date of departure;
 - h. Toxicity (if toxic).
 - 2. If the radioactive material will be, or has been in storage for longer than 90 days, the carrier shall notify the Department in writing and include the information required in subsection (D)(1).
 - 3. The licensee or carrier shall immediately notify the Department of Public Safety of an accident involving radioactive material.

Historical Note

New Section R9-7-1505 recodified from R12-1-1505 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1506. Preparation of Radioactive Material for Transport

A licensee shall not deliver any package that contains radioactive material to a carrier for transport or transport radioactive material, unless the licensee:

- 1. Complies with the U.S. Department of Transportation packaging, monitoring, manifesting, marking, and labeling regulations applicable to the mode of transport, (Contained in 49 CFR 171 through 180, revised October 1, 2007, or 39 CFR 111.1, revised July 1, 2007, incorporated by reference, and available under R9-7-101. This

incorporated material contains no future editions or amendments.); and

- 2. Establishes procedures for safely opening and closing packages in which radioactive material is transported; and
- 3. Prior to delivery of a package to a carrier for transport, assures that:
 - a. The package is properly closed, and
 - b. Any special instructions needed to safely open the package are made available to the consignee.

Historical Note

New Section R9-7-1506 recodified from R12-1-1506 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1507. Packaging Quality Assurance

- A. A licensee that transports radioactive material in the course of business or delivers radioactive material to a carrier for transport in a package for which a license, certificate of compliance, applicant for a certificate of compliance, or other approval has been issued by the Nuclear Regulatory Commission, or meets the applicable criteria (10 CFR 71, Subpart H), shall establish, maintain, and execute the quality assurance program specified in 10 CFR 71, Subpart H.
- B. The transportation of radioactive material shall be in accordance with the requirements in 10 CFR Part 71, with the exception of the following sections: 71.2, 71.6, 71.11, 71.14(b), 71.19, 71.31, 71.33, 71.35, 71.37, 71.38, 71.39, 71.41, 71.43, 71.45, 71.51, 71.52, 71.53, 71.55, 71.59, 71.61, 71.63, 71.64, 71.65, 71.70, 71.71, 71.73, 71.74, 71.75, 71.77, 71.85(a)-(c), 71.91(b), 71.99, 71.100, 71.101(c)(2), 71.101(g), 71.107, 71.109, 71.111, 71.113, 71.115, 71.117, 71.119, 71.121, 71.123 and 71.125. The provisions of this subsection apply to the transportation of radioactive material, or delivery of radioactive material to a carrier for transportation, regardless of whether or not the carrier is also subject to the rules and regulations of the NRC contained in 10 CFR Part 71 and other agencies of the United States having jurisdiction.
- C. In addition to the requirements in subsection (A) for a quality assurance program, a licensee shall verify by procedures such as checking or inspection, that deficiencies or defective material or equipment relative to the shipment of packages containing radioactive material are promptly identified and corrected.
- D. Before the first use of any Type B packaging, a licensee shall obtain approval of its quality assurance program by the Department.
- E. A licensee shall maintain sufficient written records to demonstrate compliance with the quality assurance program. Records of quality assurance pertaining to the use of a Type B package for shipment of radioactive material shall be maintained for three years after the package is used for a shipment.

Historical Note

New Section R9-7-1507 recodified from R12-1-1507 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1508. Advance Notification of Nuclear Waste Transportation

- A. Prior to the transport of any nuclear waste, as defined in Article 1, outside of the confines of the licensee's facility or other place of use or storage, or prior to the delivery of any nuclear waste to a carrier for transport, each licensee shall provide advance notification of such transport to the Department.

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- B.** Each advance notification required in subsection (A) above shall contain the following information:
1. The name, address, and telephone number of the shipper, carrier, and receiver of the shipment;
 2. A description of the nuclear waste contained in the shipment as required by 49 CFR 172.202 and 172.203(d) (Revised October 1, 2007, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.);
 3. The point of origin of the shipment and the seven-day period during which departure of the shipment will occur;
 4. The seven-day period during which arrival of the shipment at state boundaries will occur;
 5. The destination of the shipment, and the seven-day period during which arrival of the shipment will occur; and
 6. A point of contact with a telephone number for current shipment information.
- C.** The licensee shall make the notification required by subsection (A) in writing to the Department. A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur. The licensee shall maintain a copy of the notification for one year.
- D.** The licensee shall notify the Department of any changes in shipment plans, including cancellations, rerouting, or rescheduling, provided pursuant to subsection (A). Such notification shall be by telephoning the Department. The licensee shall maintain for one year a record of the name of the individual contacted.
- E.** After June 11, 2013, each licensee shall provide advance notification to the Tribal official of participating Tribes referenced in paragraph (c)(3)(iii) of 10 CFR 71.97, or the official's designee, of the shipment of licensed material, within or across the boundary of the Tribe's reservation, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.
- D.** The general license applies only to packages labeled with a CSI which:
1. Has been determined in accordance with subsection (E);
 2. Has a value less than or equal to 100; and
 3. For a shipment of multiple packages containing Pu-Be sealed sources, the sum of the CSIs must be less than or equal to 50 (for shipment on a nonexclusive use conveyance) and less than or equal to 100 (for shipment on an exclusive use conveyance).
- E.** The value for the CSI must be greater than or equal to the number calculated by the following equation:
1. $CSI = 10[(\text{grams of } ^{239}\text{Pu} + \text{grams of } ^{241}\text{Pu})/24]$,
 2. The calculated CSI must be rounded up to the first decimal place.

Historical Note

New Section R9-7-1509 recodified from R12-1-1509 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1510. Packaging

- A.** A general license is issued to any licensee to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the NRC.
1. This general license applies only to a licensee that has a quality assurance program approved by the Department as satisfying R9-7-1507;
 2. This general license applies only to a licensee that:
 - a. Has a copy of the license, certificate of compliance, or other approval of the package, and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;
 - b. Complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of this Article;
 - c. Before the licensee's first use of the package, submits in writing to the Department and to ATTN: Document Control Desk, Director, Division of Fuel Management, Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in 10 CFR 71.1(a), the licensee's name, license number, and the package identification number specified in the package approval;
 - d. The licensee shall make available to the Department for inspection, upon reasonable notice, all records required by this part. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated; and
 - e. The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by 10 CFR 71.85; design, fabrication, and assembly records; results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and results of maintenance, modification, and repair activities. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. These records must be retained for three years after the life of the packaging to which they apply.
 3. This general license applies only when the package approval authorizes use of the package under this general license.

Historical Note

New Section R9-7-1508 recodified from R12-1-1508 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).
Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-1509. General License: Plutonium-Beryllium Special Form Material

- A.** A general license is issued to any licensee of the Department to transport fissile material in the form of plutonium-beryllium (Pu-Be) special form sealed sources, or to deliver Pu-Be sealed sources to a carrier for transport, if the material is shipped in accordance with this Article. This material must be contained in a Type A package. The Type A package must also meet the DOT requirements of 49 CFR 173.417(a), revised October 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B.** The general license applies only to a licensee who has a quality assurance program approved by the Department as satisfying the provisions of R9-7-1507.
- C.** The general license applies only when a package's contents:
1. Contain no more than a Type A quantity of radioactive material; and
 2. Contain less than 1000 g of plutonium, provided that: plutonium-239, plutonium-241, or any combination of these radionuclides, constitutes less than 240 g of the total quantity of plutonium in the package.

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4. For a Type B or fissile material package, the design of which was approved by NRC before April 1, 1996, the general license is subject to the additional restrictions of subsection (B).
- B. Type B packages.**
 1. Before the first use of any packaging for the shipment of licensed material, refer to 10 CFR 71.85 (a), (b) and (c).
 2. A Type B(U) package, a Type B(M) package, a low specific activity (LSA) material package or a fissile material package, previously approved by the NRC but without the “-85” designation in the identification number of the NRC certificate of compliance, may be used under the general license of subsection (A) with the following additional conditions:
 - a. Fabrication of the packaging is satisfactorily completed by April 1, 1999 as demonstrated by application of its model number in accordance with 10 CFR 71.85(c);
 - b. A package that is used for a shipment to a location outside the United States is subject to multilateral approval as defined in 49 CFR 173.403, revised January 8, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; and
 - c. A serial number which uniquely identifies each package which conforms to the approved design and is assigned to, and legibly and durably marked on, the outside of each package.
 3. A licensee may modify the design and authorized contents of a Type B package, or a fissile material package, previously approved by NRC, provided:
 - a. The modifications of a Type B package are not significant with respect to the design, operating characteristics, or safe performance of the containment system, when the package is subjected to the tests specified in 10 CFR 71.71 and 71.73;
 - b. The modifications of a fissile material package are not significant, with respect to the prevention of criticality, when the package is subjected to the tests specified in 10 CFR 71.71 and 71.73; and
 - c. The modifications to the package satisfy the requirements of this Section.
 4. The NRC will revise the package identification number to designate previously approved package designs as B(U), B(M), AF, BF, or A as applicable, and with the identification number suffix “-85” after receipt of an application demonstrating that the design meets the requirements of this Section.
 5. For purposes of this Section, package types are defined in 10 CFR 71.4.
- C. A general license is issued to any licensee of the Department to transport fissile material, or to deliver to a carrier for transport, licensed material in a specification container for fissile material or for a Type B quantity of radioactive material as specified in 49 CFR 173, revised July 16, 2018, and 49 CFR 178, revised March 11, 2013, incorporated by reference, available under R9-7-101, and containing no future editions or amendments, if the following requirements are met:**
 1. The licensee maintains a quality assurance program approved by the Department as satisfying R9-7-1507;
 2. The licensee:
 - a. Maintains a copy of the specification; and
 - b. Complies with the terms and conditions of the specification and the applicable requirements in 10 CFR 71, Subparts A, G, and H;
 3. The licensee does not use the specification container for a shipment to a location outside the United States, except by multilateral approval, as defined in 49 CFR 173.403, revised January 1, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments;
 4. The general license applies only when a package’s contents:
 - a. Contain no more than a Type A quantity of radioactive material; and
 - b. Contain less than 500 total grams of beryllium, graphite, or hydrogenous material enriched in deuterium;
 5. The general license applies only to packages containing fissile material that are labeled with a CSI which:
 - a. Has been determined in accordance with subsection (E);
 - b. Has a value less than or equal to 10; and
 - c. For a shipment of multiple packages containing fissile material, the sum of the CSIs must be less than or equal to 50 (for shipment on a nonexclusive use conveyance) and less than or equal to 100 (for shipment on an exclusive use conveyance); and
 6. The CSI value meets the following requirements:
 - a. The value for the CSI must be greater than or equal to the number calculated by the following equation: $CSI=10[(\text{grams of } 235\text{U}/X) + (\text{grams of } 235\text{U}/Y) + (\text{grams of } 235\text{U}/Z)]$;
 - b. The calculated CSI must be rounded up to the first decimal place;
 - c. The values of X, Y, and Z used in the CSI equation must be taken from Tables 71-1 or 71-2 as appropriate located in 10 CFR 71.22;
 - d. If Table 71-2 is used to obtain the value of X, then the values for the terms in the equation for uranium-233 and plutonium must be assumed to be zero; and
 - e. Table 71-1 values for X, Y, and Z must be used to determine the CSI if:
 - i. Uranium-233 is present in the package;
 - ii. The mass of plutonium exceeds 1 percent of the mass of uranium-235;
 - iii. The uranium is of unknown uranium-235 enrichment or greater than 24 weight percent enrichment; or
 - iv. Substances having a moderating effectiveness (i.e., an average hydrogen density greater than H₂O) (e.g., certain hydrocarbon oils or plastics) are present in any form, except as polyethylene used for packing or wrapping.
- D. Foreign packaging.**
 1. A general license is issued to any licensee of the Department to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has been revalidated by the Federal Department of Transportation as meeting the applicable requirements of 49 CFR 171.23, revised March 30, 2017, incorporated by reference, available under R9-7-101, and containing no future editions or amendments.
 2. Except as otherwise provided in this Section, the general license applies only to a licensee who has a quality assurance program approved by the Department as satisfying the applicable provisions of R9-7-1507.
 3. This general license applies only to:
 - a. Shipments made to or from locations outside the United States.

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- b. A licensee that:
 - i. Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken before shipment; and
 - ii. Complies with the terms and conditions of the certificate and revalidation, and with the applicable requirements in 10 CFR 71, Subparts A, G, and H, revised September 9, 2015.
- E. Routine determination before each shipment of licensed material shall ensure that the package with its contents satisfies the applicable requirements of this Article and of the license. The licensee shall determine that:
 - 1. The package is proper for the contents to be shipped;
 - 2. The package is in unimpaired physical condition except for superficial defects such as marks or dents;
 - 3. Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;
 - 4. Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;
 - 5. Any pressure relief device is operable and set in accordance with written procedures;
 - 6. The package has been loaded and closed in accordance with written procedures;
 - 7. For fissile material, any moderator or neutron absorber, if required, is present and in proper condition;
 - 8. Any structural part of the package that could be used to lift or tie down the package during transport is rendered inoperable for that purpose, unless it satisfies the design requirements of 10 CFR 71.45;
 - 9. The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable, and within the limits specified in DOT regulations in 49 CFR 173.443, revised July 11, 2014, incorporated by reference, available under R9-7-101, and containing no future editions or amendments;
 - 10. External radiation levels around the package and around the vehicle, if applicable, will not exceed the limits specified in 10 CFR 71.47, at any time during transportation; and
 - 11. Accessible package surface temperatures will not exceed the limits specified in 10 CFR 71.43(g), at any time during transportation.
- F. Fissile material meeting the requirements of at least one of the conditions in subsections (F)(1) through (F)(6) are exempt from classification as fissile material and from the fissile material package standards of 10 CFR 71.55 and 71.59, but are subject to all other requirements of this part, except as noted.
 - 1. Individual package containing 2 grams or less fissile material.
 - 2. Individual or bulk packaging containing 15 grams or less of fissile material provided the package has at least 200 grams of solid nonfissile material for every gram of fissile material. Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass for solid nonfissile material.
 - 3. Low concentrations of solid fissile material commingled with solid nonfissile material, provided that:
 - a. There is at least 2000 grams of solid nonfissile material for every gram of fissile material;
 - b. There is no more than 180 grams of fissile material distributed within 360 kg of contiguous nonfissile material; and
 - c. Lead, beryllium, graphite, and hydrogenous material enriched in deuterium may be present in the package but must not be included in determining the required mass of solid nonfissile material.
- 4. Uranium enriched in uranium-235 to a maximum of 1 percent by weight, and with total plutonium and uranium-233 content of up to 1 percent of the mass of uranium-235, provided that the mass of any beryllium, graphite, and hydrogenous material enriched in deuterium constitutes less than 5 percent of the uranium mass, and that the fissile material is distributed homogeneously and does not form a lattice arrangement within the package.
- 5. Liquid solutions of uranyl nitrate enriched in uranium-235 to a maximum of 2 percent by mass, with a total plutonium and uranium-233 content not exceeding 0.002 percent of the mass of uranium, and with a minimum nitrogen to uranium atomic ratio (N/U) of 2. The material must be contained in at least a DOT Type A package.
- 6. Packages containing, individually, a total plutonium mass of not more than 1000 grams, of which not more than 20 percent by mass may consist of plutonium-239, plutonium-241, or any combination of these radionuclides.

Historical Note

New Section R9-7-1510 recodified from R12-1-1510 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1511. Air Transport of Plutonium

- A. Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this Section or included indirectly by citation of 49 CFR 107, and 171 through 180, previously incorporated in this Article, as may be applicable, the licensee shall ensure that plutonium in any form, whether for import, export, or domestic shipment, is not transported by air or delivered to a carrier for air transport unless:
 - 1. The plutonium is contained in a medical device designed for individual human application; or
 - 2. The plutonium is contained in a material in which the specific activity is less than or equal to the activity concentration values for Plutonium specified in 10 CFR 71, Appendix A, Table A-2 (Revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.), and in which the radioactivity is essentially uniformly distributed; or
 - 3. The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form, and is shipped in accordance with R9-7-1503 and 10 CFR 71.5 (Revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.); or
 - 4. The plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for that package issued by the NRC.
- B. Nothing in subsection (A) is to be interpreted as removing or diminishing the requirements of 10 CFR 73.24, January 1, 2008, incorporated by reference, and available under R9-7-

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101. This incorporated material contains no future editions or amendments.

- C. For a shipment of plutonium by air that is subject to subsection (A)(4), the licensee shall, through special arrangement with the carrier, require compliance with 49 CFR 175.704, revised October 1, 2007, incorporated by reference, and available under R9-7-101. This U.S. Department of Transportation regulation is applicable to the air transport of plutonium. This incorporated material contains no future editions or amendments.

Historical Note

New Section R9-7-1511 recodified from R12-1-1511 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1512. Advance Notification of Shipment of Irradiated Reactor Fuel and Nuclear Waste

- A. A licensee shall provide advance notification to the Governor, or the Director of the Department, of the shipment of licensed material as specified in 10 CFR 71.97, revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B. After June 11, 2013, each licensee shall provide advance notification to the Tribal official of participating Tribes referenced in paragraph (c)(3)(iii) of 10 CFR 71.97, or the Tribal official's designee, of the shipment of licensed material, within or across the boundary of the Tribe's reservation, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.
- C. Advance notification is also required under this Section for the shipment of licensed material, other than irradiated fuel, meeting the following three conditions:
1. The licensed material is required by this Chapter to be in Type B packaging for transportation;
 2. The licensed material is being transported to or across a State boundary en route to a disposal facility or to a collection point for transport to a disposal facility; and
 3. The quantity of licensed material in a single package exceeds the least of the following:
 - a. 3000 times the A1 value of the radionuclides as specified in appendix A, Table A-1 for special form radioactive material;
 - b. 3000 times the A2 value of the radionuclides as specified in appendix A, Table A-1 for normal form radioactive material; or
 - c. 1000 TBq (27,000 Ci).
- D. Procedures for submitting advance notification.
1. The advance notification shall be made in writing to:
 - a. The office of each appropriate Governor or Governor's designee;
 - b. For the portion of the route through Arizona, the Department;
 - c. The office of each appropriate Tribal official or Tribal official's designee; and
 - d. The Director, Division of Security Policy, Office of Nuclear Security and Incident Response.
 2. A notification delivered by:
 - a. Mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur; and
 - b. Any means other than mail must reach the Office of the Governor or of the Governor's designee or the Tribal official or Tribal official's designee at least four days before the beginning of the seven-day

period during which departure of the shipment is estimated to occur.

3. Contact information for each State and participating Tribes, including telephone and mailing addresses of Governors and Governors' designees and of Tribal officials and Tribal official's designees, including telephone and mailing addresses, is available:
 - a. At <https://scp.nrc.gov/special/designee.pdf>; or
 - b. Or on request from the Director, Division of Materials Safety, Security, State, and Tribal Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.
4. Notification to the Department:
 - a. By mail addressed to: ATTN: Arizona Department of Health Services; Bureau of Radiation Control; Radioactive Materials Program; 4814 South 40th Street, Phoenix, Arizona 85040;
 - b. By hand delivery to the Department's offices at 4814 South 40th Street, Phoenix, Arizona 85040;
 - c. By electronic submission, ram@azdhs.gov; and
 - d. By telephone at 480-202-4982.
5. Each advance notification shall contain the following information:
 - a. The name, address, and telephone number of the shipper, carrier, and receiver of the irradiated reactor fuel or nuclear waste shipment;
 - b. The license numbers of the shipper and receiver;
 - c. A description of the irradiated reactor fuel or nuclear waste contained in the shipment, including the radionuclides and quantity;
 - d. The point of origin of the shipment and the estimated time and date that departure of the shipment will occur;
 - e. The estimated time and date that the shipment is expected to enter each State or Tribal reservation boundary along the route;
 - f. The destination of the shipment, and the estimated time and date of arrival of the shipment at the destination; and
 - g. A point of contact, with a telephone number, for current shipment information.
- E. Revision notice: A licensee shall contact by telephone each individual previously notified according to subsection (D)(1) to provide any information not previously available at the time of the initial notification or any changes to the information previously provided as soon as the information becomes available.
- F. Cancellation notice: Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice:
 1. To each individual previously notified according to subsections (D)(1) through (4),
 2. Before the shipment would have commenced or as soon thereafter as possible, and
 3. Identifying the advance notification to which the notice of cancellation pertains and stating in the notice that the shipment is cancelled.
- G. Records: A licensee shall retain a copy of the advance notification and any revision notices or cancellation notices as a record for at least three years.

Historical Note

New Section R9-7-1512 recodified from R12-1-1512 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R.

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2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-1513. Opening Instructions

Before delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to safely open the package have been sent to, or otherwise made available to, the consignee for the consignee's use in accordance with 10 CFR 20.1906(e) revised January 1, 2010, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

Historical Note

New Section R9-7-1513 recodified from R12-1-1513 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1514. Records

- A.** Each licensee shall maintain, for a period of three years after shipment, a record of each shipment of licensed material not exempt under R9-7-1515, showing where applicable:
1. Identification of the packaging by model number and serial number;
 2. Verification that there are no significant defects in the packaging, as shipped;
 3. Volume and identification of coolant;
 4. Type and quantity of licensed material in each package, and the total quantity of each shipment;
 5. For each item of irradiated fissile material:
 - a. Identification by model number and serial number;
 - b. Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and
 - c. Any abnormal or unusual condition relevant to radiation safety;
 6. Date of the shipment;
 7. For fissile packages and for Type B packages, any special controls exercised;
 8. Name and address of the transferee;
 9. Address to which the shipment was made; and
 10. Results of the determinations required by R9-7-1510(E) and by the conditions of the package approval.
- B.** The licensee shall make available to the Department for inspection, upon reasonable notice, all records required by this Chapter. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated.
- C.** The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. The records to be maintained include results of the determinations required by R9-7-1507; design, fabrication, and assembly records; results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and results of maintenance, modification, and repair activities. Inspection, test, and audit records must identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. These records must be retained for three years after the life of the packaging to which they apply.
- D.** Each record required by this Chapter must be legible throughout the retention period specified by each Department regulation. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete

records during the required retention period. Records such as letters, drawings, and specifications must include all pertinent information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

Historical Note

Section R9-7-1514 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1). New Section made by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1515. Exemption for Low-level Radioactive Materials

- A.** A licensee is exempt from all the requirements of 10 CFR 71 with respect to shipment or carriage of the low-level materials listed in 10 CFR 71.14(a), revised January 1, 2008, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- B.** Natural material and ores containing naturally occurring radionuclides that are either in their natural state, or have only been processed for purposes other than for the extraction of the radionuclides, and which are not intended to be processed for the use of these radionuclides, provided the activity concentration of the material does not exceed 10 times the applicable radionuclide activity concentration values specified in appendix A, Table A-2, or Table A-3 of this part.
- C.** Materials for which the activity concentration is not greater than the activity concentration values specified in appendix A, Table A-2, or Table A-3 of this part, or for which the consignment activity is not greater than the limit for an exempt consignment found in appendix A, Table A-2, or Table A-3 of 10 CFR 71 Appendix A.
- D.** Non-radioactive solid objects with radioactive substances present on any surfaces in quantities not in excess of the levels cited in the definition of contamination in 10 CFR 71.4.

Historical Note

New Section R9-7-1515 recodified from R12-1-1515 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

ARTICLE 16. RESERVED**ARTICLE 17. WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES****R9-7-1701. Definitions**

"Energy compensation source (ECS)" means a small sealed source, with activity that does not exceed 3.7 Mbq (100 microcuries), contained within a logging tool or other tool component.

"Tritium neutron generator target source" means a tritium source contained within a tritium neutron generator tube that produces neutrons for use in well logging applications.

Historical Note

New Section R9-7-1701 recodified from R12-1-1701 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1702. Agreement with Well Owner or Operator

- A.** A licensee that performs wireline service (well logging) with a sealed source shall enter into a written agreement with the employing well owner or operator that identifies the party responsible for complying with each of the following requirements. The responsible party shall:
1. Make a reasonable effort to recover any sealed source that may be lodged in the well;

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2. Not attempt to recover a sealed source in a manner which, in the licensee's opinion, is likely to result in its rupture;
3. Perform the radiation monitoring required in R9-7-1723(A);
4. Decontaminate anyone or anything contaminated with licensed material before releasing personnel or equipment from the site or releasing the site for unrestricted use; and
5. If a source is classified by the Department as irretrievable after reasonable efforts at recovery, implement the following requirements within 30 days:
 - a. Immobilize the irretrievable well logging source and seal it in place with a cement plug;
 - b. Provide a means to prevent inadvertent intrusion that could damage the source, unless the site is rendered inaccessible to subsequent drilling operations; and
 - c. Mount a permanent identification plaque, constructed of long-lasting material, such as stainless steel, brass, bronze, or Monel, in a conspicuous location adjacent to the well. The responsible party shall ensure that the plaque size is at least 17 cm (7 inches) square and 3 mm (1/8 inch) thick and the following information is written on the plaque:
 - i. The word "CAUTION,"
 - ii. The radiation symbol (the color requirement in R9-7-428(A) does not apply),
 - iii. The date the source was abandoned,
 - iv. The name of the well owner or operator that employed the licensee;
 - v. The well name and identification number or other designation,
 - vi. An identification of each source by radionuclide and quantity of radionuclide,
 - vii. The depth of the source and depth to the top of the plug, and
 - viii. The following warning, "DO NOT RE-ENTER THIS WELL," and
 - d. Notify the Oil and Gas Conservation Commission, Department of Water Resources, or Department of Environmental Quality of the abandoned source, as required by law.

- B. A licensee shall maintain a copy of the agreement at the field station during logging operations. The licensee shall retain a copy of the written agreement for three years after completion of the well logging operation.
- C. A licensee may apply in accordance with A.R.S. § 30-654(B)(13) for Department approval, on a case-by-case basis, of proposed procedures to abandon an irretrievable well logging source in a manner not otherwise authorized in subsection (A)(5).
- D. A written agreement between the licensee and the well owner or operator is not required if the licensee and the well owner or operator are employed by the same corporation or other business entity. If so, the licensee shall comply with the requirements in subsections (A)(1) through (A)(5).

Historical Note

New Section R9-7-1702 recodified from R12-1-1702 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1703. Limits on Levels of Radiation

A person in possession of any source of radiation shall transport the source according to 9 A.A.C. 7, Article 15, and use or store the source in a manner that is consistent with the dose limits in 9 A.A.C. 7, Article 4.

Historical Note

New Section R9-7-1703 recodified from R12-1-1703 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1704. Reserved**Historical Note**

Section R9-7-1704 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1705. Reserved**Historical Note**

Section R9-7-1705 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1706. Reserved**Historical Note**

Section R9-7-1706 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1707. Reserved**Historical Note**

Section R9-7-1707 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1708. Reserved**Historical Note**

Section R9-7-1708 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1709. Reserved**Historical Note**

Section R9-7-1709 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1710. Reserved**Historical Note**

Section R9-7-1710 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1711. Reserved**Historical Note**

Section R9-7-1711 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1712. Storage Precautions

- A. A person storing or transporting a source of radiation shall place the source in an approved storage container, transport container, or both. The container or combination of containers shall have a lock, or tamper-proof seal for calibration sources, to prevent unauthorized removal of the source and exposure to radiation.
- B. A person storing or transporting a source of radiation shall store the source in a manner that will minimize danger from explosion or fire.

Historical Note

New Section R9-7-1712 recodified from R12-1-1712 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1713. Transportation Precautions

Each licensee shall ensure that transport containers are physically secured in the transporting vehicle to prevent accidental movement, loss, tampering, or unauthorized removal.

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Historical Note

New Section R9-7-1713 recodified from R12-1-1713 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1714. Radiation Survey Instruments

- A. A licensee shall maintain at each field station and temporary job site a calibrated and operable radiation survey instrument capable of detecting beta and gamma radiation. The licensee shall ensure that the radiation survey instrument is capable of measuring 1.0 microsievert (0.1 millirem) per hour through 500 microsievert (50 millirem) per hour.
- B. A licensee shall ensure that additional calibrated and operable radiation detection instruments are available as needed and that the instruments are sensitive enough to detect the low radiation and contamination levels that could be encountered if a sealed source is ruptured.
- C. A licensee shall ensure that the radiation survey instrument required in subsection (A) is calibrated
 1. At intervals not to exceed six months and after each instrument servicing;
 2. At energies comparable to the energies of the radiation sources used;
 3. For linear scale instruments, at two points located approximately 1/3 and 2/3 of full-scale on each scale or for logarithmic scale instruments, at mid-range of each decade, and at two points of at least one decade; and
 4. So that accuracy within plus or minus 20 percent of the true radiation level can be demonstrated on each scale.
- D. A licensee shall retain calibration records for a period of three years from the date of calibration.

Historical Note

New Section R9-7-1714 recodified from R12-1-1714 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1715. Leak Testing of Sealed Sources

- A. A licensee that uses a sealed source shall ensure that the source is tested for leakage according to subsection (C). The licensee shall maintain a record of leak test results in units of Becquerels (Bq) or microcuries, for inspection by the Department for three years after the leak test is performed.
- B. A person authorized under R9-7-417(C) shall wipe a sealed source using a leak test kit or a similar method approved by the Department, the NRC, or another Agreement State. The authorized person shall take the wipe sample from the nearest accessible point to the sealed source where contamination might accumulate, and ensure the wipe sample is analyzed for radioactive contamination. The authorized person shall use a method of analysis capable of detecting the presence of 185 Bq (0.005 microcuries) of radioactive material on the test sample.
- C. Test frequency.
 1. A licensee shall ensure that each sealed source (except an energy compensation source (ECS)) is tested in accordance with R9-7-417. In the absence of a certificate from a transferor that a test has been performed within six months before transfer, a licensee shall not use the sealed source until it is tested.
 2. A licensee shall ensure that each ECS that is not exempt from testing under subsection (E) is tested at intervals that do not exceed three years. In the absence of a certificate from a transferor that a test has been performed within three years before transfer, a licensee shall not use the ECS until it is tested.
- D. Removal of leaking source from service.
 1. If a test conducted according to this Section reveals the presence of 185 Bq (0.005 microcuries) or more of

removable radioactive material, a licensee shall remove the sealed source from service immediately and have it decontaminated, repaired, or disposed of by a Department, a NRC, or an Agreement State licensee that is authorized to perform these functions. The licensee shall check the equipment associated with the leaking source for radioactive contamination and, if the equipment is contaminated, have it decontaminated or disposed of by a Department, a NRC, or an Agreement State licensee that is authorized to perform the chosen function.

2. A licensee shall submit a report to the Department, within five days of receiving positive test results. The report shall describe the equipment involved in the leak, the test results, any contamination that resulted from the leaking source, and each corrective action taken up to the date on the report.
- E. The following sealed sources are exempt from the periodic leak test requirements in subsections (A) through (D):
 1. Hydrogen-3 (tritium) sources;
 2. Sources that contain licensed material with a half-life of 30 days or less;
 3. Sealed sources that contain licensed material in gaseous form;
 4. Sources of beta- or gamma-emitting radioactive material with an activity of 3.7 MBq [100 microcuries] or less; and
 5. Sources of alpha- or neutron-emitting radioactive material with an activity of 0.37 MBq [10 microcuries] or less.

Historical Note

New Section R9-7-1715 recodified from R12-1-1715 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1716. Inventory

A licensee shall conduct a physical inventory every six months to account for all licensed material received and possessed under the license. The licensee shall maintain records of the inventory for three years from the date of the inventory for inspection by the Department. The inventory shall indicate the quantity and kind of licensed material, the location of the licensed material, the date of the inventory, and the name of each individual who conducted the inventory. Physical inventory records may be combined with leak test records.

Historical Note

New Section R9-7-1716 recodified from R12-1-1716 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1717. Utilization Records

Each licensee shall maintain records of use for three years from the date of the recorded event, that contain the following information for each source of radiation:

1. Make, model number, and serial number or a description of each source of radiation used;
2. The identity of the well-logging supervisor or the field unit to which the source is assigned;
3. Locations and dates of use; and
4. In the case of tracer materials and radioactive markers, the radionuclide and activity undertaken in a particular well.

Historical Note

New Section R9-7-1717 recodified from R12-1-1717 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1718. Design and Performance Criteria for Sealed Sources

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- A. A licensee shall use a sealed source for well logging applications if the sealed source:
1. Is doubly encapsulated;
 2. Contains licensed material in a chemical and physical form that is insoluble and nondispersible; and
 3. Meets the requirements of subsection (B), (C), or (D).
- B. For a sealed source manufactured on or before July 14, 1989, a licensee may use a sealed source in well logging applications that meets the requirements of USASI N5.4-1968, Classification of Sealed Radioactive Sources, available from the American National Standards Institute at 25 West 43rd Street, 4th floor, New York, NY 10036, which is incorporated by reference and on file with the Department, or the requirements in subsection (C) or (D). This incorporation by reference contains no future editions or amendments.
- C. For a sealed source manufactured after July 14, 1989, a licensee may use a sealed source in well logging applications that meets the oil-well logging requirements of ANSI/HPS N43.6-1997, Sealed Radioactive Sources--Classification, available from the American National Standards Institute at 25 West 43rd Street, 4th floor, New York, NY 10036, which is incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.
- D. For a sealed source manufactured after July 14, 1989, a licensee may use a sealed source in well logging applications if the sealed source's prototype has been tested and found to maintain its integrity after each of the following required tests:
1. Temperature. The test source is held at -40° C for 20 minutes and 600° C for one hour, and then subjected to a thermal shock with a temperature drop from 600° C to 20° C within 15 seconds.
 2. Impact. A 5 kg steel hammer, 2.5 cm in diameter, is dropped from a height of 1 m onto the test source.
 3. Vibration. The test source is subjected to vibration in the 25 Hz to 500 Hz range at 5 g amplitude for 30 minutes.
 4. Puncture. A 1 gram hammer with a pin, 0.3 cm in diameter, is dropped from a height of 1 m onto the test source.
 5. Pressure. The test source is subjected to an external pressure of 1.695 x 10⁷ pascals (24,600 pounds per square inch absolute).
- E. The requirements in subsections (A), (B), (C), and (D) do not apply to a sealed source that contains licensed material in gaseous form.
- F. The requirements in subsections (A), (B), (C), and (D) do not apply to an energy compensation source (ECS).

Historical Note

New Section R9-7-1718 recodified from R12-1-1718 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1719. Labeling

- A. A licensee shall mark each source, source holder, or logging tool that contains radioactive material with a durable, legible, and clearly visible marking or label, consisting at minimum of the standard radiation caution symbol, without the conventional color requirement, and the following wording:

DANGER (or: CAUTION)
RADIOACTIVE

This labeling is required for each component transported as a separate piece of equipment regardless of size.

- B. A licensee shall permanently attach to each transport container a durable, legible, and a clearly visible label consisting at minimum, of the standard radiation caution symbol and the following wording:

DANGER (or: CAUTION)
RADIOACTIVE

NOTIFY CIVIL AUTHORITIES (or name of company)

Historical Note

New Section R9-7-1719 recodified from R12-1-1719 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1720. Inspection, Maintenance, and Opening of a Source or Source Holder

- A. Each licensee shall visually check source holders, logging tools, and source handling tools for defects before each use to ensure that the equipment is in good working condition and that required labeling is present. If defects are found, the licensee shall remove equipment from service until it is repaired, and make a record listing: date of check, name of inspector, equipment involved, each defect found, and repairs made. The licensee shall maintain each record for three years after a defect is found.
- B. Each licensee shall have a program for semiannual visual inspection and routine maintenance of source holders, logging tools, injection tools, source handling tools, storage containers, transport containers, and uranium sinker bars to ensure that the required labeling is legible and that no physical damage is visible. If any defect is found, the licensee shall remove the equipment from service until it is repaired, and make a record listing: date of inspection, equipment involved, inspection and maintenance operations performed, each defect found, and each action taken to correct a defect. The licensee shall maintain each record for three years after a defect is found.
- C. A licensee shall not remove a sealed source from a source holder or logging tool, or perform maintenance on a sealed source or source holder that contains a sealed source without written permission from the Department.
- D. If a sealed source is stuck in the source holder, a licensee shall not perform any operation, such as drilling, cutting, or chiseling, on the source holder unless the licensee is specifically authorized to perform the operation by the Department.
- E. The opening, repair, or modification of any sealed source is prohibited, unless authorized by the Department, the NRC, or an Agreement State.

Historical Note

New Section R9-7-1720 recodified from R12-1-1720 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1721. Training

- A. A licensee shall not permit an individual to act as a logging supervisor until that person has:
1. Completed training in the subjects outlined in subsection (E);
 2. Received copies of, and instruction in:
 - a. The applicable rules contained in 9 A.A.C. 7;
 - b. The Department license under which the logging supervisor will perform well logging; and
 - c. The licensee's operating and emergency procedures, required by R9-7-1722;
 3. Completed on-the-job training and demonstrated competence during a field evaluation in the use of licensed materials, remote handling tools, and radiation survey instruments; and
 4. Demonstrated understanding of the requirements in subsections (A)(1) and (A)(2) by successfully completing a written test.
- B. The licensee shall not permit an individual to act as a logging assistant until that person has:
1. Received instruction in applicable rules of 9 A.A.C. 7;

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2. Received copies of, and instruction in, the licensee's operating and emergency procedures required by R9-7-1722;
 3. Demonstrated understanding of the materials listed in subsections (B)(1) and (B)(2) by successfully completing a written or oral test; and
 4. Received instruction in the use of licensed materials, remote handling tools, and radiation survey instruments that is related to the logging assistant's intended job responsibilities.
- C.** A licensee shall provide a safety training review for logging supervisors and logging assistants at least once during each calendar year. Each logging supervisor and logging assistant shall attend a safety training review at least once during the current calendar year.
- D.** A licensee shall maintain a record of each logging supervisor's and logging assistant's initial training and annual safety training review. The training records shall include copies of written tests and dates of oral tests given after the effective date of this Section. The licensee shall maintain the initial training records for three years following termination of employment, and maintain records of each annual safety training review, including a list of subjects covered during the review, for three years.
- E.** A licensee shall provide instruction in the following subjects in the training required by subsection (A)(1):
1. Fundamentals of radiation safety, including:
 - a. Characteristics of radiation;
 - b. Units of radiation dose and quantity of radioactivity;
 - c. Hazards of exposure to radiation;
 - d. Levels of radiation from licensed material;
 - e. Methods of controlling radiation dose (time, distance, and shielding); and
 - f. Radiation safety practices, including prevention of contamination and methods of decontamination;
 2. Radiation detection instruments, including:
 - a. Use, operation, calibration, and limitations of radiation survey instruments;
 - b. Survey techniques; and
 - c. Use of personnel monitoring equipment;
 3. Equipment, including:
 - a. Operation of equipment, including source handling equipment and remote handling tools;
 - b. Storage, control, and disposal of licensed material; and
 - c. Maintenance of equipment;
 4. The requirements of pertinent federal and state law, and
 5. Case histories of accidents in well logging.
3. Methods and occasions for conducting a radiation survey;
 4. Methods and occasions for locking and securing a source of radiation;
 5. Personnel monitoring and the use of personnel monitoring equipment;
 6. Transportation of a source to a temporary job site or field station, including packaging and placing the source of radiation in a vehicle, placarding the vehicle, and securing the source of radiation during transportation;
 7. Procedure for notifying the Department if there is an accident;
 8. Maintenance of records;
 9. Inspection and maintenance of source holders, logging tools, source handling tools, storage containers, transport containers, and injection tools;
 10. Procedure required if a sealed source is:
 - a. Lost or lodged downhole; or
 - b. Ruptured, including safeguards to prevent job site and personnel contamination, inhalation; and ingestion;
 11. Procedures required for picking up, receiving, and opening packages that contain radioactive material; and
 12. Procedures required for site and equipment surveys and decontamination following tracer studies.

Historical Note

New Section R9-7-1722 recodified from R12-1-1722 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1723. Personnel Monitoring

- A.** A licensee shall not permit an individual to act as a logging supervisor or logging assistant unless that person wears a personnel dosimeter at all times during the handling of licensed radioactive materials.
- B.** A licensee shall assign a personnel dosimeter to each individual, who shall wear the assigned equipment.
- C.** A licensee shall replace film badges at least monthly and replace all other personnel dosimeters that require replacement at least quarterly. After replacement, a licensee shall evaluate all personnel dosimeters at least quarterly or promptly after replacement, whichever is more frequent.
- D.** A licensee shall provide bioassay services to each individual who uses licensed materials in subsurface tracer studies if required by the license.
- E.** A licensee shall record exposures noted from personnel dosimeters required by subsection (A) and bioassay results and maintain these records for three years after the Department terminates the radioactive material license.

Historical Note

New Section R9-7-1723 recodified from R12-1-1723 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-1722. Operating and Emergency Procedures

Each licensee shall develop operating and emergency procedures on the following subjects:

1. Procedures designed to prevent individuals from being exposed to radiation in excess of the limits in Article 4 of this Chapter. This subject includes:
 - a. Use of a sealed source in a well without a surface casing for the purposes of protecting a fresh water aquifer, as appropriate;
 - b. Methods employed to minimize exposure from inhalation or ingestion of licensed tracer materials; and
 - c. Methods for minimizing exposure of individuals in the event of an accident;
2. Use of remote handling tools for manipulating a radioactive sealed source or tracer;

R9-7-1724. Radioactive Contamination Control

- A.** If a licensee detects evidence that a sealed source has ruptured or licensed materials have caused contamination, the licensee shall immediately initiate the emergency procedures required by R9-7-1722.
- B.** If contamination results from the use of licensed material in well logging, the licensee shall decontaminate all affected areas, equipment, and personnel.
- C.** During efforts to recover a source lodged in a well, the licensee shall continuously monitor, with a radiation detection instrument that complies with R9-7-1714 or a logging tool with a radiation detector, the well and any circulating fluids

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from the well to check for contamination resulting from damage to the source.

Historical Note

New Section R9-7-1724 recodified from R12-1-1724 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1725. Uranium Sinker Bars

A licensee may use a uranium sinker bar for a well logging application only if it is legibly impressed with the words "Caution Radioactive-Depleted Uranium" and "Notify Civil Authorities (or company name) if Found."

Historical Note

New Section R9-7-1725 recodified from R12-1-1725 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1726. Energy Compensation Source

- A. A licensee may use an energy compensation source (ECS) in a logging tool, or other tool component, if the ECS contains a quantity of radioactive material that does not exceed 3.7 MBq (100 microcuries).
- B. If used in a well with a surface casing, an ECS is subject to all Sections of this Article except R9-7-1702, R9-7-1728, and R9-7-1751.
- C. If used in a well logging hole without a surface casing, an ECS is subject to all Sections of this Article.

Historical Note

New Section R9-7-1726 recodified from R12-1-1726 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1727. Neutron Generator Source

- A. A licensee may use a tritium neutron generator source to produce neutrons for well logging applications.
- B. If the activity of a tritium neutron generator source does not exceed 1.11 TBq (30 Curies) and the source is used in a well with a surface casing, the source is subject to all Sections of this Article except R9-7-1702 and R9-7-1751.
- C. If the activity of a neutron generator source is equal to or exceeds 1.11 TBq (30 Curies) or the source is used in a well without a surface casing, the source is subject to all Sections of this Article.

Historical Note

New Section R9-7-1727 recodified from R12-1-1727 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1728. Use of a Sealed Source in a Well Without a Surface Casing

A licensee may use a sealed source in a well without a surface casing if the licensee follows a procedure for reducing the probability that the source will be lodged in the well. The procedure shall be separately approved by the Department or in a license issued by the Department, the NRC, or another Agreement State.

Historical Note

New Section R9-7-1728 recodified from R12-1-1728 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1729. Reserved**Historical Note**

Section R9-7-1729 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1730. Reserved**Historical Note**

Section R9-7-1730 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1731. Security

- A. A logging supervisor shall be physically present at a temporary job site whenever licensed material is being handled or is not stored and locked in a vehicle or storage place. The logging supervisor may leave the job site to obtain assistance if a source becomes lodged in a well.
- B. During well logging, except when a radiation source is below ground or in a shipping or storage container, the logging supervisor or other individual designated by the logging supervisor shall maintain direct surveillance of the operation to prevent unauthorized entry into a restricted area, as defined in R9-7-102.

Historical Note

New Section R9-7-1731 recodified from R12-1-1731 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1732. Handling Tools

The licensee shall provide and require the use of tools that will assure remote handling of sealed sources other than low-activity calibration sources.

Historical Note

New Section R9-7-1732 recodified from R12-1-1732 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1733. Subsurface Tracer Studies

- A. Any person who handles radioactive tracer material shall wear protective gloves and other appropriate protective clothing and equipment. Precautions shall be taken to avoid ingestion or inhalation of radioactive material.
- B. A licensee shall not inject radioactive material into potable aquifers without authority granted in a radioactive material license issued by the Department.
- C. A licensee shall dispose of tracer study waste contaminated with radioactive material in accordance with R9-7-434.

Historical Note

New Section R9-7-1733 recodified from R12-1-1733 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1734. Use of a Sealed Source in a Well Without a Surface Casing and Particle Accelerators

- A. A licensee or registrant may use a sealed source in a well without a surface casing to protect a fresh water aquifer if the licensee follows the correct procedure for reducing the probability that the source will become lodged in the well.
- B. A licensee or registrant shall not begin well logging operations in a well without a surface casing unless the Department has approved the licensee's procedure for logging in an uncased hole.
- C. A licensee or registrant shall not permit above-ground testing of a particle accelerator, designed for use in well-logging, which results in the production of radiation, unless the area or facility affected is controlled or shielded in a manner consistent with applicable requirements in Article 4 of this Chapter.

Historical Note

New Section R9-7-1734 recodified from R12-1-1734 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1735. Reserved

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Historical Note

Section R9-7-1735 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1736. Reserved**Historical Note**

Section R9-7-1736 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1737. Reserved**Historical Note**

Section R9-7-1737 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1738. Reserved**Historical Note**

Section R9-7-1738 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1739. Reserved**Historical Note**

Section R9-7-1739 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1740. Reserved**Historical Note**

Section R9-7-1740 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1741. Radiation Surveys

- A. A licensee shall perform and make a record of a radiation survey using instruments or calculations of radiation levels in each area where radioactive material is stored.
- B. A licensee shall make and record a radiation survey using instruments or calculations of radiation levels in occupied positions and on the exterior of each vehicle used to transport radioactive material. The survey or calculation shall include each source of radiation or combination of sources to be transported in the vehicle.
- C. After removal of the sealed source from the logging tool and before departing the job site, a licensee shall ensure that the logging tool detector is energized, or a survey meter is used to test the logging tool for contamination. The licensee shall record the test for contamination.
- D. The licensee shall make and record each survey using an appropriate survey instrument for the radionuclide being used, at the job site or wellhead for each tracer operation, except those using Hydrogen-3, Carbon-14 and Sulfur-35. Each survey shall include measurements of radiation levels before and after each tracer operation.
- E. Records of surveys conducted according to subsections (A) through (D) shall include the date of each survey, the identification of each individual making the survey, identification of each survey instrument used, each radiation measurement in millirem or microsievert per hour, and an exact description of the location of the survey. A licensee shall retain records of a survey for three years after completion of the survey.

Historical Note

New Section R9-7-1741 recodified from R12-1-1741 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1742. Documents and Records Required at Field Stations

Each licensee shall maintain the following documents and records at the field station:

1. A copy of 9 A.A.C. 7;

2. The license, authorizing use of licensed material;
3. Operating and emergency procedures required by R9-7-1722;
4. The record of radiation survey instrument calibrations required by R9-7-1714;
5. The record of leak test results required by R9-7-1715;
6. Physical inventory records required by R9-7-1716;
7. Utilization records required by R9-7-1717;
8. Records of inspection and maintenance required by R9-7-1720;
9. Training records required by R9-7-1721; and
10. Survey records required by R9-7-1741.

Historical Note

New Section R9-7-1742 recodified from R12-1-1742 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1743. Documents and Records Required at Temporary Job Sites

Each licensee that conducts operations at a temporary job site shall maintain the following documents and records at the temporary job site until the well logging operation is completed:

1. Operating and emergency procedures required by R9-7-1722;
2. The most current calibration records for the radiation survey instruments in use at the site required by R9-7-1714;
3. The most current survey records required by R9-7-1741.
4. The shipping papers for transportation of radioactive materials required by license condition; and
5. If operating under reciprocity in accordance with R9-7-320, a copy of the Department authorization for use of radioactive material in Arizona.

Historical Note

New Section R9-7-1743 recodified from R12-1-1743 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1744. Reserved**Historical Note**

Section R9-7-1744 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1745. Reserved**Historical Note**

Section R9-7-1745 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1746. Reserved**Historical Note**

Section R9-7-1746 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1747. Reserved**Historical Note**

Section R9-7-1747 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1748. Reserved**Historical Note**

Section R9-7-1748 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1749. Reserved

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Historical Note

Section R9-7-1749 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1750. Reserved**Historical Note**

Section R9-7-1750 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1751. Notification of Incidents and Lost Sources; Abandonment Procedures for Irretrievable Sources

- A. If, after making a reasonable effort to recover a sealed source or device that contains radioactive material using methods that are not likely to result in damage or rupture and contamination, a licensee determines that the source or device is lodged in a well, the licensee shall:
1. Immediately notify the Department by telephone of the circumstances that resulted in the inability to retrieve the source and, if there is no evidence of contamination, obtain the following from the Department:
 - a. A determination that the source is irretrievable and abandonment is necessary because further efforts to recover the source are likely to result in an immediate threat to public health and safety, and
 - b. An approval to implement abandonment procedures;
 2. Advise the well owner or operator, as applicable, of the abandonment procedures implemented under R9-7-1702(A) and (C); and
 3. Either ensure that abandonment procedures are implemented within 30 days after the Department classifies the source as irretrievable or request an extension of time if unable to complete abandonment procedures.
- B. A licensee shall immediately notify the Department by telephone and subsequently, within 30 days, by confirmatory letter if the licensee knows or has reason to believe that a sealed source has been ruptured or the well has otherwise been contaminated. The letter shall describe the well location, the magnitude and extent of radioactive contamination, the consequences of the rupture, and the efforts planned or initiated to mitigate the consequences.
- C. A licensee shall notify the Department of the theft or loss of any radioactive material, radiation overexposure, excessive levels and concentrations of radiation, and incidents as required by R9-7-443, R9-7-444, and R9-7-445.
- D. A licensee shall, within 30 days after a sealed source has been classified as irretrievable, report in writing to the Department. The licensee shall send a copy of the report to each state or federal agency that issued permits or otherwise approved of the drilling operation. The report shall contain the following information:
1. Date of occurrence;
 2. A description of the irretrievable well logging source involved, including the name of the radionuclide and its quantity, and the chemical and physical form of the radionuclide;
 3. Surface location and identification of the well;
 4. Results of efforts to immobilize and seal the source in place;
 5. A brief description of the attempted recovery effort;
 6. Depth of the source;
 7. Depth of the top of the cement plug;
 8. Depth of the well;
 9. The reasons why further efforts to recover the source are likely to result in an immediate threat to public health and safety, necessitating abandonment;

10. Information contained on the permanent identification plaque; and
11. State and federal agencies receiving a copy of the report.

Historical Note

New Section R9-7-1751 recodified from R12-1-1751 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

ARTICLE 18. RESERVED**ARTICLE 19. PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2 QUANTITIES OF RADIOACTIVE MATERIAL****R9-7-1901. Purpose**

This Article has been established to provide the requirements for the physical protection program for any licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material listed in Appendix A to this Article. These requirements provide reasonable assurance of the security of category 1 or category 2 quantities of radioactive material by protecting these materials from theft or diversion. Specific requirements for access to material, use of material, transfer of material, and transport of material are included. No provision of this Article authorizes possession of licensed material.

Historical Note

New Section R9-7-1901 recodified from R12-1-1901 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1902. Reserved**Historical Note**

Section R9-7-1902 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1903. Scope

- A. R9-7-1921 through R9-7-1957 of this Article apply to any person who, under the rules in this chapter, possesses or uses at any site, an aggregated category 1 or category 2 quantity of radioactive material.
- B. R9-7-1971 through R9-7-1981 of this Article applies to any person who, under the rules of this chapter:
1. Transports or delivers to a carrier for transport in a single shipment, a category 1 or category 2 quantity of radioactive material; or
 2. Imports or exports a category 1 or category 2 quantity of radioactive material; the provisions only apply to the domestic portion of the transport.

Historical Note

New Section R9-7-1903 recodified from R12-1-1903 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1904. Reserved**Historical Note**

Section R9-7-1904 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1905. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

“Access control means a system for allowing only approved individuals to have unescorted access to the security zone and for ensuring that all other individuals are subject to escorted access.

“Act” means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto.

“Aggregated” means accessible by the breach of a single physical barrier that would allow access to radioactive material in

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any form, including any devices that contain the radioactive material, when the total activity equals or exceeds a category 2 quantity of radioactive material.

“Agreement State” means any state with which the Atomic Energy Commission or the U.S. Nuclear Regulatory Commission has entered into an effective agreement under subsection 274b. of the Act. Non-agreement State means any other State.

“Approved individual” means an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with R9-7-1921 through R9-7-1933 of this Article and who has completed the training required by R9-7-1943(C).

“Background investigation” means the investigation conducted by a licensee or applicant to support the determination of trustworthiness and reliability.

“Becquerel (Bq)” means one disintegration per second.

“Byproduct material” means the same as in R9-7-102.

“Category 1 quantity of radioactive material” means a quantity of radioactive material meeting or exceeding the category 1 threshold in Table 1 of Appendix A to this Article. This quantity is determined by calculating the ratio of the total activity of each radionuclide to the category 1 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 1 quantity. Category 1 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

“Category 2 quantity of radioactive material” means a quantity of radioactive material meeting or exceeding the category 2 threshold but less than the category 1 threshold in Table 1 of Appendix A to this Article. This quantity is determined by calculating the ratio of the total activity of each radionuclide to the category 2 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 2 quantity. Category 2 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet.

“Commission” means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

“Curie” means the same as in R9-7-102.

“Diversion” means the unauthorized movement of radioactive material subject to this Article to a location different from the material’s authorized destination inside or outside of the site at which the material is used or stored.

“Escorted access” means accompaniment while in a security zone by an approved individual who maintains continuous direct visual surveillance at all times over an individual who is not approved for unescorted access.

“Fingerprint orders” means the orders issued by the U.S. Nuclear Regulatory Commission or the legally binding requirements issued by Agreement States that require fingerprints and criminal history records checks for individuals with unescorted access to category 1 and category 2 quantities of radioactive material or safeguards information-modified handling.

“Government agency” means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an

instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

“License”, except where otherwise specified, means a license for byproduct material issued pursuant to the rules in Articles 3, 5, 7, and 15 of this chapter.

“License issuing authority” means the licensing agency that issued the license, i.e. the Department, the U.S. Nuclear Regulatory Commission, or the appropriate agency of an Agreement State.

“Local law enforcement agency (LLEA)” means a public or private organization that has been approved by a federal, state, or local government to carry firearms and make arrests, and is authorized and has the capability to provide an armed response in the jurisdiction where the licensed category 1 or category 2 quantity of radioactive material is used, stored, or transported.

“Lost or missing licensed material” means licensed material whose location is unknown. It includes material that has been shipped but has not reached its destination and whose location cannot be readily traced in the transportation system.

“Mobile device” means a piece of equipment containing licensed radioactive material that is either mounted on wheels or casters, or is otherwise equipped for moving without a need for disassembly or dismounting; or designed to be hand carried. Mobile devices do not include stationary equipment installed in a fixed location.

“Movement control center” means an operations center that is remote from transport activity and that maintains position information on the movement of radioactive material, receives reports of attempted attacks or thefts, provides a means for reporting these and other problems to appropriate agencies and can request and coordinate appropriate aid.

“No-later-than arrival time” means the date and time that the shipping licensee and receiving licensee have established as the time at which an investigation will be initiated if the shipment has not arrived at the receiving facility. The no-later-than arrival time may not be more than 6 hours after the estimated arrival time for shipments of category 2 quantities of radioactive material.

“Person” means:

Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission or the DOE (except that the DOE shall be considered a person within the meaning of the rules in 10 CFR chapter I to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission under section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), the Uranium Mill Tailings Radiation Control Act of 1978 (92 Stat. 3021), the Nuclear Waste Policy Act of 1982 (96 Stat. 2201), and section 3(b)(2) of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (99 Stat. 1842)), any State or any political subdivision of or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and

Any legal successor, representative, agent, or agency of the foregoing.

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“Reviewing official” means the individual who shall make the trustworthiness and reliability determination of an individual to determine whether the individual may have, or continue to have, unescorted access to the category 1 or category 2 quantities of radioactive materials that are possessed by the licensee.

“Sabotage” means deliberate damage, with malevolent intent, to a category 1 or category 2 quantity of radioactive material, a device that contains a category 1 or category 2 quantity of radioactive material, or the components of the security system.

“Safe haven” means a readily recognizable and readily accessible site at which security is present or from which, in the event of an emergency, the transport crew can notify and wait for the local law enforcement authorities.

“Security zone” means any temporary or permanent area determined and established by the licensee for the physical protection of category 1 or category 2 quantities of radioactive material.

“State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

“Telemetric position monitoring system” means a data transfer system that captures information by instrumentation and/or measuring devices about the location and status of a transport vehicle or package between the departure and destination locations.

“Trustworthiness and reliability” means characteristics of an individual considered dependable in judgment, character, and performance, such that unescorted access to category 1 or category 2 quantities of radioactive material by that individual does not constitute an unreasonable risk to the public health and safety or security. A determination of trustworthiness and reliability for this purpose is based upon the results from a background investigation.

“Unescorted access” means solitary access to an aggregated category 1 or category 2 quantity of radioactive material or the devices that contain the material.

“United States” when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States.

Historical Note

New Section R9-7-1905 recodified from R12-1-1905 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1906. Reserved**Historical Note**

Section R9-7-1906 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1907. Communications

Except where otherwise specified or covered under licensing program as provided in this Chapter, all communications and reports concerning the rules in this Article may be sent as follows:

1. By mail addressed to: ATTN: Arizona Department of Health Services; Bureau of Radiation Control; Radioactive Materials Program; 4814 South 40th Street, Phoenix, Arizona 85040;
2. By hand delivery to the Department’s offices at 4814 South 40th Street, Phoenix, Arizona 85040; or
3. Where practicable, by electronic submission, for example, Electronic Information Exchange, or CD-ROM. Electronic submissions shall be made in a manner that

enables the Department to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Electronic submissions can be made by email to ram@azdhs.gov.

Historical Note

New Section R9-7-1907 recodified from R12-1-1907 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1908. Reserved**Historical Note**

Section R9-7-1908 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1909. Renumbered**Historical Note**

New Section R9-7-1909 recodified from R12-1-1909 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Section R9-7-1909 renumbered to R9-7-101.01 by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-1910. Reserved**Historical Note**

Section R9-7-1910 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1911. Specific Exemptions

- A. The Department may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the rules in this Article as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.
- B. Any licensee’s NRC-licensed activities are exempt from the requirements of R9-7-1921 through R9-7-1957 of this Article to the extent that its activities are included in a security plan required by 10 CFR part 73 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.
- C. A licensee that possesses radioactive waste that contains category 1 or category 2 quantities of radioactive material is exempt from the requirements of R9-7-1921 through R9-7-1981 of this Article, except that any radioactive waste that contains discrete sources, ion-exchange resins, or activated material that weighs less than 2,000 kg (4,409 lbs.) is not exempt from the requirements of this Article. The licensee shall implement the following requirements to secure the radioactive waste:
 1. Use continuous physical barriers that allow access to the radioactive waste only through established access control points;
 2. Use a locked door or gate with monitored alarm at the access control point;
 3. Assess and respond to each actual or attempted unauthorized access to determine whether an actual or attempted theft, sabotage, or diversion occurred; and
 4. Immediately notify the LLEA and request an armed response from the LLEA upon determination that there was an actual or attempted theft, sabotage, or diversion of the radioactive waste that contains category 1 or category 2 quantities of radioactive material.

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Historical Note

New Section R9-7-1911 recodified from R12-1-1911 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1912. Reserved**Historical Note**

Section R9-7-1912 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1913. Reserved**Historical Note**

Section R9-7-1913 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1914. Reserved**Historical Note**

Section R9-7-1914 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1915. Reserved**Historical Note**

Section R9-7-1915 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1916. Reserved**Historical Note**

Section R9-7-1916 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1917. Reserved**Historical Note**

Section R9-7-1917 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1918. Reserved**Historical Note**

Section R9-7-1918 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1919. Reserved**Historical Note**

Section R9-7-1919 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1920. Reserved**Historical Note**

Section R9-7-1920 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1921. Personnel Access Authorization Requirements for Category 1 or Category 2 Quantities of Radioactive Material**A. General:**

1. Each licensee that possesses an aggregated quantity of radioactive material at or above the category 2 threshold shall establish, implement, and maintain its access authorization program in accordance with the requirements of this Article.
2. An applicant for a new license and each licensee that would become newly subject to the requirements of this Article upon application for modification of its license shall implement the requirements of this Article, as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.

3. Any licensee that has not previously implemented the Security Orders or been subject to the provisions of R9-7-1921 through R9-7-1933 shall implement the provisions of R9-7-1921 through R9-7-1933 before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

B. General performance objective: The licensee's access authorization program shall ensure that the individuals specified in subsection (C)(1) are trustworthy and reliable.**C. Applicability:**

1. Licensees shall subject the following individuals to an access authorization program:
 - a. Any individual whose assigned duties require unescorted access to category 1 or category 2 quantities of radioactive material or to any device that contains the radioactive material; and
 - b. Reviewing officials.
2. Licensees need not subject the categories of individuals listed in R9-7-1929(A) to the investigation elements of the access authorization program.
3. Licensees shall approve for unescorted access to category 1 or category 2 quantities of radioactive material only those individuals with job duties that require unescorted access to category 1 or category 2 quantities of radioactive material.
4. Licensees may include individuals in the access authorization program under R9-7-1921 through R9-7-1933 and needing access to safeguards information-modified handling under 10 CFR part 73 revised January 1, 2015, incorporated by reference, and available under R9-7-101. This incorporated material contains no future editions or amendments.

Historical Note

New Section R9-7-1921 recodified from R12-1-1921 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1922. Reserved**Historical Note**

Section R9-7-1922 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1923. Access Authorization Program Requirements**A. Granting unescorted access authorization:**

1. Licensees shall implement the requirements of this Article for granting initial or reinstated unescorted access authorization.
2. Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by R9-7-1943(C) before being allowed unescorted access to category 1 or category 2 quantities of radioactive material.

B. Reviewing officials:

1. Reviewing officials are the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to category 1 or category 2 quantities of radioactive materials possessed by the licensee.
2. Each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide under oath or affirmation, a certification, to the ATTN: Bureau Chief, Bureau of Radiation Control, Arizona Department of Health Services, 4814 S. 40th Street, Phoenix, Arizona 85040, that the reviewing official is deemed trustworthy and reliable by the licensee. The fingerprints of the named reviewing official shall be taken

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by a law enforcement agency, Federal or State agencies that provide fingerprinting services to the public, or commercial fingerprinting services authorized by a State to take fingerprints. The licensee shall recertify that the reviewing official is deemed trustworthy and reliable every 10 years in accordance with R9-7-1925(C).

3. Reviewing officials shall be permitted to have unescorted access to category 1 or category 2 quantities of radioactive materials or access to safeguards information or safeguards information-modified handling, if the licensee possesses safeguards information or safeguards information-modified handling. Reviewing officials permitted unescorted access to category 1 or category 2 quantities of radioactive materials shall receive appropriate radiation safety training initially and at a frequency not to exceed 12 months. The licensee shall maintain records of the initial and refresher training for three years from the date of training for Department review.
 4. Reviewing officials cannot approve other individuals to act as reviewing officials.
 5. A reviewing official does not need to undergo a new background investigation before being named by the licensee as the reviewing official if:
 - a. The individual has undergone a background investigation that included fingerprinting and an FBI criminal history records check and has been determined to be trustworthy and reliable by the licensee; or
 - b. The individual is subject to a category listed in R9-7-1929(A).
- C. Informed consent:**
1. Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. This consent shall include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals that meet the requirements of R9-7-1925(B). A signed consent shall be obtained prior to any reinvestigation.
 2. The subject individual may withdraw his or her consent at any time. Licensees shall inform the individual that:
 - a. If an individual withdraws his or her consent, the licensee may not initiate any elements of the background investigation that were not in progress at the time the individual withdrew his or her consent; and
 - b. The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.
- D. Personal history disclosure:** Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by this Article is sufficient cause for denial or termination of unescorted access.
- E. Determination basis:**
1. The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain, or administratively withdraw an individual's unescorted access authorization based on an evaluation of all of the information collected to meet the requirements of this Article.
 2. The reviewing official may not permit any individual to have unescorted access until the reviewing official has evaluated all of the information collected to meet the requirements of this Article and determined that the individual is trustworthy and reliable. The reviewing official may deny unescorted access to any individual based on information obtained at any time during the background investigation.
 3. The licensee shall document the basis for concluding whether or not there is reasonable assurance that an individual is trustworthy and reliable.
 4. The reviewing official may terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual granted unescorted access authorization.
 5. Licensees shall maintain a list of persons currently approved for unescorted access authorization. When a licensee determines that a person no longer requires unescorted access or meets the access authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than 7 working days, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.
- F. Procedures:** Licensees shall develop, implement, and maintain written procedures for implementing the access authorization program. The procedures shall include provisions for the notification of individuals who are denied unescorted access. The procedures shall include provisions for the review, at the request of the affected individual, of a denial or termination of unescorted access authorization. The procedures shall contain a provision to ensure that the individual is informed of the grounds for the denial or termination of unescorted access authorization and allow the individual an opportunity to provide additional relevant information.
- G. Right to correct and complete information:**
1. Prior to any final adverse determination, licensees shall provide each individual subject to this Article with the right to complete, correct, and explain information obtained as a result of the licensee's background investigation. Confirmation of receipt by the individual of this notification shall be maintained by the licensee for a period of 1 year from the date of the notification.
 2. If, after reviewing his or her criminal history record, an individual believes that it is incorrect or incomplete in any respect and wishes to change, correct, update, or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306 as set forth in 28 CFR 16.30 through 16.34. In the latter case, the Federal Bureau of Investigation (FBI) will forward the challenge to the agency that submitted the data, and will request that the agency verify or correct the challenged entry. Upon receipt of an official communication directly from the agency that contributed the original information, the FBI Identification Division makes any changes necessary in accordance with the information supplied by that agency. Licensees shall provide at least 10 days for an individual to initiate action to challenge

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the results of an FBI criminal history records check after the record being made available for his or her review. The licensee may make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.

H. Records:

1. The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.
2. The licensee shall retain a copy of the current access authorization program procedures as a record for 3 years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee shall retain the superseded material for 3 years after the record is superseded.
3. The licensee shall retain the list of persons approved for unescorted access authorization for 3 years after the list is superseded or replaced.

Historical Note

New Section R9-7-1923 recodified from R12-1-1923 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1924. Reserved**Historical Note**

Section R9-7-1924 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1925. Background Investigations

A. Initial investigation: Before allowing an individual unescorted access to category 1 or category 2 quantities of radioactive material or to the devices that contain the material, licensees shall complete a background investigation of the individual seeking unescorted access authorization. The scope of the investigation shall encompass at least the 7 years preceding the date of the background investigation or since the individual's eighteenth birthday, whichever is shorter. The background investigation shall include at a minimum:

1. Fingerprinting and an FBI identification and criminal history records check in accordance with R9-7-1927;
2. Verification of true identity. Licensees shall verify the true identity of the individual who is applying for unescorted access authorization to ensure that the applicant is who he or she claims to be. A licensee shall review official identification documents (e.g., driver's license; passport; government identification; certificate of birth issued by the state, province, or country of birth) and compare the documents to personal information data provided by the individual to identify any discrepancy in the information. Licensees shall document the type, expiration, and identification number of the identification document, or maintain a photocopy of identifying documents on file in accordance with R9-7-1931. Licensees shall certify in writing that the identification was properly reviewed, and shall maintain the certification and all related documents for review upon inspection;
3. Employment history verification. Licensees shall complete an employment history verification, including military history. Licensees shall verify the individual's employment with each previous employer for the most recent 7 years before the date of application;

4. Verification of education. Licensees shall verify that the individual participated in the education process during the claimed period;
5. Character and reputation determination. Licensees shall complete reference checks to determine the character and reputation of the individual who has applied for unescorted access authorization. Unless other references are not available, reference checks may not be conducted with any person who is known to be a close member of the individual's family, including but not limited to the individual's spouse, parents, siblings, or children, or any individual who resides in the individual's permanent household. Reference checks under this Section shall be limited to whether the individual has been and continues to be trustworthy and reliable;
6. The licensee shall also, to the extent possible, obtain independent information to corroborate that provided by the individual (e.g., seek references not supplied by the individual); and
7. If a previous employer, educational institution, or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within a time frame deemed appropriate by the licensee but at least after 10 business days of the request or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness, or inability in the record of investigation; and attempt to obtain the information from an alternate source.

B. Grandfathering:

1. Individuals who have been determined to be trustworthy and reliable for unescorted access to category 1 or category 2 quantities of radioactive material under the Fingerprint Orders may continue to have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. These individuals shall be subject to the reinvestigation requirement.
2. Individuals who have been determined to be trustworthy and reliable under the provisions of 10 CFR part 73 revised January 1, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; or the security orders for access to safeguards information, safeguards information-modified handling, or risk-significant material may have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. The licensee shall document that the individual was determined to be trustworthy and reliable under the provisions of 10 CFR part 73 revised January 1, 2015, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; or a security order. Security order, in this context, refers to any order that was issued by the NRC that required fingerprints and an FBI criminal history records check for access to safeguards information, safeguards information-modified handling, or risk significant material such as special nuclear material or large quantities of uranium hexafluoride. These individuals shall be subject to the reinvestigation requirement.

C. Re-investigations: Licensees shall conduct a reinvestigation every 10 years for any individual with unescorted access to category 1 or category 2 quantities of radioactive material. The reinvestigation shall consist of fingerprinting and an FBI identification and criminal history records check in accordance with R9-7-1927. The re-investigations shall be completed

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within 10 years of the date on which these elements were last completed.

Historical Note

New Section R9-7-1925 recodified from R12-1-1925 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1926. Reserved**Historical Note**

Section R9-7-1926 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1927. Requirements for Criminal History Records Checks of Individuals Granted Unescorted Access to Category 1 or Category 2 Quantities of Radioactive Material

A. General performance objective and requirements:

1. Except for those individuals listed in R9-7-1929 and those individuals grandfathered under R9-7-1925(B), each licensee subject to the provisions of this Article shall fingerprint each individual who is to be permitted unescorted access to category 1 or category 2 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the NRC for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to category 1 or category 2 quantities of radioactive materials for that individual.
2. The licensee shall notify each affected individual that his or her fingerprints will be used to secure a review of his or her criminal history record, and shall inform him or her of the procedures for revising the record or adding explanations to the record.
3. Fingerprinting is not required if a licensee is reinstating an individual's unescorted access authorization to category 1 or category 2 quantities of radioactive materials if:
 - a. The individual returns to the same facility that granted unescorted access authorization within 365 days of the termination of his or her unescorted access authorization; and
 - b. The previous access was terminated under favorable conditions.
4. Fingerprints do not need to be taken if an individual who is an employee of a licensee, contractor, manufacturer, or supplier has been granted unescorted access to category 1 or category 2 quantities of radioactive material, access to safeguards information, or safeguards information-modified handling by another licensee, based upon a background investigation conducted under this Article, the Fingerprint Orders, or 10 CFR part 73, revised December 12, 2018, incorporated by reference, available under R9-7-101, and containing no future editions or amendments. An existing criminal history records check file may be transferred to the licensee asked to grant unescorted access in accordance with the provisions of R9-7-1931(C).
5. Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization to category 1 or category 2 quantities of radioactive materials, access to safeguards information, or safeguards information-modified handling.

B. Prohibitions:

1. Licensees may not base a final determination to deny an individual unescorted access authorization to category 1 or category 2 quantities of radioactive material solely on the basis of information received from the FBI involving:

- a. An arrest more than 1 year old for which there is no information of the disposition of the case; or
- b. An arrest that resulted in dismissal of the charge or an acquittal.

2. Licensees may not use information received from a criminal history records check obtained under this Section in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States, nor shall licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, gender, or age.

C. Procedures for processing of fingerprint checks:

1. For the purpose of complying with this Article, licensees shall use an appropriate method listed in 10 CFR 37.7, revised November 29, 2019, incorporated by reference, available under R9-7-101, and containing no future editions or amendments; to submit to the U.S. Nuclear Regulatory Commission, Division of Physical and Cyber Security Policy, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop T-07D04M, Rockville, MD 20852, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material. Copies of these forms may be obtained by emailing MAILSVS.Resource@nrc.gov. Guidance on submitting electronic fingerprints can be found at <https://www.nrc.gov/security/chp.html>.
2. Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order, or electronic payment, made payable to "U.S. NRC." (For guidance on making electronic payments, contact the Division of Physical and Cyber Security Policy by e-mailing Crimhist.Resource@NRC.gov.) Combined payment for multiple applications is acceptable. The Commission publishes the amount of the fingerprint check application fee on the NRC's public website. (To find the current fee amount, go to the Licensee Criminal History Records Checks & Firearms Background Check information page at <https://www.nrc.gov/security/chp.html> and see the link for "How do I determine how much to pay for the request?")
3. The U.S. Nuclear Regulatory Commission will forward to the submitting licensee all data received from the FBI as a result of the licensee's application or applications for criminal history records checks.

Historical Note

New Section R9-7-1927 recodified from R12-1-1927 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

R9-7-1928. Reserved**Historical Note**

Section R9-7-1928 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1929. Relief From Fingerprinting, Identification, and

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Criminal History Records Checks and Other Elements of Background Investigations for Designated Categories of Individuals Permitted Unescorted Access to Certain Radioactive Materials

A. Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, and other elements of the background investigation are not required for the following individuals prior to granting unescorted access to category 1 or category 2 quantities of radioactive materials:

1. An employee of the U.S. Nuclear Regulatory Commission or of the Executive Branch of the U.S. Government who has undergone fingerprinting for a prior U.S. Government criminal history records check;
2. A Member of Congress;
3. An employee of a member of Congress or Congressional committee who has undergone fingerprinting for a prior U.S. Government criminal history records check;
4. The Governor of a State or his or her designated State employee representative;
5. Federal, State, or local law enforcement personnel;
6. State Radiation Control Program Directors and State Homeland Security Advisors or their designated State employee representatives;
7. Agreement State employees conducting security inspections on behalf of the NRC under an agreement executed under section 274.i. of the Atomic Energy Act;
8. Representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who have been certified by the NRC;
9. Emergency response personnel who are responding to an emergency;
10. Commercial vehicle drivers for road shipments of category 1 and category 2 quantities of radioactive material;
11. Package handlers at transportation facilities such as freight terminals and railroad yards;
12. Any individual who has an active Federal security clearance, provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that granted the Federal security clearance or reviewed the criminal history records check shall be provided to the licensee. The licensee shall retain this documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material; and
13. Any individual employed by a service provider licensee for which the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to category 1 or category 2 quantities of radioactive material. Written verification from the service provider shall be provided to the licensee. The licensee shall retain the documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

B. Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, are not required for an individual who has had a favorably adjudicated U.S. Government criminal history records check within the last 5 years, under a comparable U.S. Government program involving fingerprinting and an FBI identification and criminal history records check provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that reviewed the criminal history records check shall be pro-

vided to the licensee. The licensee shall retain this documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material. These programs include, but are not limited to:

1. National Agency Check;
2. Transportation Worker Identification Credentials (TWIC) under 49 CFR part 1572;
3. Bureau of Alcohol, Tobacco, Firearms, and Explosives background check and clearances under 27 CFR part 555;
4. Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR part 73;
5. Hazardous Material security threat assessment for hazardous material endorsement to commercial driver's license under 49 CFR part 1572; and
6. Customs and Border Protection's Free and Secure Trade (FAST) Program.

Historical Note

New Section R9-7-1929 recodified from R12-1-1929 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1930. Reserved**Historical Note**

Section R9-7-1930 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1931. Protection of Information

- A.** Each licensee who obtains background information on an individual under this Article shall establish and maintain a system of files and written procedures for protection of the record and the personal information from unauthorized disclosure.
- B.** The licensee may not disclose the record or personal information collected and maintained to persons other than the subject individual, his or her representative, or to those who have a need to have access to the information in performing assigned duties in the process of granting or denying unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling. No individual authorized to have access to the information may disseminate the information to any other individual who does not have a need to know.
- C.** The personal information obtained on an individual from a background investigation may be provided to another licensee:
1. Upon the individual's written request to the licensee holding the data to disseminate the information contained in his or her file; and
 2. The recipient licensee verifies information such as name, date of birth, social security number, gender, and other applicable physical characteristics.
- D.** The licensee shall make background investigation records obtained under this Article available for examination by an authorized representative of the Department to determine compliance with the rules and laws.
- E.** The licensee shall retain all fingerprint and criminal history records (including data indicating no record) received from the FBI, or a copy of these records if the individual's file has been transferred, on an individual for 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.

Historical Note

New Section R9-7-1931 recodified from R12-1-1931 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1932. Reserved

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Historical Note

Section R9-7-1932 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1933. Access Authorization Program Review

- A. Each licensee shall be responsible for the continuing effectiveness of the access authorization program. Each licensee shall ensure that access authorization programs are reviewed to confirm compliance with the requirements of this Article and that comprehensive actions are taken to correct any noncompliance that is identified. The review program shall evaluate all program performance objectives and requirements. Each licensee shall periodically (at least annually) review the access program content and implementation.
- B. The results of the reviews, along with any recommendations, shall be documented. Each review report shall identify conditions that are adverse to the proper performance of the access authorization program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.
- C. Review records shall be maintained for 3 years.

Historical Note

New Section R9-7-1933 recodified from R12-1-1933 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1934. Reserved**Historical Note**

Section R9-7-1934 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1935. Reserved**Historical Note**

Section R9-7-1935 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1936. Reserved**Historical Note**

Section R9-7-1936 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1937. Reserved**Historical Note**

Section R9-7-1937 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1938. Reserved**Historical Note**

Section R9-7-1938 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1939. Reserved**Historical Note**

Section R9-7-1939 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1940. Reserved**Historical Note**

Section R9-7-1940 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1941. Security Program**A. Applicability:**

1. Each licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material shall establish, implement, and maintain a security program in accordance with the requirements of this Article.
 2. An applicant for a new license and each licensee that would become newly subject to the requirements of this Article upon application for modification of its license shall implement the requirements of this Article, as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.
 3. Any licensee that has not previously implemented the Security Orders or been subject to the provisions of R9-7-1941 through R9-7-1957 shall provide written notification to the Department, as specified in R9-7-1907, at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.
- B. General performance objective:** Each licensee shall establish, implement, and maintain a security program that is designed to monitor and, without delay, detect, assess, and respond to an actual or attempted unauthorized access to category 1 or category 2 quantities of radioactive material.
- C. Program features:** Each licensee's security program shall include the program features, as appropriate, described in R9-7-1943, R9-7-1945, R9-7-1947, R9-7-1949, R9-7-1951, R9-7-1953, and R9-7-1955.

Historical Note

New Section R9-7-1941 recodified from R12-1-1941 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1942. Reserved**Historical Note**

Section R9-7-1942 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1943. General Security Program Requirements**A. Security plan:**

1. Each licensee identified in R9-7-1941(A) shall develop a written security plan specific to its facilities and operations. The purpose of the security plan is to establish the licensee's overall security strategy to ensure the integrated and effective functioning of the security program required by this Article. The security plan shall, at a minimum:
 - a. Describe the measures and strategies used to implement the requirements of this Article; and
 - b. Identify the security resources, equipment, and technology used to satisfy the requirements of this Article.
2. The security plan shall be reviewed and approved by the individual with overall responsibility for the security program.
3. A licensee shall revise its security plan as necessary to ensure the effective implementation of Department requirements. The licensee shall ensure that:
 - a. The revision has been reviewed and approved by the individual with overall responsibility for the security program; and
 - b. The affected individuals are instructed on the revised plan before the changes are implemented.
4. The licensee shall retain a copy of the current security plan as a record for at least three years after the security plan is no longer required. If any portion of the plan is superseded, the licensee shall retain the superseded material for at least three years after the record is superseded.

B. Implementing procedures:

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1. The licensee shall develop and maintain written procedures that document how the requirements of this Article and the security plan will be met.
 2. The implementing procedures and revisions to these procedures shall be approved in writing by the individual with overall responsibility for the security program.
 3. The licensee shall retain a copy of the current procedure as a record for at least three years after the procedure is no longer needed. Superseded portions of the procedure shall be retained for at least three years after the record is superseded.
- C. Training:**
1. Each licensee shall conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills, and abilities to carry out their assigned duties and responsibilities effectively. The training shall include instruction in:
 - a. The licensee's security program and procedures to secure category 1 or category 2 quantities of radioactive material, and in the purposes and functions of the security measures employed;
 - b. The responsibility to report promptly to the licensee any condition that causes or may cause a violation of Department requirements;
 - c. The responsibility of the licensee to report promptly to the local law enforcement agency and licensee any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material; and
 - d. The appropriate response to security alarms.
 2. In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and response to potential situations involving actual or attempted theft, diversion, or sabotage of category 1 or category 2 quantities of radioactive material. The extent of the training shall be commensurate with the individual's potential involvement in the security of category 1 or category 2 quantities of radioactive material.
 3. Refresher training shall be provided at a frequency not to exceed 12 months and when significant changes have been made to the security program. This training shall include:
 - a. Review of the training requirements of subsection (c) and any changes made to the security program since the last training;
 - b. Reports on any relevant security issues, problems, and lessons learned;
 - c. Relevant results of Department inspections; and
 - d. Relevant results of the licensee's program review and testing and maintenance.
 4. The licensee shall maintain records of the initial and refresher training for at least three years after the date of the training. The training records shall include dates of the training, topics covered, a list of licensee personnel in attendance, and related information.
- D. Protection of information:**
1. Licensees authorized to possess category 1 or category 2 quantities of radioactive material shall limit access to and unauthorized disclosure of their security plan, implementing procedures, and the list of individuals that have been approved for unescorted access.
 2. Efforts to limit access shall include the development, implementation, and maintenance of written policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of, the security plan, implementing procedures, and the list of individuals that have been approved for unescorted access.
 3. Before granting an individual access to the security plan or implementing procedures, licensees shall:
 - a. Evaluate an individual's need to know the security plan, implementing procedures, or the list of individuals that have been approved for unescorted access; and
 - b. If the individual has not been authorized for unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information, or safeguards information-modified handling, the licensee shall complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in R9-7-1925(A)(2) through (A)(7).
 4. Licensees need not subject the following individuals to the background investigation elements for protection of information:
 - a. The categories of individuals listed in R9-7-1929(A); or
 - b. Security service provider employees, provided written verification that the employee has been determined to be trustworthy and reliable, by the required background investigation in R9-7-1925(A)(2) through (A)(7), has been provided by the security service provider.
 5. The licensee shall document the basis for concluding that an individual is trustworthy and reliable and should be granted access to the security plan, implementing procedures, or the list of individuals that have been approved for unescorted access.
 6. Licensees shall maintain a list of persons currently approved for access to the security plan, implementing procedures, or the list of individuals that have been approved for unescorted access. When a licensee determines that a person no longer needs access to the security plan, implementing procedures, or the list of individuals that have been approved for unescorted access, or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as possible, but no later than seven working days, and take prompt measures to ensure that the individual is unable to obtain the security plan or implementing procedures.
 7. When not in use, the licensee shall store its security plan, implementing procedures, and the list of individuals that have been approved for unescorted access in a manner to prevent unauthorized access. Information stored in non-removable electronic form shall be password protected.
 8. The licensee shall retain as a record for at least three years after the document is no longer needed:
 - a. A copy of the information protection procedures; and
 - b. The list of individuals approved for access to the security plan, implementing procedures, or the list of individuals that have been approved for unescorted access.
 9. State officials, State employees, and other individuals, whether or not licensees of the Commission or an Agreement State, who receive schedule information of the kind specified in subsection (D)(1) shall protect that information.

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tion against unauthorized disclosure as specified in subsection (D)(2).

Historical Note

New Section R9-7-1943 recodified from R12-1-1943 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 30 A.A.R. 2681 (August 30, 2024), with an immediate effective date of August 7, 2024 (Supp. 24-3).

R9-7-1944. Reserved**Historical Note**

Section R9-7-1944 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1945. Local Law Enforcement Agency (LLEA) Coordination

- A. A licensee subject to this Article shall coordinate, to the extent practicable, with an LLEA for responding to threats to the licensee's facility, including any necessary armed response. The information provided to the LLEA shall include:
1. A description of the facilities and the category 1 and category 2 quantities of radioactive materials along with a description of the licensee's security measures that have been implemented to comply with this Article; and
 2. A notification that the licensee will request a timely armed response by the LLEA to any actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of material.
- B. The licensee shall notify the Department as listed in R9-7-1907 of this Article within 3 business days if:
1. The LLEA has not responded to the request for coordination within 60 days of the coordination request; or
 2. The LLEA notifies the licensee that the LLEA does not plan to participate in coordination activities.
- C. The licensee shall document its efforts to coordinate with the LLEA. The documentation shall be kept for 3 years.
- D. The licensee shall coordinate with the LLEA at least every 12 months, or when changes to the facility design or operation adversely affect the potential vulnerability of the licensee's material to theft, sabotage, or diversion.

Historical Note

New Section R9-7-1945 recodified from R12-1-1945 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1946. Reserved**Historical Note**

Section R9-7-1946 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1947. Security Zones

- A. Licensees shall ensure that all aggregated category 1 and category 2 quantities of radioactive material are used or stored within licensee established security zones. Security zones may be permanent or temporary.
- B. Temporary security zones shall be established as necessary to meet the licensee's transitory or intermittent business activities, such as periods of maintenance, source delivery, and source replacement.
- C. Security zones shall, at a minimum, allow unescorted access only to approved individuals through:
1. Isolation of category 1 and category 2 quantities of radioactive materials by the use of continuous physical barriers that allow access to the security zone only through estab-

lished access control points. A physical barrier is a natural or man-made structure or formation sufficient for the isolation of the category 1 or category 2 quantities of radioactive material within a security zone; or

2. Direct control of the security zone by approved individuals at all times; or
 3. A combination of continuous physical barriers and direct control.
- D. For category 1 quantities of radioactive material during periods of maintenance, source receipt, preparation for shipment, installation, or source removal or exchange, the licensee shall, at a minimum, provide sufficient individuals approved for unescorted access to maintain continuous surveillance of sources in temporary security zones and in any security zone in which physical barriers or intrusion detection systems have been disabled to allow such activities.
- E. Individuals not approved for unescorted access to category 1 or category 2 quantities of radioactive material shall be escorted by an approved individual when in a security zone.

Historical Note

New Section R9-7-1947 recodified from R12-1-1947 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1948. Reserved**Historical Note**

Section R9-7-1948 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1949. Monitoring, Detection, and Assessment

- A. Monitoring and detection:
1. Licensees shall establish and maintain the capability to continuously monitor and detect without delay all unauthorized entries into its security zones. Licensees shall provide the means to maintain continuous monitoring and detection capability in the event of a loss of the primary power source, or provide for an alarm and response in the event of a loss of this capability to continuously monitor and detect unauthorized entries.
 2. Monitoring and detection shall be performed by:
 - a. A monitored intrusion detection system that is linked to an onsite or offsite central monitoring facility; or
 - b. Electronic devices for intrusion detection alarms that will alert nearby facility personnel; or
 - c. A monitored video surveillance system; or
 - d. Direct visual surveillance by approved individuals located within the security zone; or
 - e. Direct visual surveillance by a licensee designated individual located outside the security zone.
 3. A licensee subject to this Article shall also have a means to detect unauthorized removal of the radioactive material from the security zone. This detection capability shall provide:
 - a. For category 1 quantities of radioactive material, immediate detection of any attempted unauthorized removal of the radioactive material from the security zone. Such immediate detection capability shall be provided by:
 - i. Electronic sensors linked to an alarm; or
 - ii. Continuous monitored video surveillance; or
 - iii. Direct visual surveillance.
 - b. For category 2 quantities of radioactive material, weekly verification through physical checks, tamper indicating devices, use, or other means to ensure that the radioactive material is present.

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- B.** Assessment: Licensees shall immediately assess each actual or attempted unauthorized entry into the security zone to determine whether the unauthorized access was an actual or attempted theft, sabotage, or diversion.
- C.** Personnel communications and data transmission: For personnel and automated or electronic systems supporting the licensee's monitoring, detection, and assessment systems, licensees shall:
1. Maintain continuous capability for personnel communication and electronic data transmission and processing among site security systems; and
 2. Provide an alternative communication capability for personnel, and an alternative data transmission and processing capability, in the event of a loss of the primary means of communication or data transmission and processing. Alternative communications and data transmission systems may not be subject to the same failure modes as the primary systems.
- D.** Response: Licensees shall immediately respond to any actual or attempted unauthorized access to the security zones, or actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material at licensee facilities or temporary job sites. For any unauthorized access involving an actual or attempted theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material, the licensee's response shall include requesting, without delay, an armed response from the LLEA.

Historical Note

New Section R9-7-1949 recodified from R12-1-1949 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1950. Reserved**Historical Note**

Section R9-7-1950 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1951. Maintenance and Testing

- A.** Each licensee subject to this R9-7-1941 through R9-7-1957 shall implement a maintenance and testing program to ensure that intrusion alarms, associated communication systems, and other physical components of the systems used to secure or detect unauthorized access to radioactive material are maintained in operable condition and are capable of performing their intended function when needed. The equipment relied on to meet the security requirements of this part shall be inspected and tested for operability and performance at the manufacturer's suggested frequency. If there is no suggested manufacturer's suggested frequency, the testing shall be performed at least annually, not to exceed 12 months.
- B.** The licensee shall maintain records on the maintenance and testing activities for 3 years. The record shall include:
1. The date of activity;
 2. Type of activity performed;
 3. A list of the equipment involved;
 4. The results of the activity;
 5. The name of the individual that conducted the activity;
 6. The repair or maintenance (if applicable) that was performed.

Historical Note

New Section R9-7-1951 recodified from R12-1-1951 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1952. Reserved**Historical Note**

Section R9-7-1952 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1953. Requirements for Mobile Devices

Each licensee that possesses mobile devices containing category 1 or category 2 quantities of radioactive material shall:

- A.** Have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee; and
- B.** For devices in or on a vehicle or trailer, unless the health and safety requirements for a site prohibit the disabling of the vehicle, the licensee shall utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee. Licensees shall not rely on the removal of an ignition key to meet this requirement.

Historical Note

New Section R9-7-1953 recodified from R12-1-1953 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1954. Reserved**Historical Note**

Section R9-7-1954 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1955. Security Program Review

- A.** Each licensee shall be responsible for the continuing effectiveness of the security program. Each licensee shall ensure that the security program is reviewed to confirm compliance with the requirements of this Article and that comprehensive actions are taken to correct any noncompliance that is identified. The review shall include the radioactive material security program content and implementation. Each licensee shall periodically (at least annually) review the security program content and implementation.
- B.** The results of the review, along with any recommendations, shall be documented. Each review report shall identify conditions that are adverse to the proper performance of the security program, the cause of the condition(s), and, when appropriate, recommend corrective actions, and corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas where indicated.
- C.** The licensee shall maintain the review documentation for 3 years.

Historical Note

New Section R9-7-1955 recodified from R12-1-1955 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1956. Reserved**Historical Note**

Section R9-7-1956 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1957. Reporting of Events

- A.** The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage, or diversion of a category 1 or category 2 quantity of radioactive material. As soon as possible after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify the Department. Notification shall be to a live person, a voice mail is not considered adequate notification. In no case shall the notification to the Department be later

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than 4 hours after the discovery of any attempted or actual theft, sabotage, or diversion.

- B. The licensee shall assess any suspicious activity related to possible theft, sabotage, or diversion of category 1 or category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible but not later than 4 hours after notifying the LLEA, the licensee shall notify the Department.
- C. The initial telephonic notification required by subsection (A) shall be followed within a period of 30 days by a written report submitted to the Department by an appropriate method listed in R9-7-1907. The report shall include sufficient information for Department analysis and evaluation, including identification of any necessary corrective actions to prevent future instances.

Historical Note

New Section R9-7-1957 recodified from R12-1-1957 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1958. Reserved**Historical Note**

Section R9-7-1958 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1959. Reserved**Historical Note**

Section R9-7-1959 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1960. Reserved**Historical Note**

Section R9-7-1960 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1961. Reserved**Historical Note**

Section R9-7-1961 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1962. Reserved**Historical Note**

Section R9-7-1962 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1963. Reserved**Historical Note**

Section R9-7-1963 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1964. Reserved**Historical Note**

Section R9-7-1964 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1965. Reserved**Historical Note**

Section R9-7-1965 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1966. Reserved**Historical Note**

Section R9-7-1966 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1967. Reserved**Historical Note**

Section R9-7-1967 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1968. Reserved**Historical Note**

Section R9-7-1968 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1969. Reserved**Historical Note**

Section R9-7-1969 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1970. Reserved**Historical Note**

Section R9-7-1970 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1971. Additional Requirements for Transfer of Category 1 and Category 2 Quantities of Radioactive Material

A licensee transferring a category 1 or category 2 quantity of radioactive material to a licensee of the Department, the NRC, or an Agreement State shall meet the license verification provisions listed below instead of those listed in sections of this chapter:

1. Any licensee transferring category 1 quantities of radioactive material to a licensee of the Department, the NRC, or an Agreement State, prior to conducting such transfer, shall verify with the Department's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.
2. Any licensee transferring category 2 quantities of radioactive material to a licensee of the Department, the NRC, or an Agreement State, prior to conducting such transfer, shall verify with the Department's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form, and quantity of radioactive material to be transferred. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.
3. In an emergency where the licensee cannot reach the license issuing authority and the license verification system is nonfunctional, the licensee may accept a written certification by the transferee that it is authorized by license to receive the type, form, and quantity of radioactive material to be transferred. The certification shall include the license number, current revision number, issuing agency, expiration date, and for a category 1 shipment the authorized address. The licensee shall keep a copy of the certification. The certification shall be confirmed by use of the NRC's license verification system or by contacting the license issuing authority by the end of the next business day.
4. The transferor shall keep a copy of the verification documentation as a record for 3 years.

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Historical Note

New Section R9-7-1971 recodified from R12-1-1971 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1972. Reserved**Historical Note**

Section R9-7-1972 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1973. Applicability of Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Transit

- A. For shipments of category 1 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in Sections R9-7-1975(A) and (E); R9-7-1977; R9-7-1979(A)(1), (B)(1), and (C); and R9-7-1981(A), (C), (E), (G) and (H).
- B. For shipments of category 2 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in R9-7-1975(B) through (E); R9-7-1979(A)(2), (A)(3), (B)(2), and (C); and R9-7-1981(B), (D), (F), (G), and (H). For those shipments of category 2 quantities of radioactive material that meet the criteria of Article 15 of this Chapter, the shipping licensee shall also comply with the advance notification provisions of R9-7-1508 or R9-7-1512 as appropriate.
- C. The shipping licensee shall be responsible for meeting the requirements of R9-7-1971 through R9-7-1981 unless the receiving licensee has agreed in writing to arrange for the in-transit physical protection required under R9-7-1971 through R9-7-1981.
- D. Each licensee that imports or exports category 1 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in R9-7-1975(A)(2) and (E); R9-7-1977; R9-7-1979(A)(1), (B)(1), and (C); and R9-7-1981(A), (C), (E), (G), and (H) for the domestic portion of the shipment.
- E. Each licensee that imports or exports category 2 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in R9-7-1979(A)(2), (A)(3), and (B)(2); and R9-7-1981(B), (D), (F), (G), and (H) for the domestic portion of the shipment.

Historical Note

New Section R9-7-1973 recodified from R12-1-1973 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1974. Reserved**Historical Note**

Section R9-7-1974 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1975. Preplanning and Coordination of Shipment of Category 1 or Category 2 Quantities of Radioactive Material

- A. Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 1 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall:
 1. Preplan and coordinate shipment arrival and departure times with the receiving licensee;
 2. Preplan and coordinate shipment information with the governor or the governor's designee of any State through which the shipment will pass to:
 - a. Discuss the State's intention to provide law enforcement escorts; and
 - b. Identify safe havens; and
 3. Document the preplanning and coordination activities.

- B. Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 2 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall coordinate the shipment no-later-than arrival time and the expected shipment arrival with the receiving licensee. The licensee shall document the coordination activities.
- C. Each licensee who receives a shipment of a category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.
- D. Each licensee, who transports or plans to transport a shipment of a category 2 quantity of radioactive material, and determines that the shipment will arrive after the no-later-than arrival time provided pursuant to paragraph (B), shall promptly notify the receiving licensee of the new no-later-than arrival time.
- E. The licensee shall retain a copy of the documentation for preplanning and coordination and any revision thereof, as a record for 3 years.

Historical Note

New Section R9-7-1975 recodified from R12-1-1975 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1976. Reserved**Historical Note**

Section R9-7-1976 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1977. Advance Notification of Shipment of Category 1 Quantities of Radioactive Material

Each licensee shall provide advance notification to the Department and the governor of a State, or the governor's designee, of the shipment of licensed material in a category 1 quantity, through or across the boundary of the State, before the transport, or delivery to a carrier for transport of the licensed material outside the confines of the licensee's facility or other place of use or storage.

1. Procedures for submitting advance notification:
 - a. The notification shall be made to the Department and to the office of each appropriate governor or governor's designee. The contact information, including telephone and mailing addresses, of governors and governors' designees and participating Tribes is available on the NRC's website at <https://scs.nrc.gov/special/designee.pdf>. A list of the contact information is also available upon request from the Director, Division of Material Safety, Security, State, and Tribal Programs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The notification to the Department may be made by email to ram@azdhs.gov or by fax to (602) 437-0705.
 - b. A notification delivered by mail shall be postmarked at least 7 days before transport of the shipment commences at the shipping facility.
 - c. A notification delivered by any means other than mail shall reach the Department at least 4 days before the transport of the shipment commences and shall reach the office of the governor or the governor's designee at least 4 days before transport of a shipment within or through the State.
2. Information to be furnished in advance notification of shipment: Each advance notification of shipment of category 1 quantities of radioactive material shall contain the

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following information, if available at the time of notification:

- a. The name, address, and telephone number of the shipper, carrier, and receiver of the category 1 radioactive material;
 - b. The license numbers of the shipper and receiver;
 - c. A description of the radioactive material contained in the shipment, including the radionuclides and quantity;
 - d. The point of origin of the shipment and the estimated time and date that shipment will commence;
 - e. The estimated time and date that the shipment is expected to enter each State along the route;
 - f. The estimated time and date of arrival of the shipment at the destination; and
 - g. A point of contact, with a telephone number, for current shipment information.
3. Revision notice:
 - a. The licensee shall provide any information not previously available at the time of the initial notification, as soon as the information becomes available but not later than commencement of the shipment, to the governor of the State or the governor's designee and to the Department at the contact information available in R9-7-1907.
 - b. A licensee shall promptly notify the governor of the state or the governor's designee of any changes to the information provided in accordance with subsections (B) and (C)(1). The licensee shall also immediately notify the Department at the contact information available in R9-7-1907 of any such changes.
 4. Cancellation notice: Each licensee who cancels a shipment for which advance notification has been sent shall send a cancellation notice to the governor of each State or to the governor's designee previously notified and to the Department Director at the contact information available in R9-7-1907. The licensee shall send the cancellation notice before the shipment would have commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being cancelled.
 5. Records: The licensee shall retain a copy of the advance notification and any revision and cancellation notices as a record for 3 years.
 6. Protection of information: State officials, State employees, and other individuals, whether or not licensees of the Department, the NRC, or an Agreement State, who receive schedule information of the kind specified in this Section shall protect that information against unauthorized disclosure as specified in R9-7-1943(D) of this Article.

Historical Note

New Section R9-7-1977 recodified from R12-1-1977 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3). Amended by final expedited rulemaking at 26 A.A.R. 1067, with an immediate effective date of May 6, 2020 (Supp. 20-2).

R9-7-1978. Reserved**Historical Note**

Section R9-7-1978 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1979. Requirements for Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Shipment**Category 1 and Category 2 Quantities of Radioactive Material During Shipment****A. Shipments by road:**

1. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:
 - a. Ensure that movement control centers are established that maintain position information from a remote location. These control centers shall monitor shipments 24 hours a day, 7 days a week, and have the ability to communicate immediately, in an emergency, with the appropriate law enforcement agencies.
 - b. Ensure that redundant communications are established that allow the transport to contact the escort vehicle (when used) and movement control center at all times. Redundant communications may not be subject to the same interference factors as the primary communication.
 - c. Ensure that shipments are continuously and actively monitored by a telemetric position monitoring system or an alternative tracking system reporting to a movement control center. A movement control center shall provide positive confirmation of the location, status, and control over the shipment. The movement control center shall be prepared to promptly implement preplanned procedures in response to deviations from the authorized route or a notification of actual, attempted, or suspicious activities related to the theft, loss, or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.
 - d. Provide an individual to accompany the driver for those highway shipments with a driving time period greater than the maximum number of allowable hours of service in a 24-hour duty day as established by the Department of Transportation Federal Motor Carrier Safety Administration. The accompanying individual may be another driver.
 - e. Develop written normal and contingency procedures to address:
 - i. Notifications to the communication center and law enforcement agencies;
 - ii. Communication protocols. Communication protocols shall include a strategy for the use of authentication codes and duress codes and provisions for refueling or other stops, detours, and locations where communication is expected to be temporarily lost;
 - iii. Loss of communications; and
 - iv. Responses to an actual or attempted theft or diversion of a shipment.
 - f. Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall ensure that drivers, accompanying personnel, and movement control center personnel have access to the normal and contingency procedures.
2. Each licensee that transports category 2 quantities of radioactive material shall maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance.

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3. Each licensee who delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:
 - a. Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system shall allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control.
 - b. Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and
 - c. Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.
- B. Shipments by rail:
 1. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:
 - a. Ensure that rail shipments are monitored by a telemetric position monitoring system or an alternative tracking system reporting to the licensee, third-party, or railroad communications center. The communications center shall provide positive confirmation of the location of the shipment and its status. The communications center shall implement preplanned procedures in response to deviations from the authorized route or to a notification of actual, attempted, or suspicious activities related to the theft or diversion of a shipment. These procedures will include, but not be limited to, the identification of and contact information for the appropriate LLEA along the shipment route.
 - b. Ensure that periodic reports to the communications center are made at preset intervals.
 2. Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:
 - a. Use carriers that have established package tracking systems. An established package tracking system is a documented, proven, and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system shall allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control.
 - b. Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and
 - c. Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.
- C. Investigations: Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall immediately conduct an investigation upon the discovery that a category 1 shipment is lost or missing. Each licensee who makes arrangements for the shipment of category 2 quantities of radioactive material shall immediately conduct an investigation, in coordination with the receiving licensee, of any shipment that has not arrived by the designated no-later-than arrival time.

Historical Note

New Section R9-7-1979 recodified from R12-1-1979 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1980. Reserved**Historical Note**

Section R9-7-1980 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1981. Reporting of Events

- A. Within one hour of its determination that a shipment of category 1 quantities of radioactive material is lost or missing, a shipping licensee shall notify the appropriate LLEA and the Department. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212. The appropriate LLEA is the law enforcement agency in the area of the shipment's last confirmed location. During the investigation required by R9-7-1979(C), the shipping licensee shall provide agreed upon updates to the Department on the status of the investigation.
- B. Within four (4) hours of its determination that a shipment of category 2 quantities of radioactive material is lost or missing, a shipping licensee shall notify the appropriate LLEA and the Department. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212. If, after 24 hours of its determination that the shipment is lost or missing, the radioactive material has not been located and secured, the licensee shall immediately notify the Department.
- C. The shipping licensee shall notify the designated LLEA along the shipment route as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment or suspicious activities related to the theft or diversion of a shipment of a category 1 quantity of radioactive material. As soon as possible after notifying the LLEA, the licensee shall notify the Department upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment of category 1 radioactive material. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.
- D. The shipping licensee shall notify the Department as soon as possible upon discovery of any actual or attempted theft or diversion of a shipment, or any suspicious activity related to the shipment, of a category 2 quantity of radioactive material. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.
- E. The shipping licensee shall notify the Department and the LLEA as soon as possible upon recovery of any lost or missing category 1 quantities of radioactive material. The Agency shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.
- F. The shipping licensee shall notify the Department as soon as possible upon recovery of any lost or missing category 2 quantities of radioactive material. The Department shall be notified by calling (602) 255-4845 during business hours, or by calling the after-hours emergency Department of Public Safety dispatch line, at (602) 223-2212.
- G. The initial telephonic notification required by subsections (A) through (D) shall be followed within a period of 30 days by a

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written report submitted to the Department by an appropriate method listed in R9-7-1907. A written report is not required for notifications on suspicious activities required by subsections (C) and (D). The report shall set forth the following information:

1. A description of the licensed material involved, including kind, quantity, and chemical and physical form;
2. A description of the circumstances under which the loss or theft occurred;
3. A statement of disposition, or probable disposition, of the licensed material involved;
4. Actions that have been taken, or will be taken, to recover the material; and
5. Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material.

H. Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

Historical Note

New Section R9-7-1981 recodified from R12-1-1981 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-1982. Reserved

Historical Note

Section R9-7-1982 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1983. Reserved

Historical Note

Section R9-7-1983 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1984. Reserved

Historical Note

Section R9-7-1984 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1985. Reserved

Historical Note

Section R9-7-1985 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1986. Reserved

Historical Note

Section R9-7-1986 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1987. Reserved

Historical Note

Section R9-7-1987 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1988. Reserved

Historical Note

Section R9-7-1988 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1989. Reserved

Historical Note

Section R9-7-1989 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1990. Reserved

Historical Note

Section R9-7-1990 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1991. Reserved

Historical Note

Section R9-7-1991 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1992. Reserved

Historical Note

Section R9-7-1992 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1993. Reserved

Historical Note

Section R9-7-1993 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1994. Reserved

Historical Note

Section R9-7-1994 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1995. Reserved

Historical Note

Section R9-7-1995 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1996. Reserved

Historical Note

Section R9-7-1996 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1997. Reserved

Historical Note

Section R9-7-1997 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1998. Reserved

Historical Note

Section R9-7-1998 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-1999. Reserved

Historical Note

Section R9-7-1999 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19100. Reserved

Historical Note

Section R9-7-19100 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19101. Form of Records

- A. Each record required by this Article shall be legible throughout the retention period specified by each Department rule. The record may be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records such as letters, drawings, and specifications, shall include all pertinent

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information such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

- B.** The licensee who transferred the material shall retain each record of the transfer of source or byproduct material until the Department terminates each license that authorizes the activity that is subject to the recordkeeping requirement.

Historical Note

New Section R9-7-19101 recodified from R12-1-19101 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

Amended by final expedited rulemaking at 24 A.A.R. 2151, effective July 12, 2018 (Supp. 18-3).

R9-7-19102. Reserved**Historical Note**

Section R9-7-19102 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19103. Record Retention

Licensees shall maintain the records that are required by the rules in this Article for the period specified by the appropriate rule. If a retention period is not otherwise specified, these records shall be retained until the Department terminates the facility's license. All records related to this Article may be destroyed upon Department termination of the facility's license.

Historical Note

New Section R9-7-19103 recodified from R12-1-19103 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-19104. Reserved**Historical Note**

Section R9-7-19104 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19105. Inspections

- A.** Each licensee shall afford to the Department, at all reasonable times, opportunity to inspect category 1 or category 2 quantities of radioactive material and the premises and facilities wherein the nuclear material is used, produced, or stored.
- B.** Each licensee shall make available to the Department for inspection, upon reasonable notice, records kept by the licensee pertaining to its receipt, possession, use, acquisition, import, export, or transfer of category 1 or category 2 quantities of radioactive material.

Historical Note

New Section R9-7-19105 recodified from R12-1-19105 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-19106. Reserved**Historical Note**

Section R9-7-19106 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19107. Violations

- A.** The Department may obtain an injunction or other court order to prevent a violation of the provisions of:
1. A.R.S. § 30-685, as amended;
 2. A.A.C. Title 9, Chapter 7; or
 3. A rule or order issued by the Department pursuant to Statute or the rules under A.A.C. Title 9, Chapter 7.
- B.** The Department may obtain a court order for the payment of a civil penalty imposed under A.R.S. § 30-687, as amended:
1. For violations of:
 - a. The rules in A.A.C. Title 9, Chapter 7, as amended;
 - b. Nonpayment of fees listed in A.A.C. Title 9, Chapter 7, Article 13;
 - c. Any rule, or order issued pursuant to the sections specified in subsection (B)(1)(a);
 - d. Any term, condition, or limitation of any license issued under the sections specified in subsection (B)(1)(a).
 2. For any violation for which a license may be revoked.

Historical Note

New Section R9-7-19107 recodified from R12-1-19107 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

R9-7-19108. Reserved**Historical Note**

Section R9-7-19108 reserved when the Chapter was recodified from 12 A.A.C. 1 (Supp. 18-1).

R9-7-19109. Criminal Penalties

Arizona Revised Statutes § 30-673, as amended, provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any rule issued under A.A.C. Title 9, Chapter 7. For purposes of this Section, all the rules in this Article are issued under A.R.S. § 30-673 or the rules of the Department.

Historical Note

New Section R9-7-19109 recodified from R12-1-19109 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1).

TITLE 9. HEALTH SERVICES

CHAPTER 7. DEPARTMENT OF HEALTH SERVICES - RADIATION CONTROL

Appendix A. - Table 1 - Category 1 and Category 2 Threshold

The terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only.

Radioactive Material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Americium-241	60	1,620	0.6	16.2
Americium-241/Be	60	1,620	0.6	16.2
Californium-252	20	540	0.2	5.40
Cobalt-60	30	810	0.3	8.10
Curium-244	50	1,350	0.5	13.5
Cesium-137	100	2,700	1	27.0
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,160	0.8	21.6
Plutonium-238	60	1,620	0.6	16.2
Plutonium-239/Be	60	1,620	0.6	16.2
Promethium-147	40,000	1,080,000	400	10,800
Radium-226	40	1,080	0.4	10.8
Selenium-75	200	5,400	2	54.0
Strontium-90	1,000	27,000	10	270
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81.0

Note: Calculations Concerning Multiple Sources or Multiple Radionuclides

The “sum of fractions” methodology for evaluating combinations of multiple sources or multiple radionuclides is to be used in determining whether a location meets or exceeds the threshold and is thus subject to the requirements of this part.

1. If multiple sources of the same radionuclide and/or multiple radionuclides are aggregated at a location, the sum of the ratios of the total activity of each of the radionuclides shall be determined to verify whether the activity at the location is less than the category 1 or category 2 thresholds of Table 1, as appropriate. If the calculated sum of the ratios, using the equation below, is greater than or equal to 1.0, then the applicable requirements of this part apply.
2. First determine the total activity for each radionuclide from Table 1. This is done by adding the activity of each individual source, material in any device, and any loose or bulk material that contains the radionuclide. Then use the equation below to calculate the sum of the ratios by inserting the total activity of the applicable radionuclides from Table 1 in the numerator of the equation and the corresponding threshold activity from Table 1 in the denominator of the equation.

Calculations shall be performed in metric values (i.e., TBq) and the numerator and denominator values shall be in the same units.

R_1 = total activity for radionuclide 1

R_2 = total activity for radionuclide 2

R_n = total activity for radionuclide n

AR_1 = activity threshold for radionuclide 1

AR_2 = activity threshold for radionuclide 2

AR_n = activity threshold for radionuclide n

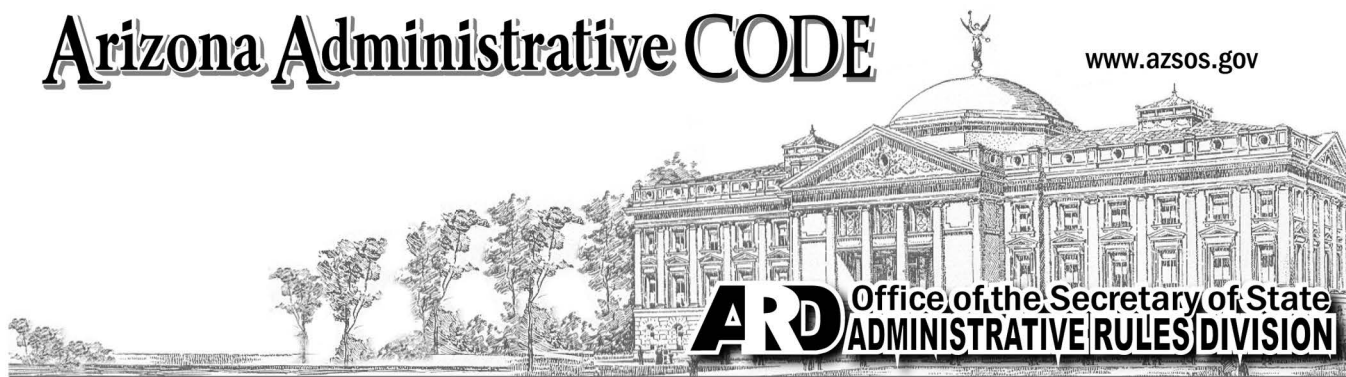
$$\frac{R_1}{AR_1} + \frac{R_2}{AR_2} + \dots + \frac{R_n}{AR_n} \geq 1.0$$

Historical Note

New Article 19, Appendix A, Table 1 recodified from 12 A.A.C. 1, Article 19, Appendix A, Table 1 at 24 A.A.R. 813, effective March 22, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 28 A.A.R. 3533 (November 18, 2022), with an immediate effective date of November 2, 2022 (Supp. 22-4).

Arizona Administrative CODE

www.azsos.gov



9 A.A.C. 10

Supp. 24-3

TITLE 9. HEALTH SERVICES

CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSING

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

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

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
July 1, 2024 through September 30, 2024

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Questions about these rules? Contact:

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The release of this Chapter in Supp. 24-3 replaces Supp. 22-4, 1-330 pages.

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

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

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

THE ADMINISTRATIVE CODE

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

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

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

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

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

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

RULE HISTORY

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

AUTHENTICATION OF PDF CODE CHAPTERS

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

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

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

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

EXEMPTIONS FROM THE APA

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

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

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

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

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

PERSONAL USE/COMMERCIAL USE

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

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Administrative Rules Division

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TITLE 9. HEALTH SERVICES

CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSING

Authority: A.R.S. §§ 36-132(A)(1), 36-136, 36-405, and 36-406

Supp. 24-3

Editor's Note: The heading for 9 A.A.C. 10 changed from "Licensure" to "Licensing" per a request from the Department of Health Services (Supp. 03-4).

Editor's Note: The Office of the Secretary of State publishes all Chapters on white paper (Supp. 01-2).

Editor's Note: This Chapter contains rules which were adopted, amended, and repealed under exemptions from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to Laws 1993, Ch. 163, § 3(B); Laws 1996, Ch. 329, § 5; Laws 1998, Ch. 178 § 17, and Laws 1999, Ch. 311. Exemption from A.R.S. Title 41, Chapter 6 means that the Department of Health Services did not submit these rules to the Governor's Regulatory Review Council for review; the Department may not have submitted notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the Department was not required to hold public hearings on these rules; and the Attorney General did not certify these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.

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Former Article 2, consisting of Sections R9-10-201 through R9-10-250, renumbered as Sections R9-10-301 through R9-10-335

as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days.

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Article 3, consisting of Sections R9-10-301 through R9-10-333, adopted effective February 4, 1981.

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Article 5, consisting of Sections R9-10-501 through R9-10-514, adopted effective April 4, 1994 (Supp. 94-2).

Article 5, consisting of Sections R9-10-501 through R9-10-518, repealed effective April 4, 1994 (Supp. 94-2).

Article 5, consisting of Sections R9-10-501 through R9-10-518, adopted as permanent rules effective October 30, 1989.

Article 5, consisting of Sections R9-10-501 through R9-10-518, readopted as an emergency effective July 31, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 5, consisting of Sections R9-10-501 through R9-10-518, readopted as an emergency effective April 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 5, consisting of Sections R9-10-501 through R9-10-518, readopted as an emergency effective January 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

New Article 5, consisting of Sections R9-10-501 through R9-10-518, adopted as an emergency effective October 26, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

TITLE 9. HEALTH SERVICES

CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSING

Former Article 5, consisting of Sections R9-10-501 through R9-10-574, repealed effective October 20, 1982.

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Article 7, consisting of Sections R9-10-701 through R9-7-710, repealed; New Article 7, consisting of Sections R9-10-701 through R9-7-724 adopted; both actions effective November 1, 1998 under an exemption from the Administrative Procedure Act; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

Article 7, consisting of Sections R9-10-701 through R9-10-710, adopted as permanent rules effective October 30, 1989.

Article 7, consisting of Sections R9-10-701 through R9-10-710, readopted as an emergency effective July 31, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 7, consisting of Sections R9-10-701 through R9-10-710, readopted as an emergency effective April 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 7, consisting of Sections R9-10-701 through R9-10-710, readopted as an emergency effective January 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

New Article 7, consisting of Sections R9-10-701 through R9-10-710, adopted as an emergency effective October 26, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Former Article 7, consisting of Sections R9-10-701 through R9-10-737, repealed effective October 20, 1982.

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ARTICLE 8. ASSISTED LIVING FACILITIES

Article 8 (Sections R9-10-801 through R9-10-812) adopted as permanent rules effective October 30, 1989.

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Article 8, consisting of Sections R9-10-801 through R9-10-812, readopted as an emergency effective July 31, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 8, consisting of Sections R9-10-801 through R9-10-812, readopted as an emergency effective April 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

Article 8, consisting of Sections R9-10-801 through R9-10-812, readopted as an emergency effective January 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days.

New Article 8, consisting of Sections R9-10-801 through R9-10-812, adopted as an emergency effective October 26, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

Former Article 8, consisting of Sections R9-10-801 through R9-10-867, repealed effective October 20, 1982.

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Article 9, consisting of Sections R9-10-901 through R9-10-917 adopted effective February 17, 1995 (Supp. 95-1).

Article 9, consisting of Sections R9-10-911 through R9-10-925, repealed effective February 17, 1995 (Supp. 95-1).

Article 9, consisting of Sections R9-10-911 through R9-10-925, adopted effective October 20, 1982 (Supp. 82-5).

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Article 10, consisting of Sections R9-10-1011 through R9-10-1030, repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2).

The proposed summary action repealing R9-10-1011 through R9-10-1030 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rules. Sections in effect before the proposed summary action have been restored (Supp. 97-1).

Article 10, consisting of R9-10-1011 through R9-10-1030, repealed by summary action, interim effective date of July 21, 1995.

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ARTICLE 11. ADULT DAY HEALTH CARE FACILITIES

Article 11, consisting of Sections R9-10-1101 through R9-10-1109 adopted effective July 22, 1994 (Supp. 94-3).

Article 11, consisting of Sections R9-10-1111 through R9-10-1127 repealed effective July 22, 1994 (Supp. 94-3).

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Article 12, consisting of Sections R9-10-1201 through R9-10-1230, repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

Article 12, consisting of Sections R9-10-1201 through R9-10-1230, adopted effective February 4, 1981.

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ARTICLE 13. BEHAVIORAL HEALTH SPECIALIZED TRANSITIONAL FACILITY

New Article 13, consisting of Sections R9-10-1301 through R9-10-1317, made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, repealed effective November 1, 1998, under an exemption from the Administrative Procedure Act; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, adopted as permanent rules effective November 25, 1992 (Supp. 92-4).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, adopted again as an emergency effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, adopted again as an emergency effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, adopted again as an emergency effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1).

Article 13, consisting of Sections R9-10-1301 through R9-10-1314, adopted as an emergency effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4).

Article 13, consisting of Sections R9-10-1301 through R9-10-1306, adopted as an emergency effective March 29, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-1). Emergency expired.

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ARTICLE 15. ABORTION CLINICS

Article 15, consisting of Sections R9-10-1501 through R9-10-1515, were either amended, renumbered and repealed by final rulemaking which means the public had the opportunity to comment on the rules and they were reviewed and approved by the Governor's Regulatory Review Council. Section editor's notes referring to the adoption under an exemption have been removed in this Article (Supp. 18-4).

Selected Sections in Article 15 were subsequently amended by final rulemaking in Supp. 10-2 which means the public had the opportunity to comment on the rules and they were reviewed and approved by the Governor's Regulatory Review Council. Refer to the historical notes for more information (Supp. 18-4).

Article 15, consisting of Sections R9-10-1501 through R9-10-1514, adopted under an exemption from the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311, filed in the Office of the Secretary of State December 23, 1999 (Supp. 99-4).

Article 15, consisting of Sections R9-10-1501 through R9-10-1514, repealed effective November 1, 1998, under an exemption from the Administrative Procedure Act; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

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Article 17, consisting of Sections R9-10-1701 through R9-10-1713, adopted effective July 6, 1994 (Supp. 94-3).

Article 17, consisting of Sections R9-10-1711 through R9-10-1713, R9-10-1715 through R9-10-1723, and R9-10-1731 through R9-10-1734, repealed effective July 6, 1994 (Supp. 94-3).

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ARTICLE 18. ADULT BEHAVIORAL HEALTH THERAPEUTIC HOMES

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ARTICLE 19. COUNSELING FACILITIES

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ARTICLE 21. RECOVERY CARE CENTERS

New Article 21, consisting of Sections R9-10-2101 through R9-10-2118, renumbered from R1-10-501 through R1-1-518 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

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ARTICLE 22. NURSING-SUPPORTED GROUP HOMES

Article 22, consisting of Sections R9-10-2201 through R9-10-2226, made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

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ARTICLE 1. GENERAL

R9-10-101. Definitions

In addition to the definitions in A.R.S. §§ 36-401(A) and 36-439, the following definitions apply in this Chapter unless otherwise specified:

1. "Abortion clinic" has the same meaning as in A.R.S. § 36-449.01.
2. "Abuse" means:
 - a. The same:
 - i. For an individual 18 years of age or older, as in A.R.S. § 46-451; and
 - ii. For an individual less than 18 years of age, as in A.R.S. § 8-201;
 - b. A pattern of ridiculing or demeaning a patient;
 - c. Making derogatory remarks or verbally harassing a patient; or
 - d. Threatening to inflict physical harm on a patient.
3. "Accredited" has the same meaning as in A.R.S. § 36-422.
4. "Active malignancy" means a cancer for which:
 - a. A patient is undergoing treatment, such as through:
 - i. One or more surgical procedures to remove the cancer;
 - ii. Chemotherapy, as defined in A.A.C. R9-4-401; or
 - iii. Radiation treatment, as defined in A.A.C. R9-4-401;
 - b. There is no treatment; or
 - c. A patient is refusing treatment.
5. "Activities of daily living" means ambulating, bathing, toileting, grooming, eating, and getting in or out of a bed or a chair.
6. "Acuity" means a patient's need for medical services, nursing services, or behavioral health services based on the patient's medical condition or behavioral health issue.
7. "Acuity plan" means a method for establishing nursing personnel requirements by unit based on a patient's acuity.
8. "Adjacent" means not intersected by:
 - a. Property owned, operated, or controlled by a person other than the applicant or licensee; or
 - b. A public thoroughfare.
9. "Administrative completeness review time-frame" has the same meaning as in A.R.S. § 41-1072.
10. "Administrative office" means a location used by personnel for recordkeeping and record retention but not for providing medical services, nursing services, behavioral health services, or health-related services.
11. "Admission" or "admitted" means, after completion of an individual's screening or registration by a health care institution, the individual begins receiving physical health services or behavioral health services and is accepted as a patient of the health care institution.
12. "Adult" has the same meaning as in A.R.S. § 1-215.
13. "Adult behavioral health therapeutic home" means a residence that provides room and board, assists in acquiring daily living skills, coordinates transportation to scheduled appointments, monitors behaviors, assists in the self-administration of medication, and provides feedback to a case manager related to behavior for an individual 18 years of age or older based on the individual's behavioral health issue and need for behavioral health services and may provide behavioral health services under the clinical oversight of a behavioral health professional.
14. "Adult residential care institution" means a subclass of behavioral health residential facility that only admits residents 18 years of age and older and provides recidivism reduction services.
15. "Adverse reaction" means an unexpected outcome that threatens the health or safety of a patient as a result of a medical service, nursing service, or health-related service provided to the patient.
16. "Affiliated counseling facility" means a counseling facility that shares administrative support with one or more other counseling facilities that operate under the same governing authority.
17. "Affiliated outpatient treatment center" means an outpatient treatment center authorized by the Department to provide behavioral health services that provides administrative support to a counseling facility or counseling facilities that operate under the same governing authority as the outpatient treatment center.
18. "Alternate licensing fee due date" means the last calendar day in a month each year, other than the anniversary date of a facility's health care institution license, by which a licensee is required to pay the applicable fees in R9-10-106.
19. "Ancillary services" means services other than medical services, nursing services, or health-related services provided to a patient.
20. "Anesthesiologist" means a physician granted clinical privileges to administer anesthesia.
21. "Applicant" means a governing authority requesting:
 - a. Approval of a health care institution's architectural plans and specifications for construction or modification,
 - b. Approval of a modification,
 - c. Approval of an alternate licensing fee due date, or
 - d. A health care institution license.
22. "Application packet" means the information, documents, and fees required by the Department for the:
 - a. Approval of a health care institution's architectural plans and specifications for construction or modification,
 - b. Approval of a modification,
 - c. Approval of an alternate licensing fee due date, or
 - d. Licensing of a health care institution.
23. "Assessment" means an analysis of a patient's need for physical health services or behavioral health services to determine which services a health care institution will provide to the patient.
24. "Assistance in the self-administration of medication" means restricting a patient's access to the patient's medication and providing support to the patient while the patient takes the medication to ensure that the medication is taken as ordered.
25. "Attending physician" means a physician designated by a patient to participate in or coordinate the medical services provided to the patient.
26. "Authenticate" means to establish authorship of a document or an entry in a medical record by:
 - a. A written signature;
 - b. An individual's initials, if the individual's written signature appears on the document or in the medical record;
 - c. A rubber-stamp signature; or
 - d. An electronic signature code.

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27. "Authorized service" means specific medical services, nursing services, behavioral health services, or health-related services provided by a specific health care institution class or subclass for which the health care institution is required to obtain approval from the Department before providing the medical services, nursing services, or health-related services.
28. "Available" means:
- For an individual, the ability to be contacted and to provide an immediate response by any means possible;
 - For equipment and supplies, physically retrievable at a health care institution; and
 - For a document, retrievable by a health care institution or accessible according to the applicable time-frames in this Chapter.
29. "Behavioral care"
- Means limited behavioral health services, provided to a patient whose primary admitting diagnosis is related to the patient's need for physical health services, that include:
 - Assistance with the patient's psychosocial interactions to manage the patient's behavior that can be performed by an individual without a professional license or certificate including:
 - Direction provided by a behavioral health professional, and
 - Medication ordered by a medical practitioner or behavioral health professional; or
 - Behavioral health services provided by a behavioral health professional on an intermittent basis to address the patient's significant psychological or behavioral response to an identifiable stressor or stressors; and
 - Does not include court-ordered behavioral health services.
30. "Behavioral health facility" means a behavioral health inpatient facility, a behavioral health residential facility, a substance abuse transitional facility, a behavioral health specialized transitional facility, an outpatient treatment center that only provides behavioral health services, an adult behavioral health therapeutic home, a behavioral health respite home, or a counseling facility.
31. "Behavioral health inpatient facility" means a health care institution that provides continuous treatment to an individual experiencing a behavioral health issue that causes the individual to:
- Have a limited or reduced ability to meet the individual's basic physical needs;
 - Suffer harm that significantly impairs the individual's judgment, reason, behavior, or capacity to recognize reality;
 - Be a danger to self;
 - Be a danger to others;
 - Be persistently or acutely disabled, as defined in A.R.S. § 36-501; or
 - Be gravely disabled.
32. "Behavioral health issue" means an individual's condition related to a mental disorder, a personality disorder, substance abuse, or a significant psychological or behavioral response to an identifiable stressor or stressors.
33. "Behavioral health observation/stabilization services" means crisis services provided, in an outpatient setting, to an individual whose behavior or condition indicates that the individual:
- Requires nursing services,
 - May require medical services, and
 - May be a danger to others or a danger to self.
34. "Behavioral health paraprofessional" means an individual who is not a behavioral health professional who provides the following services to a patient to address the patient's behavioral health issue:
- Under supervision by a behavioral health professional, services that, if provided in a setting other than a health care institution, would be required to be provided by an individual licensed under A.R.S. Title 32, Chapter 33; or
 - Health-related services.
35. "Behavioral health professional" means:
- An individual licensed under A.R.S. Title 32, Chapter 33, whose scope of practice allows the individual to:
 - Independently engage in the practice of behavioral health, as defined in A.R.S. § 32-3251; or
 - Except for a licensed substance abuse technician, engage in the practice of behavioral health, as defined in A.R.S. § 32-3251, under direct supervision as defined in A.A.C. R4-6-101;
 - A psychiatrist as defined in A.R.S. § 36-501;
 - A psychologist as defined in A.R.S. § 32-2061;
 - A physician;
 - A behavior analyst as defined in A.R.S. § 32-2091; or
 - A registered nurse practitioner licensed as an adult psychiatric and mental health nurse; or
 - A registered nurse with:
 - A psychiatric-mental health nursing certification, or
 - One year of experience providing behavioral health services.
36. "Behavioral health residential facility" means a health care institution that provides treatment to an individual experiencing a behavioral health issue that:
- Limits the individual's ability to be independent, or
 - Causes the individual to require treatment to maintain or enhance independence.
37. "Behavioral health respite home" means a residence where respite care services, which may include assistance in the self-administration of medication, are provided to an individual based on the individual's behavioral health issue and need for behavioral health services.
38. "Behavioral health specialized transitional facility" means a health care institution that provides inpatient behavioral health services and physical health services to an individual determined to be a sexually violent person according to A.R.S. Title 36, Chapter 37.
39. "Behavioral health technician" means an individual who is not a behavioral health professional who provides the following services to a patient to address the patient's behavioral health issue:
- With clinical oversight by a behavioral health professional, services that, if provided in a setting other than a health care institution, would be required to be provided by an individual licensed under A.R.S. Title 32, Chapter 33; or
 - Health-related services.

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40. "Benzodiazepine" means any one of a class of sedative-hypnotic medications, characterized by a chemical structure that includes a benzene ring linked to a seven-membered ring containing two nitrogen atoms, that are commonly used in the treatment of anxiety.
41. "Biohazardous medical waste" has the same meaning as in A.A.C. R18-13-1401.
42. "Calendar day" means each day, not including the day of the act, event, or default from which a designated period of time begins to run, but including the last day of the period unless it is a Saturday, Sunday, statewide furlough day, or legal holiday, in which case the period runs until the end of the next day that is not a Saturday, Sunday, statewide furlough day, or legal holiday.
43. "Case manager" means an individual assigned by an entity other than a health care institution to coordinate the physical health services or behavioral health services provided to a patient at the health care institution.
44. "Certification" means, in this Article, a written statement that an item or a system complies with the applicable requirements incorporated by reference in R9-10-104.01.
45. "Certified health physicist" means an individual recognized by the American Board of Health Physics as complying with the health physics criteria and examination requirements established by the American Board of Health Physics.
46. "Change in ownership" means conveyance of the ability to appoint, elect, or otherwise designate a health care institution's governing authority from an owner of the health care institution to another person.
47. "Chief administrative officer" or "administrator" means an individual designated by a governing authority to implement the governing authority's direction in a health care institution.
48. "Clinical laboratory services" means the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease or impairment of a human being, or for the assessment of the health of a human being, including procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.
49. "Clinical oversight" means:
 - a. Monitoring the behavioral health services provided by a behavioral health technician to ensure that the behavioral health technician is providing the behavioral health services according to the health care institution's policies and procedures and, if applicable, a patient's treatment plan;
 - b. Providing on-going review of a behavioral health technician's skills and knowledge related to the provision of behavioral health services;
 - c. Providing guidance to improve a behavioral health technician's skills and knowledge related to the provision of behavioral health services; and
 - d. Recommending training for a behavioral health technician to improve the behavioral health technician's skills and knowledge related to the provision of behavioral health services.
50. "Clinical privileges" means authorization to a medical staff member to provide medical services granted by a governing authority or according to medical staff bylaws.
51. "Collaborating health care institution" means a health care institution licensed to provide outpatient behavioral health services that has a written agreement with an adult behavioral health therapeutic home or a behavioral health respite home to:
 - a. Coordinate behavioral health services provided to a resident at the adult behavioral health therapeutic home or a recipient at a behavioral health respite home, and
 - b. Work with the provider to ensure a resident at the adult behavioral health therapeutic home or a recipient at a behavioral health respite home receives behavioral health services according to the resident's treatment plan.
52. "Common area" means licensed space in health care institution that is:
 - a. Not a resident's bedroom or a residential unit,
 - b. Not restricted to use by employees or volunteers of the health care institution, and
 - c. Available for use by visitors and other individuals on the premises.
53. "Communicable disease" has the same meaning as in A.R.S. § 36-661.
54. "Conspicuously posted" means placed:
 - a. At a location that is visible and accessible; and
 - b. Unless otherwise specified in the rules, within the area where the public enters the premises of a health care institution.
55. "Consultation" means an evaluation of a patient requested by a medical staff member or personnel member.
56. "Contracted services" means medical services, nursing services, behavioral health services, health-related services, ancillary services, or environmental services provided according to a documented agreement between a health care institution and the person providing the medical services, nursing services, health-related services, ancillary services, or environmental services.
57. "Contractor" has the same meaning as in A.R.S. § 32-1101.
58. "Controlled substance" has the same meaning as in A.R.S. § 36-2501.
59. "Counseling" has the same meaning as "practice of professional counseling" in A.R.S. § 32-3251.
60. "Counseling facility" means a health care institution that only provides counseling, which may include:
 - a. DUI screening, education, or treatment according to the requirements in 9 A.A.C. 20, Article 1; or
 - b. Misdemeanor domestic violence offender treatment according to the requirements in 9 A.A.C. 20, Article 2.
61. "Court-ordered evaluation" has the same meaning as "evaluation" in A.R.S. § 36-501.
62. "Court-ordered treatment" means treatment provided according to A.R.S. Title 36, Chapter 5.
63. "Crisis services" means immediate and unscheduled behavioral health services provided to a patient to address an acute behavioral health issue affecting the patient.
64. "Current" means up-to-date, extending to the present time.
65. "Daily living skills" means activities necessary for an individual to live independently and include meal preparation, laundry, house-cleaning, home maintenance, money management, and appropriate social interactions.

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66. "Danger to others" has the same meaning as in A.R.S. § 36-501.
67. "Danger to self" has the same meaning as in A.R.S. § 36-501.
68. "Detoxification services" means behavioral health services and medical services provided to an individual to:
 - a. Treat the individual's signs or symptoms of withdrawal from alcohol or other drugs, and
 - b. Reduce or eliminate the individual's dependence on alcohol or other drugs.
69. "Diagnostic procedure" means a method or process performed to determine whether an individual has a medical condition or behavioral health issue.
70. "Dialysis" means the process of removing dissolved substances from a patient's body by diffusion from one fluid compartment to another across a semipermeable membrane.
71. "Dialysis services" means medical services, nursing services, and health-related services provided to a patient receiving dialysis.
72. "Dialysis station" means a designated treatment area approved by the Department for use by a patient receiving dialysis or dialysis services.
73. "Dialyzer" means an apparatus containing semi-permeable membranes used as a filter to remove wastes and excess fluid from a patient's blood.
74. "Disaster" means an unexpected occurrence that adversely affects a health care institution's ability to provide services.
75. "Discharge" means a documented termination of services to a patient by a health care institution.
76. "Discharge instructions" means documented information relevant to a patient's medical condition or behavioral health issue provided by a health care institution to the patient or the patient's representative at the time of the patient's discharge.
77. "Discharge planning" means a process of establishing goals and objectives for a patient in preparation for the patient's discharge.
78. "Discharge summary" means a documented brief review of services provided to a patient, current patient status, and reasons for the patient's discharge.
79. "Disinfect" means to clean in order to prevent the growth of or to destroy disease-causing microorganisms.
80. "Documentation" or "documented" means information in written, photographic, electronic, or other permanent form.
81. "Drill" means a response to a planned, simulated event.
82. "Drug" has the same meaning as in A.R.S. § 32-1901.
83. "Electronic" has the same meaning as in A.R.S. § 44-7002.
84. "Electronic signature" has the same meaning as in A.R.S. § 44-7002.
85. "Emergency" means an immediate threat to the life or health of a patient.
86. "Emergency medical services provider" has the same meaning as in A.R.S. § 36-2201.
87. "Emergency services" means unscheduled medical services provided in a designated area to an outpatient in an emergency.
88. "End-of-life" means that a patient has a documented life expectancy of six months or less.
89. "Environmental services" means activities such as house-keeping, laundry, facility maintenance, or equipment maintenance.
90. "Equipment" means, in this Article, an apparatus, a device, a machine, or a unit that is required to comply with the specifications incorporated by reference in R9-10-104.01.
91. "Exploitation" has the same meaning as in A.R.S. § 46-451.
92. "Factory-built building" has the same meaning as in A.R.S. § 41-4001.
93. "Family" or "family member" means an individual's spouse, sibling, child, parent, grandparent, or another individual designated by the individual.
94. "Follow-up instructions" means information relevant to a patient's medical condition or behavioral health issue that is provided to the patient, the patient's representative, or a health care institution.
95. "Food services" means the storage, preparation, serving, and cleaning up of food intended for consumption in a health care institution.
96. "Full-time" means 40 hours or more every consecutive seven calendar days.
97. "Garbage" has the same meaning as in A.A.C. R18-13-302.
98. "General consent" means documentation of an agreement from an individual or the individual's representative to receive physical health services to address the individual's medical condition or behavioral health services to address the individual's behavioral health issues.
99. "General hospital" means a subclass of hospital that provides surgical services and emergency services.
100. "Gravely disabled" has the same meaning as "grave disability" in A.R.S. § 36-501.
101. "Habilitation services" means activities provided to an individual to assist the individual with habilitation, as defined in A.R.S. § 36-551.
102. "Hazard" or "hazardous" means a condition or situation where a patient or other individual may suffer physical injury.
103. "Health care directive" has the same meaning as in A.R.S. § 36-3201.
104. "Hemodialysis" means the process for removing wastes and excess fluids from a patient's blood by passing the blood through a dialyzer.
105. "Home health agency" has the same meaning as in A.R.S. § 36-151.
106. "Home health aide" means an individual employed by a home health agency to provide home health services under the direction of a registered nurse or therapist.
107. "Home health aide services" means those tasks that are provided to a patient by a home health aide under the direction of a registered nurse or therapist.
108. "Home health services" has the same meaning as in A.R.S. § 36-151.
109. "Hospice inpatient facility" means a subclass of hospice that provides hospice services to a patient on a continuous basis with the expectation that the patient will remain on the hospice's premises for 24 hours or more.
110. "Hospital" means a class of health care institution that provides, through an organized medical staff, inpatient beds, medical services, continuous nursing services, and diagnosis or treatment to a patient.
111. "Immediate" means without delay.

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112. "Incident" means an unexpected occurrence that harms or has the potential to harm a patient, while the patient is:
 - a. On the premises of a health care institution, or
 - b. Not on the premises of a health care institution but directly receiving physical health services or behavioral health services from a personnel member who is providing the physical health services or behavioral health services on behalf of the health care institution.
113. "Infection control" means to identify, prevent, monitor, and minimize infections.
114. "Infectious tuberculosis" has the same meaning as "infectious active tuberculosis" in A.A.C. R9-6-101.
115. "Informed consent" means:
 - a. Advising a patient of a proposed treatment, surgical procedure, psychotropic medication, opioid, or diagnostic procedure; alternatives to the treatment, surgical procedure, psychotropic medication, opioid, or diagnostic procedure; and associated risks and possible complications; and
 - b. Obtaining documented authorization for the proposed treatment, surgical procedure, psychotropic medication, opioid, or diagnostic procedure from the patient or the patient's representative.
116. "In-service education" means organized instruction or information that is related to physical health services or behavioral health services and that is provided to a medical staff member, personnel member, employee, or volunteer.
117. "Interdisciplinary team" means a group of individuals consisting of a resident's attending physician, a registered nurse responsible for the resident, and other individuals as determined in the resident's comprehensive assessment or, if applicable, placement evaluation.
118. "Intermediate care facility for individuals with intellectual disabilities" or "ICF/IID" has the same meaning as in A.R.S. § 36-551.
119. "Interval note" means documentation updating a patient's:
 - a. Medical condition after a medical history and physical examination is performed, or
 - b. Behavioral health issue after an assessment is performed.
120. "Isolation" means the separation, during the communicable period, of infected individuals from others, to limit the transmission of infectious agents.
121. "Leased facility" means a facility occupied or used during a set time period in exchange for compensation.
122. "License" means:
 - a. Written approval issued by the Department to a person to operate a class or subclass of health care institution at a specific location; or
 - b. Written approval issued to an individual to practice a profession in this state.
123. "Licensed occupancy" means the total number of individuals for whom a health care institution is authorized by the Department to provide crisis services in a unit providing behavioral health observation/stabilization services.
124. "Licensee" means an owner approved by the Department to operate a health care institution.
125. "Manage" means to implement policies and procedures established by a governing authority, an administrator, or an individual providing direction to a personnel member.
126. "Medical condition" means the state of a patient's physical or mental health, including the patient's illness, injury, or disease.
127. "Medical director" means a physician who is responsible for the coordination of medical services provided to patients in a health care institution.
128. "Medical history" means an account of a patient's health, including past and present illnesses, diseases, or medical conditions.
129. "Medical practitioner" means a physician, physician assistant, or registered nurse practitioner.
130. "Medical record" has the same meaning as "medical records" in A.R.S. § 12-2291.
131. "Medical staff" means physicians and other individuals licensed pursuant to A.R.S. Title 32 who have clinical privileges at a health care institution.
132. "Medical staff bylaws" means standards, approved by the medical staff and the governing authority, that provide the framework for the organization, responsibilities, and self-governance of the medical staff.
133. "Medical staff member" means an individual who is part of the medical staff of a health care institution.
134. "Medication" means one of the following used to maintain health or to prevent or treat a medical condition or behavioral health issue:
 - a. Biologicals as defined in A.A.C. R18-13-1401,
 - b. Prescription medication as defined in A.R.S. § 32-1901, or
 - c. Nonprescription drug as defined in A.R.S. § 32-1901.
135. "Medication administration" means restricting a patient's access to the patient's medication and providing the medication to the patient or applying the medication to the patient's body, as ordered by a medical practitioner.
136. "Medication error" means:
 - a. The failure to administer an ordered medication;
 - b. The administration of a medication not ordered; or
 - c. The administration of a medication:
 - i. In an incorrect dosage,
 - ii. More than 60 minutes before or after the ordered time of administration unless ordered to do so, or
 - iii. By an incorrect route of administration.
137. "Mental disorder" means the same as in A.R.S. § 36-501.
138. "Mobile clinic" means a movable structure that:
 - a. Is not physically attached to a health care institution's facility;
 - b. Provides medical services, nursing services, behavioral health services, or health related service to an outpatient under the direction of the health care institution's personnel; and
 - c. Is not intended to remain in one location indefinitely.
139. "Monitor" or "monitoring" means to check systematically on a specific condition or situation.
140. "Neglect" has the same meaning:
 - a. For an individual less than 18 years of age, as in A.R.S. § 8-201; and
 - b. For an individual 18 years of age or older, as in A.R.S. § 46-451.
141. "Nephrologist" means a physician who is board eligible or board certified in nephrology by a professional credentialing board.

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142. "Nurse" has the same meaning as "registered nurse" or "practical nurse" as defined in A.R.S. § 32-1601.
143. "Nursing care institution administrator" means an individual licensed according to A.R.S. Title 36, Chapter 4, Article 6.
144. "Nursing personnel" means individuals authorized according to A.R.S. Title 32, Chapter 15 to provide nursing services.
145. "Observation chair" means a physical piece of equipment that:
 - a. Is located in a designated area where behavioral health observation/stabilization services are provided,
 - b. Allows an individual to fully recline, and
 - c. Is used by the individual while receiving crisis services.
146. "Occupational therapist" has the same meaning as in A.R.S. § 32-3401.
147. "Occupational therapy assistant" has the same meaning as in A.R.S. § 32-3401.
148. "Ombudsman" means a resident advocate who performs the duties described in A.R.S. § 46-452.02.
149. "On-call" means a time during which an individual is available and required to come to a health care institution when requested by the health care institution.
150. "Opioid" means a controlled substance, as defined in A.R.S. § 36-2501, that meets the definition of "opiate" in A.R.S. § 36-2501.
151. "Opioid agonist treatment medication" means a prescription medication that is approved by the U.S. Food and Drug Administration under 21 U.S.C. § 355 for use in the treatment of opioid-related substance use disorder.
152. "Opioid antagonist" means a prescription medication, as defined in A.R.S. § 32-1901, that:
 - a. Is approved by the U.S. Department of Health and Human Services, Food and Drug Administration; and
 - b. When administered, reverses, in whole or in part, the pharmacological effects of an opioid in the body.
153. "Opioid treatment" means providing medical services, nursing services, behavioral health services, health-related services, and ancillary services to a patient receiving an opioid agonist treatment medication for opioid-related substance use disorder.
154. "Order" means instructions to provide:
 - a. Physical health services to a patient from a medical practitioner or as otherwise provided by law; or
 - b. Behavioral health services to a patient from a behavioral health professional.
155. "Orientation" means the initial instruction and information provided to an individual before the individual starts work or volunteer services in a health care institution.
156. "Outing" means a social or recreational activity that:
 - a. Occurs away from the premises,
 - b. Is not part of a behavioral health inpatient facility's or behavioral health residential facility's daily routine, and
 - c. Lasts longer than four hours.
157. "Outpatient surgical center" means a class of health care institution that has the facility, staffing, and equipment to provide surgery and anesthesia services to a patient whose recovery, in the opinions of the patient's surgeon and, if an anesthesiologist would be providing anesthesia services to the patient, the anesthesiologist, does not require inpatient care in a hospital.
158. "Outpatient treatment center" means a class of health care institution without inpatient beds that provides physical health services or behavioral health services for the diagnosis and treatment of patients.
159. "Overall time-frame" means the same as in A.R.S. § 41-1072.
160. "Owner" means a person who appoints, elects, or designates a health care institution's governing authority.
161. "Pain management clinic" has the same meaning as in A.R.S. § 36-448.01.
162. "Participant" means a patient receiving physical health services or behavioral health services from an adult day health care facility or a substance abuse transitional facility.
163. "Participant's representative" means the same as "patient's representative" for a participant.
164. "Patient" means an individual receiving physical health services or behavioral health services from a health care institution.
165. "Patient's representative" means:
 - a. A patient's legal guardian;
 - b. If a patient is less than 18 years of age and not an emancipated minor, the patient's parent;
 - c. If a patient is 18 years of age or older or an emancipated minor, an individual acting on behalf of the patient with the written consent of the patient or patient's legal guardian; or
 - d. A surrogate as defined in A.R.S. § 36-3201.
166. "Person" means the same as in A.R.S. § 1-215 and includes a governmental agency.
167. "Personnel member" means, except as defined in specific Articles in this Chapter and excluding a medical staff member, a student, or an intern, an individual providing physical health services or behavioral health services to a patient.
168. "Pest control program" means activities that minimize the presence of insects and vermin in a health care institution to ensure that a patient's health and safety is not at risk.
169. "Pharmacist" has the same meaning as in A.R.S. § 32-1901.
170. "Physical examination" means to observe, test, or inspect an individual's body to evaluate health or determine cause of illness, injury, or disease.
171. "Physical health services" means medical services, nursing services, health-related services, or ancillary services provided to an individual to address the individual's medical condition.
172. "Physical therapist" has the same meaning as in A.R.S. § 32-2001.
173. "Physical therapist assistant" has the same meaning as in A.R.S. § 32-2001.
174. "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
175. "Placement evaluation" means the same as in A.R.S. § 36-551.
176. "Pre-petition screening" has the same meaning as "prepetition screening" in A.R.S. § 36-501.
177. "Premises" means property that is designated by an applicant or licensee and licensed by the Department as part of a health care institution where physical health services or behavioral health services are provided to a patient.

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178. "Prescribe" means to issue written or electronic instructions to a pharmacist to deliver to the ultimate user, or another individual on the ultimate user's behalf, a specific dose of a specific medication in a specific quantity and route of administration.
179. "Professional credentialing board" means a non-governmental organization that designates individuals who have met or exceeded established standards for experience and competency in a specific field.
180. "Progress note" means documentation by a medical staff member, nurse, or personnel member of:
 - a. An observed patient response to a physical health service or behavioral health service provided to the patient,
 - b. A patient's significant change in condition, or
 - c. Observed behavior of a patient related to the patient's medical condition or behavioral health issue.
181. "PRN" means *pro re nata* or given as needed.
182. "Project" means specific construction or modification of a facility stated on an architectural plans and specifications approval application.
183. "Provider" means an individual to whom the Department issues a license to operate an adult behavioral health therapeutic home or a behavioral health respite home in the individual's place of residence.
184. "Provisional license" means the Department's written approval to operate a health care institution issued to an applicant or licensee that is not in substantial compliance with the applicable laws and rules for the health care institution.
185. "Psychotropic medication" means a chemical substance that:
 - a. Crosses the blood-brain barrier and acts primarily on the central nervous system where it affects brain function, resulting in alterations in perception, mood, consciousness, cognition, and behavior; and
 - b. Is provided to a patient to address the patient's behavioral health issue.
186. "Quality management program" means ongoing activities designed and implemented by a health care institution to improve the delivery of medical services, nursing services, health-related services, and ancillary services provided by the health care institution.
187. "Recovery care center" has the same meaning as in A.R.S. § 36-448.51.
188. "Referral" means providing an individual with a list of the class or subclass of health care institution or type of health care professional that may be able to provide the behavioral health services or physical health services that the individual may need and may include the name or names of specific health care institutions or health care professionals.
189. "Registered dietitian" means an individual approved to work as a dietitian by the American Dietetic Association's Commission on Dietetic Registration.
190. "Registered nurse" has the same meaning as in A.R.S. § 32-1601.
191. "Registered nurse practitioner" has the same meaning as A.R.S. § 32-1601.
192. "Regular basis" means at recurring, fixed, or uniform intervals.
193. "Rehabilitation services" means medical services provided to a patient to restore or to optimize functional capability.
194. "Research" means the use of a human subject in the systematic study, observation, or evaluation of factors related to the prevention, assessment, treatment, or understanding of a medical condition or behavioral health issue.
195. "Resident" means an individual living in and receiving physical health services or behavioral health services, including rehabilitation services or habilitation services if applicable, from a nursing care institution, an intermediate care facility for individuals with intellectual disabilities, a behavioral health residential facility, an assisted living facility, or an adult behavioral health therapeutic home.
196. "Resident's representative" means the same as "patient's representative" for a resident.
197. "Respiratory care services" has the same meaning as "practice of respiratory care" as defined in A.R.S. § 32-3501.
198. "Respiratory therapist" has the same meaning as in A.R.S. § 32-3501.
199. "Respite capacity" means the total number of children who do not stay overnight for whom an outpatient treatment center or a behavioral health residential facility is authorized by the Department to provide respite services on the premises of the outpatient treatment center or behavioral health residential facility.
200. "Respite services" means respite care services provided to an individual who is receiving behavioral health services.
201. "Restraint" means any physical or chemical method of restricting a patient's freedom of movement, physical activity, or access to the patient's own body.
202. "Risk" means potential for an adverse outcome.
203. "Room" means space contained by a floor, a ceiling, and walls extending from the floor to the ceiling that has at least one door.
204. "Rural general hospital" means a subclass of hospital:
 - a. Having 50 or fewer inpatient beds,
 - b. Located more than 20 surface miles from a general hospital or another rural general hospital, and
 - c. Requesting to be and being licensed as a rural general hospital rather than a general hospital.
205. "Satellite facility" has the same meaning as in A.R.S. § 36-422.
206. "Scope of services" means a list of the behavioral health services or physical health services the governing authority of a health care institution has designated as being available to a patient at the health care institution.
207. "Seclusion" means the involuntary solitary confinement of a patient in a room or an area where the patient is prevented from leaving.
208. "Sedative-hypnotic medication" means any one of several classes of drugs that have sleep-inducing, anti-anxiety, anti-convulsant, and muscle-relaxing properties.
209. "Self-administration of medication" means a patient having access to and control of the patient's medication and may include the patient receiving limited support while taking the medication.
210. "Sexual abuse" means the same as in A.R.S. § 13-1404(A).

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211. "Sexual assault" means the same as in A.R.S. § 13-1406(A).
212. "Shift" means the beginning and ending time of a continuous work period established by a health care institution's policies and procedures.
213. "Short-acting opioid antagonist" means an opioid antagonist that, when administered, quickly but for a small period of time reverses, in whole or in part, the pharmacological effects of an opioid in the body.
214. "Signature" means:
- A handwritten or stamped representation of an individual's name or a symbol intended to represent an individual's name, or
 - An electronic signature.
215. "Significant change" means an observable deterioration or improvement in a patient's physical, cognitive, behavioral, or functional condition that may require an alteration to the physical health services or behavioral health services provided to the patient.
216. "Single group license" means a license that includes authorization to operate health care institutions according to A.R.S. § 36-422(F) or (G).
217. "Speech-language pathologist" means an individual licensed according to A.R.S. Title 36, Chapter 17, Article 4 to engage in the practice of speech-language pathology, as defined in A.R.S. § 36-1901.
218. "Special hospital" means a subclass of hospital that:
- Is licensed to provide hospital services within a specific branch of medicine; or
 - Limits admission according to age, gender, type of disease, or medical condition.
219. "Student" means an individual attending an educational institution and working under supervision in a health care institution through an arrangement between the health care institution and the educational institution.
220. "Substance abuse" means an individual's misuse of alcohol or other drug or chemical that:
- Alters the individual's behavior or mental functioning;
 - Has the potential to cause the individual to be psychologically or physiologically dependent on alcohol or other drug or chemical; and
 - Impairs, reduces, or destroys the individual's social or economic functioning.
221. "Substance abuse transitional facility" means a class of health care institution that provides behavioral health services to an individual over 18 years of age who is intoxicated or may have a substance abuse problem.
222. "Substance use disorder" means a condition in which the misuse or dependence on alcohol or a drug results in adverse physical, mental, or social effects on an individual.
223. "Substance use risk" means an individual's unique likelihood for addiction, misuse, diversion, or another adverse consequence resulting from the individual being prescribed or receiving treatment with opioids.
224. "Substantial" when used in connection with a modification means:
- An addition or removal of an authorized service;
 - The addition or removal of a collocator;
 - A change in a health care institution's licensed capacity, licensed occupancy, respite capacity, or the number of dialysis stations;
 - A change in the physical plant, including facilities or equipment, that costs more than \$300,000; or
 - A change in the building where a health care institution is located that affects compliance with:
 - Applicable physical plant codes and standards incorporated by reference in R9-10-104.01, or
 - Physical plant requirements in the specific Article in this Chapter applicable to the health care institution.
225. "Substantive review time-frame" means the same as in A.R.S. § 41-1072.
226. "Supportive services" has the same meaning as in A.R.S. § 36-151.
227. "Surgical procedure" means the excision of or incision in a patient's body for the:
- Correction of a deformity or defect;
 - Repair of an injury; or
 - Diagnosis, amelioration, or cure of disease.
228. "Swimming pool" has the same meaning as "semipublic swimming pool" in A.A.C. R18-5-201.
229. "System" means interrelated, interacting, or interdependent elements that form a whole.
230. "Tapering" means the gradual reduction in the dosage of a medication administered to a patient, often with the intent of eventually discontinuing the use of the medication for the patient.
231. "Tax ID number" means a numeric identifier that a person uses to report financial information to the United States Internal Revenue Service.
232. "Telemedicine" has the same meaning as in A.R.S. § 36-3601.
233. "Therapeutic diet" means foods or the manner in which food is to be prepared that are ordered for a patient.
234. "Therapist" means an occupational therapist, a physical therapist, a respiratory therapist, or a speech-language pathologist.
235. "Time-out" means providing a patient a voluntary opportunity to regain self-control in a designated area from which the patient is not physically prevented from leaving.
236. "Transfer" means a health care institution discharging a patient and sending the patient to another licensed health care institution as an inpatient or resident without intending that the patient be returned to the sending health care institution.
237. "Transport" means a licensed health care institution:
- Sending a patient to a receiving licensed health care institution for outpatient services with the intent of the patient returning to the sending licensed health care institution, or
 - Discharging a patient to return to a sending licensed health care institution after the patient received outpatient services from the receiving licensed health care institution.
238. "Treatment" means a procedure or method to cure, improve, or palliate an individual's medical condition or behavioral health issue.
239. "Treatment plan" means a description of the specific physical health services or behavioral health services that a health care institution anticipates providing to a patient.
240. "Unclassified health care institution" means a health care institution not classified or subclassified in statute or in rule.

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241. "Vascular access" means the point on a patient's body where blood lines are connected for hemodialysis.
242. "Volunteer" means an individual authorized by a health care institution to work for the health care institution on a regular basis without compensation from the health care institution and does not include a medical staff member who has clinical privileges at the health care institution.
243. "Working day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state and federal holiday or a statewide furlough day.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4). Amended by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2). Amended by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4). Amended by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4). Amended by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-102. Health Care Institution Classes and Subclasses; Requirements

- A. A person may apply for a license as one of the following classes or subclasses of health care institution:
1. General hospital,
 2. Rural general hospital,
 3. Special hospital,
 4. Behavioral health inpatient facility,
 5. Nursing care institution,
 6. Intermediate care facility for individuals with intellectual disabilities,
 7. Recovery care center,
 8. Hospice inpatient facility,
 9. Hospice service agency,
 10. Behavioral health residential facility,
 11. Adult residential care institution,
 12. Assisted living center,
 13. Assisted living home,
 14. Adult foster care home,
 15. Outpatient surgical center,
 16. Outpatient treatment center,
 17. Abortion clinic,
 18. Adult day health care facility,
 19. Home health agency,
 20. Substance abuse transitional facility,
 21. Behavioral health specialized transitional facility,
 22. Counseling facility,
 23. Adult behavioral health therapeutic home,
 24. Behavioral health respite home,
 25. Unclassified health care institution,
 26. Pain management clinic, or
 27. Nursing-supported group home.

- B. A person shall apply for a license for the class or subclass that authorizes the provision of the highest level of physical health services or behavioral health services the proposed health care institution plans to provide.
- C. The Department shall review a proposed health care institution's scope of services to determine whether the requested health care institution class or subclass is appropriate.
- D. A health care institution shall comply with the requirements in Article 17 of this Chapter if:
1. There are no specific rules in another Article of this Chapter for the health care institution's class or subclass, or
 2. The Department determines that the health care institution is an unclassified health care institution.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4). Amended by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-103. Licensing Exceptions

- A. A health care institution license is required for each health care institution facility except:
1. A facility exempt from licensing under A.R.S. § 36-402, or
 2. A health care institution's administrative office.
- B. The Department does not require a separate health care institution license for:
1. A satellite facility of a hospital under A.R.S. § 36-422(F);
 2. An accredited facility of an accredited hospital under A.R.S. § 36-422(G);
 3. A facility operated by a licensed health care institution that is:
 - a. Adjacent to and contiguous with the licensed health care institution premises; or
 - b. Not adjacent to or contiguous with the licensed health care institution but connected to the licensed health care institution facility by an all-weather enclosure and:
 - i. Owned by the health care institution, or
 - ii. Leased by the health care institution with exclusive rights of possession;
 4. A mobile clinic operated by a licensed health care institution; or
 5. A facility located on grounds that are not adjacent to or contiguous with the health care institution premises where only ancillary services are provided to a patient of the health care institution.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

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R9-10-104. Approval of Architectural Plans and Specifications

- A.** For approval of architectural plans and specifications for the construction or modification of a health care institution that is required by this Chapter to comply with any of the physical plant codes and standards incorporated by reference in R9-10-104.01, an applicant shall submit to the Department an application packet including:
1. An application in a Department-provided format that contains:
 - a. For construction of a new health care institution:
 - i. The health care institution's name, street address, city, state, zip code, telephone number, and e-mail address;
 - ii. The name and mailing address of the health care institution's governing authority;
 - iii. The requested health care institution class or subclass; and
 - iv. If applicable, the requested licensed capacity, licensed occupancy, respite capacity, and number of dialysis stations for the health care institution;
 - b. For modification of a licensed health care institution that requires approval of architectural plans and specifications:
 - i. The health care institution's license number,
 - ii. The name and mailing address of the licensee,
 - iii. The health care institution's class or subclass, and
 - iv. The health care institution's existing licensed capacity, licensed occupancy, respite capacity, or number of dialysis stations; and the requested licensed capacity, licensed occupancy, respite capacity, or number of dialysis stations for the health care institution;
 - c. The health care institution's contact person's name, street mailing address, city, state, zip code, telephone number, and e-mail address;
 - d. The name, street mailing address, city, state, zip code, telephone number, and e-mail address of:
 - i. The project architect; or
 - ii. If the construction or modification of the health care institution does not require a project architect, the project engineer or other individual responsible for the completion of the construction or modification;
 - e. A narrative description of the project;
 - f. The estimated total project cost including the costs of:
 - i. Site acquisition,
 - ii. General construction,
 - iii. Architect fees,
 - iv. Fixed equipment, and
 - v. Movable equipment;
 - g. If providing or planning to provide medical services, nursing services, or health-related services that require compliance with specific physical plant codes and standards incorporated by reference in R9-10-104.01, the number of rooms or inpatient beds designated for providing the medical services, nursing services, or health-related services;
 - h. If providing or planning to provide behavioral health observation/stabilization services, the number of behavioral health observation/stabilization observation chairs designated for providing the behavioral health observation/stabilization services;
 - i. For construction of a new health care institution and if modification of a health care institution requires a project architect, a statement signed and sealed by the project architect, according to the requirements in 4 A.A.C. 30, Article 3, that the:
 - i. Project architect has complied with A.A.C. R4-30-301; and
 - ii. Architectural plans and specifications comply with applicable licensing requirements in A.R.S. Title 36, Chapter 4 and this Chapter;
 - j. If construction or modification of a health care institution requires a project engineer, a statement signed and sealed by the project engineer, according to the requirements in 4 A.A.C. 30, Article 3, that the project engineer has complied with A.A.C. R4-30-301; and
 - k. A statement signed by the governing authority or the licensee that the architectural plans and specifications comply with applicable licensing requirements in A.R.S. Title 36, Chapter 4 and this Chapter;
2. If the health care institution is located on land under the jurisdiction of a local governmental agency, one of the following:
 - a. A building permit for the construction or modification issued by the local governmental agency; or
 - b. If a building permit issued by the local governmental agency is not required, zoning clearance issued by the local governmental agency that includes:
 - i. The health care institution's name, street address, city, state, zip code, and county;
 - ii. The health care institution's class or subclass and each type of medical services, nursing services, or health-related services to be provided; and
 - iii. A statement signed by a representative of the local governmental agency stating that the address listed is zoned for the health care institution's class or subclass;
 3. The following information that is as necessary to demonstrate that the project described on the application complies with applicable codes and standards incorporated by reference in R9-10-104.01:
 - a. A table of contents containing:
 - i. The architectural plans and specifications submitted;
 - ii. The physical plant codes and standards incorporated by reference in R9-10-104.01 that apply to the project;
 - iii. The physical plant codes and standards that are required by a local governmental agency, if applicable;
 - iv. An index of the abbreviations and symbols used in the architectural plans and specifications; and
 - v. The facility's specific International Building Code construction type and International Building Code occupancy type;
 - b. If the facility is larger than 3,000 square feet and is or will be occupied by more than 20 individuals, the seal of an architect on the architectural plans and specifications according to the requirements in

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- A.R.S. Title 32, Chapter 1 and 4 A.A.C. 30, Article 3;
- c. A site plan, drawn to scale, of the entire premises showing streets, property lines, facilities, parking areas, outdoor areas, fences, swimming pools, fire access roads, fire hydrants, and access to water mains;
 - d. For each facility, on architectural plans and specifications:
 - i. A floor plan, drawn to scale, for each level of the facility, showing the layout and dimensions of each room, the name and function of each room, means of egress, and natural and artificial lighting sources;
 - ii. A diagram of a section of the facility, drawn to scale, showing the vertical cross-section view from foundation to roof and specifying construction materials;
 - iii. Building elevations, drawn to scale, showing the outside appearance of each facility;
 - iv. The materials used for ceilings, walls, and floors;
 - v. The location, size, and fire rating of each door and each window and the materials and hardware used, including safety features such as fire exit door hardware and fireproofing materials;
 - vi. A ceiling plan, drawn to scale, showing the layout of each light fixture, each fire protection device, and each element of the mechanical ventilation system;
 - vii. An electrical floor plan, drawn to scale, showing the wiring diagram and the layout of each lighting fixture, each outlet, each switch, each electrical panel, and electrical equipment;
 - viii. A mechanical floor plan, drawn to scale, showing the layout of heating, ventilation, and air conditioning systems;
 - ix. A plumbing floor plan, drawn to scale, showing the layout and materials used for water, sewer, and medical gas systems, including the water supply and plumbing fixtures;
 - x. A floor plan, drawn to scale, showing the communication system within the health care institution including the nurse call system, if applicable;
 - xi. A floor plan, drawn to scale, showing the automatic fire extinguishing, fire detection, and fire alarm systems; and
 - xii. Technical specifications or drawings describing installation of equipment or medical gas and the materials used for installation in the health care institution;
 4. The estimated total project cost including the costs of:
 - a. Site acquisition,
 - b. General construction,
 - c. Architect fees,
 - d. Fixed equipment, and
 - e. Movable equipment;
 5. The following, as applicable:
 - a. If the health care institution is located on land under the jurisdiction of a local governmental agency, one of the following provided by the local governmental agency:
 - i. A copy of the certificate of occupancy for the facility,
 - ii. Documentation that the facility was approved for occupancy, or
 - iii. Documentation that a certificate of occupancy for the facility is not available;
 - b. A certification and a statement that the construction or modification of the facility is in substantial compliance with applicable licensing requirements in A.R.S. Title 36, Article 4 and this Chapter signed by the project architect, the contractor, and the owner;
 - c. A written description of any work necessary to complete the construction or modification submitted by the project architect;
 - d. If the construction or modification affects the health care institution's fire alarm system, a contractor certification and description of the fire alarm system in a Department-provided format provided by the Department;
 - e. If the construction or modification affects the health care institution's automatic fire extinguishing system, a contractor certification of the automatic fire extinguishing system in a Department-provided format provided by the Department;
 - f. If the construction or modification affects the health care institution's heating, ventilation, or air conditioning system, a copy of the heating, ventilation, air conditioning, and air balance tests and a contractor certification of the heating, ventilation, or air conditioning system;
 - g. If draperies, cubicle curtains, or floor coverings are installed or replaced, a copy of the manufacturer's certification of flame spread for the draperies, cubicle curtains, or floor coverings;
 - h. For a health care institution using inhalation anesthetics or nonflammable medical gas, a copy of the Compliance Certification for Inhalation Anesthetics or Nonflammable Medical Gas System required in the National Fire Codes incorporated by reference in R9-10-104.01;
 - i. If a generator is installed, a copy of the installation acceptance required in the National Fire Codes incorporated by reference in R9-10-104.01;
 - j. If equipment is installed, a certification from an engineer or from a technical representative of the equipment's manufacturer that the equipment has been installed according to the manufacturer's recommendations and, if applicable, calibrated;
 - k. For a health care institution providing radiology, a written report from a certified health physicist of the location, type, and amount of radiation protection; and
 - l. If a factory-built building is used by a health care institution:
 - i. A copy of the installation permit and the copy of a certificate of occupancy for the factory-built building from the Office of Manufactured Housing; or
 - ii. A written report from an individual registered as an architect or a professional structural engineer under 4 A.A.C. 30, Article 2, stating that the factory-built building complies with applicable design standards;

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6. For construction of a new health care institution and for a modification of a health care institution that requires a project architect, a statement signed by the project architect that final architectural plans and specifications have been submitted to the person applying for a health care institution license or the licensee of the health care institution;
 7. For modification of a health care institution that does not require a project architect, a statement signed by the project engineer or other individual responsible for the completion of the modification that final architectural plans and specifications have been submitted to the person applying for a health care institution license or the licensee of the health care institution; and
 8. The applicable fee required by R9-10-106.
- B.** Before an applicant submits an application for approval of architectural plans and specifications for the construction or modification of a health care institution, an applicant may request an architectural evaluation by providing the documents in subsection (A)(3) to the Department.
- C.** The Department may conduct on-site facility reviews during the construction or modification of a health care institution.
- D.** The Department shall approve or deny an application for approval of architectural plans and specifications of a health care institution in this Section according to R9-10-108.
- E.** In addition to obtaining an approval of a health care institution's architectural plans and specifications, a person shall obtain a health care institution license before operating the health care institution.
- Historical Note**
- New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4). Publication error corrected in R9-10-104(A)(1) removing "provided by the Department;" publication error corrected in R9-10-104(B) removing "submitting;" with both amendments made at 25 A.A.R. 1583. Publication error corrected in R9-10-104(A), incorporated by reference Section updated as amended at 25 A.A.R. 3481 (Supp. 21-2).
- R9-10-104.01. Codes and Standards**
- A.** For a health care institution that is required by this Chapter to comply with any of the physical plant codes and standards incorporated by reference in this Section, an applicant shall follow the requirements in subsection (B), except as follows:
1. Physical plant standards specified in applicable Articles of this Chapter shall govern over the codes and standards incorporated by reference in subsection (B); and
 2. If a conflict occurs among the codes and standards incorporated by reference in subsection (B), the more restrictive codes and standards shall govern over the less restrictive.
- B.** The following physical plant health and safety codes and standards are incorporated by reference as modified, are on file with the Department, and include no future editions or amendments:
1. Guidelines for Design and Construction of Health Care Facilities (2018 ed.), published by the American Society for Healthcare Engineering and available from The Facility Guidelines Institute at www.fgiguidelines.org;
 2. The following National Fire Codes (2012), published by and available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269, and at www.nfpa.org/catalog:
 - a. NFPA70 National Electrical Code,
 - b. NFPA101 Life Safety Code, and
 - c. 2012 Supplements;
 3. ICC/A117.1-2017, American National Standard: Accessible and Usable Buildings and Facilities (2017), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at www.iccsafe.org;
 4. International Building Code (2018), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at www.iccsafe.org, with the following modifications:
 - a. Section 101.1 is modified by deleting "of [NAME OF JURISDICTION]";
 - b. Section 101.2 is modified by deleting the "Exception";
 - c. Section 101.4.7 is deleted;
 - d. Sections 103.1 through 103.3 are deleted;
 - e. Sections 104.1 through 104.11.2 are deleted;
 - f. Sections 105.1 through 105.7 are deleted;
 - g. Sections 106.1 through 106.3 are deleted;
 - h. Sections 107.1 through 107.5 are deleted;
 - i. Sections 108.1 through 108.4 are deleted;
 - j. Sections 109.1 through 109.6 are deleted;
 - k. Sections 110.1 through 110.6 are deleted;
 - l. Sections 111.1 through 111.4 are deleted;
 - m. Sections 112.1 through 112.3 are deleted;
 - n. Sections 113.1 through 113.3 are deleted;
 - o. Sections 114.1 through 114.4 are deleted;
 - p. Sections 115.1 through 115.3 are deleted;
 - q. Sections 116.1 through 116.5 are deleted; and
 - r. Appendices A, B, C, D, K, L, and M are deleted;
 5. International Mechanical Code (2018), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at www.iccsafe.org, with the following modifications:
 - a. Section 101.1 is modified by deleting "of [NAME OF JURISDICTION]";
 - b. Sections 103.1 through 103.4.1 are deleted,
 - c. Sections 104.1 through 104.7 are deleted,
 - d. Sections 105.1 through 105.5 are deleted,
 - e. Sections 106.1 through 106.5.3 are deleted,
 - f. Sections 107.1 through 107.6 are deleted,
 - g. Sections 108.1 through 108.7.3 are deleted,
 - h. Sections 109.1 through 109.7 are deleted,
 - i. Sections 110.1 through 110.4 are deleted, and
 - j. Appendix B is deleted;
 6. International Plumbing Code (2018), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at www.iccsafe.org, with the following modifications:
 - a. Section 101.1 is modified by deleting "of [NAME OF JURISDICTION]";

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- b. Sections 103.1 through 103.4.1 are deleted,
- c. Sections 104.1 through 104.7 are deleted,
- d. Sections 105.1 through 105.4.1 are deleted,
- e. Sections 106.1 through 106.6.3 are deleted,
- f. Sections 107.1 through 107.7 are deleted,
- g. Sections 108.1 through 108.7.3 are deleted,
- h. Sections 109.1 through 109.7 are deleted,
- i. Sections 110.1 through 110.4 are deleted, and
- j. Appendix A is deleted;

7. International Fire Code (2018), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at www.iccsafe.org, with the following modifications:

- a. Section 101.1 is modified by deleting “of [NAME OF JURISDICTION]”,
- b. Sections 102.3 and 102.5 are deleted,
- c. Sections 103.1 through 103.4.1 are deleted,
- d. Sections 104.1 through 104.11.3 are deleted,
- e. Sections 105.1 through 105.7.25 are deleted,
- f. Sections 106.1 through 106.5 are deleted,
- g. Sections 107.1 through 107.4 are deleted,
- h. Sections 109.1 through 109.3 are deleted,
- i. Sections 110.1 through 110.4.1 are deleted,
- j. Sections 111.1 through 111.4 are deleted,
- k. Section 112.1 through 112.4 is deleted,
- l. Section 113.1 is deleted, and
- m. Appendix A is deleted;

8. International Fuel Gas Code (2018), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at www.iccsafe.org, with the following modifications:

- a. Section 101.1 is modified by deleting “of [NAME OF JURISDICTION]”,
- b. Section 101.2 is modified by deleting the “Exception”,
- c. Sections 103.1 through 103.4.1 are deleted,
- d. Sections 104.1 through 104.7 are deleted,
- e. Sections 105.1 through 105.5 are deleted,
- f. Sections 106.1 through 106.6.3 are deleted,
- g. Sections 107.1 through 107.6 are deleted,
- h. Sections 108.1 through 108.7.3 are deleted,
- i. Sections 109.1 through 109.7 are deleted, and
- j. Sections 110.1 through 110.4 are deleted;

9. International Private Sewage Disposal Code (2018), published by and available from the International Code Council, Inc., Publications, 4051 W. Flossmoor Road, Country Club Hills, IL 60478-5795, and at www.iccsafe.org, with the following modifications:

- a. Section 101.1 is modified by deleting “of [NAME OF JURISDICTION]”,
- b. Sections 103.1 through 103.4.1 are deleted,
- c. Sections 104.1 through 104.7 are deleted,
- d. Sections 105.1 through 105.5 are deleted,
- e. Sections 106.1 through 106.4.3 are deleted,
- f. Sections 107.1 through 107.9 are deleted,
- g. Sections 108.1 through 108.7.2 are deleted,
- h. Sections 109.1 through 109.7 are deleted, and
- i. Sections 110.1 through 110.4 are deleted.

- C. The Department shall not assess any penalty or fee specified in the physical plant health and safety codes and standards that are incorporated by reference in this Section.

Historical Note

New Section made by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-105. License Application

- A. A person applying for an initial a health care institution license shall submit to the Department an application packet that contains:

- 1. An application in a Department-provided format provided by the Department including:
 - a. The health care institution’s:
 - i. Name;
 - ii. Street address, city, state, zip code;
 - iii. Mailing address;
 - iv. Telephone number, and;
 - v. E-mail address;
 - vi. Tax ID number; and
 - vii. Class or subclass listed in R9-10-102 for which licensing is requested;
 - b. Except for a home health agency, or hospice service agency, or behavioral health facility, whether the health care institution is located within 1/4 mile of agricultural land;
 - c. Whether the health care institution is located in a leased facility;
 - d. Whether the health care institution is ready for a licensing inspection by the Department;
 - e. If the health care institution is not ready for a licensing inspection by the Department, the date the health care institution will be ready for a licensing inspection;
 - f. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-10-108;
 - g. Owner information including:
 - i. The owner’s name, mailing address, telephone number, and e-mail address;
 - ii. Whether the owner is a sole proprietorship, a corporation, a partnership, a limited liability partnership, a limited liability company, or a governmental agency;
 - iii. If the owner is a partnership or a limited liability partnership, the name of each partner;
 - iv. If the owner is a limited liability company, the name of the designated manager or, if no manager is designated, the names of any two members of the limited liability company;
 - v. If the owner is a corporation, the name and title of each corporate officer;
 - vi. If the owner is a governmental agency, the name and title of the individual in charge of the governmental agency or the name of an individual in charge of the health care institution designated in writing by the individual in charge of the governmental agency;
 - vii. Whether the owner or any person with 10% or more business interest in the health care institution has had a license to operate a health care institution denied, revoked, or suspended; the reason for the denial, suspension, or revocation; the date of the denial, suspension, or revocation; and the name and address of the licensing agency that denied, suspended, or revoked the license;

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- viii. Whether the owner or any person with 10% or more business interest in the health care institution has had a health care professional license or certificate denied, revoked, or suspended; the reason for the denial, suspension, or revocation; the date of the denial, suspension, or revocation; and the name and address of the licensing agency that denied, suspended, or revoked the license or certificate; and
- ix. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;
- h. The name and mailing address of the governing authority;
- i. The chief administrative officer's:
 - i. Name,
 - ii. Title,
 - iii. Highest educational degree, and
 - iv. Work experience related to the health care institution class or subclass for which licensing is requested; and
- j. Signature required in A.R.S. § 36-422(B);
- 2. If the health care institution is located in a leased facility, a copy of the lease showing the rights and responsibilities of the parties and exclusive rights of possession of the leased facility;
- 3. If applicable, a copy of the owner's articles of incorporation, partnership or joint venture documents, or limited liability documents;
- 4. If applicable, the name and mailing address of each owner or lessee of any agricultural land regulated under A.R.S. § 3-365 and a copy of the written agreement between the applicant and the owner or lessee of agricultural land as prescribed in A.R.S. § 36-421(D);
- 5. Except for a home health agency or a hospice service agency, one of the following:
 - a. If the health care institution or a part of the health care institution is required by this Chapter to comply with any of the physical plant codes and standards incorporated by reference in R9-10-104.01:
 - i. An application packet for approval of architectural plans and specifications in R9-10-104(A), or
 - ii. Documentation of the Department's approval of the health care institution's architectural plans and specifications approval in R9-10-104 R9-10-104(D); or
 - b. If a no part of the health care institution or a part of the health care institution is not required by this Chapter to comply with any of the physical plant codes and standards incorporated by reference in R9-10-104.01:
 - i. One of the following:
 - (1) Documentation from the local jurisdiction of compliance with applicable local building codes and zoning ordinances; or
 - (2) If documentation from the local jurisdiction is not available, documentation of the unavailability of the local jurisdiction compliance and documentation of a general contractor's inspection of the facility that states the facility is safe for occupation as the applicable health care institution class or subclass;
 - ii. The licensed capacity requested by the applicant for the health care institution;
 - iii. If applicable, the licensed occupancy requested by the applicant for the health care institution;
 - iv. If applicable, the respite capacity requested by the applicant for the health care institution;
 - v. A site plan showing each facility, the property lines of the health care institution, each street and walkway adjacent to the health care institution, parking for the health care institution, fencing and each gate on the health care institution premises, and, if applicable, each swimming pool on the health care institution premises; and
 - vi. A floor plan showing, for each story of a facility, the room layout, room usage, each door and each window, plumbing fixtures, each exit, and the location of each fire protection device;
- 6. The health care institution's proposed scope of services; and
- 7. The applicable application fee required by R9-10-106.
- B.** In addition to the initial license application requirements in this Section, an applicant shall comply with the supplemental application requirements in specific rules in this Chapter for the health care institution class or subclass for which licensing is requested.
- C.** The Department shall approve or deny a license application in this Section according to R9-10-108.
- D.** A health care institution license is valid:
 - 1. Unless, as specified in A.R.S. § 36-425(C):
 - a. The Department revokes or suspends the license according to R9-10-112, or
 - b. The license is considered void because the licensee did not pay the applicable fees in R9-10-106 according to R9-10-107; or
 - 2. Until a licensee voluntarily surrenders the license to the Department when terminating the operation of the health care institution, according to R9-10-109(B).

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-106. Fees

- A.** An applicant who submits to the Department architectural plans and specifications for the construction or modification of a health care institution shall also submit an architectural plans and specifications review fee as follows:
 - 1. Fifty dollars for a project with a cost of \$100,000 or less;
 - 2. One hundred dollars for a project with a cost of more than \$100,000 but less than \$500,000; or
 - 3. One hundred fifty dollars for a project with a cost of \$500,000 or more.
- B.** An applicant submitting an application for a health care institution license shall submit to the Department an application fee of \$50.

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- C. Except as provided in subsection (D) or (E), an applicant submitting an application for a health care institution license or a licensee submitting annual health care institution licensing fees shall submit to the Department the following licensing fee:
1. For an adult day health care facility, assisted living home, or assisted living center:
 - a. For a facility with no licensed capacity, \$280;
 - b. For a facility with a licensed capacity of one to 59 beds, \$280, plus the licensed capacity times \$70;
 - c. For a facility with a licensed capacity of 60 to 99 beds, \$560, plus the licensed capacity times \$70;
 - d. For a facility with a licensed capacity of 100 to 149 beds, \$840, plus the licensed capacity times \$70; or
 - e. For a facility with a licensed capacity of 150 beds or more, \$1,400, plus the licensed capacity times \$70;
 2. For a behavioral health facility:
 - a. For a facility with no licensed capacity, \$375;
 - b. For a facility with a licensed capacity of one to 59 beds, \$375, plus the licensed capacity times \$94;
 - c. For a facility with a licensed capacity of 60 to 99 beds, \$750, plus the licensed capacity times \$94;
 - d. For a facility with a licensed capacity of 100 to 149 beds, \$1,125, plus the licensed capacity times \$94; or
 - e. For a facility with a licensed capacity of 150 beds or more, \$1,875, plus the licensed capacity times \$94;
 3. For a behavioral health facility providing behavioral health observation/stabilization services, in addition to the applicable fee in subsection (C)(2), the licensed occupancy times \$94;
 4. For a nursing care institution, an intermediate care facility for individuals with intellectual disabilities, or a nursing-supported group home:
 - a. For a facility with a licensed capacity of one to 59 beds, \$290, plus the licensed capacity times \$73;
 - b. For a facility with a licensed capacity of 60 to 99 beds, \$580, plus the licensed capacity times \$73;
 - c. For a facility with a licensed capacity of 100 to 149 beds, \$870, plus the licensed capacity times \$73; or
 - d. For a facility with a licensed capacity of 150 beds or more, \$1,450, plus the licensed capacity times \$73;
 5. For a hospital, a home health agency, a hospice service agency, a hospice inpatient facility, an abortion clinic, a recovery care center, an outpatient surgical center, an outpatient treatment center that is not a behavioral health facility, a pain management clinic, or an unclassified health care institution:
 - a. For a facility with no licensed capacity, \$365;
 - b. For a facility with a licensed capacity of one to 59 beds, \$365, plus the licensed capacity times \$91;
 - c. For a facility with a licensed capacity of 60 to 99 beds, \$730, plus the licensed capacity times \$91;
 - d. For a facility with a licensed capacity of 100 to 149 beds, \$1,095, plus the licensed capacity times \$91; or
 - e. For a facility with a licensed capacity of 150 beds or more, \$1,825, plus the licensed capacity times \$91;
 6. For a hospital providing behavioral health observation/stabilization services, in addition to the applicable fee in subsection (C)(5), the licensed occupancy times \$91; and
 7. For an outpatient treatment center that is not a behavioral health facility and provides:
 - a. Dialysis services, in addition to the applicable fee in subsection (C)(5), the number of dialysis stations times \$91; and
 - b. Behavioral health observation/stabilization services, in addition to the applicable fee in subsection (C)(5), the licensed occupancy times \$91.
- D. In addition to the applicable fees in subsections (C)(5) and (C)(6), an applicant submitting an application for a single group hospital license or a licensee with a single group license submitting annual health care institution licensing fees shall submit to the Department an additional fee of \$365 for each of the hospital's satellite facilities and, if applicable, the fees required in subsection (C)(7).
- E. Subsections (C) and (D) do not apply to a health care institution operated by a state agency according to state or federal law or to an adult foster care home.
- F. In addition to the applicable fees in subsections (C) and (D), a licensee shall submit a late payment fee of \$250 if submitting annual licensing fees according to R9-10-107(E)(1) or (2)(d).
- G. All fees are nonrefundable except as provided in A.R.S. § 41-1077.

Historical Note

New Section R9-10-106 renumbered from R9-10-122 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4). Amended by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-107. Submission of Health Care Institution Licensing Fees

- A. An applicant for a health care institution license shall submit the applicable licensing fees in R9-10-106 to the Department:
1. Within 60 calendar days after the date of the written notice of approval in R9-10-108(C)(3); or
 2. Within 90 calendar days after the date of the written notice of approval in R9-10-108(C)(3), with the payment of an additional late payment fee of \$250.
- B. The Department shall notify a licensee of the due date of the facility's health care institution licensing fees no later than 90 calendar days before the date the facility's health care institution licensing fee is due to the Department.
- C. Except as specified in subsection (E), a licensee shall submit to the Department, no earlier than 60 calendar days before the anniversary date of the facility's health care institution license:
1. The following information in a Department-provided format:
 - a. The licensee's name, and
 - b. The facility's name and license number;
 2. Verification of the information in the Department's current records for the health care institution;
 3. If applicable, information or documentation required in another Article of this Chapter, specific to the health care institution, to be submitted with the relevant fees required in R9-10-106; and
 4. The applicable annual licensing fees in R9-10-106.

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- D.** If any information in the Department's current records for a health care institution is incorrect, before a licensee submits annual licensing fees according to subsection (C), the licensee shall comply with the applicable requirements in R9-10-109 or R9-10-110 to update the Department's records for the health care institution.
- E.** A licensee may submit to the Department the information in subsection (C)(1), verification in subsection (C)(2), applicable information or documentation in subsection (C)(3), and applicable annual licensing fees in R9-10-106:
1. Within 30 calendar days after the anniversary date of the facility's health care institution license, with the payment of the additional late payment fee in R9-10-106(F); or
 2. If an alternate licensing fee due date has been established for the licensee according to subsections (F) and (G):
 - a. By the anniversary date of the facility's health care institution license, with the appropriate fee amount to prorate the annual licensing fees in R9-10-106 for a facility to the alternate licensing fee due date;
 - b. By the alternate licensing fee due date;
 - c. If a new alternate licensing fee due date has been established, by the current alternate licensing fee due date, with the appropriate fee amount to prorate the annual licensing fees in R9-10-106 for a facility to the new alternate licensing fee due date; or
 - d. Within 30 calendar days after the alternate licensing fee due date, with the payment of the additional late payment fee in R9-10-106(F).
- F.** Except as specified in subsection (H), a licensee may request a licensing fee due date for a facility that is different from the anniversary date of a facility's health care institution license by submitting an application for an alternate licensing fee due date to the Department, at least 30 calendar days before the anniversary date of the facility's health care institution license, that includes the following information in a Department-provided format:
1. The licensee's name and e-mail address,
 2. The facility's name and license number,
 3. The current licensing fee due date,
 4. The proposed alternate licensing fee due date,
 5. The reason the licensee is requesting an alternate licensing fee due date, and
 6. The name of the health care institution's administrator's or individual representing the health care institution as designated in A.R.S. § 36-422 and the dated signature of the administrator or individual.
- G.** The Department shall review a request made according to subsection (F) according to R9-10-108.
- H.** A licensee may not request an alternate licensing fee due date according to subsection (F):
1. More frequently than once in each three-year period, or
 2. For a facility for which the payment of licensing fees is not up-to-date.
- A.** The overall time-frame for each type of approval granted by the Department is listed in Table 1.1. The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25% of the overall time-frame.
- B.** The administrative completeness review time-frame for each type of approval granted by the Department as prescribed in this Article is listed in Table 1.1. The administrative completeness review time-frame begins on the date the Department receives an application packet or a written request for an alternate licensing fee due date.
1. The application packet for a health care institution license is not complete until the applicant provides the Department with written notice that the health care institution is ready for a licensing inspection by the Department.
 2. If the application packet or written request is incomplete, the Department shall provide a written notice to the applicant specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Department receives the missing document or information from the applicant.
 3. When an application packet or written request is complete, the Department shall provide a written notice of administrative completeness to the applicant.
 4. For an application packet for review of architectural plans and specifications, a health care institution license application packet, an application packet for a modification not requiring review of architectural plans and specifications, or a written request for an alternate licensing fee due date, the Department shall consider the application or written request withdrawn if the applicant fails to supply the missing documents or information included in the notice described in subsection (B)(2) within 60 calendar days after the date of the notice described in subsection (B)(2).
 5. If the Department issues a license or grants an approval during the time provided to assess administrative completeness, the Department shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time-frame is listed in Table 1.1 and begins on the date of the notice of administrative completeness.
1. The Department may conduct an onsite inspection of the facility:
 - a. As part of the substantive review for approval of architectural plans and specifications;
 - b. As part of the substantive review for issuing a health care institution license; or
 - c. As part of the substantive review for approving a modification of a health care institution's license.
 2. During the substantive review time-frame, the Department may make one comprehensive written request for additional information or documentation. If the Department and the applicant agree in writing, the Department may make supplemental requests for additional information or documentation. The time-frame for the Department to complete the substantive review is suspended from the date of a written request for additional information or documentation until the Department receives the additional information or documentation.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Section repealed; new Section made by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-108. Time-frames

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3. The Department shall send a written notice of approval to an applicant that is in substantial compliance with applicable requirements in A.R.S. Title 36, Chapter 4 and this Chapter.
4. After an applicant for a health care institution license receives the written notice of approval in subsection (C)(3), the applicant shall submit the applicable health care institution license fee in R9-10-106 according to R9-10-107(A).
5. After receiving the applicable health care institution licensing fee from an applicant according to subsection (C)(4) and R9-10-107(A), the Department shall send a health care institution license to the applicant.
6. The Department shall provide a written notice of denial that complies with A.R.S. § 41-1076 to an applicant who does not:
 - a. For a health care institution license application or a request for approval of a modification of a health care institution requiring architectural plans and specifications, submit the information or documentation in subsection (C)(2) within 120 calendar days after the Department's written request to the applicant;
 - b. For a request for approval of a modification of a health care institution not requiring architectural plans and specifications or a written request for an alternate licensing fee due date, submit the information or documentation in subsection (C)(2) within 30 calendar days after the Department's written request to the applicant;
 - c. Comply with the applicable requirements in A.R.S. Title 36, Chapter 4 and this Chapter; or
 - d. If applicable, submit a fee required in R9-10-106 or R9-10-107.
7. An applicant may file a written notice of appeal with the Department within 30 calendar days after receiving the notice described in subsection (C)(6). The appeal shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.
8. If a time-frame's last day falls on a Saturday, a Sunday, or an official state holiday, the Department shall consider the next working day to be the time-frame's last day.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 859, effective April 2, 2005 (Supp. 05-1). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

Table 1.1 Time-frames

Type of Approval	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time-frame
Approval of architectural plans and specifications R9-10-104	A.R.S. §§ 36-405, 36-406(1)(b), and 36-421	105 calendar days	45 calendar days	60 calendar days
Health care institution license R9-10-105	A.R.S. §§ 36-405, 36-407, 36-421, 36-422, 36-424, and 36-425	120 calendar days	30 calendar days	90 calendar days
Approval of an alternate licensing fee due date R9-10-107	A.R.S. § 36-405	30 calendar days	10 calendar days	20 calendar days
Approval of a modification of a health care institution R9-10-110	A.R.S. §§ 36-405, 36-407, and 36-422	75 calendar days	15 calendar days	60 calendar days

Historical Note

New Table 1 made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 859, effective April 2, 2005 (Supp. 05-1). Table 1 number amended to Table 1.1 and contents amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Table 1.1 amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Table 1.1 amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Table 1.1 heading added for clarity by the Division (21-2).

R9-10-109. Changes Affecting a License**A.** A licensee shall ensure that:

1. The Department is notified in writing at least 30 calendar days before the effective date of:
 - a. Except as provided in subsection (I), a change in the name of:
 - i. A health care institution, or
 - ii. The licensee;
 - b. A change in the hours of operation:
 - i. Of an administrative office, or
 - ii. For providing physical health services or behavioral health services to patients of the health care institution;
 - c. A change in the address of a health care institution that does not provide medical services, nursing services, behavioral health services, or health-related services on the premises; or

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- d. A change in the geographic region to be served by the hospice service agency or home health agency; and
- 2. Documentation supporting the change is provided to the Department with the notification required in subsection (A)(1).
- B.** If a licensee intends to terminate the operation of a health care institution, the licensee shall ensure that the Department is notified in writing of:
 - 1. The termination of the health care institution's operations, as required in A.R.S. § 36-422(D), at least 30 calendar days before the termination, and
 - 2. The address and contact information for the location where the health care institution's medical records will be retained as required in A.R.S. § 12-2297.
- C.** A licensee shall ensure that the Department is notified in writing, according to A.R.S. § 36-425(I), of a change in the chief administrative officer of the health care institution.
- D.** If a health care institution is accredited by a nationally recognized accrediting organization, a licensee may submit to the Department the health care institution's current accreditation report.
- E.** Except as provided in A.R.S. § 36-424(B), if a licensee submits to the Department a health care institution's current accreditation report from a nationally recognized accrediting organization, the Department shall not conduct an onsite compliance inspection of the health care institution during the time the accreditation report is valid.
- F.** If a licensee is an adult behavioral health therapeutic home or a behavioral health respite home, the licensee shall ensure that:
 - 1. The Department is notified in writing if the licensee does not have a written agreement with a collaborating health care institution, as required in R9-10-1603(A)(3) or R9-10-1803(A)(3) as applicable; and
 - 2. The adult behavioral health therapeutic home or behavioral health respite home does not accept an individual as a resident or recipient, as applicable, or provide services to a resident or recipient, as applicable, until:
 - a. The adult behavioral health therapeutic home or behavioral health respite home has a written agreement with a collaborating health care institution;
 - b. The collaborating health care institution has approved the adult behavioral health therapeutic home's or behavioral health respite home's:
 - i. Scope of services, and
 - ii. Policies and procedures; and
 - c. The collaborating health care institution has verified the provider's skills and knowledge.
- G.** If a licensee is an affiliated outpatient treatment center, the licensee shall ensure that if the affiliated outpatient treatment center:
 - 1. Plans to begin providing administrative support to a counseling facility at a time other than during the affiliated outpatient treatment center's license application process, the following information for each counseling facility is submitted to the Department before the affiliated outpatient treatment center begins providing administrative support:
 - a. The counseling facility's name,
 - b. The license number assigned to the counseling facility by the Department, and
 - c. The date the affiliated outpatient treatment center will begin providing administrative support to the counseling facility; or
 - 2. No longer provides administrative support to a counseling facility previously identified by the affiliated outpatient treatment center as receiving administrative support from the affiliated outpatient treatment center, the following information for each counseling facility is submitted to the Department within 30 calendar days after the affiliated outpatient treatment center no longer provides administrative support:
 - a. The counseling facility's name,
 - b. The license number assigned to the counseling facility by the Department, and
 - c. The date the affiliated outpatient treatment center stopped providing administrative support to the counseling facility.
- H.** If a licensee is a counseling facility, the licensee shall ensure that if the counseling facility:
 - 1. Plans to begin receiving administrative support from an affiliated outpatient treatment center at a time other than during the counseling facility's license application process, the following information for the affiliated outpatient treatment center is submitted to the Department before the counseling facility begins receiving administrative support:
 - a. The affiliated outpatient treatment center's name,
 - b. The license number assigned to the affiliated outpatient treatment center by the Department, and
 - c. The date the counseling facility will begin receiving administrative support;
 - 2. No longer receives administrative support from an affiliated outpatient treatment center previously identified by the counseling facility as providing administrative support to the counseling facility, the following information for the affiliated outpatient treatment center is submitted to the Department within 30 calendar days after the counseling facility no longer receives administrative support from the affiliated outpatient treatment center:
 - a. The affiliated outpatient treatment center's name,
 - b. The license number assigned to the affiliated outpatient treatment center by the Department, and
 - c. The date the counseling facility stopped receiving administrative support from the affiliated outpatient treatment center;
 - 3. Plans to begin sharing administrative support with an affiliated counseling facility at a time other than during the counseling facility's license application process, the following information for each affiliated counseling facility sharing administrative support with the counseling facility is submitted to the Department before the counseling facility and affiliated counseling facility begin sharing administrative support:
 - a. The affiliated counseling facility's name,
 - b. The license number assigned to the affiliated counseling facility by the Department, and
 - c. The date the counseling facility and the affiliated counseling facility will begin sharing administrative support; or
 - 4. No longer shares administrative support with an affiliated counseling facility previously identified by the counseling facility as sharing administrative support with the counseling facility, the following information is submitted for each affiliated counseling facility within 30 calendar days after the counseling facility and affiliated counseling facility no longer share administrative support:

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- a. The affiliated counseling facility's name,
 - b. The license number assigned to the affiliated counseling facility by the Department, and
 - c. The date the counseling facility and affiliated counseling facility will no longer be sharing administrative support.
- I. A governing authority shall submit a license application required in R9-10-105 for:
 - 1. A change in ownership of a health care institution;
 - 2. A change in the address or location of a health care institution that provides medical services, nursing services, health-related services, or behavioral health services on the premises; or
 - 3. A change in a health care institution's class or subclass.
- J. A governing authority is not required to submit the documentation required in R9-10-105(A)(5) for a license application if:
 - 1. The health care institution has not ceased operations for more than 30 calendar days,
 - 2. A modification has not been made to the health care institution,
 - 3. The services the health care institution is authorized by the Department to provide are not changed, and
 - 4. The location of the health care institution's premises is not changed.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking at 26 A.A.R. 551, with an immediate effective date of March 3, 2020 (Supp. 20-1).

R9-10-110. Modification of a Health Care Institution

- A. A licensee shall submit a request for approval of a modification of a health care institution when planning to make:
 - 1. An addition or removal of an authorized service;
 - 2. An addition or removal of a collocator;
 - 3. A change in a health care institution's licensed capacity, licensed occupancy, respite capacity, or the number of dialysis stations;
 - 4. A change in the physical plant, including facilities or equipment, that costs more than \$300,000; or
 - 5. A change in the building where a health care institution is located that affects compliance with:
 - a. Applicable physical plant codes and standards incorporated by reference in R9-10-104.01, or
 - b. Physical plant requirements in the specific Article in this Chapter applicable to the health care institution.
- B. A licensee of a health care institution that is required by this Chapter to comply with any of the physical plant codes and standards incorporated by reference in R9-10-104.01 shall submit an application packet, according to R9-10-104(A), for approval of architectural plans and specifications for a modification of the health care institution described in subsections (A)(3) through (5).
- C. A licensee of a health care institution shall submit a written request an application packet for a modification of the health care institution in a Department-provided format that contains:
 - 1. The following information in a Department-provided format:
 - a. The health care institution's name, mailing address, e-mail address, and license number;
 - b. A narrative description of the modification, including as applicable:
 - i. The services the licensee is requesting be added or removed as an authorized service;
 - ii. The name and license number of an associated licensed provider being added or removed as a collocator;
 - iii. The name and professional license number of an exempt health care provider being added or removed as a collocator;
 - iv. If an associated licensed provider or exempt health care provider is being added as a collocator, the proposed scope of services;
 - v. The current and proposed licensed capacity, licensed occupancy, respite capacity, and number of dialysis stations;
 - vi. The change being made in the physical plant; and
 - vii. The change being made that affects compliance with applicable physical plant codes and standards incorporated by reference in R9-10-104.01; and
 - c. The name and e-mail address of the health care institution's administrator's or individual representing the health care institution as designated in according to A.R.S. § 36-422 and the dated signature of the administrator or individual; and
 - 2. Documentation that demonstrates that the requested modification complies with applicable requirements in this Chapter, including as applicable:
 - a. A floor plan showing the location of each collocator's proposed treatment area and the areas of the collaborating outpatient treatment center's premises shared with a collocator;
 - b. For a change in the licensed capacity, licensed occupancy, respite capacity, or number of dialysis stations or a modification of the physical plant:
 - i. A floor plan showing, for each story of the facility affected by the modification, the room layout, room usage, each door and each window, plumbing fixtures, each exit, and the location of each fire protection device; or
 - ii. For a health care institution or part of the health care institution that is required to comply with the physical plant codes and standards incorporated by reference in R9-10-104.01 or the building, documentation of the Department's approval of the health care institution's architectural plans and specifications in R9-10-104(D); and
 - c. Any other documentation to support the requested modification; and
 - 3. If applicable, a copy of the written agreement the associated licensed provider or exempt health care provider has with the collaborating outpatient treatment center.
- D. The Department shall approve or deny a request for a modification described in subsection (C) according to R9-10-108.
- E. A licensee shall not implement a modification described in subsection (C) until an approval or amended license is issued by the Department.

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Historical Note

New Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-110 renumbered to Section R9-10-111; new Section R9-10-110 made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-111. Enforcement Actions

- A.** If the Department determines that an applicant or licensee is violating applicable statutes and rules and the violation poses a direct risk to the life, health, or safety of a patient, the Department may:
1. Issue a provisional license to the applicant or licensee under A.R.S. § 36-425,
 2. Assess a civil penalty under A.R.S. § 36-431.01,
 3. Impose an intermediate sanction under A.R.S. § 36-427,
 4. Remove a licensee and appoint another person to continue operation of the health care institution pending further action under A.R.S. § 36-429,
 5. Suspend or revoke a license under A.R.S. § 36-427 and R9-10-112,
 6. Deny a license under A.R.S. § 36-425 and R9-10-112, or
 7. Issue an injunction under A.R.S. § 36-430.
- B.** In determining which action in subsection (A) is appropriate, the Department shall consider the direct risk to the life, health, or safety of a patient in the health care institution based on:
1. Repeated violations of statutes or rules,
 2. Pattern of violations,
 3. Types of violation,
 4. Severity of violation, and
 5. Number of violations.

Historical Note

Amended effective February 4, 1981 (Supp. 81-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 97, effective January 1, 2014 (Supp. 13-4). Section R9-10-111 renumbered to Section R9-10-112; new Section R9-10-111 renumbered from R9-10-110 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-112. Denial, Revocation, or Suspension of License

- A.** The Department may deny, revoke, or suspend a license to operate a health care institution if an applicant, a licensee, or a controlling person of the health care institution:
1. Provides false or misleading information to the Department;
 2. Has had in any state or jurisdiction any of the following:
 - a. An application or license to operate a health care institution denied, suspended, or revoked, unless the denial was based on failure to complete the licensing process or to pay a required licensing fee within a required time-frame; or

- b. A health care professional license or certificate denied, revoked, or suspended;
3. Does not comply with the applicable requirements in A.R.S. Title 36, Chapter 4 and this Chapter; or
 4. Has operated a health care institution, within the preceding ten years, in violation of A.R.S. Title 36, Chapter 4 or this Chapter, that posed a direct risk to the life, health, or safety of a patient.
- B.** The Department shall suspend or revoke a hospital's license if the Department receives, pursuant to A.R.S. § 36-2901.08(H), notice from the Arizona Health Care Cost Containment System that the hospital's provider agreement registration with the Arizona Health Care Cost Containment System has been suspended or revoked.

Historical Note

Amended effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). New Section made by exempt rulemaking at 9 A.A.R. 526, effective April 1, 2003 (Supp. 03-1). Section R9-10-112 renumbered to R9-10-113; new Section R9-10-112 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-112 renumbered to Section R9-10-113; new Section R9-10-112 renumbered from R9-10-111 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-113. Tuberculosis Screening

- A.** If a health care institution is subject to the requirements of this Section, as specified in an Article in this Chapter, the health care institution's chief administrative officer shall ensure that the health care institution establishes, documents, and implements tuberculosis infection control activities that:
1. Are consistent with recommendations in Tuberculosis Screening, Testing, and Treatment of U.S. Health Care Personnel: Recommendations from the National Tuberculosis Controllers Association and CDC, 2019, published by the U.S. Department of Health and Human Services, Atlanta, GA 30333, available at <https://www.cdc.gov/mmwr/volumes/68/wr/mm6819a3.htm>, incorporated by reference, on file with the Department, and including no future editions or amendments; and
 2. Include:
 - a. For each individual who is employed by the health care institution, provides volunteer services for the health care institution, or is admitted to the health care institution and who is subject to the requirements of this Section, baseline screening, on or before the date specified in the applicable Article of this Chapter, that consists of:
 - i. Assessing risks of prior exposure to infectious tuberculosis,
 - ii. Determining if the individual has signs or symptoms of tuberculosis, and
 - iii. Obtaining documentation of the individual's freedom from infectious tuberculosis according to subsection (B)(1);
 - b. If an individual may have a latent tuberculosis infection, as defined in A.A.C. R9-6-1201:
 - i. Referring the individual for assessment or treatment; and

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- ii. Annually obtaining documentation of the individual's freedom from symptoms of infectious tuberculosis, signed by a medical practitioner, occupation health provider, as defined in A.A.C. R9-6-801, or local health agency, as defined in A.A.C. R9-6-101;
- c. Annually providing training and education related to recognizing the signs and symptoms of tuberculosis to individuals employed by or providing volunteer services for the health care institution;
- d. Annually assessing the health care institution's risk of exposure to infectious tuberculosis;
- e. Reporting, as specified in A.A.C. R9-6-202, an individual who is suspected of exposure to infectious tuberculosis; and
- f. If an exposure to infectious tuberculosis occurs in the health care institution, coordinating and sharing information with the local health agency, as defined in A.A.C. R9-6-101, for identifying, locating, and investigating contacts, as defined in A.A.C. R9-6-101.

B. A health care institution's chief administrative officer shall:

1. For an individual for whom baseline screening and documentation of freedom from infectious tuberculosis is required by an Article in this Chapter, as specified in subsection (A)(2)(a), obtain one of the following as evidence of freedom from infectious tuberculosis:
 - a. Documentation of a negative Mantoux skin test or other tuberculosis screening test that:
 - i. Is recommended by the U.S. Centers for Disease Control and Prevention (CDC),
 - ii. Was administered within 12 months before the date the individual begins providing services at or on behalf of the health care institution or is admitted to the health care institution, and
 - iii. Includes the date and the type of tuberculosis screening test;
 - b. If the individual had a history of tuberculosis or documentation of latent tuberculosis infection, as defined in A.A.C. R9-6-1201, compliance with subsection (A)(2)(b); or
 - c. If the individual had a positive Mantoux skin test or other tuberculosis screening test according to subsection (B)(1)(a) and does not have history of tuberculosis or documentation of latent tuberculosis infection, as defined in A.A.C. R9-6-1201, a written statement:
 - i. That the individual is free from infectious tuberculosis, signed by a medical practitioner or local health agency, as defined in A.A.C. R9-6-101; and
 - ii. Dated within 12 months before the date the individual begins providing services at or on behalf of the health care institution or is admitted to the health care institution; and
2. As part of the annual assessment of the health care institution's risk of exposure to infectious tuberculosis according to subsection (A)(2)(d), ensure that documentation is obtained for each individual required to be screened for infectious tuberculosis that:
 - a. Indicates the individual's freedom from symptoms of infectious tuberculosis; and

- b. Is signed by a medical practitioner, occupation health provider, as defined in A.A.C. R9-6-801, or local health agency, as defined in A.A.C. R9-6-101.

Historical Note

Former Section R9-10-113 repealed, new Section R9-10-113 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). New Section R9-10-113 renumbered from R9-10-112 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-113 renumbered to Section R9-10-114; new Section R9-10-113 renumbered from R9-10-112 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking at 28 A.A.R. 1113 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-10-114. Clinical Practice Restrictions for Hemodialysis Technician Trainees**A. The following definitions apply in this Section:**

1. "Assess" means collecting data about a patient by:
 - a. Obtaining a history of the patient,
 - b. Listening to the patient's heart and lungs, and
 - c. Checking the patient for edema.
2. "Blood-flow rate" means the quantity of blood pumped into a dialyzer per minute of hemodialysis.
3. "Blood lines" means the tubing used during hemodialysis to carry blood between a vascular access and a dialyzer.
4. "Central line catheter" means a type of vascular access created by surgically implanting a tube into a large vein.
5. "Clinical practice restriction" means a limitation on the hemodialysis tasks that may be performed by a hemodialysis technician trainee.
6. "Conductivity test" means a determination of the electrolytes in a dialysate.
7. "Dialysate" means a mixture of water and chemicals used in hemodialysis to remove wastes and excess fluid from a patient's body.
8. "Dialysate-flow rate" means the quantity of dialysate pumped per minute of hemodialysis.
9. "Directly observing" or "direct observation" means a medical person stands next to an inexperienced hemodialysis technician trainee and watches the inexperienced hemodialysis technician trainee perform a hemodialysis task.
10. "Direct supervision" has the same meaning as "supervision" in A.R.S. § 36-401.
11. "Electrolytes" means chemical compounds that break apart into electrically charged particles, such as sodium, potassium, or calcium, when dissolved in water.
12. "Experienced hemodialysis technician trainee" means an individual who has passed all didactic, skills, and competency examinations provided by a health care institution that measure the individual's knowledge and ability to perform hemodialysis.
13. "Fistula" means a type of vascular access created by a surgical connection between an artery and vein.
14. "Fluid-removal rate" means the quantity of wastes and excess fluid eliminated from a patient's blood per minute of hemodialysis to achieve the patient's prescribed weight, determined by:

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- a. Dialyzer size,
 - b. Blood-flow rate,
 - c. Dialysate-flow rate, and
 - d. Hemodialysis duration.
 15. "Germicide-negative test" means a determination that a chemical used to kill microorganisms is not present.
 16. "Germicide-positive test" means a determination that a chemical used to kill microorganisms is present.
 17. "Graft" means a vascular access created by a surgical connection between an artery and vein using a synthetic tube.
 18. "Hemodialysis machine" means a mechanical pump that controls:
 - a. The blood-flow rate,
 - b. The mixing and temperature of dialysate,
 - c. The dialysate-flow rate,
 - d. The addition of anticoagulant, and
 - e. The fluid-removal rate.
 19. "Hemodialysis technician" has the same meaning as in A.R.S. § 36-423(A).
 20. "Hemodialysis technician trainee" means an individual who is working in a health care institution to assist in providing hemodialysis and who is not certified as a hemodialysis technician according to A.R.S. § 36-423(A).
 21. "Inexperienced hemodialysis technician trainee" means an individual who has not passed all didactic, skills, and competency examinations provided by a health care institution that measure the individual's knowledge and ability to perform hemodialysis.
 22. "Medical person" means:
 - a. A physician who is experienced in dialysis;
 - b. A registered nurse practitioner who is experienced in dialysis;
 - c. A nurse who is experienced in dialysis;
 - d. A hemodialysis technician who meets the requirements in A.R.S. § 36-423(A) approved by the governing authority; and
 - e. An experienced hemodialysis technician trainee approved by the governing authority.
 23. "Not established" means not approved by a patient's nephrologist for use in hemodialysis.
 24. "Patient" means an individual who receives hemodialysis.
 25. "pH test" means a determination of the acidity of a dialysate.
 26. "Preceptor course" means a health care institution's instruction and evaluation provided to a nurse, hemodialysis technician, or hemodialysis technician trainee that enables the nurse, hemodialysis technician, or hemodialysis technician trainee to provide direct observation and education to hemodialysis technician trainees.
 27. "Respond" means to mute, shut off, reset, or troubleshoot an alarm.
 28. "Safety check" means successful completion of tests recommended by the manufacturer of a hemodialysis machine, a dialyzer, or a water system used for hemodialysis before initiating a patient's hemodialysis.
 29. "Water-contaminant test" means a determination of the presence of chlorine or chloramine in a water system used for hemodialysis.
- B.** An experienced hemodialysis technician trainee may:
1. Perform hemodialysis under direct supervision, and
 2. Provide direct observation to another hemodialysis technician trainee only after completing the health care institution's preceptor course approved by the governing authority.
- C.** An experienced hemodialysis technician trainee shall not access a patient's:
1. Fistula that is not established, or
 2. Graft that is not established.
- D.** An inexperienced hemodialysis technician trainee may perform the following hemodialysis tasks only under direct observation:
1. Access a patient's central line catheter;
 2. Respond to a hemodialysis-machine alarm;
 3. Draw blood for laboratory tests;
 4. Perform a water-contaminant test on a water system used for hemodialysis;
 5. Inspect a dialyzer and perform a germicide-positive test before priming a dialyzer;
 6. Set up a hemodialysis machine and blood lines before priming a dialyzer;
 7. Prime a dialyzer;
 8. Test a hemodialysis machine for germicide presence;
 9. Perform a hemodialysis machine safety check;
 10. Prepare a dialysate;
 11. Perform a conductivity test and a pH test on a dialysate;
 12. Assess a patient;
 13. Check and record a patient's vital signs, weight, and temperature;
 14. Determine the amount and rate of fluid removal from a patient;
 15. Administer local anesthetic at an established fistula or graft, administer anticoagulant, or administer replacement saline solution;
 16. Perform a germicide-negative test on a dialyzer before initiating hemodialysis;
 17. Initiate or discontinue a patient's hemodialysis;
 18. Adjust blood-flow rate, dialysate-flow rate, or fluid-removal rate during hemodialysis; or
 19. Prepare a blood, water, or dialysate culture to determine microorganism presence.
- E.** An inexperienced hemodialysis technician trainee shall not:
1. Access a patient's:
 - a. Fistula that is not established, or
 - b. Graft that is not established; or
 2. Provide direct observation.
- F.** When a hemodialysis technician trainee performs hemodialysis tasks for a patient, the patient's medical record shall include:
1. The name of the hemodialysis technician trainee;
 2. The date, time, and hemodialysis task performed;
 3. The name of the medical person directly observing or the nurse or physician directly supervising the hemodialysis technician trainee; and
 4. The initials or signature of the medical person directly observing or the nurse or physician directly supervising the hemodialysis technician trainee.
- G.** If the Department determines that a health care institution is not in substantial compliance with this Section, the Department may take enforcement action according to R9-10-111.

Historical Note

Former Section R9-10-114 repealed, new Section R9-10-114 adopted effective February 4, 1981 (Supp. 81-1).

Amended by adding paragraph (7) as an emergency effective November 17, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Amended by adding paragraph (7) as a permanent amendment effective

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tive August 2, 1984 (Supp. 84-4). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). New Section R9-10-114 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-114 renumbered to Section R9-10-115; new Section R9-10-114 renumbered from R9-10-113 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-115. Behavioral Health Paraprofessionals; Behavioral Health Technicians

If a health care institution is a behavioral health facility or is authorized by the Department to provide behavioral health services, an administrator shall ensure that:

1. Policies and procedures are established, documented, and implemented that:
 - a. Delineate the services a behavioral health paraprofessional is allowed to provide at or for the health care institution;
 - b. Cover supervision of a behavioral health paraprofessional, including documentation of supervision;
 - c. Establish the qualifications for a behavioral health professional providing supervision to a behavioral health paraprofessional;
 - d. Delineate the services a behavioral health technician is allowed to provide at or for the health care institution;
 - e. Cover clinical oversight for a behavioral health technician, including documentation of clinical oversight;
 - f. Establish the qualifications for a behavioral health professional providing clinical oversight to a behavioral health technician;
 - g. Delineate the methods used to provide clinical oversight, including when clinical oversight is provided on an individual basis or in a group setting; and
 - h. Establish the process by which information pertaining to services provided by a behavioral health technician is provided to the behavioral health professional who is responsible for the clinical oversight of the behavioral health technician;
2. A behavioral health paraprofessional receives supervision according to policies and procedures;
3. Clinical oversight is provided to a behavioral health technician to ensure that patient needs are met based on, for each behavioral health technician:
 - a. The scope and extent of the services provided,
 - b. The acuity of the patients receiving services, and
 - c. The number of patients receiving services;
4. A behavioral health technician receives clinical oversight at least once during each two week period, if the behavioral health technician provides services related to patient care at the health care institution during the two week period;
5. When clinical oversight is provided electronically:
 - a. The clinical oversight is provided verbally with direct and immediate interaction between the behavioral health professional providing and the behavioral health technician receiving the clinical oversight,
 - b. A secure connection is used, and

- c. The identities of the behavioral health professional providing and the behavioral health technician receiving the clinical oversight are verified before clinical oversight is provided; and
6. A behavioral health professional provides supervision to a behavioral health paraprofessional or clinical oversight to behavioral health technician within the behavioral health professional's scope of practice established in the applicable licensing requirements under A.R.S. Title 32.

Historical Note

Adopted effective February 4, 1981 (Supp. 81-1).

Amended by final rulemaking 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-115 renumbered to Section R9-10-116; new Section R9-10-115 renumbered from R9-10-114 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-116. Nutrition and Feeding Assistant Training Programs

- A. For the purposes of this Section, "agency" means an entity other than a nursing care institution that provides the nutrition and feeding assistant training required in A.R.S. § 36-413.
- B. An agency shall apply for approval to operate a nutrition and feeding assistant training program by submitting:
 1. An application in a Department-provided format that contains:
 - a. The name of the agency;
 - b. The name, telephone number, and e-mail address of the individual in charge of the proposed nutrition and feeding assistant training program;
 - c. The address where the nutrition and feeding assistant training program records are maintained;
 - d. A description of the training course being offered by the nutrition and feeding assistant training program including for each topic in subsection (I):
 - i. The information presented for each topic,
 - ii. The amount of time allotted to each topic,
 - iii. The skills an individual is expected to acquire for each topic, and
 - iv. The testing method used to verify an individual has acquired the stated skills for each topic;
 - e. Whether the agency agrees to allow the Department to submit supplemental requests for information as specified in subsection (F)(2); and
 - f. The signature of the individual in charge of the proposed nutrition and feeding assistant training program and the date signed; and
 2. A copy of the materials used for providing the nutrition and feeding assistant training program.
- C. For an application for approval of a nutrition and feeding assistant training program, the administrative review time-frame is 30 calendar days, the substantive review time-frame is 30 calendar days, and the overall time-frame is 60 calendar days.
- D. Within 30 calendar days after the receipt of an application in subsection (B), the Department shall:
 1. Issue an approval of the agency's nutrition and feeding assistant training program;

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2. Provide a notice of administrative completeness to the agency that submitted the application; or
 3. Provide a notice of deficiencies to the agency that submitted the application, including a list of the information or documents needed to complete the application.
- E.** If the Department provides a notice of deficiencies to an agency:
1. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice of deficiencies until the date the Department receives the missing information or documents from the agency;
 2. If the agency does not submit the missing information or documents to the Department within 30 calendar days, the Department shall consider the application withdrawn; and
 3. If the agency submits the missing information or documents to the Department within 30 calendar days, the substantive review time-frame begins on the date the Department receives the missing information or documents.
- F.** Within the substantive review time-frame, the Department:
1. Shall issue or deny an approval of a nutrition and feeding assistant training program; and
 2. May make one written comprehensive request for more information, unless the Department and the agency agree in writing to allow the Department to submit supplemental requests for information.
- G.** If the Department issues a written comprehensive request or a supplemental request for information:
1. The substantive review time-frame and the overall time-frame are suspended from the date of the written comprehensive request or the supplemental request for information until the date the Department receives the information requested, and
 2. The agency shall submit to the Department the information and documents listed in the written comprehensive request or supplemental request for information within 10 working days after the date of the comprehensive written request or supplemental request for information.
- H.** The Department shall issue:
1. An approval for an agency to operate a nutrition and feeding assistant training program if the Department determines that the agency and the application comply with A.R.S. § 36-413 and this Section; or
 2. A denial for an agency that includes the reason for the denial and the process for appeal of the Department's decision if:
 - a. The Department determines that the agency does not comply with A.R.S. § 36-413 and this Section; or
 - b. The agency does not submit information and documents listed in the written comprehensive request or supplemental request for information within 10 working days after the date of the comprehensive written request or supplemental request for information.
- I.** An individual in charge of a nutrition and feeding assistant training program shall ensure that:
1. The materials and coursework for the nutrition and feeding assistant training program demonstrate the inclusion of the following topics:
 - a. Feeding techniques;
 - b. Assistance with feeding and hydration;
 - c. Communication and interpersonal skills;
 - d. Appropriate responses to resident behavior;
 - e. Safety and emergency procedures, including the Heimlich maneuver;
 - f. Infection control;
 - g. Resident rights;
 - h. Recognizing a change in a resident that is inconsistent with the resident's normal behavior; and
 - i. Reporting a change in subsection (I)(1)(h) to a nurse at a nursing care institution;
 2. An individual providing the training course is:
 - a. A physician,
 - b. A physician assistant,
 - c. A registered nurse practitioner,
 - d. A registered nurse,
 - e. A registered dietitian,
 - f. A licensed practical nurse,
 - g. A speech-language pathologist, or
 - h. An occupational therapist; and
 3. An individual taking the training course completes:
 - a. At least eight hours of classroom time, and
 - b. Demonstrates that the individual has acquired the skills the individual was expected to acquire.
- J.** An individual in charge of a nutrition and feeding assistant training program shall issue a certificate of completion to an individual who completes the training course and demonstrates the skills the individual was expected to acquire as a result of completing the training course that contains:
1. The name of the agency approved to operate the nutrition and feeding assistant training program;
 2. The name of the individual completing the training course;
 3. The date of completion;
 4. The name, signature, and professional license of the individual providing the training course; and
 5. The name and signature of the individual in charge of the nutrition and feeding assistant training program.
- K.** The Department may deny, revoke, or suspend an approval to operate a nutrition and feeding assistant training program if an agency operating or applying to operate a nutrition and feeding assistance training program:
1. Provides false or misleading information to the Department;
 2. Does not comply with the applicable statutes and rules;
 3. Issues a training completion certificate to an individual who did not:
 - a. Complete the nutrition and feeding assistant training program, or
 - b. Demonstrate the skills the individual was expected to acquire; or
 4. Does not implement the nutrition and feeding assistant training program as described in or use the materials submitted with the agency's application.
- L.** In determining which action in subsection (K) is appropriate, the Department shall consider the following:
1. Repeated violations of statutes or rules,
 2. Pattern of non-compliance,
 3. Types of violations,
 4. Severity of violations, and
 5. Number of violations.

Historical Note

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October

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1, 2013 (Supp. 13-2). Section R9-10-116 renumbered to Section R9-10-117; new Section R9-10-116 renumbered from R9-10-115 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-117. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-117 renumbered to Section R9-10-118; new Section R9-10-117 renumbered from R9-10-116 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Repealed by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-118. Collaborating Health Care Institution

A. An administrator of a collaborating health care institution shall ensure that:

1. A list is maintained of adult behavioral health therapeutic homes and behavioral health respite homes for which the collaborating health care institution serves as a collaborating health care institution;
2. For each adult behavioral health therapeutic home or behavioral health respite home in subsection (A)(1), the collaborating health care institution maintains the following information:
 - a. A copy of the documented agreement that establishes the responsibilities of the adult behavioral health therapeutic home or behavioral health respite home and the collaborating health care institution consistent with the requirements in this Chapter;
 - b. For the adult behavioral health therapeutic home or behavioral health respite home, the following information:
 - i. Provider's name;
 - ii. Street address;
 - iii. License number;
 - iv. Whether the residence is an adult behavioral health therapeutic home or a behavioral health respite home;
 - v. If the residence is a behavioral health respite home, whether the behavioral health respite home provides respite care services to:
 - (1) Individuals 18 years of age or older,
 - (2) Individuals less than 18 years of age;
 - vi. The beginning and ending dates of the documented agreement in subsection (A)(2)(a); and
 - vii. The name and contact information for the individual assigned by the collaborating health care institution to monitor the adult behavioral health therapeutic home or behavioral health respite home;
 - c. For the adult behavioral health therapeutic home or behavioral health respite home, a copy of the following that have been approved by the collaborating health care institution:
 - i. Scope of services,
 - ii. Policies and procedures, and

- iii. Documentation of the review and update of policies and procedures;
 - d. A description of the required skills and knowledge for a provider, based on the scope of services of the adult behavioral health therapeutic home or behavioral health respite home, as established by the collaborating health care institution; and
 - e. For a provider in the adult behavioral health therapeutic home or behavioral health respite home, documentation of:
 - i. The provider's skills and knowledge;
 - ii. If applicable, the provider's completion of training in assistance in the self-administration of medication;
 - iii. Verification of the provider's skills and knowledge; and
 - iv. If the provider is required to have clinical oversight according to R9-10-1805(C), the provider's receiving clinical oversight;
3. A provider's skills and knowledge are verified by a personnel member according to policies and procedures;
 4. A provider who provides behavioral health services receives clinical oversight, required in R9-10-1805(C), from a behavioral health professional; and
 5. A provider, other than a provider who is a medical practitioner or nurse, receives training in assistance in the self-administration of medication:
 - a. From a medical practitioner or registered nurse or from a personnel member of the collaborating health care institution trained by a medical practitioner or registered nurse;
 - b. That includes:
 - i. A demonstration of the provider's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. The process for notifying the appropriate entities when an emergency medical intervention is needed; and
 - c. That is documented.

B. For a patient referred to an adult behavioral health therapeutic home or a behavioral health respite home, an administrator shall ensure that:

1. A resident or recipient accepted by and receiving services from the adult behavioral health therapeutic home or behavioral health respite home does not present a threat to the referred patient, based on the resident's or recipient's developmental levels, social skills, verbal skills, and personal history;
2. The referred patient does not present a threat to a resident or recipient accepted by and receiving services from the adult behavioral health therapeutic home or behavioral health respite home based the referred patient's developmental levels, social skills, verbal skills, and personal history;
3. The referred patient requires services within the adult behavioral health therapeutic home's or behavioral health respite home's scope of services;
4. A provider of the adult behavioral health therapeutic home or behavioral health respite home has the verified skills and knowledge to provide behavioral health services to the referred patient;

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5. A treatment plan for the referred patient, which includes information necessary for a provider to meet the referred patient's needs for behavioral health services, is completed and forwarded to the provider before the referred patient is accepted as a resident or recipient;
6. A patient's treatment plan is reviewed and updated at least once every 12 months, and a copy of the patient's updated treatment plan is forwarded to the patient's provider;
7. If documentation of a significant change in a patient's behavioral, physical, cognitive, or functional condition and the action taken by a provider to address patient's changing needs is received by the collaborating health care institution, a behavioral health professional or behavioral health technician reviews the documentation and:
 - a. Documents the review; and
 - b. If applicable:
 - i. Updates the patient's treatment plan, and
 - ii. Forwards the updated treatment plan to the provider within 10 working days after receipt of the documentation of a significant change;
8. If the review and updated treatment plan required in subsection (B)(7) is performed by a behavioral health technician, a behavioral health professional reviews and signs the review and updated treatment plan to ensure the patient is receiving the appropriate behavioral health services; and
9. In addition to the requirements for a medical record for a patient in this Chapter, a referred patient's medical record contains:
 - a. The provider's name and the street address and license number of the adult behavioral health therapeutic home or behavioral health respite home to which the patient is referred,
 - b. A copy of the treatment plan provided to the adult behavioral health therapeutic home or behavioral health respite home,
 - c. Documentation received according to and required by subsection (B)(7),
 - d. Any information about the patient received from the adult behavioral health therapeutic home or behavioral health respite home, and
 - e. Any follow-up actions taken by the collaborating health care institution related to the patient.
- C. For a patient referred to an adult behavioral health therapeutic home, an administrator shall ensure that the collaborating health care institution has documentation in the patient's medical record of evidence of freedom from infectious tuberculosis that meets the requirements in R9-10-113.

Historical Note

New Section R9-10-118 renumbered from R9-10-117 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). The word twelve has been changed to the numeral 12 in subsection (B)(6) for consistency in Chapter style and format (Supp. 21-2).

R9-10-119. Abortion Reporting

- A. A licensed health care institution where abortions are performed shall submit to the Department, in a Department-provided format and according to A.R.S. § 36-2161(D) and (E), a

report that contains the information required in A.R.S. § 36-2161(A) and the following:

1. The final disposition of the fetal tissue from the abortion; and
2. Except as provided in subsection (B), if custody of the fetal tissue is transferred to another person or persons:
 - a. The name and address of the person or persons accepting custody of the fetal tissue,
 - b. The amount of any compensation received by the licensed health care institution for the transferred fetal tissue, and
 - c. Whether a patient provided informed consent for the transfer of custody of the fetal tissue.
- B. A licensed health care institution where abortions are performed is not required to include the information specified in subsections (A)(2)(a) through (c) in the report required in subsection (A) if the licensed health care institution where abortions are performed:
 1. Transfers custody of the fetal tissue:
 - a. To a funeral establishment, as defined in A.R.S. § 32-1301;
 - b. To a crematory, as defined in A.R.S. § 32-1301; or
 - c. According to requirements in A.A.C. R18-13-1406, A.A.C. R18-13-1407, and A.A.C. R18-13-1408; or
 2. Complies with requirements in A.A.C. R18-13-1405.
- C. For purposes of this Section, the following definition applies: "Fetal tissue" means cells, or groups of cells with a specific function, obtained from an aborted human embryo or fetus.

Historical Note

New Section made by emergency rulemaking at 21 A.A.R. 1787, effective August 14, 2015 for 180 days (Supp. 15-3). Emergency expired February 10, 2016. Section amended by emergency rulemaking at 22 A.A.R. 420, effective February 11, 2016, for an additional 180 days; filed in the Office February 8, 2016 (Supp. 16-1). New Section made by final rulemaking at 22 A.A.R. 1343, with an immediate effective date upon filing under A.R.S. § 41-1032(A)(1) and (4) of May 5, 2016 (Supp. 16-2). Amended by final expedited rulemaking at 25 A.A.R. 1893, effective July 2, 2019 (Supp. 19-3).

R9-10-120. Opioid Prescribing and Treatment

- A. This Section does not apply to a health care institution licensed under Article 20 of this Chapter.
- B. In addition to the definitions in A.R.S. §§ 32-3248.01 and 36-401(A) and R9-10-101, the following definitions apply in this Section:
 1. "Episode of care" means medical services, nursing services, or health-related services provided by a health care institution to a patient for a specific period of time, ending in discharge, the completion of the patient's treatment plan, or 90 days from the start of service provision to the patient, whichever is later.
 2. "Order" means to issue written, verbal, or electronic instructions for a specific dose of a specific medication in a specific quantity and route of administration to be obtained and administered to a patient in a health care institution.
- C. An administrator of a health care institution where opioids are prescribed or ordered as part of treatment shall:
 1. Establish, document, and implement policies and procedures for prescribing or ordering an opioid as part of treatment, to protect the health and safety of a patient, that:

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- a. Cover which personnel members may prescribe or order an opioid in treating a patient and the required knowledge and qualifications of these personnel members;
 - b. As applicable and except when contrary to medical judgment for a patient, are consistent with A.R.S. § 32-3248.01 and the Arizona Opioid Prescribing Guidelines or national opioid-prescribing guidelines, such as guidelines developed by the:
 - i. Centers for Disease Control and Prevention, or
 - ii. U.S. Department of Veterans Affairs and the U.S. Department of Defense;
 - c. As applicable, include how, when, and by whom:
 - i. A patient's profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database is reviewed;
 - ii. An assessment is conducted of a patient's substance use risk;
 - iii. The potential risks, adverse outcomes, and complications, including death, associated with the use of opioids are explained to a patient or the patient's representative;
 - iv. Alternatives to a prescribed or ordered opioid are explained to a patient or the patient's representative;
 - v. Informed consent is obtained from a patient or the patient's representative and, if applicable, in what situations, described in subsection (G), (H), or (I), informed consent would not be obtained before an opioid is prescribed or ordered for a patient;
 - vi. A patient receiving an opioid is monitored; and
 - vii. The actions taken according to subsections (C)(1)(c)(i) through (vi) are documented;
 - d. Address conditions that may impose a higher risk to a patient when prescribing or ordering an opioid as part of treatment, including:
 - i. Concurrent use of a benzodiazepine or other sedative-hypnotic medication,
 - ii. History of substance use disorder,
 - iii. Co-occurring behavioral health issue, or
 - iv. Pregnancy;
 - e. Cover the criteria for co-prescribing a short-acting opioid antagonist for a patient who is not an inpatient, as defined in R9-10-201;
 - f. Include that, if continuing control of a patient's pain after discharge is medically indicated due to the patient's medical condition, a method for continuing pain control will be addressed as part of discharge planning;
 - g. Include the frequency of the following for a patient being prescribed an opioid for longer than a 30-calendar-day period:
 - i. Face-to-face interactions with the patient,
 - ii. Conducting an assessment of a patient's substance use risk,
 - iii. Renewal of a prescription for an opioid without a face-to-face interaction with the patient, and
 - iv. Monitoring the effectiveness of the treatment;
 - h. If applicable according to A.R.S. § 36-2608, include documenting a dispensed opioid in the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - i. As applicable and consistent with A.R.S. § 32-3248.01, cover the criteria and procedures for tapering opioid prescription or ordering as part of treatment; and
 - j. Cover the criteria and procedures for offering or referring a patient for treatment for substance use disorder;
2. Include in the plan for the health care institution's quality management program a process for:
 - a. Review of known incidents of opioid-related adverse reactions or other negative outcomes a patient experiences or opioid-related deaths, and
 - b. Surveillance and monitoring of adherence to the policies and procedures in subsection (C)(1);
 3. Except as prohibited by 42 CFR, Chapter I, Subchapter A, Part 2, or as provided in subsection (H)(1), ensure that, if a patient's death may be related to an opioid prescribed or ordered as part of treatment, written notification, in a Department-provided format, is provided to the Department of the patient's death within one working day after the health care institution learns of the patient's death; and
 4. Ensure that informed consent, if required from a patient or the patient's representative, includes:
 - a. The patient's:
 - i. Name,
 - ii. Date of birth or other patient identifier, and
 - iii. Condition for which opioids are being prescribed;
 - b. That an opioid is being prescribed or ordered;
 - c. The potential risks, adverse reactions, complications, and medication interactions associated with the use of an opioid;
 - d. If applicable, the potential risks, adverse outcomes, and complications associated with the concurrent use of an opioid and a benzodiazepine or another sedative-hypnotic medication;
 - e. Alternatives to a prescribed or ordered opioid;
 - f. The name and signature of the individual explaining the use of an opioid to the patient; and
 - g. The signature of the patient or the patient's representative and the date signed.
- D.** Except as provided in subsection (H) or (I), an administrator of a health care institution where opioids are prescribed as part of treatment shall ensure that a medical practitioner authorized by policies and procedures to prescribe an opioid in treating a patient:
1. Before prescribing an opioid for a patient of the health care institution:
 - a. Conducts a physical examination of the patient or reviews the documentation from a physical examination conducted during the patient's same episode of care;
 - b. Except as exempted by A.R.S. § 36-2606(G), reviews the patient's profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - c. Conducts an assessment of the patient's substance use risk or reviews the documentation from an assessment of the patient's substance use risk conducted during the same episode of care by an individual licensed under A.R.S. Title 32 and authorized by policies and procedures to conduct an assessment of the patient's substance use risk;

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- d. Explains to the patient or the patient's representative the risks and benefits associated with the use of opioids or ensures that the patient or the patient's representative understands the risks and benefits associated with the use of opioids, as explained to the patient or the patient's representative by an individual licensed under A.R.S. Title 32 and authorized by policies and procedures to explain to the patient or the patient's representative the risks and benefits associated with the use of opioids;
 - e. If applicable, explains alternatives to a prescribed opioid; and
 - f. Obtains informed consent from the patient or the patient's representative that meets the requirements in subsection (C)(4), including the potential risks, adverse outcomes, and complications associated with the concurrent use of an opioid and a benzodiazepine or another sedative-hypnotic medication, if the patient:
 - i. Is also prescribed or ordered a sedative-hypnotic medication, or
 - ii. Has been prescribed a sedative-hypnotic medication by another medical practitioner;
 - 2. Includes the following information in the patient's medical record, an existing treatment plan, or a new treatment plan developed for the patient:
 - a. The patient's diagnosis;
 - b. The patient's medical history, including co-occurring disorders;
 - c. The opioid to be prescribed;
 - d. Other medications or herbal supplements being taken by the patient;
 - e. If applicable:
 - i. The effectiveness of the patient's current treatment,
 - ii. The duration of the current treatment, and
 - iii. Alternative treatments tried by or planned for the patient;
 - f. The expected benefit of the treatment and, if applicable, the benefit of the new treatment compared with continuing the current treatment; and
 - g. Other factors relevant to the patient's being prescribed an opioid; and
 - 3. If applicable, specifies in the patient's discharge plan how medically indicated pain control will occur after discharge to meet the patient's needs.
- E.** Except as provided in subsection (G) or (H), an administrator of a health care institution where opioids are ordered for administration to a patient in the health care institution as part of treatment shall ensure that a medical practitioner authorized by policies and procedures to order an opioid in treating a patient:
- 1. Before ordering an opioid for a patient of the health care institution:
 - a. Conducts a physical examination of the patient or reviews the documentation from a physical examination conducted:
 - i. During the patient's same episode of care; or
 - ii. Within the previous 30 calendar days, at a health care institution transferring the patient to the health care institution or by the medical practitioner who referred the patient for admission to the health care institution;
 - b. Except as exempted by A.R.S. § 36-2606(G), reviews the patient's profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - c. If medically appropriate based on the physical examination in subsection (E)(1)(a) and the patient's medical history, assesses the patient's substance use risk or reviews the documentation from an assessment of the patient's substance use risk conducted within the previous 30 calendar days by an individual licensed under A.R.S. Title 32 and authorized by policies and procedures to conduct an assessment of the patient's substance use risk;
 - d. Ensures that the patient or the patient's representative understands the risks and benefits associated with the use of opioids, as explained to the patient or the patient's representative according to policies and procedures; and
 - e. If applicable, explains alternatives to an ordered opioid; and
 - 2. Includes the following information in the patient's medical record, an existing treatment plan, or a new treatment plan developed for the patient:
 - a. The patient's diagnosis;
 - b. The patient's medical history, including co-occurring disorders;
 - c. The opioid being ordered and the reason for the order;
 - d. Other medications or herbal supplements being taken by the patient; and
 - e. If applicable:
 - i. The effectiveness of the patient's current treatment,
 - ii. The duration of the current treatment,
 - iii. Alternative treatments tried by or planned for the patient,
 - iv. The expected benefit of a new treatment compared with continuing the current treatment, and
 - v. Other factors relevant to the patient's being ordered an opioid.
- F.** For a health care institution where opioids are administered as part of treatment or where a patient is provided assistance in the self-administration of medication for a prescribed opioid, including a health care institution in which an opioid may be prescribed or ordered as part of treatment, an administrator, a manager as defined in R9-10-801, or a provider, as applicable to the health care institution, shall:
- 1. Establish, document, and implement policies and procedures for administering an opioid as part of treatment or providing assistance in the self-administration of medication for a prescribed opioid, to protect the health and safety of a patient, that:
 - a. Cover which personnel members may administer an opioid in treating a patient and the required knowledge and qualifications of these personnel members;
 - b. Cover which personnel members may provide assistance in the self-administration of medication for a prescribed opioid and the required knowledge and qualifications of these personnel members;
 - c. Include how, when, and by whom a patient's need for opioid administration is assessed;
 - d. Include how, when, and by whom a patient receiving an opioid is monitored; and

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- e. Cover how, when, and by whom the actions taken according to subsections (F)(1)(c) and (d) are documented;
 - 2. Include in the plan for the health care institution's quality management program a process for:
 - a. Review of incidents of opioid-related adverse reactions or other negative outcomes a patient experiences or opioid-related deaths, and
 - b. Surveillance and monitoring of adherence to the policies and procedures in subsection (F)(1);
 - 3. Except as prohibited by 42 CFR, Chapter I, Subchapter A, Part 2, or as provided in subsection (H)(1), ensure that, if a patient's death may be related to an opioid administered as part of treatment, written notification, in a Department-provided format, is provided to the Department of the patient's death within one working day after the patient's death; and
 - 4. Except as provided in subsection (H), ensure that an individual authorized by policies and procedures to administer an opioid in treating a patient or to provide assistance in the self-administration of medication for a prescribed opioid:
 - a. Before administering an opioid or providing assistance in the self-administration of medication for a prescribed opioid in compliance with an order as part of the treatment for a patient, identifies the patient's need for the opioid;
 - b. Monitors the patient's response to the opioid; and
 - c. Documents in the patient's medical record:
 - i. An identification of the patient's need for the opioid before the opioid was administered or assistance in the self-administration of medication for a prescribed opioid was provided, and
 - ii. The effect of the opioid administered or for which assistance in the self-administration of medication for a prescribed opioid was provided.
- G.** A medical practitioner authorized by a health care institution's policies and procedures to order an opioid in treating a patient is exempt from the requirements in subsection (E), if:
- 1. The health care institution's policies and procedures, required in subsection (C)(1) or the applicable Article in 9 A.A.C. 10, contain procedures for:
 - a. Providing treatment without obtaining the consent of a patient or the patient's representative,
 - b. Ordering and administering opioids in an emergency situation, and
 - c. Complying with the requirements in subsection (E) after the emergency is resolved;
 - 2. The order for the administration of an opioid is:
 - a. Part of the treatment for a patient in an emergency, and
 - b. Issued in accordance with policies and procedures; and
 - 3. The emergency situation is documented in the patient's medical record.
- H.** The requirements in subsections (D), (E), and (F)(4), as applicable, do not apply to a health care institution's:
- 1. Prescribing, ordering, or administration of an opioid as part of treatment for a patient with an end-of-life condition or pain associated with an active malignancy;
 - 2. Prescribing an opioid as part of treatment for a patient when changing the type or dosage of an opioid, which had previously been prescribed by a medical practitioner of the health care institution for the patient according to the requirements in subsection (D):
 - a. Before a pharmacist dispenses the opioid for the patient; or
 - b. If changing the opioid because of an adverse reaction to the opioid experienced by the patient, within 72 hours after the opioid was dispensed for the patient by a pharmacist;
 - 3. Ordering an opioid as part of treatment for no longer than three calendar days for a patient remaining in the health care institution and receiving continuous medical services or nursing services from the health care institution; or
 - 4. Ordering an opioid as part of treatment:
 - a. For a patient receiving a surgical procedure or other invasive procedure; or
 - b. When changing the type, dosage, or route of administration of an opioid, which had previously been ordered by a medical practitioner of the health care institution for a patient according to the requirements in subsection (E), to meet the patient's needs.
- I.** The requirements in subsections (D)(1)(c) through (f) do not apply to a health care institution's prescribing an opioid as part of treatment for a patient with chronic, intractable pain who has had an established health professional-patient relationship with the prescribing medical practitioner for at least 90 days before the opioid is prescribed.

Historical Note

New Section made by emergency rulemaking at 23 A.A.R. 2203, effective July 28, 2017, for 180 days (Supp. 17-3). Emergency expired; new Section renewed by emergency rulemaking at 24 A.A.R. 303, effective January 25, 2018, for 180 days; new Section made by final rulemaking at 24 A.A.R. 657, with an immediate effective date of March 6, 2018 (Supp. 18-1). Amended by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4). Amended by final expedited rulemaking at 28 A.A.R. 3568 (November 18, 2022), with an immediate effective date November 2, 2022 (Supp. 22-4).

R9-10-121. Disease Prevention and Control

- A.** This Section applies:
- 1. When the Governor has declared a state of emergency, as defined in A.R.S. § 26-301, to address a situation described under A.R.S. § 36-787; and
 - 2. To health care institutions licensed under Article 4, 5, or 8 of this Chapter.
- B.** The following definitions apply in this Section:
- 1. "Communicable disease" has the same meaning as in A.A.C. R9-6-101.
 - 2. "Infection" has the same meaning as in A.A.C. R9-6-101.
 - 3. "Respiratory symptoms" means coughing, shortness of breath, or wheezing not known to be caused by asthma or another chronic lung-related disease.
- C.** An administrator or manager, as applicable, shall ensure that policies and procedures are established, documented, and implemented, to protect the health and safety of a resident, that:
- 1. Cover screening and triage of personnel members, employees, visitors, and, except as provided in subsection (E), any other individuals entering the facility;
 - 2. Cover the manner and frequency of assessing residents to determine a change in a resident's medical condition;
 - 3. Establish disinfection protocols and schedules for frequently touched surfaces; and

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4. Specify requirements for distancing residents who exhibit symptoms of a communicable disease from other residents to reduce the chance for infection of another individual.
- D.** An administrator or manager, as applicable, shall ensure that:
1. Except as provided in subsection (E), before entering the facility, each individual, including a personnel member, employee, or visitor, is screened for fever or respiratory symptoms indicative of a communicable disease;
 2. If an individual refuses to be screened, the individual is excluded from entry to the facility;
 3. If an individual is determined to have a fever or respiratory symptoms, the individual is excluded from entry to the facility until symptoms have resolved or the individual has been evaluated and cleared by a medical practitioner;
 4. If an individual, other than a resident, develops a fever or respiratory symptoms while in the facility, the individual is required to leave the facility and not return until symptoms have resolved or the individual has been evaluated and cleared by a medical practitioner; and
 5. If insufficient personnel members are available to meet the needs of all residents in the facility, the administrator or manager, as applicable, implements the disaster plan required in R9-10-424, R9-10-523, or R9-10-818, as applicable, which may include moving a resident to a different facility.
- E.** An administrator or manager, as applicable, may allow an emergency medical care technician, as defined in A.R.S. § 36-2201, to enter the facility without screening if the emergency medical care technician is responding to a call for providing emergency medical services, as defined in A.R.S. § 36-2201, to a resident or other individual in the facility.
- F.** An administrator or manager, as applicable, shall ensure that:
1. An assessment of a resident includes whether the resident has a fever or respiratory symptoms indicative of a communicable disease and is documented in the resident's medical record; and
 2. If a resident is found to have a fever or respiratory symptoms indicative of a communicable disease:
 - a. The resident is evaluated by a medical practitioner within 24 hours to determine what services need to be provided to the resident and what precautions need to be taken by the facility, and the evaluation is documented in the resident's medical record;
 - b. To reduce the chance for infection of another individual, the resident is:
 - i. Kept at a distance of at least six feet from other residents; or
 - ii. If not possible to keep the resident at a distance from other residents, required to wear a facemask;
 - c. A personnel member:
 - i. Takes precautions, which may include the use of gloves and a facemask or other personal protection equipment, while providing services to the resident; and
 - ii. Removes and, if applicable, disposes of the personal protection equipment and washes the personnel member's hands with soap and water for at least 20 seconds or, if soap and water are not available, uses a hand sanitizer containing at least 60% alcohol immediately after providing services to the resident and before providing services to another resident;
- d. Linens, dishes, utensils, and other items used by the resident are:
- i. Kept separate from similar items used by a resident who does not have a fever or respiratory symptoms indicative of a communicable disease, and
 - ii. Disinfected or disposed of in a manner to reduce the chance for infection of another individual; and
- e. Surfaces touched by the resident are disinfected before another individual touches the surface.
- G.** An administrator or manager, as applicable, shall ensure that door handles, tables, chair backs and arm rests, light switches, and other frequently touched surfaces are cleaned and disinfected, according to policies and procedures, with:
1. An alcohol solution containing at least 70% alcohol;
 2. A bleach solution containing four teaspoons of bleach per quart of water; or
 3. An EPA-approved household disinfectant specified in a list, which is incorporated by reference, available at <https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2-covid-19>, and does not include any later amendments or editions of the incorporated matter.
- Historical Note**
- Amended effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3). New Section made by emergency rulemaking at 26 A.A.R. 509, with an immediate effective date of March 16, 2020, for 180 days (Supp. 19-1). Emergency expired. New Section made by final rulemaking at 26 A.A.R. 2793, with an immediate effective date of October 7, 2020 (Supp. 20-4).
- R9-10-122. Repealed**
- Historical Note**
- New Section made by final rulemaking at 7 A.A.R. 2145, effective May 1, 2001 (Supp. 01-2). Amended by final rulemaking at 8 A.A.R. 3578, effective July 26, 2002 (Supp. 02-3). Amended by exempt rulemaking at 14 A.A.R. 3958, effective September 26, 2008 (Supp. 08-3). Amended by exempt rulemaking at 15 A.A.R. 2100, effective January 1, 2010 (Supp. 09-4). Section repealed by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).
- R9-10-123. Repealed**
- Historical Note**
- Amended effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3).
- R9-10-124. Repealed**
- Historical Note**
- Former Section R9-10-124 repealed, new Section R9-10-124 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3559, effective August 1, 2002 (Supp. 02-3).
- ARTICLE 2. HOSPITALS**
- R9-10-201. Definitions**

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In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following definitions apply in this Article unless otherwise specified:

1. "Adult" means an individual the hospital designates as an adult based on the hospital's criteria.
2. "Aftercare" means assistance provided to a patient by another individual in the patient's residence, which is not part of a health care institution, following care provided at a hospital, and may include:
 - a. Assisting the patient with activities of daily living, and
 - b. Following the discharge instructions provided by the hospital.
3. "Aftercare provider" means an individual who:
 - a. May be a friend or relative of a patient or be the patient's representative,
 - b. Is designated by the patient or the patient's representative to perform aftercare tasks, and
 - c. Is not compensated for performing aftercare tasks for the patient.
4. "Care plan" means a documented guide for providing nursing services and rehabilitation services to a patient that includes measurable objectives and the methods for meeting the objectives.
5. "Continuing care nursery" means a nursery where medical services and nursing services are provided to a neonate who does not require intensive care services.
6. "Critically ill inpatient" means an inpatient whose severity of medical condition requires the nursing services of specially trained registered nurses for:
 - a. Continuous monitoring and multi-system assessment,
 - b. Complex and specialized rapid intervention, and
 - c. Education of the inpatient or inpatient's representative.
7. "Device" has the same meaning as in A.R.S. § 32-1901.
8. "Diet" means food and drink provided to a patient.
9. "Diet manual" means a written compilation of diets.
10. "Dietary services" means providing food and drink to a patient according to an order.
11. "Diversion" means notification to an emergency medical services provider, as defined in A.R.S. § 36-2201, that a hospital is unable to receive a patient from an emergency medical services provider.
12. "Drug formulary" means a written list of medications available and authorized for use developed according to R9-10-218.
13. "Gynecological services" means medical services for the diagnosis, treatment, and management of conditions or diseases of the female reproductive organs or breasts.
14. "Hospital services" means medical services, nursing services, and health-related services provided in a hospital.
15. "Infection control risk assessment" means determining the probability for transmission of communicable diseases.
16. "Inpatient" means an individual who:
 - a. Is admitted to a hospital as an inpatient according to policies and procedures,
 - b. Is admitted to a hospital with the expectation that the individual will remain and receive hospital services for 24 consecutive hours or more, or
 - c. Receives hospital services for 24 consecutive hours or more.
17. "Intensive care services" means hospital services provided to a critically ill inpatient who requires the services of specially trained nursing and other personnel members as specified in policies and procedures.
18. "Medical staff regulations" means standards, approved by the medical staff, that govern the day-to-day conduct of the medical staff members.
19. "Multi-organized service unit" means an inpatient unit in a hospital where more than one organized service may be provided to a patient in the inpatient unit.
20. "Neonate" means an individual:
 - a. From birth until discharge following birth, or
 - b. Who is designated as a neonate by hospital criteria.
21. "Nurse anesthetist" means a registered nurse who meets the requirements of A.R.S. § 32-1601 and who has clinical privileges to administer anesthesia.
22. "Nurse executive" means a registered nurse accountable for the direction of nursing services provided in a hospital.
23. "Nursery" means an area in a hospital designated only for neonates.
24. "Nurse supervisor" means a registered nurse accountable for managing nursing services provided in an organized service in a hospital.
25. "Nutrition assessment" means a process for determining a patient's dietary needs using information contained in the patient's medical record.
26. "On duty" means that an individual is at work and performing assigned responsibilities.
27. "Organized service" means specific medical services, such as surgical services or emergency services, provided in an area of a hospital designated for the provision of those medical services.
28. "Outpatient" means an individual who:
 - a. Is admitted to a hospital with the expectation that the individual will receive hospital services for less than 24 consecutive hours; or
 - b. Except as provided in subsection (17) receives, hospital services for less than 24 consecutive hours.
29. "Pathology" means an examination of human tissue for the purpose of diagnosis or treatment of an illness or disease.
30. "Patient care" means hospital services provided to a patient by a personnel member or a medical staff member.
31. "Pediatric" means pertaining to an individual designated by a hospital as a child based on the hospital's criteria.
32. "Perinatal services" means medical services for the treatment and management of obstetrical patients and neonates.
33. "Post-anesthesia care unit" means a designated area for monitoring a patient following a medical procedure for which anesthesia was administered to the patient.
34. "Private duty staff" means an individual, excluding a personnel member, compensated by a patient or the patient's representative.
35. "Psychiatric services" means the diagnosis, treatment, and management of a mental disorder.
36. "Social services" means assistance, other than medical services or nursing services, provided by a personnel member to a patient to assist the patient to cope with concerns about the patient's illness or injury while in the hospital or the anticipated needs of the patient after discharge.

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37. "Specialty" means a specific branch of medicine practiced by a licensed individual who has obtained education or qualifications in the specific branch in addition to the education or qualifications required for the individual's license.
38. "Surgical services" means medical services involving a surgical procedure.
39. "Transfusion" means the introduction of blood or blood products from one individual into the body of another individual.
40. "Unit" means a designated area of an organized service.
41. "Vital record" has the same meaning as in A.R.S. § 36-301.
42. "Well-baby bassinet" means a receptacle used for holding a neonate who does not require treatment and whose anticipated discharge is within 96 hours after birth.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 14 A.A.R. 4646, effective December 2, 2008 (Supp. 08-4). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final rulemaking at 26 A.A.R. 2797, with an effective date of January 1, 2021 (Supp. 20-4).

R9-10-202. Supplemental Application, Notification, and Documentation Submission Requirements

- A. In addition to the license application requirements in A.R.S. § 36-422 and Article 1 of this Chapter, an applicant for a hospital license shall include:
 1. On the application the requested licensed capacity for the hospital, including:
 - a. The number of inpatient beds for each organized service, not including well-baby bassinets; and
 - b. If applicable, the number of inpatient beds for each multi-organized service unit;
 2. On the application, if applicable, the requested licensed occupancy for providing behavioral health observation/stabilization services to:
 - a. Individuals who are under 18 years of age, and
 - b. Individuals 18 years of age and older; and
 3. A list, in a Department-provided format, of medical staff specialties and subspecialties.
- B. For a single group license authorized in A.R.S. § 36-422(F), in addition to the requirements in subsection (A), a governing authority applying for a license shall submit the following to the Department, in a Department-provided format, for each satellite facility under the single group license:
 1. The name, address, e-mail address, and telephone number of the satellite facility;
 2. The class or subclass of the satellite facility, according to R9-10-102;
 3. The name and e-mail address of the administrator;
 4. A list of services to be provided at the satellite facility; and
 5. The hours of operation during which the satellite facility provides medical services, nursing services, behavioral health services, or health-related services.

- C. For a single group license authorized in A.R.S. § 36-422(G), in addition to the requirements in subsection (A), a governing authority applying for a license shall submit the following to the Department in a Department-provided format for each accredited satellite facility under the single group license:
 1. The name, address, e-mail address, and telephone number of the accredited satellite facility;
 2. The class or subclass of the accredited satellite facility, according to R9-10-102;
 3. The name and e-mail address of the administrator;
 4. A list of services to be provided at the accredited satellite facility;
 5. The hours of operation during which the accredited satellite facility provides medical services, nursing services, behavioral health services, or health-related services; and
 6. A copy of the accredited satellite facility's current accreditation report.
- D. A licensee with a single group license shall submit to the Department, with the relevant fees required in R9-10-106(D) and in a Department-provided format, the following, as applicable:
 1. The information required in subsections (B)(1) through (5), or
 2. The information and documentation required in subsections (C)(1) through (6).
- E. A governing authority shall:
 1. Notify the Department:
 - a. At least 30 calendar days before a satellite facility or an accredited satellite facility on a single group license terminates operations;
 - b. Within 30 calendar days after adding a satellite facility or an accredited satellite facility under a single group license and provide, as applicable:
 - i. The information required in subsections (B)(1) through (5), or
 - ii. The information and documentation required in subsections (C)(1) through (6); and
 - c. At least 60 calendar days before a satellite facility or an accredited satellite facility licensed under a single group license anticipates providing medical services, nursing services, behavioral health services, or health-related services under a license separate from the single group license; and
 2. Upon notifying the Department according to subsection (E)(1)(c), submit an application, according to the requirements in 9 A.A.C. 10, Article 1, at least 60 calendar days but not more than 120 calendar days before a satellite facility or an accredited satellite facility licensed under a single group license anticipates providing medical services, nursing services, behavioral health services, or health-related services under a license separate from the single group license.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 14 A.A.R. 4646, effective December 2, 2008 (Supp. 08-4). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-203. Administration

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- A.** A governing authority shall:
1. Consist of one or more individuals responsible for the organization, operation, and administration of a hospital;
 2. Establish, in writing:
 - a. A hospital's scope of services,
 - b. Qualifications for an administrator,
 - c. Which organized services are to be provided in the hospital, and
 - d. The organized services that are to be provided in a multi-organized service unit according to R9-10-228(A);
 3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
 4. Grant, deny, suspend, or revoke a clinical privilege of a medical staff member or delegate authority to an individual to grant or suspend a clinical privilege for a limited time, according to medical staff bylaws;
 5. Adopt a quality management program according to R9-10-204;
 6. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
 7. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b) if the administrator is:
 - a. Expected not to be present on a hospital's premises for more than 30 calendar days, or
 - b. Not present on a hospital's premises for more than 30 calendar days;
 8. Except as provided in subsection (A)(7), notify the Department according to A.R.S. § 36-425(I) if there is a change of administrator and identify the name and qualifications of the new administrator; and
 9. For a health care institution under a single group license, ensure that the health care institution complies with the applicable requirements in this Chapter for the class or subclass of the health care institution.
- B.** An administrator:
1. Is directly accountable to the governing authority of a hospital for the daily operation of the hospital and hospital services and environmental services provided by or at the hospital;
 2. Has the authority and responsibility to manage the hospital; and
 3. Except as provided in subsection (A)(7), shall designate, in writing, an individual who is present on a hospital's premises and available and accountable for hospital services and environmental services when the administrator is not present on the hospital's premises.
- C.** An administrator shall ensure that:
1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications, including required skills and knowledge for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to patient care;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training required in R9-10-206(5) including:
 - i. The method and content of cardiopulmonary resuscitation training,
 - ii. The qualifications for an individual to provide cardiopulmonary resuscitation training,
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training, and
 - iv. The documentation that verifies an individual has received cardiopulmonary resuscitation training;
 2. Policies and procedures for hospital services are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover use of private duty staff, if applicable;
 - b. Cover diversion, including:
 - i. The criteria for initiating diversion;
 - ii. The categories or levels of personnel or medical staff that may authorize or terminate diversion;
 - iii. The method for notifying emergency medical services providers of initiation of diversion, the type of diversion, and termination of diversion; and
 - iv. When the need for diversion will be reevaluated;
 - c. Include a method to identify a patient to ensure the patient receives hospital services as ordered;
 - d. Cover patient rights, including assisting a patient who does not speak English or who has a disability to become aware of patient rights;
 - e. Cover health care directives;
 - f. Cover medical records, including electronic medical records;
 - g. Cover quality management, including incident reports and supporting documentation;
 - h. Cover contracted services;
 - i. Cover tissue and organ procurement and transplant; and
 - j. Cover when an individual may visit a patient in a hospital, including visiting a neonate in a nursery, if applicable;

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- will respond to a patient's sudden, intense, or out-of-control behavior;
- k. Cover seclusion of a patient including:
 - i. The requirements for an order, and
 - ii. The frequency of monitoring and assessing a patient in seclusion;
- l. Cover communicating with a midwife when the midwife's client begins labor and ends labor;
- m. Cover telemedicine, if applicable; and
- n. Cover environmental services that affect patient care;
- 3. Policies and procedures are reviewed at least once every three years and updated as needed;
- 4. Policies and procedures are available to personnel members;
- 5. The licensed capacity in an organized service is not exceeded, except for an emergency admission of a patient;
- 6. A patient is only admitted to an organized service that has exceeded the organized service's licensed capacity after a medical staff member reviews the medical history of the patient and determines that the patient's admission is an emergency; and
- 7. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a hospital, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the hospital.
- D. An administrator of a special hospital shall ensure that:
 - 1. Medical services are available to an inpatient in an emergency based on the inpatient's medical conditions and the scope of services provided by the special hospital; and
 - 2. A physician or nurse, qualified in cardiopulmonary resuscitation, is on the hospital premises.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 4004, effective December 5, 2006 (Supp. 06-4). Amended by final rulemaking at 14 A.A.R. 4646, effective December 2, 2008 (Supp. 08-4). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by exempt rulemaking at 27 A.A.R. 661, effective May 1, 2021 (Supp. 21-2).

R9-10-204. Quality Management

- A. A governing authority shall ensure that an ongoing quality management program is established that:
 - 1. Complies with the requirements in A.R.S. § 36-445; and
 - 2. Evaluates the quality of hospital services and environmental services related to patient care.
- B. An administrator shall ensure that:

- 1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate hospital services and environmental services related to patient care;
 - c. A method to evaluate the data collected to identify a concern about the delivery of hospital services or environmental services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of hospital services or environmental services related to patient care;
 - e. A method to identify and document each occurrence of exceeding licensed capacity, as described in R9-10-203(C)(5), and to evaluate the occurrences of exceeding licensed capacity, including the actions taken for resolving occurrences of exceeding licensed capacity; and
 - f. The frequency of submitting a documented report required in subsection (B)(2) to the governing authority;
- 2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of hospital services or environmental services related to patient care, and
 - b. Any changes made or actions taken as a result of the identification of a concern about the delivery of hospital services or environmental services related to patient care;
- 3. The acuity plan required in R9-10-214(C)(2) is reviewed and evaluated at least once every 12 months and the results are documented and reported to the governing authority;
- 4. The reports required in subsections (B)(2) and (3) and the supporting documentation for the reports are maintained for at least 12 months after the date the report is submitted to the governing authority; and
- 5. Except for information or documentation that is confidential under federal or state law, a report or documentation required in this Section is provided to the Department for review within two hours after the Department's request.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-205. Contracted Services

An administrator shall ensure that:

- 1. Contracted services are provided according to the requirements in this Article, and
- 2. A documented list of current contracted services is maintained that includes a description of the contracted services provided.

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Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-206. Personnel

An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving physical health services or behavioral health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;
2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures;
3. Sufficient personnel members are present on a hospital's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the hospital's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient;
4. Orientation occurs within the first 30 calendar days after a personnel member begins providing hospital services and includes:
 - a. Informing a personnel member about Department rules for licensing and regulating hospitals and where the rules may be obtained,
 - b. Reviewing the process by which a personnel member may submit a complaint about patient care to a hospital, and
 - c. Providing the information required by policies and procedures;
5. Policies and procedures designate the categories of personnel providing medical services or nursing services who are:

- a. Required to be qualified in cardiopulmonary resuscitation within 30 calendar days after the individual's starting date, and
 - b. Required to maintain current qualifications in cardiopulmonary resuscitation;
6. A personnel record for each personnel member is established and maintained and includes:
 - a. The personnel member's name, date of birth, and contact telephone number;
 - b. The personnel member's starting date and, if applicable, ending date;
 - c. Verification of a personnel member's certification, license, or education, if necessary for the position held;
 - d. Documentation of evidence of freedom from infectious tuberculosis required in R9-10-230(5);
 - e. Verification of current cardiopulmonary resuscitation qualifications, if necessary for the position held; and
 - f. Orientation documentation;
 7. Personnel receive in-service education according to criteria established in policies and procedures;
 8. In-service education documentation for a personnel member includes:
 - a. The subject matter,
 - b. The date of the in-service education, and
 - c. The signature of the personnel member;
 9. Personnel records and in-service education documentation are maintained by the hospital for at least 24 months after the last date the personnel member worked; and
 10. Personnel records and in-service education documentation, for a personnel member who has not worked in the hospital during the previous 12 months, are provided to the Department within 72 hours after the Department's request.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-207. Medical Staff

A. A governing authority shall ensure that:

1. The organized medical staff is directly accountable to the governing authority for the quality of care provided by a medical staff member to a patient in a hospital;
2. The medical staff bylaws and medical staff regulations are approved according to the medical staff bylaws and governing authority requirements;
3. A medical staff member complies with medical staff bylaws and medical staff regulations;
4. The medical staff of a general hospital or a special hospital includes at least two physicians who have clinical privileges to admit inpatients to the general hospital or special hospital;
5. The medical staff of a rural general hospital includes at least one physician who has clinical privileges to admit inpatients to the rural general hospital and one additional

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physician who serves on a committee according to subsection (A)(7)(c);

6. A medical staff member is available to direct patient care;
7. Medical staff bylaws or medical staff regulations are established, documented, and implemented for the process of:
 - a. Conducting peer review according to A.R.S. Title 36, Chapter 4, Article 5;
 - b. Appointing members to the medical staff, subject to approval by the governing authority;
 - c. Establishing committees including identifying the purpose and organization of each committee;
 - d. Appointing one or more medical staff members to a committee;
 - e. Obtaining and documenting permission for an autopsy of a patient, performing an autopsy, and notifying, if applicable, the medical practitioner coordinating the patient's medical services when an autopsy is performed;
 - f. Requiring that each inpatient has a medical practitioner who coordinates the inpatient's care;
 - g. Defining the responsibilities of a medical staff member to provide medical services to the medical staff member's patient;
 - h. Defining a medical staff member's responsibilities for the transport or transfer of a patient;
 - i. Specifying requirements for oral, telephone, and electronic orders, including which orders require identification of the time of the order;
 - j. Establishing a time-frame for a medical staff member to complete a patient's medical record;
 - k. Establishing criteria for granting, denying, revoking, and suspending clinical privileges;
 - l. Specifying pre-anesthesia and post-anesthesia responsibilities for medical staff members; and
 - m. Approving the use of medication and devices under investigation by the U.S. Department of Health and Human Services, Food and Drug Administration including:
 - i. Establishing criteria for patient selection;
 - ii. Obtaining informed consent before administering the investigational medication or device; and
 - iii. Documenting the administration of and, if applicable, the adverse reaction to an investigational medication or device; and
8. The organized medical staff reviews the medical staff bylaws and the medical staff regulations at least once every three years and updates the bylaws and regulations as needed.

B. An administrator shall ensure that:

1. A medical staff member provides evidence of freedom from infectious tuberculosis according to the requirements in R9-10-230(5);
2. A record for each medical staff member is established and maintained that includes:
 - a. A completed application for clinical privileges;
 - b. The dates and lengths of appointment and reappointment of clinical privileges;
 - c. The specific clinical privileges granted to the medical staff member, including revision or revocation dates for each clinical privilege; and

- d. A verification of current Arizona health care professional active license according to A.R.S. Title 32; and
3. Except for documentation of peer review conducted according to A.R.S. § 36-445, a record under subsection (B)(2) is provided to the Department for review:
 - a. As soon as possible, but not more than two hours after the time of the Department's request, if the individual is a current medical staff member; and
 - b. Within 72 hours after the time of the Department's request if the individual is no longer a current medical staff member.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-208. Admission

A. An administrator shall ensure that:

1. A patient is admitted as an inpatient on the order of a medical staff member;
2. An individual, authorized by policies and procedures, is available to accept a patient for admission;
3. Except in an emergency, informed consent is obtained from a patient or the patient's representative before or at the time of admission;
4. The informed consent obtained in subsection (A)(3) or the lack of consent in an emergency is documented in the patient's medical record;
5. A physician or other medical staff member performs a medical history and physical examination on a patient within 30 calendar days before admission or within 48 hours after admission and documents the medical history and physical examination in the patient's medical record within 48 hours after admission;
6. If a physician or other medical staff member performs a medical history and physical examination on a patient before admission, the physician or the medical staff member enters an interval note into the patient's medical record at the time of admission; and
7. A patient or the patient's representative is given an opportunity to:
 - a. Designate an individual who is willing to participate in discharge planning and act as the patient's after-care provider;
 - b. Provide contact information for the patient's after-care provider; and
 - c. Change the patient's designated aftercare provider before discharge.

- B.** If a patient is admitted after a suicide attempt or exhibits suicidal ideation, an administrator shall ensure that the requirements in R9-10-225(B) are met as part of an inpatient assessment.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-208 renumbered to R9-10-214; new Section R9-10-208 renumbered from R9-10-

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210 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 26 A.A.R. 2797, with an effective date of January 1, 2021 (Supp. 20-4). Amended by exempt rulemaking at 27 A.A.R. 661, effective May 1, 2021 (Supp. 21-2).

R9-10-209. Discharge Planning; Discharge

- A.** For an inpatient, an administrator shall ensure that discharge planning:
1. Is completed before discharge occurs;
 2. Identifies the specific needs of the patient after discharge, if applicable;
 3. Includes the participation of the patient or patient's representative and, if applicable, the patient's aftercare provider;
 4. If the patient is being discharged to the patient's residence, which is not part of a health care institution:
 - a. Includes at least one attempt, which is documented in the patient's medical record, to notify the patient's aftercare provider, if designated, before the patient's discharge; and
 - b. Prepares the patient, the patient's representative, or the patient's aftercare provider, as applicable, to carry out the discharge instructions required in subsection (B)(3)(a), including:
 - i. Answering questions about the discharge instructions and aftercare; and
 - ii. Providing a demonstration of the aftercare tasks to the patient, the patient's representative, or the patient's aftercare provider, as applicable;
 5. Provides the patient or the patient's representative with written information identifying classes or subclasses of health care institutions and the level of care that the health care institutions provide that may meet the patient's assessed and anticipated needs after discharge, if applicable; and
 6. Is documented in the patient's medical record.
- B.** For an inpatient discharge or a transfer of an inpatient, an administrator shall ensure that:
1. There is a discharge summary that includes:
 - a. A description of the patient's medical condition and the medical services provided to the patient, and
 - b. The signature of the medical practitioner coordinating the patient's medical services;
 2. There is a documented discharge order for the patient by a medical practitioner coordinating the patient's medical services before discharge unless the patient leaves the hospital against a medical staff member's advice;
 3. If the patient is not being transferred:
 - a. There are documented discharge instructions; and
 - b. The patient or patient's representative and the patient's aftercare provider, if designated, is provided with a copy of the discharge instructions; and
 4. If the patient is being transferred, the transfer complies with R9-10-211.
- C.** For an inpatient discharge or a transfer of an inpatient who was admitted after a suicide attempt or who exhibits suicidal ideation, an administrator shall ensure that the requirements in R9-10-225(B) are met as part of discharge planning.
- D.** Except as provided in subsection (E), an administrator shall ensure that an outpatient is discharged according to policies and procedures.

- E.** For a discharge of an outpatient receiving emergency services, an administrator shall ensure that:
1. A discharge order is documented by a medical practitioner who provided medical services to the patient before the patient is discharged, unless the patient leaves against a medical staff member's advice; and
 2. Discharge instructions are documented and provided to the patient or patient's representative and the patient's aftercare provider, if designated before the patient is discharged, unless the patient leaves the hospital against a medical staff member's advice.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-209 renumbered to R9-10-212; new Section R9-10-209 renumbered from R9-10-211 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by final rulemaking at 26 A.A.R. 2797, with an effective date of January 1, 2021 (Supp. 20-4). Amended by exempt rulemaking at 27 A.A.R. 661, effective May 1, 2021 (Supp. 21-2).

R9-10-210. Transport

- A.** For a transport of a patient, the administrator of a sending hospital shall ensure that:
1. Policies and procedures are established, documented, and implemented that:
 - a. Specify the process by which the sending hospital personnel members coordinate the transport and the medical services provided to a patient to protect the health and safety of the patient;
 - b. Require an assessment of the patient by a registered nurse or a medical staff member before transporting the patient and after the patient's return;
 - c. Specify the information in the sending hospital's patient medical record that is required to accompany the patient, which shall include the information related to the medical services to be provided to the patient at the receiving health care institution;
 - d. Specify how the sending hospital personnel members communicate patient medical record information that the sending hospital does not provide at the time of transport but is requested by the receiving health care institution; and
 - e. Specify how a medical staff member explains the risks and benefits of a transport to the patient or the patient's representative based on the:
 - i. Patient's medical condition, and
 - ii. Mode of transport; and
 2. Documentation in the patient's medical record includes:
 - a. Consent for transport by the patient or the patient's representative or why consent could not be obtained;
 - b. The acceptance of the patient by and communication with an individual at the receiving health care institution;
 - c. The date and the time of the transport to the receiving health care institution;
 - d. The date and time of the patient's return to the sending hospital, if applicable;
 - e. The mode of transportation; and

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- f. The type of personnel member or medical staff member assisting in the transport if an order requires that a patient be assisted during transport.
- B.** For a transport of a patient to a receiving hospital, the administrator of the receiving hospital shall ensure that:
 - 1. Policies and procedures are established, documented, and implemented that:
 - a. Specify the process by which the receiving hospital personnel members coordinate the transport and the medical services provided to a patient to protect the health and safety of the patient;
 - b. Require an assessment of the patient by a registered nurse or a medical staff member upon arrival of the patient and before the patient is returned to the sending health care institution unless the receiving facility is a satellite facility, as established in A.R.S. § 36-422, and does not have a registered nurse or a medical staff member at the satellite facility;
 - c. Specify the information in the receiving hospital's patient medical record required to accompany the patient when the patient is returned to the sending health care institution, if applicable; and
 - d. Specify how the receiving hospital personnel members communicate patient medical record information to the sending health care institution that is not provided at the time of the patient's return; and
 - 2. Documentation in the patient's medical record includes:
 - a. The date and time the patient arrived at the receiving hospital;
 - b. The medical services provided to the patient at the receiving hospital;
 - c. Any adverse reaction or negative outcome the patient experienced at the receiving hospital, if applicable;
 - d. The date and time the receiving hospital returned the patient to the sending health care institution, if applicable;
 - e. The mode of transportation to return the patient to the sending health care institution, if applicable; and
 - f. The type of personnel member or medical staff member assisting in the transport if an order requires that a patient be assisted during transport.
- b. Require an assessment of the patient by a registered nurse or a medical staff member of the sending hospital before the patient is transferred;
- c. Specify how the sending hospital personnel members communicate medical record information that is not provided at the time of the transfer; and
- d. Specify how a medical staff member explains the risks and benefits of a transfer to the patient or the patient's representative based on the:
 - i. Patient's medical condition, and
 - ii. Mode of transfer;
- 2. One of the following accompanies the patient during transfer:
 - a. A copy of the patient's medical record for the current inpatient admission; or
 - b. All of the following for the current inpatient admission:
 - i. A medical staff member's summary of medical services provided to the patient,
 - ii. A care plan containing up-to-date information,
 - iii. Consultation reports,
 - iv. Laboratory and radiology reports,
 - v. A record of medications administered to the patient for the seven calendar days before the date of transfer,
 - vi. Medical staff member's orders in effect at the time of transfer, and
 - vii. Any known allergy; and
- 3. Documentation in the patient's medical record includes:
 - a. Consent for transfer by the patient or the patient's representative, except in an emergency;
 - b. The acceptance of the patient by and communication with an individual at the receiving health care institution;
 - c. The date and the time of the transfer to the receiving health care institution;
 - d. The mode of transportation; and
 - e. The type of personnel member or medical staff member assisting in the transfer if an order requires that a patient be assisted during transfer.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-210 renumbered to R9-10-208; new Section R9-10-210 renumbered from R9-10-212 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-211. Transfer

For a transfer of a patient, the administrator of a sending hospital shall ensure that:

- 1. Policies and procedures are established, documented, and implemented that:
 - a. Specify the process by which the sending hospital personnel members coordinate the transfer and the medical services provided to a patient to protect the health and safety of the patient during the transfer;

Historical Note

Former Section R9-10-211 renumbered as R9-10-311 as an emergency effective February 22, 1979, new Section R9-10-211 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-211 renumbered to R9-10-209; new Section R9-10-211 renumbered from R9-10-213 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-212. Patient Rights

- A.** An administrator shall ensure that:
 - 1. The requirements in subsection (B) and the patient rights in subsection (C) are conspicuously posted on the hospital's premises;
 - 2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C); and
 - 3. Policies and procedures include:
 - a. How and when a patient or the patient's representative is informed of patient rights in subsection (C), and

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- b. Where patient rights are posted as required in sub-section (A)(1).
- B.** An administrator shall ensure that:
1. A patient is treated with dignity, respect, and consideration;
 2. A patient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion, except as allowed under R9-10-217 or R9-10-225;
 - i. Restraint, if not necessary to prevent imminent harm to self or others or as allowed under R9-10-225;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by a hospital's medical staff, personnel members, employees, volunteers, or students; and
 3. A patient or the patient's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse examination or withdraw consent for treatment before treatment is initiated;
 - c. Is informed of:
 - i. Except in an emergency, alternatives to a proposed psychotropic medication or surgical procedure and associated risks and possible complications of the proposed psychotropic medication or surgical procedure;
 - ii. How to obtain a schedule of hospital rates and charges required in A.R.S. § 36-436.01(B);
 - iii. The patient complaint policies and procedures, including the telephone number of hospital personnel to contact about complaints, and the Department's telephone number if the hospital is unable to resolve the patient's complaint; and
 - iv. Except as authorized by the Health Insurance Portability and Accountability Act of 1996, proposed involvement of the patient in research, experimentation, or education, if applicable;
 - d. Except in an emergency, is provided a description of the health care directives policies and procedures:
 - i. If an inpatient, at the time of admission; or
 - ii. If an outpatient:
 - (1) Before any invasive procedure, except phlebotomy for obtaining blood for diagnostic purposes; or
 - (2) If the hospital services include a planned series of treatments, at the start of each series;
 - e. Consents to photographs of the patient before the patient is photographed, except that a patient may be photographed when admitted to a hospital for identification and administrative purposes; and
 - f. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records.
- C.** A patient has the following rights:
1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 2. To receive treatment that supports and respects the patient's individuality, choices, strengths, and abilities;
 3. To receive privacy in treatment and care for personal needs;
 4. To have access to a telephone;
 5. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
 6. To receive a referral to another health care institution if the hospital is not authorized or not able to provide physical health services or behavioral health services needed by the patient;
 7. To participate or have the patient's representative participate in the development of, or decisions concerning, treatment;
 8. To participate or refuse to participate in research or experimental treatment; and
 9. To receive assistance from a family member, representative, or other individual in understanding, protecting, or exercising the patient's rights.

Historical Note

Former Section R9-10-212 renumbered as R9-10-312 as an emergency effective February 22, 1979, new Section R9-10-212 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-212 renumbered to R9-10-210; new Section R9-10-212 renumbered from R9-10-209 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-213. Medical Records

- A.** An administrator shall ensure that:
1. A medical record is established and maintained for each patient according to A.R.S. § Title 12, Chapter 13, Article 7.1;
 2. An entry in a patient's medical record is:
 - a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical staff member according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by a medical staff member or medical practitioner;
 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 5. A patient's medical record is available to personnel members and medical staff members authorized by policies and procedures to access the medical record;

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6. Policies and procedures include the maximum time-frame to retrieve an onsite or off-site patient's medical record at the request of a medical staff member or authorized personnel member; and
7. A patient's medical record is protected from loss, damage, or unauthorized use.
- B.** If a hospital maintains patients' medical records electronically, an administrator shall ensure that:
 1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a patient's medical record is recorded by the computer's internal clock.
- C.** An administrator shall ensure that a medical record for an inpatient contains:
 1. Patient information that includes:
 - a. The patient's name;
 - b. The patient's address;
 - c. The patient's date of birth; and
 - d. Any known allergy, including medication allergies or sensitivities;
 2. Medication information that includes:
 - a. A medication ordered for the patient; and
 - b. A medication administered to the patient including:
 - i. The date and time of administration;
 - ii. The name, strength, dosage, amount, and route of administration;
 - iii. The identification and authentication of the individual administering the medication; and
 - iv. Any adverse reaction the patient has to the medication;
 3. Documentation of general consent and, if applicable, informed consent for treatment by the patient or the patient's representative, except in an emergency;
 4. A medical history and results of a physical examination or an interval note;
 5. If the patient provides a health care directive, the health care directive signed by the patient;
 6. An admitting diagnosis;
 7. The date of admission and, if applicable, the date of discharge;
 8. Names of the admitting medical staff member and medical practitioners coordinating the patient's care;
 9. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
 10. Orders;
 11. Care plans;
 12. Documentation of hospital services provided to the patient;
 13. Progress notes;
 14. The disposition of the patient after discharge;
 15. Discharge planning, including discharge instructions required in R9-10-209(B)(3);
 16. A discharge summary; and
 17. If applicable:
 - a. A laboratory report,
 - b. A pathology report,
 - c. An autopsy report,
 - d. A radiologic report,
 - e. A diagnostic imaging report,
 - f. Documentation of restraint or seclusion, and
 - g. A consultation report.
- D.** An administrator shall ensure that a hospital's medical record for an outpatient contains:
 1. Patient information that includes:
 - a. The patient's name;
 - b. The patient's address;
 - c. The patient's date of birth;
 - d. The name and contact information of the patient's representative, if applicable; and
 - e. Any known allergy including medication allergies or sensitivities;
 2. If necessary for treatment, medication information that includes:
 - a. A medication ordered for the patient; and
 - b. A medication administered to the patient including:
 - i. The date and time of administration;
 - ii. The name, strength, dosage, amount, and route of administration;
 - iii. The identification and authentication of the individual administering the medication; and
 - iv. Any adverse reaction the patient has to the medication;
 3. Documentation of general and, if applicable, informed consent for treatment by the patient or the patient's representative, except in an emergency;
 4. An admitting diagnosis or reason for outpatient medical services;
 5. Orders;
 6. Documentation of hospital services provided to the patient; and
 7. If applicable:
 - a. A laboratory report,
 - b. A pathology report,
 - c. An autopsy report,
 - d. A radiologic report,
 - e. A diagnostic imaging report,
 - f. Documentation of restraint or seclusion, and
 - g. A consultation report.
- E.** In addition to the requirements in subsection (D), an administrator shall ensure that the hospital's record of emergency services provided to a patient contains:
 1. Documentation of treatment the patient received before arrival at the hospital, if available;
 2. The patient's medical history;
 3. An assessment, including the name of the individual performing the assessment;
 4. The patient's chief complaint;
 5. The name of the individual who treated the patient in the emergency room, if applicable; and
 6. The disposition of the patient after discharge.

Historical Note

Former Section R9-10-213 renumbered as R9-10-313 as an emergency effective February 23, 1979, new Section R9-10-213 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R.

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536, effective March 5, 2005 (Supp. 05-1). Section R9-10-213 renumbered to R9-10-211; new Section R9-10-213 renumbered from R9-10-228 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-214. Nursing Services**A.** An administrator shall ensure that:

1. Nursing services are provided 24 hours a day, and
2. A nurse executive is appointed who is qualified according to policies and procedures.

B. A nurse executive shall designate a registered nurse who is present on the hospital's premises to be accountable for managing the nursing services when the nurse executive is not present in the hospital.**C.** A nurse executive shall ensure that:

1. Policies and procedures for nursing services are established, documented, and implemented;
2. An acuity plan is established, documented, and implemented that includes:
 - a. A method that establishes the types and numbers of nursing personnel that are required for each unit in the hospital;
 - b. An assessment of a patient's need for nursing services made by a registered nurse providing nursing services directly to the patient; and
 - c. A policy and procedure stating the steps a hospital will take to:
 - i. Obtain the necessary nursing personnel to meet patient acuity, and
 - ii. Make assignments for patient care according to the acuity plan;
3. Registered nurses, including registered nurses providing nursing services directly to a patient, are knowledgeable about the acuity plan and implement the acuity plan established under subsection (C)(2);
4. If licensed capacity in an organized service is exceeded or patients are kept in areas without licensed beds, nursing personnel are assigned according to the specific rules for the organized service in this Chapter;
5. There is at least one registered nurse on the hospital's premises whether or not there is a patient;
6. A general hospital has at least two registered nurses on the general hospital's premises when there is more than one patient;
7. A special hospital offering emergency services or obstetrical services has at least two registered nurses on the special hospital's premises when there is more than one patient;
8. A special hospital not offering emergency services or obstetrical services has at least one registered nurse and one other nurse on the special hospital's premises when there is more than one patient;
9. A rural general hospital with more than one patient has at least one registered nurse and at least one other nursing personnel member on the rural general hospital's premises. If there is only one registered nurse on the rural general hospital's premises, an additional registered nurse is on-call who is able to be present on the rural general hospital's premises within 15 minutes after being called;
10. If a hospital has a patient in a unit, there is at least one registered nurse present in the unit;

11. If a hospital has more than one patient in a unit, there is at least one registered nurse and one additional nursing personnel member present in the unit;
12. At least one registered nurse is present and accountable for the nursing services provided to a patient:
 - a. During the delivery of a neonate,
 - b. In an operating room, and
 - c. In a post-anesthesia care unit;
13. Nursing personnel work schedules are planned, reviewed, adjusted, and documented to meet patient needs and emergencies;
14. A registered nurse assesses, plans, directs, and evaluates nursing services provided to a patient;
15. There is a care plan for each inpatient based on the inpatient's need for nursing services; and
16. Nursing personnel document nursing services in a patient's medical record.

Historical Note

Former Section R9-10-214 renumbered as R9-10-314 as an emergency effective February 22, 1979, new Section R9-10-214 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-214 renumbered to R9-10-215; new Section R9-10-214 renumbered from R9-10-208 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-215. Surgical Services

An administrator of a general hospital shall ensure that:

1. There is an organized service that provides surgical services under the direction of a medical staff member;
2. There is a designated area for providing surgical services as an organized service;
3. The area of the hospital designated for surgical services is managed by a registered nurse or a physician;
4. Documentation is available in the surgical services area that specifies each medical staff member's clinical privileges to perform surgical procedures in the surgical services area;
5. Postoperative orders are documented in the patient's medical record;
6. There is a chronological log of surgical procedures performed in the surgical services area that contains:
 - a. The date of the surgical procedure,
 - b. The patient's name,
 - c. The type of surgical procedure,
 - d. The time in and time out of the operating room,
 - e. The name and title of each individual performing or assisting in the surgical procedure,
 - f. The type of anesthesia used,
 - g. An identification of the operating room used, and
 - h. The disposition of the patient after the surgical procedure;
7. The chronological log required in subsection (6) is maintained in the surgical services area for at least 12 months after the date of the surgical procedure and then maintained by the hospital for an additional 12 months;
8. The medical staff designate in writing the surgical procedures that may be performed in areas other than the surgical services area;

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9. The hospital has the medical staff members, personnel members, and equipment to provide the surgical procedures offered in the surgical services area;
10. A patient and the surgical procedure to be performed on the patient are identified before initiating the surgical procedure;
11. Except in an emergency, a medical staff member or a surgeon performs a medical history and physical examination within 30 calendar days before performing a surgical procedure on a patient;
12. Except as provided in subsection (14), a medical staff member or a surgeon enters an interval note in the patient's medical record before performing a surgical procedure;
13. Except as provided in subsection (14), the following are documented in a patient's medical record before a surgical procedure:
 - a. A preoperative diagnosis;
 - b. Each diagnostic test performed in the hospital;
 - c. A medical history and physical examination as required in subsection (11) and an interval note as required in subsection (12);
 - d. A consent or refusal for blood or blood products signed by the patient or the patient's representative, if applicable; and
 - e. Informed consent according to policies and procedures; and
14. In an emergency, the documentation required in subsections (12) and (13) is completed within 24 hours after a surgical procedure on a patient is completed.

Historical Note

Former Section R9-10-215 renumbered as R9-10-315 as an emergency effective February 22, 1979, new Section R9-10-215 adopted effective February 23, 1979 (Supp. 79-1). Amended subsection (D) effective August 31, 1988 (Supp. 88-3). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-215 renumbered to R9-10-216; new Section R9-10-215 renumbered from R9-10-214 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-216. Anesthesia Services

An administrator shall ensure that:

1. Anesthesia services provided in conjunction with surgical services performed in the operating room are provided as an organized service under the direction of a medical staff member;
2. Documentation is available in the surgical services area that specifies the medical staff member's clinical privileges to administer anesthesia;
3. Except in an emergency, an anesthesiologist or a nurse anesthetist performs a pre-anesthesia evaluation within 48 hours before anesthesia is administered in conjunction with surgical services;
4. Anesthesia administration is documented in a patient's medical record and includes:
 - a. A pre-anesthesia evaluation, if applicable;
 - b. An intra-operative anesthesia record;
 - c. The postoperative status of the patient upon leaving the operating room; and
 - d. Post-anesthesia documentation by the individual performing the post-anesthesia evaluation that includes the information required by the medical staff bylaws and medical staff regulations; and
5. A registered nurse or a physician documents resuscitative measures in the patient's medical record.

Historical Note

Adopted as an emergency effective April 2, 1976 (Supp. 76-2). Adopted effective August 25, 1977 (Supp. 77-4). Former Section R9-10-216 renumbered as R9-10-316 as an emergency effective February 22, 1979, new Section R9-10-216 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-216 renumbered to R9-10-217; new Section R9-10-216 renumbered from R9-10-215 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-217. Emergency Services

- A. An administrator of a general hospital or a rural general hospital shall ensure that:
 1. Emergency services are provided 24 hours a day in a designated area of the hospital;
 2. Emergency services are provided as an organized service under the direction of a medical staff member;
 3. The scope and extent of emergency services offered are documented in the hospital's scope of services;
 4. Emergency services are provided to an individual, including a woman in active labor, requesting emergency services;
 5. If emergency services cannot be provided at the hospital to meet the needs of a patient in an emergency, measures and procedures are implemented to minimize risk to the patient until the patient is transported or transferred to another hospital;
 6. A roster of on-call medical staff members is available in the emergency services area;
 7. There is a chronological log of emergency services provided to patients that includes:
 - a. The patient's name;
 - b. The date, time, and mode of arrival; and
 - c. The disposition of the patient including discharge, transfer, or admission; and
 8. The chronological log required in subsection (A)(7) is maintained:
 - a. In the emergency services area for at least 12 months after the date of the emergency services; and
 - b. By the hospital for at least an additional four years.
- B. An administrator of a special hospital that provides emergency services shall comply with subsection (A).
- C. An administrator of a hospital that provides emergency services, but does not provide perinatal organized services, shall ensure that emergency perinatal services are provided within the hospital's capabilities to meet the needs of a patient and a neonate, including the capability to deliver a neonate and to keep the neonate warm until transfer to a hospital providing perinatal organized services.
- D. An administrator of a hospital that provides emergency services shall ensure that a room used for seclusion in a designated area of the hospital used for providing emergency services, complies with applicable physical plant health and

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safety codes and standards for a secure hold room as described in the American Institute of Architects and Facilities Guidelines Institute, Guidelines for Design and Construction of Health Care Facilities, incorporated by reference in R9-10-104.01.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-217 renumbered to R9-10-218; new Section R9-10-217 renumbered from R9-10-216 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-218. Pharmaceutical Services

An administrator shall ensure that:

1. Pharmaceutical services are provided under the direction of a pharmacist according to A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23;
2. A copy of the pharmacy license is provided to the Department for review upon the Department's request;
3. A committee, composed of at least one physician, one pharmacist, and other personnel members as determined by policies and procedures, is established to:
 - a. Develop a drug formulary,
 - b. Update the drug formulary at least once every 12 months,
 - c. Develop medication usage and medication substitution policies and procedures, and
 - d. Specify which medications and medication classifications are required to be automatically stopped after a specified time period unless the ordering medical staff member specifically orders otherwise;
4. An expired, mislabeled, or unusable medication is disposed of according to policies and procedures;
5. A medication administration error or an adverse reaction is reported to the ordering medical staff member or the medical staff member's designee;
6. A pharmacy medication dispensing error is reported to the pharmacist;
7. In a pharmacist's absence, personnel members designated by policies and procedures have access to a locked area containing a medication;
8. A medication is maintained at temperatures recommended by the manufacturer;
9. A cart used for an emergency:
 - a. Contains medication, supplies, and equipment as specified in policies and procedures;
 - b. Is available to a unit; and
 - c. Is sealed until opened in an emergency;
10. Emergency cart contents and sealing of the emergency cart are verified and documented according to policies and procedures;
11. Policies and procedures specify individuals who may:
 - a. Order medication, and
 - b. Administer medication;
12. A medication is administered in compliance with an order;

13. A medication administered to a patient is documented as required in R9-10-213;
14. If pain medication is administered to a patient, documentation in the patient's medical record includes:
 - a. An assessment of the patient's pain before administering the medication, and
 - b. The effect of the pain medication administered; and
15. Policies and procedures specify a process for review through the quality management program of:
 - a. A medication administration error,
 - b. An adverse reaction to a medication, and
 - c. A pharmacy medication dispensing error.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-218 renumbered to R9-10-219; new Section R9-10-218 renumbered from R9-10-217 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-219. Clinical Laboratory Services and Pathology Services

An administrator shall ensure that:

1. Clinical laboratory services and pathology services are provided by a hospital through a laboratory that holds a certificate of accreditation or certificate of compliance issued by the United States Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Improvement Act of 1967;
2. A copy of the certificate of accreditation or certificate of compliance in subsection (1) is provided to the Department for review upon the Department's request;
3. A general hospital or a rural general hospital provides clinical laboratory services 24 hours a day on the hospital's premises to meet the needs of a patient in an emergency;
4. A special hospital whose patients require clinical laboratory services:
 - a. Is able to provide clinical laboratory services when needed by the patients,
 - b. Obtains specimens for clinical laboratory services without transporting the patients from the special hospital's premises, and
 - c. Has the examination of the specimens performed by a clinical laboratory on the special hospital's premises or by arrangement with a clinical laboratory not on the special hospital's premises;
5. A hospital that provides clinical laboratory services 24 hours a day has on duty or on-call laboratory personnel authorized by policies and procedures to perform testing;
6. A hospital that offers surgical services provides pathology services on the hospital's premises or by contracted service to meet the needs of a patient;
7. Clinical laboratory and pathology test results are:
 - a. Available to the medical staff:
 - i. Within 24 hours after the test is completed if the test is performed at a laboratory on the hospital's premises, or

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- ii. Within 24 hours after the test result is received if the test is performed at a laboratory not on the hospital's premises; and
 - b. Documented in a patient's medical record;
- 8. If a test result is obtained that indicates a patient may have an emergency medical condition, as established by medical staff, laboratory personnel notify the ordering medical staff member or a registered nurse in the patient's assigned unit;
- 9. If a clinical laboratory report, a pathology report, or an autopsy report is completed on a patient, a copy of the report is included in the patient's medical record;
- 10. Policies and procedures are established, documented, and implemented for:
 - a. Procuring, storing, transfusing, and disposing of blood and blood products;
 - b. Blood typing, antibody detection, and blood compatibility testing; and
 - c. Investigating transfusion adverse reactions that specify a process for review through the quality management program;
- 11. If blood and blood products are provided by contract, the contract includes:
 - a. The availability of blood and blood products through the contract, and
 - b. The process for delivery of blood and blood products through the contract; and
- 12. Expired laboratory supplies are discarded according to policies and procedures.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-219 renumbered to R9-10-220; new Section R9-10-219 renumbered from R9-10-218 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-220. Radiology Services and Diagnostic Imaging Services

- A. An administrator shall ensure that:
 - 1. Radiology services and diagnostic imaging services are provided in compliance with A.R.S. Title 30, Chapter 4 and 9 A.A.C. 7;
 - 2. A copy of a certificate documenting compliance with subsection (A)(1) is provided to the Department for review upon the Department's request;
 - 3. A general hospital or a rural general hospital provides radiology services 24 hours a day on the hospital's premises to meet the emergency needs of a patient;
 - 4. A hospital that provides surgical services has radiology services and diagnostic imaging services on the hospital's premises to meet the needs of patients;
 - 5. A general hospital or a rural general hospital has a radiologic technologist on duty or on-call; and
 - 6. Except as provided in subsection (A)(4), a special hospital whose patients require radiology services and diagnostic imaging services is able to provide the radiology

services and diagnostic imaging services when needed by the patients:

- a. On the special hospital's premises, or
 - b. By arrangement with a radiology and diagnostic imaging facility that is not on the special hospital's premises.
- B. An administrator of a hospital that provides radiology services or diagnostic imaging services on the hospital's premises shall ensure that:
 - 1. Radiology services and diagnostic imaging services are provided:
 - a. Under the direction of a medical staff member; and
 - b. According to an order that includes:
 - i. The patient's name,
 - ii. The name of the ordering individual,
 - iii. The radiological or diagnostic imaging procedure ordered, and
 - iv. The reason for the procedure;
 - 2. A medical staff member or radiologist interprets the radiologic or diagnostic image;
 - 3. A radiologic or diagnostic imaging patient report is prepared that includes:
 - a. The patient's name;
 - b. The date of the procedure;
 - c. A medical staff member's or radiologist's interpretation of the image;
 - d. The type and amount of radiopharmaceutical used, if applicable; and
 - e. The adverse reaction to the radiopharmaceutical, if any; and
 - 4. A radiologic or diagnostic imaging report is included in the patient's medical record.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-220 renumbered to R9-10-221; new Section R9-10-220 renumbered from R9-10-219 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-221. Intensive Care Services

Except for a special hospital that provides only psychiatric services, an administrator of a hospital that provides intensive care services shall ensure that:

- 1. Intensive care services are provided as an organized service in a designated area under the direction of a medical staff member;
- 2. An inpatient admitted for intensive care services is personally visited by a physician at least once every 24 hours;
- 3. Admission and discharge criteria for intensive care services are established;
- 4. A personnel member's responsibilities for initiation of medical services in an emergency to a patient in an intensive care unit pending the arrival of a medical staff member are established and documented in policies and procedures;

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5. In addition to the requirements in R9-10-214(C), an intensive care unit is staffed:
 - a. With at least one registered nurse assigned for every two patients, and
 - b. According to an acuity plan as required in R9-10-214;
6. Each intensive care unit has a policy and procedure that provides for meeting the needs of the patients;
7. If the medical services of an intensive care patient are reduced to a lesser level of care in the hospital, but the patient is not physically relocated, the nurse to patient ratio is based on the needs of the patient;
8. Private duty staff do not provide hospital services in an intensive care unit;
9. At least one registered nurse assigned to a patient in an intensive care unit is certified in advanced cardiac life support specific to the age of the patient;
10. Resuscitation, emergency, and other equipment are available to meet the needs of a patient including:
 - a. Ventilatory assistance equipment,
 - b. Respiratory and cardiac monitoring equipment,
 - c. Suction equipment,
 - d. Portable radiologic equipment, and
 - e. A patient weighing device for patients restricted to a bed; and
11. An intensive care unit has at least one emergency cart that is maintained according to R9-10-218.

Historical Note

Former Section R9-10-221 renumbered as R9-10-317 as an emergency effective February 22, 1979, new Section R9-10-221 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-221 renumbered to R9-10-222; new Section R9-10-221 renumbered from R9-10-220 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-222. Respiratory Care Services

An administrator of a hospital that provides respiratory care services shall ensure that:

1. Respiratory care services are provided under the direction of a medical staff member;
2. Respiratory care services are provided according to an order that includes:
 - a. The patient's name;
 - b. The name and signature of the ordering individual;
 - c. The type, frequency, and, if applicable, duration of treatment;
 - d. The type and dosage of medication and diluent; and
 - e. The oxygen concentration or oxygen liter flow and method of administration;
3. Respiratory care services provided to a patient are documented in the patient's medical record and include:
 - a. The date and time of administration;
 - b. The type of respiratory care services;
 - c. The effect of respiratory care services;
 - d. If applicable, any adverse reaction to respiratory care services; and
 - e. The authentication of the individual providing the respiratory care services; and

4. Any area or unit that performs blood gases or clinical laboratory tests complies with the requirements in R9-10-219.

Historical Note

Former Section R9-10-222 renumbered as R9-10-318 as an emergency effective February 22, 1979, new Section R9-10-222 adopted effective February 23, 1979 (Supp. 79-1). Correction, subsection (D)(3) reference to paragraph (E)(2) should read subsection (D)(2). (Supp. 79-6). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-222 renumbered to R9-10-223; new Section R9-10-222 renumbered from R9-10-221 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-223. Perinatal Services

- A. An administrator of a hospital that provides perinatal organized services shall ensure that:
 1. Perinatal services are provided in a designated area under the direction of a medical staff member;
 2. Only medical and surgical procedures approved by the medical staff are performed in the perinatal services unit;
 3. The perinatal services unit has the capability to initiate an emergency cesarean delivery within the time-frame established by the medical staff and documented in policies and procedures;
 4. Only a patient in need of perinatal services or gynecological services receives perinatal services or gynecological services in the perinatal services unit;
 5. A patient receiving gynecological services does not share a room with a patient receiving perinatal services;
 6. A chronological log of perinatal services provided to patients is maintained that includes:
 - a. The patient's name;
 - b. The date, time, and mode of the patient's arrival;
 - c. The disposition of the patient including discharge, transfer, or admission time;
 - d. The following information for a delivery of a neonate:
 - i. The neonate's name or other identifier;
 - ii. The name of the medical staff member who delivered the neonate;
 - iii. The delivery time and date; and
 - iv. Complications of delivery, if any; and
 - e. If an abortion procedure was performed at or after 20 weeks gestational age, whether the fetus was delivered alive;
 7. The chronological log required in subsection (A)(6) is maintained by the hospital in the perinatal services unit for at least 12 months after the date the perinatal services are provided and then maintained by the hospital for at least an additional 12 months;
 8. The perinatal services unit provides fetal monitoring;
 9. The perinatal services unit has ultrasound capability;
 10. Except in an emergency, a neonate is identified as required by policies and procedures before moving the neonate from a delivery area;
 11. Policies and procedures specify:

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- a. Security measures to prevent neonatal abduction, and
- b. How the hospital determines to whom a neonate may be discharged;
12. A neonate is discharged only to an individual who:
 - a. Is authorized according to subsection (A)(11), and
 - b. Provides identification;
13. A neonate's medical record identifies the individual to whom the neonate is discharged;
14. A patient or the individual to whom the neonate is discharged receives perinatal education, discharge instructions, and a referral for follow-up care for a neonate in addition to the discharge planning requirements in R9-10-209;
15. Intensive care services for neonates comply with the requirements in R9-10-221;
16. At least one registered nurse is on duty in a nursery when there is a neonate in the nursery except as provided in subsection (A)(17);
17. A nursery occupied only by a neonate, who is placed in the nursery for the convenience of the neonate's mother and does not require treatment as established in this Article, is staffed by a nurse;
18. Equipment and supplies are available to a nursery, labor-delivery-recovery room, or labor-delivery-recovery-postpartum room to meet the needs of each neonate; and
19. In a nursery, only a neonate's bed or bassinet is used for changing diapers, bathing, or dressing the neonate.
- B.** An administrator of a hospital that does not provide perinatal organized services shall comply with the requirements in R9-10-217(C).
- C.** In addition to applicable requirements in A.R.S. Title 36, Chapter 20, an administrator of a hospital in which an abortion procedure is performed shall ensure that:
 1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that require:
 - a. For an abortion procedure performed at or after 20 weeks gestational age, a personnel member or medical staff member qualified according to policies and procedures to perform neonatal resuscitation, other than the physician performing the abortion procedure, is in the room in which the abortion procedure is performed before the delivery of the fetus;
 - b. Compliance with A.R.S. § 36-2301.01, if applicable;
 - c. Neonatal resuscitation of a fetus delivered alive, according to A.R.S. § 36-2301(D)(3); and
 - d. A medical record to be established and maintained for a fetus delivered alive;
 2. The medical record of a patient receiving an abortion procedure contains:
 - a. Documentation from the physician providing the abortion procedure and other personnel members present certifying that the fetus was not delivered alive, or
 - b. A link to the medical record of a fetus delivered alive; and
 3. For a fetus delivered alive, a medical record contains:
 - a. An identification of the fetus, including:
 - i. The name of the patient from whom the fetus was delivered alive, and
 - ii. The date the fetus was delivered alive;
 - b. Orders issued by a physician, physician assistant, or registered nurse practitioner;
- c. A record of medical services, nursing services, and health-related services provided to the fetus delivered alive;
- d. If applicable, information about medication administered to the fetus delivered alive; and
- e. If the fetus had a lethal fetal condition, the results of the confirmation of the lethal fetal condition.

Historical Note

Former Section R9-10-223 renumbered as R9-10-319 as an emergency effective February 22, 1979, new Section R9-10-223 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-223 renumbered to R9-10-224; new Section R9-10-223 renumbered from R9-10-222 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4).

R9-10-224. Pediatric Services

- A.** An administrator of a hospital that provides pediatric services or pediatric organized services according to the requirements in this Section shall ensure that:
 1. Consistent with the health and safety of a pediatric patient, arrangements are made for a parent or a guardian of the pediatric patient to stay overnight;
 2. Policies and procedures are established, documented, and implemented for:
 - a. Infection control for shared toys, books, stuffed animals, and other items in a community playroom; and
 - b. Visitation of a pediatric patient, including age limits if applicable;
 3. A pediatric inpatient is only admitted if the hospital has the staff, equipment, and supplies available to meet the needs of the pediatric patient based on the pediatric patient's medical condition and the hospital's scope of services; and
 4. If the hospital provides pediatric intensive care services, the pediatric intensive care services comply with intensive care services requirements in R9-10-221.
- B.** An administrator of a hospital that provides pediatric organized services shall ensure that pediatric services are provided in a designated area under the direction of a medical staff member.
- C.** An administrator shall ensure that in a multi-organized service unit or a patient care unit that is providing medical and nursing services to an adult patient and a pediatric patient according to this Section:
 1. A pediatric patient is not placed in a patient room with an adult patient, and
 2. A medication for a pediatric patient that is stored in the patient care unit is stored separately from a medication for an adult patient.
- D.** A hospital may use a bed in a pediatric organized services patient care unit for an adult patient if an administrator establishes, documents, and implements policies and procedures that:
 1. Delineate the specific conditions under which an adult patient is placed in a bed in the pediatric organized services unit, and

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2. Except as provided in subsections (H) and (I), ensure that an adult patient is:
 - a. Not placed in a pediatric organized services patient care unit if a pediatric patient is admitted to and present in the pediatric organized services patient care unit, and
 - b. Transferred out of the pediatric organized services patient care unit to an appropriate level of care when a pediatric patient is admitted to the pediatric organized services patient care unit.
- E. Except as provided in subsections (F) and (G), an administrator of a hospital that does not provide pediatric organized services may admit a pediatric inpatient only in an emergency.
- F. Subsection (G) only applies to a general hospital or rural general hospital that:
 1. Does not provide pediatric organized services;
 2. Has designated in the general hospital's or rural general hospital's scope of services, inpatient services that are available to a pediatric patient;
 3. Has a licensed capacity of less than 100; and
 4. Is located in a county with a population of less than 500,000.
- G. An administrator of a general hospital or rural general hospital that meets the criteria in subsection (F) shall ensure that:
 1. There are pediatric-appropriate equipment and supplies available, based on the hospital services designated for pediatric patients in the general hospital or rural general hospital's scope of services; and
 2. Personnel members that are or may be assigned to provide hospital services to a pediatric patient have the appropriate skills and knowledge for providing hospital services to a pediatric patient, based on the general hospital's or rural general hospital's scope of services.
- H. Subsection (I) only applies to a general hospital or a rural general hospital that:
 1. Provides pediatric organized services in a patient care unit;
 2. Has designated in the general hospital's or rural general hospital's scope of services, inpatient services that are available to an adult patient in a pediatric organized services patient care unit;
 3. Has a licensed capacity of less than 100; and
 4. Is located in a county with a population of less than 500,000.
- I. An administrator of a general hospital or rural general hospital that meets the criteria in subsection (H) shall comply with the requirements in subsection (D)(1).
- A. An administrator of a hospital that contains an organized psychiatric services unit or a special hospital licensed to provide psychiatric services shall ensure that in the organized psychiatric unit or special hospital:
 1. Psychiatric services are provided under the direction of a medical staff member;
 2. An inpatient admitted to the organized psychiatric services unit or special hospital has a principal diagnosis of a mental disorder, a personality disorder, substance abuse, or a significant psychological or behavioral response to an identifiable stressor;
 3. Except in an emergency, a patient receives a nursing assessment before treatment for the patient is initiated;
 4. An individual whose medical needs cannot be met while the individual is an inpatient in an organized psychiatric services unit or a special hospital is not admitted to or is transferred out of the organized psychiatric services unit or special hospital;
 5. Policies and procedures for the organized psychiatric services unit or special hospital are established, documented, and implemented that:
 - a. Establish qualifications for medical staff members and personnel members who provide clinical oversight to behavioral health technicians;
 - b. Establish the process for patient assessment, including identification of a patient's medical conditions and criteria for the on-going monitoring of any identified medical condition;
 - c. Establish the process for developing and implementing a patient's care plan including:
 - i. Obtaining the patient's or the patient's representative's participation in the development of the patient's care plan;
 - ii. Ensuring that the patient is informed of the modality, frequency, and duration of any treatments that are included in the patient's care plan;
 - iii. Informing the patient that the patient has the right to refuse any treatment;
 - iv. Updating the patient's care plan and informing the patient of any changes to the patient's care plan; and
 - v. Documenting the actions in subsection (A)(5)(c)(i) through (iv) in the patient's medical record;
 - d. Establish the process for warning an identified or identifiable individual, as described in A.R.S. § 36-517.02 (B) through (C), if a patient communicates to a medical staff member or personnel member a threat of imminent serious physical harm or death to the individual and the patient has the apparent intent and ability to carry out the threat;
 - e. Establish the criteria for determining when an inpatient's absence is unauthorized, including whether the inpatient:
 - i. Was admitted under A.R.S. Title 36, Chapter 5, Articles 1, 2, or 3;
 - ii. Is absent against medical advice; or
 - iii. Is under 18 years of age;
 - f. Identify each type of restraint and seclusion used in the organized psychiatric services unit or special hospital and include for each type of restraint and seclusion used:

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 18 A.A.R. 1719, effective June 30, 2012 (Supp. 12-2). Section R9-10-224 renumbered to R9-10-225; new Section R9-10-224 renumbered from R9-10-223 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

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- i. The qualifications of a medical staff member or personnel member who can:
 - (1) Order the restraint or seclusion,
 - (2) Place a patient in the restraint or seclusion,
 - (3) Monitor a patient in the restraint or seclusion,
 - (4) Evaluate a patient's physical and psychological well-being after being placed in the restraint or seclusion and when released from the restraint or seclusion, or
 - (5) Renew the order for restraint or seclusion;
- ii. On-going training requirements for a medical staff member or personnel member who has direct patient contact while the patient is in a restraint or in seclusion; and
- iii. Criteria for monitoring and assessing a patient including:
 - (1) Frequencies of monitoring and assessment based on a patient's condition, cognitive status, situational factors, and risks associated with the specific restraint or seclusion;
 - (2) For the renewal of an order for restraint or seclusion, whether an assessment is required before the order is renewed and, if an assessment is required, who may conduct the assessment;
 - (3) Assessment content, which may include, depending on a patient's condition, the patient's vital signs, respiration, circulation, hydration needs, elimination needs, level of distress and agitation, mental status, cognitive functioning, neurological functioning, and skin integrity;
 - (4) If a mechanical restraint is used, how often the mechanical restraint is monitored or loosened; and
 - (5) A process for meeting a patient's nutritional needs and elimination needs;
- g. Establish the criteria and procedures for renewing an order for restraint or seclusion;
- h. Establish procedures for internal review of the use of restraint or seclusion;
- i. Establish requirements for notifying the parent or guardian of a patient who is under 18 years of age and who is restrained or secluded; and
- j. Establish medical record and personnel record documentation requirements for restraint and seclusion, if applicable;
- 6. If time-out is used in the organized psychiatric services unit or special hospital, a time-out:
 - a. Takes place in an area that is unlocked, lighted, quiet, and private;
 - b. Does not take place in the room approved for seclusion by the Department under R9-10-104;
 - c. Is time-limited and does not exceed two hours per incident or four hours per day;
 - d. Does not result in a patient's missing a meal if the patient is in time-out at mealtime;
 - e. Includes monitoring of the patient by a medical staff member or personnel member at least once every 15 minutes to ensure the patient's health, safety, and welfare and to determine if the patient is ready to leave time-out; and
 - f. Is documented in the patient's medical record, to include:
 - i. The date of the time-out,
 - ii. The reason for the time-out,
 - iii. The duration of the time-out, and
 - iv. The action planned and taken to address the reason for the time-out;
- 7. Restraint or seclusion is:
 - a. Not used as a means of coercion, discipline, convenience, or retaliation;
 - b. Only used when all of the following conditions are met:
 - i. Except as provided in subsection (A)(8), after obtaining an order for the restraint or seclusion;
 - ii. For the management of a patient's aggressive, violent, or self-destructive behavior;
 - iii. When less restrictive interventions have been determined to be ineffective; and
 - iv. To ensure the immediate physical safety of the patient, to prevent imminent harm to the patient or another individual, or to stop physical harm to another individual; and
 - c. Discontinued at the earliest possible time;
- 8. If as a result of a patient's aggressive, violent, or self-destructive behavior, harm to the patient or another individual is imminent or the patient or another individual is being physically harmed, a personnel member:
 - a. May initiate an emergency application of restraint or seclusion for the patient before obtaining an order for the restraint or seclusion, and
 - b. Obtains an order for the restraint or seclusion of the patient during the emergency application of the restraint or seclusion;
- 9. Restraint or seclusion is:
 - a. Only ordered by a physician or a registered nurse practitioner, and
 - b. Not written as a standing order or on an as-needed basis;
- 10. An order for restraint or seclusion includes:
 - a. The name of the individual ordering the restraint or seclusion;
 - b. The date and time that the restraint or seclusion was ordered;
 - c. The specific restraint or seclusion ordered;
 - d. If a drug is ordered as a chemical restraint, the drug's name, strength, dosage, and route of administration;
 - e. The specific criteria for release from restraint or seclusion without an additional order; and
 - f. The maximum duration authorized for the restraint or seclusion;
- 11. An order for restraint or seclusion is limited to the duration of the emergency situation and does not exceed:
 - a. Four continuous hours for a patient who is 18 years of age or older,
 - b. Two continuous hours for a patient who is between the ages of nine and 17 years of age, or
 - c. One continuous hour for a patient who is younger than nine years of age;
- 12. If restraint and seclusion are used on a patient simultaneously, the patient receives continuous:
 - a. Face-to-face monitoring by a medical staff member or personnel member, or

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- b. Video and audio monitoring by a medical staff member or personnel member who is in close proximity to the patient;
- 13. If an order for restraint or seclusion of a patient is not provided by a medical practitioner coordinating the patient's medical services, the medical practitioner is notified as soon as possible;
- 14. A medical staff member or personnel member does not participate in restraint or seclusion, monitor a patient during restraint or seclusion, or evaluate a patient after restraint or seclusion until the medical staff member or personnel member completes education and training that:
 - a. Includes:
 - i. Techniques to identify medical staff member, personnel member, and patient behaviors; events; and environmental factors that may trigger circumstances that require restraint or seclusion;
 - ii. The use of nonphysical intervention skills, such as de-escalation, mediation, conflict resolution, active listening, and verbal and observational methods;
 - iii. Techniques for identifying the least restrictive intervention based on an assessment of the patient's medical or behavioral health condition;
 - iv. The safe use of restraint and the safe use of seclusion, including training in how to recognize and respond to signs of physical and psychological distress in a patient who is restrained or secluded;
 - v. Clinical identification of specific behavioral changes that indicate that the restraint or seclusion is no longer necessary;
 - vi. Monitoring and assessing a patient while the patient is in restraint or seclusion according to policies and procedures; and
 - vii. Training exercises in which medical staff members and personnel members successfully demonstrate the techniques that the medical staff members and personnel members have learned for managing emergency situations; and
 - b. Is provided by individuals qualified according to policies and procedures;
- 15. When a patient is placed in restraint or seclusion:
 - a. The restraint or seclusion is conducted according to policies and procedures;
 - b. The restraint or seclusion is proportionate and appropriate to the severity of the patient's behavior and the patient's:
 - i. Chronological and developmental age;
 - ii. Size;
 - iii. Gender;
 - iv. Physical condition;
 - v. Medical condition;
 - vi. Psychiatric condition; and
 - vii. Personal history, including any history of physical or sexual abuse;
 - c. The physician or registered nurse practitioner who ordered the restraint or seclusion is available for consultation throughout the duration of the restraint or seclusion;
- d. A patient is monitored and assessed according to policies and procedures;
 - e. A physician or other health professional authorized by policies and procedures assesses the patient within one hour after the patient is placed in the restraint or seclusion and determines:
 - i. The patient's current behavior;
 - ii. The patient's reaction to the restraint or seclusion used,
 - iii. The patient's medical and behavioral condition, and
 - iv. Whether to continue or terminate the restraint or seclusion;
 - f. The patient is given the opportunity:
 - i. To eat during mealtime, and
 - ii. To use the toilet; and
 - g. The restraint or seclusion is discontinued at the earliest possible time, regardless of the length of time identified in the order;
- 16. If a patient is placed in seclusion, the room used for seclusion:
 - a. Is approved for use as a seclusion room by the Department under R9-10-104;
 - b. Is not used as a patient's bedroom or a sleeping area;
 - c. Allows full view of the patient in all areas of the room;
 - d. Is free of hazards, such as unprotected light fixtures or electrical outlets;
 - e. Contains at least 60 square feet of floor space; and
 - f. Except as provided in subsection (A)(17), contains a non-adjustable bed that:
 - i. Consists of a mattress on a solid platform that is:
 - (1) Constructed of a durable, non-hazardous material; and
 - (2) Raised off of the floor;
 - ii. Does not have wire springs or a storage drawer; and
 - iii. Is securely anchored in place;
- 17. If a room used for seclusion does not contain a non-adjustable bed required in subsection (A)(16)(f):
 - a. A piece of equipment is available for use in the room used for seclusion that:
 - i. Is commercially manufactured to safely and humanely restrain a patient's body;
 - ii. Provides support to the trunk and head of a patient's body;
 - iii. Provides restraint to the trunk of a patient's body;
 - iv. Is able to restrict movement of a patient's arms, legs, trunk, and head;
 - v. Allows a patient's body to recline; and
 - vi. Does not inflict harm on a patient's body; and
 - b. Documentation of the manufacturer's specifications for the piece of equipment in subsection (A)(17)(a) is maintained;
- 18. A seclusion room may be used for services or activities other than seclusion if:
 - a. A sign stating the service or activity scheduled or being provided in the room is conspicuously posted outside the room;
 - b. No permanent equipment other than the bed required in subsection (A)(16)(f) is in the room;

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- c. Policies and procedures are established, documented, and implemented that:
 - i. Delineate which services or activities other than seclusion may be provided in the room,
 - ii. List what types of equipment or supplies may be placed in the room for the delineated services, and
 - iii. Provide for the prompt removal of equipment and supplies from the room before the room is used for seclusion; and
- d. The sign required in subsection (A)(18)(a) and equipment and supplies in the room, other than the bed required in subsection (A)(16)(f), are removed before a patient is placed in seclusion in the room;
- 19. A medical staff member or personnel member documents the following information in a patient's medical record before the end of the shift in which the patient is placed in restraint or seclusion or, if the patient's restraint or seclusion does not end during the shift in which it began, during the shift in which the patient's restraint or seclusion ends:
 - a. The emergency situation that required the patient to be restrained or put in seclusion;
 - b. The times the patient's restraint or seclusion actually began and ended;
 - c. The time of the face-to-face assessment required in subsection (A)(12)(a);
 - d. The monitoring required in subsection (A)(12)(b) or (15)(d), as applicable;
 - e. The times the patient was given the opportunity to eat or use the toilet according to subsection (A)(15)(f); and
 - f. The names of the medical staff members and personnel members with direct patient contact while the patient was in the restraint or seclusion; and
- 20. If an emergency situation continues beyond the time limit of an order for restraint or seclusion, the order is renewed according to policies and procedures.
- B.** For a patient who was admitted after a suicide attempt or who exhibits suicidal ideation, in addition to the admission requirements in R9-10-208 and discharge planning requirements in R9-10-209, an administrator shall ensure that:
 - 1. The patient receives a suicide assessment; and
 - 2. The patient or the patient's representative receives:
 - a. The results of the suicide assessment in subsection (B)(1);
 - b. Information about the availability of age-appropriate, suicide crisis services, including contact information;
 - c. Specific information about or a referral to one of the following for ongoing or follow-up treatment related to suicide, including scheduling an appointment for the patient when practicable:
 - i. Another health care institution;
 - ii. A medical practitioner or, for a patient going to another state after discharge, a similarly licensed individual in the other state; or
 - iii. A behavioral health professional certified or licensed under A.R.S. Title 32 to provide treatment related to suicide or, for a patient going to another state after discharge, a similarly certified or licensed individual in the other state; and
 - d. Information about and instructions on how to access the Department of Insurance and Financial Institution's website, available through difi.az.gov, developed in compliance with A.R.S. § 20-3503(B), including how to file an appeal of an insurance determination.
- C.** An administrator of a hospital that provides opioid treatment services to an outpatient shall comply with the requirements in R9-10-1020.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-225 renumbered to R9-10-227; new Section R9-10-225 renumbered from R9-10-224 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by exempt rulemaking at 27 A.A.R. 661, effective May 1, 2021 (Supp. 21-2).

R9-10-226. Behavioral Health Observation/Stabilization Services

An administrator of a hospital that is authorized to provide behavioral health observation/stabilization services shall ensure that:

- 1. Behavioral health observation/stabilization services are provided according to the requirements in R9-10-1012, and
- 2. Restraint and seclusion are provided according to the requirements for restraint and seclusion in R9-10-225.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-226 renumbered to R9-10-229; new Section R9-10-226 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-227. Rehabilitation Services

An administrator shall ensure that:

- 1. If rehabilitation services are provided as an organized service, the rehabilitation services are provided under the direction of an individual qualified according to policies and procedures;
- 2. Rehabilitation services are provided according to an order; and
- 3. The medical record of a patient receiving rehabilitation services includes:
 - a. An order for rehabilitation services that includes the name of the ordering individual and a referring diagnosis,
 - b. A documented care plan that is developed in coordination with the ordering individual and the individual providing the rehabilitation services,
 - c. The rehabilitation services provided,
 - d. The patient's response to the rehabilitation services, and

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- e. The authentication of the individual providing the rehabilitation services.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-227 renumbered to R9-10-231; new Section R9-10-227 renumbered from R9-10-225 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-228. Multi-organized Service Unit

- A. A governing authority may designate the following as a multi-organized service unit:
 1. An adult unit that provides both intensive care services and medical and nursing services other than intensive care services,
 2. A pediatric unit that provides both intensive care services and medical and nursing services other than intensive care services,
 3. A unit that provides both perinatal services and intensive care services for obstetrical patients,
 4. A unit that provides both intensive care services for neonates and a continuing care nursery, or
 5. A unit that provides medical and nursing services to adult and pediatric patients.
- B. An administrator shall ensure that:
 1. For a patient in a multi-organized service unit, a medical staff member designates in the patient's medical record which organized service is to be provided to the patient;
 2. A multi-organized service unit is in compliance with the requirements in this Article that would apply if each organized service were offered as a single organized service unit; and
 3. A multi-organized service unit and each bed in the unit are in compliance with physical plant health and safety codes and standards incorporated by reference in R9-10-104.01 for all organized services provided in the multi-organized service unit.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 536, effective March 5, 2005 (Supp. 05-1). Section R9-10-228 renumbered to R9-10-213; new Section R9-10-228 renumbered from R9-10-234 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-229. Social Services

An administrator of a hospital that provides social services shall ensure that:

1. A registered nurse or another personnel member designated according to policies and procedures coordinates social services;
2. If a personnel member provides social services that require a license under A.R.S. Title 32, Chapter 33, Article 5, the personnel member is licensed under A.R.S. Title 32, Chapter 33, Article 5;

3. A medical staff member, nurse, patient, patient's representative, or member of the patient's family may request social services;
4. A personnel member providing social services participates in discharge planning as necessary to meet the needs of a patient;
5. The patient has privacy when communicating with a personnel member providing social services; and
6. Social services provided to a patient are documented in the patient's medical record and the entries are authenticated by the individual providing the social services.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-229 renumbered to R9-10-230; new Section R9-10-229 renumbered from R9-10-226 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-230. Infection Control

An administrator shall ensure that:

1. An infection control program that meets the requirements of this Section is established under the direction of an individual qualified according to policies and procedures;
2. An infection control program has a procedure for documenting:
 - a. The collection and analysis of infection control data,
 - b. The actions taken relating to infections and communicable diseases, and
 - c. Reports of communicable diseases to the governing authority and state and county health departments;
3. Infection control documents are maintained for at least 12 months after the date of the document;
4. Policies and procedures are established, documented, and implemented:
 - a. To prevent or minimize, identify, report, and investigate infections and communicable diseases that include:
 - i. Isolating a patient;
 - ii. Sterilizing equipment and supplies;
 - iii. Maintaining and storing sterile equipment and supplies;
 - iv. Using personal protective equipment such as gowns, masks, or face protection;
 - v. Disposing of biohazardous medical waste; and
 - vi. Moving and processing soiled linens and clothing;
 - b. That specify communicable diseases, medical conditions, or criteria that prevent an individual, a personnel member, or a medical staff member from:
 - i. Working in the hospital,
 - ii. Providing patient care, or
 - iii. Providing environmental services;
 - c. That establish criteria for determining whether a medical staff member is at an increased risk of exposure to infectious tuberculosis based on:
 - i. The level of risk in the area of the hospital premises where the medical staff member practices, and
 - ii. The work that the medical staff member performs; and

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- d. That establish the frequency of tuberculosis screening for an individual determined to be at an increased risk of exposure;
5. Tuberculosis screening is performed for a personnel member or medical staff member:
 - a. On or before the date the personnel member or medical staff member begins providing services at or on behalf of the hospital, and
 - b. As part of a tuberculosis infection control program according to R9-10-113;
6. Soiled linen and clothing are:
 - a. Collected in a manner to minimize or prevent contamination,
 - b. Bagged at the site of use, and
 - c. Maintained separate from clean linen and clothing and away from food storage, kitchen, or dining areas;
7. A personnel member washes hands or uses a hand disinfection product after each patient contact and after handling soiled linen, soiled clothing, or potentially infectious material;
8. An infection control committee is established according to policies and procedures and consists of:
 - a. At least one medical staff member,
 - b. The individual directing the infection control program, and
 - c. Other personnel identified in policies and procedures; and
9. The infection control committee:
 - a. Develops a plan for preventing, tracking, and controlling infections;
 - b. Reviews the type and frequency of infections and develops recommendations for improvement;
 - c. Meets and provides a quarterly written report for inclusion by the quality management program; and
 - d. Maintains a record of actions taken and minutes of meetings.

Historical Note

Adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-230 renumbered to R9-10-233; new Section R9-10-230 renumbered from R9-10-229 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 28 A.A.R. 1113 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-10-231. Dietary Services

An administrator shall ensure that:

1. Dietary services are provided according to 9 A.A.C. 8, Article 1;
2. A copy of the hospital's food establishment license or permit under 9 A.A.C. 8, Article 1, is maintained;
3. For a hospital that contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the hospital, a copy of the contracted food establishment's license or permit under 9 A.A.C. 8, Article 1, is maintained;
4. If a hospital contracts with a food establishment to prepare and deliver food to the hospital, the hospital is able

to store, refrigerate, and reheat food to meet the dietary needs of a patient;

5. Dietary services are provided under the direction of an individual qualified to direct the provision of dietary services according to policies and procedures;
6. There are personnel members on duty to meet the dietary needs of patients;
7. Personnel members providing dietary services are qualified to provide dietary services according to policies and procedures;
8. A nutrition assessment of a patient is:
 - a. Performed according to policies and procedures, and
 - b. Communicated to the medical practitioner coordinating the patient's medical services if the nutrition assessment reveals a specific dietary need;
9. A medical staff member documents an order for a diet for each patient in the patient's medical record;
10. A current diet manual approved by a registered dietitian is available to personnel members and medical staff members; and
11. A patient's dietary needs are met 24 hours a day.

Historical Note

Former Section R9-10-231 renumbered as R9-10-320 as an emergency effective February 22, 1979, new Section R9-10-231 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-231 renumbered to R9-10-232; new Section R9-10-231 renumbered from R9-10-227 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-232. Disaster Management

An administrator shall ensure that:

1. A disaster plan is developed and documented that includes:
 - a. Procedures for protecting the health and safety of patients and other individuals;
 - b. Assigned personnel responsibilities; and
 - c. Instructions for the evacuation, transport, or transfer of patients, maintenance of medical records, and arrangements to provide any other hospital services to meet the patients' needs;
2. A plan exists for back-up power and water supply;
3. A fire drill is performed on each shift at least once every three months;
4. A disaster drill is performed on each shift at least once every 12 months;
5. Documentation of a fire drill required in subsection (3) and a disaster drill required in subsection (4) includes:
 - a. The date and time of the drill;
 - b. A critique of the drill; and
 - c. Recommendations for improvement, if applicable; and
6. Documentation of a fire drill or a disaster drill is maintained by the hospital for at least 12 months after the date of the drill.

Historical Note

Former Section R9-10-232 renumbered as R9-10-321 as an emergency effective February 22, 1979, new Section R9-10-232 adopted effective February 23, 1979 (Supp.

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79-1). Section amended by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section R9-10-232 renumbered to R9-10-234; new Section R9-10-232 renumbered from R9-10-231 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-233. Environmental Standards

An administrator shall ensure that:

1. An individual providing environmental services who has the potential to transmit infectious tuberculosis to patients, as determined by the infection control risk assessment criteria in R9-10-230(4)(c), provides evidence of freedom from infectious tuberculosis:
 - a. On or before the date the individual begins providing environmental services at or on behalf of the hospital, and
 - b. According to R9-10-113;
2. The hospital premises and equipment are:
 - a. Cleaned and disinfected according to policies and procedures or manufacturer's instructions to prevent, minimize, and control infection or illness; and
 - b. Free from a condition or situation that may cause a patient or other individual to suffer physical injury;
3. A pest control program that complies with A.A.C. R3-8-201(C)(4) is implemented and documented;
4. The hospital maintains a tobacco smoke-free environment;
5. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14, and policies and procedures;
6. Equipment used to provide hospital services is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations; and
7. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair.

Historical Note

Former Section R9-10-233 renumbered as R9-10-322 as an emergency effective February 22, 1979, new Section R9-10-233 adopted effective February 23, 1979 (Supp. 79-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). Section expired under A.R.S. § 41-1056(E) at 14 A.A.R. 2374, effective February 29, 2008 (Supp. 08-2). New Section R9-10-233 renumbered from R9-10-230 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking at 28 A.A.R. 1113 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-10-234. Physical Plant Standards

A. An administrator shall ensure that:

1. A hospital complies with the applicable physical plant health and safety codes and standards incorporated by reference in A hospital complies with the applicable physical plant health and safety codes and standards incorporated by reference in R9-10-104.01 in effect on the date the hospital submitted, according to R9-10-104, an application for an approval of architectural plans and specifications to the Department;
2. A hospital's premises or any part of the hospital premises is not leased to or used by another person;
3. A unit with inpatient beds is not used as a passageway to another health care institution; and
4. A hospital's premises are not licensed as more than one health care institution.

B. An administrator shall:

1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
2. Make any repairs or corrections stated on the inspection report, and
3. Maintain documentation of a current fire inspection report.

Historical Note

New Section made by final rulemaking 14 A.A.R. 4646, effective December 2, 2008 (Supp. 08-4). Section R9-10-234 renumbered to R9-10-228; new Section R9-10-234 renumbered from R9-10-232 and amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4). Duplicate language in subsection (A)(1) corrected (Supp. 22-2).

R9-10-235. Administrative Separation

- A. In addition to the definitions in A.R.S. § 36-401, R9-10-101, and R9-10-201, the following definition applies in this Section: "Administrative separation" means the temporary isolation of a patient for the purpose of preserving the integrity of evidence during the course of a criminal investigation or for a situation where not isolating the patient presents a risk of serious harm to other individuals or a serious risk to the safety or security of a hospital.
- B. Only a hospital established according to A.R.S. § 36-202 may use administrative separation.
- C. An administrator appointed according to A.R.S. § 36-205 shall ensure that:
 1. Administrative separation:
 - a. Is only used for a patient admitted to the hospital pursuant to a criminal court order; and
 - b. Is not used:
 - i. In conjunction with a restraint,
 - ii. As a method to manage behaviors, or
 - iii. If prohibited by law; and
 2. Policies and procedures are established, documented, and implemented for administrative separation that:
 - a. Include the process and criteria for requesting an administrative separation;
 - b. Include the process and deadlines for approving a request for an administrative separation;
 - c. Cover patient notification of the right to appeal the administrative separation and to file a complaint;

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- d. Include the process for providing a patient access to:
 - i. Incoming mail, and
 - ii. An advocate or legal representative;
- e. Include the process for providing treatment to a patient while in administrative separation;
- f. Include the process for establishing investigative goals; and
- g. Include the process for determining when administrative separation will no longer be used for a patient.

Historical Note

New Section R9-10-235 made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

ARTICLE 3. BEHAVIORAL HEALTH INPATIENT FACILITIES

Article 3, consisting of Sections R9-10-311 through R9-10-333, repealed at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-301. Definitions

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following applies in this Article unless otherwise specified:

“Child and adolescent residential treatment services” means behavioral health services and physical health services provided in or by a behavioral health inpatient facility to a patient who is:

- Under 18 years of age, or
- Under 21 years of age and meets the criteria in R9-10-318(B).

Historical Note

New Section R9-10-301 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-302. Supplemental Application Requirements

In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for a license as a behavioral health inpatient facility shall include in a Department-provided format whether the applicant is requesting authorization to provide:

1. Inpatient services to individuals 18 years of age and older, including the licensed capacity requested;
2. Pre-petition screening;
3. Court-ordered evaluation;
4. Court-ordered treatment;
5. Behavioral health observation/stabilization services, including the licensed occupancy requested for providing behavioral health observation/stabilization services to individuals:
 - a. Under 18 years of age, and
 - b. 18 years of age and older;
6. Child and adolescent residential treatment services, including the licensed capacity requested;
7. Detoxification services;
8. Seclusion;
9. Clinical laboratory services;
10. Radiology services; or
11. Diagnostic imaging services.

Historical Note

New Section R9-10-302 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-303. Administration**A. A governing authority shall:**

1. Consist of one or more individuals responsible for the organization, operation, and administration of a behavioral health in-patient facility;
2. Establish, in writing:
 - a. A behavioral health inpatient facility's scope of services, and
 - b. Qualifications for an administrator;
3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
4. Adopt a quality management program according to R9-10-304;
5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
6. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b), if the administrator is:
 - a. Expected not to be present on the behavioral health inpatient facility's premises for more than 30 calendar days, or
 - b. Not present on the behavioral health inpatient facility's premises for more than 30 calendar days; and
7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425(I) when there is a change in the administrator and identify the name and qualifications of the new administrator.

B. An administrator:

1. Is directly accountable to the governing authority of a behavioral health inpatient facility for the daily operation of the behavioral health inpatient facility and for all services provided by or at the behavioral health inpatient facility;
2. Has the authority and responsibility to manage the behavioral health inpatient facility; and
3. Except as provided in subsection (A)(6), designates, in writing, an individual who is present on the behavioral health inpatient facility's premises and accountable for the behavioral health inpatient facility when the administrator is not present on the behavioral health inpatient facility's premises.

C. An administrator shall ensure that:

1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to services provided to a patient;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training including:
 - i. The method and content of cardiopulmonary resuscitation training,

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- ii. The qualifications for an individual to provide cardiopulmonary resuscitation training,
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training, and
 - iv. The documentation that verifies that the individual has received cardiopulmonary resuscitation training;
 - f. Cover first aid training;
 - g. Cover the requirements in subsection (J), if applicable;
 - h. Include a method to identify a patient to ensure the patient receives physical health and behavioral health services as ordered;
 - i. Cover patient rights, including assisting a patient who does not speak English or who has a physical or other disability to become aware of patient rights;
 - j. Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. The behavioral health inpatient facility to respond to a patient's complaint;
 - k. Cover health care directives;
 - l. Cover medical records, including electronic medical records;
 - m. Cover quality management, including incident reports and supporting documentation;
 - n. Cover contracted services; and
 - o. Cover when an individual may visit a patient in the behavioral health inpatient facility;
2. Policies and procedures for behavioral health services and physical health services are established, documented, and implemented to protect the health and safety of a patient that:
- a. Cover patient screening, admission, assessment, treatment plan, transport, and transfer;
 - b. Cover discharge planning and discharge, including the requirements in R9-10-309(B) for a patient who was admitted after a suicide attempt or who exhibits suicidal ideation;
 - c. Cover the provision of behavioral health services and physical health services;
 - d. Include when general consent and informed consent are required;
 - e. Cover restraint and, if applicable, seclusion;
 - f. Cover dispensing, administering, and disposing of medication, including provisions for inventory control and preventing diversion of controlled substances;
 - g. Cover prescribing a controlled substance to minimize substance abuse by a patient;
 - h. Cover infection control;
 - i. Cover telemedicine, if applicable;
 - j. Cover environmental services that affect patient care;
 - k. Cover patient outings;
 - l. Cover whether pets and animals are allowed on the premises, including procedures to ensure that any pets or animals allowed on the premises do not endanger the health or safety of patients or the public;
 - m. If the behavioral health inpatient facility is involved in research, cover the establishment or use of a Human Subject Review Committee;
 - n. Cover the process for receiving a fee from a patient and refunding a fee to a patient;
 - o. Cover the process for obtaining patient preferences for social, recreational, or rehabilitative activities and meals and snacks;
 - p. Cover the security of a patient's possessions that are allowed on the premises; and
 - q. Cover smoking and the use of tobacco products on the premises;
3. Policies and procedures are reviewed at least once every three years and updated as needed;
4. Policies and procedures are available to personnel members, employees, volunteers and students; and
5. Unless otherwise stated:
- a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a behavioral health inpatient facility, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the behavioral health inpatient facility.
- D.** An administrator shall designate a:
- 1. Medical director who:
 - a. Provides direction for physical health services provided by or at the behavioral health inpatient facility;
 - b. Is a physician or registered nurse practitioner; and
 - c. May be the same individual as the administrator, if the individual meets the qualifications in subsections (A)(2)(b) and (D)(1)(a) and (b);
 - 2. Clinical director who:
 - a. Provides direction for the behavioral health services provided by or at the behavioral health inpatient facility;
 - b. Is a behavioral health professional; and
 - c. May be the same individual as the administrator, if the individual meets the qualifications in subsections (A)(2)(b) and (D)(2)(a) and (b); and
 - 3. Registered nurse to provide direction for nursing services provided by or at the behavioral health inpatient facility.
- E.** An administrator shall provide written notification to the Department of a patient's:
- 1. Death, if the patient's death is required to be reported according to A.R.S. § 11-593, within one working day after the patient's death; and
 - 2. Self-injury, within two working days after the patient inflicts a self-injury that requires immediate intervention by an emergency medical services provider.
- F.** Except as specified in R9-10-318(A)(1), if abuse, neglect, or exploitation of a patient is alleged or suspected to have occurred before the patient was admitted or while the patient is not on the premises and not receiving services from a behavioral health inpatient facility's employee or personnel member, an administrator shall report the alleged or suspected abuse, neglect, or exploitation of the patient according to A.R.S. § 46-454.
- G.** If an administrator has a reasonable basis, according to A.R.S. § 46-454, to believe abuse, neglect, or exploitation has occurred on the premises or while a patient is receiving services from a behavioral health inpatient facility's employee or personnel member, the administrator shall:
- 1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;

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2. Report the suspected abuse, neglect, or exploitation of the patient according to A.R.S. § 46-454;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (G)(1); and
 - c. The report in subsection (G)(2);
 4. Maintain the documentation in subsection (G)(3) for at least 12 months after the date of the report in subsection (G)(2);
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (G)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the patient related to the suspected abuse or neglect and any change to the patient's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 6. Maintain a copy of the documented information required in subsection (G)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- H.** An administrator shall establish and document the criteria for determining when a patient's absence is unauthorized, including the criteria for a patient who:
1. Was admitted under A.R.S. Title 36, Chapter 5, Articles 1, 2, or 3;
 2. Is absent against medical advice; or
 3. Is under the age of 18.
- I.** An administrator shall:
1. For a patient who is under a court's jurisdiction, within an hour after determining that the patient's absence is unauthorized according to the criteria in subsection (H), notify the appropriate court or a person designated by the appropriate court;
 2. Document the notification in subsection (I)(1) and the written log required in subsection (I)(3);
 3. Maintain a written log of unauthorized absences for at least 12 months after the date of a patient's absence that includes the:
 - a. Name of a patient absent without authorization;
 - b. If applicable, name of the person notified as required in subsection (I)(1); and
 - c. Date of the notification; and
 4. Evaluate and take action related to unauthorized absences under the quality management program in R9-10-304.
- J.** If a behavioral health inpatient facility has a physician or registered nurse practitioner on-call to comply with R9-10-306(J)(1), an administrator shall ensure that:
1. The on-call schedule is documented;
 2. Personnel members are aware of:
 - a. The location at which the on-call schedule is available to personnel members of the behavioral health inpatient facility,
 - b. The process through which the on-call physician or registered nurse practitioner is contacted,
 - c. The circumstances that would require the on-call physician or registered nurse practitioner to come to the behavioral health inpatient facility, and
 - d. The process through which a request is made for the on-call physician or registered nurse practitioner to come to the behavioral health inpatient facility;
 3. A request for the on-call physician or registered nurse practitioner to come to the behavioral health inpatient facility is documented, including:
 - a. The time that a request for the on-call physician or registered nurse practitioner to come to the behavioral health inpatient facility is made,
 - b. The name of the individual making the request,
 - c. The reason for the request,
 - d. The name of the physician or registered nurse practitioner contacted and requested to come to the behavioral health inpatient facility, and
 - e. The time the on-call physician or registered nurse practitioner arrives at the behavioral health inpatient facility in response to a request;
 4. The documentation in subsections (J)(1) and (3) is maintained for at least 12 months after the last date on the documentation; and
 5. Documentation related to the request is included in the medical record of the applicable patient.

Historical Note

New Section R9-10-303 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by exempt rulemaking at 27 A.A.R. 661, effective May 1, 2021 (Supp. 21-2).

R9-10-304. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to patient care, and
 - b. Any changes made or actions taken as a result of the identification of a concern about the delivery of services related to patient care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

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Historical Note

New Section R9-10-304 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-305. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

New Section R9-10-305 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-306. Personnel

A. An administrator shall ensure that:

1. A personnel member, an employee, or a student is at least 18 years old; and
2. A volunteer is at least 21 years old.

B. An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving physical health services or behavioral health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;
2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures;

C. An administrator shall comply with the requirements for behavioral health technicians and behavioral health paraprofessionals in R9-10-115.

D. An administrator shall ensure that an individual who is licensed under A.R.S. Title 32, Chapter 33 as a baccalaureate social worker, master social worker, associate marriage and family therapist, associate counselor, or associate substance abuse counselor is under direct supervision, as defined in A.A.C. R4-6-101.

E. An administrator shall ensure that a personnel member, or an employee, a volunteer, or a student who has or is expected to have direct interaction with a participant for more than eight hours in a week, provides evidence of freedom from infectious tuberculosis:

1. On or before the date the individual begins providing services at or on behalf of the behavioral health inpatient facility, and
2. As specified in R9-10-113.

F. An administrator shall ensure that a personnel record is maintained for each personnel member, employee, volunteer, or student that includes:

1. The individual's name, date of birth, and contact telephone number;
2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
3. Documentation of:
 - a. The individual's qualifications including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the employee's job duties;
 - c. The individual's completed orientation and in-service education as required by policies and procedures;
 - d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - e. The individual's qualifications and on-going training for each type of restraint or seclusion used, as required in R9-10-316;
 - f. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - g. Cardiopulmonary resuscitation training, if required for the individual according to R9-10-303(C)(1)(e);
 - h. First aid training, if required for the individual according to this Article or policies and procedures; and
 - i. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (D).

G. An administrator shall ensure that personnel records are:

1. Maintained:
 - a. Throughout an individual's period of providing services in or for the behavioral health inpatient facility, and
 - b. For at least 24 months after the last date the individual provided services in or for the behavioral health inpatient facility; and
2. For a personnel member who has not provided physical health services or behavioral health services at or for the behavioral health inpatient facility during the previous 12 months, provided to the Department within 72 hours after the Department's request.

H. An administrator shall ensure that:

1. A plan to provide orientation specific to the duties of a personnel member, an employee, a volunteer, and a student is developed, documented, and implemented;

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2. A personnel member completes orientation before providing behavioral health services or physical health services;
 3. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
 4. A clinical director develops, documents, and implements a plan to provide in-service education specific to the duties of a personnel member; and
 5. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training.
 - I. An administrator shall ensure that a behavioral health inpatient facility has a daily staffing schedule that:
 1. Indicates the date, scheduled work hours, and name of each employee assigned to work, including on-call personnel members;
 2. Includes documentation of the employees who work each calendar day and the hours worked by each employee; and
 3. Is maintained for at least 12 months after the last date on the daily staffing schedule.
 - J. An administrator shall ensure that:
 1. A physician or registered nurse practitioner is present on the behavioral health inpatient facility's premises or on-call,
 2. A registered nurse is present on the behavioral health inpatient facility's premises, and
 3. A registered nurse who provides direction for the nursing services provided at the behavioral health inpatient facility is present at the behavioral health inpatient facility at least 40 hours every week.
- Historical Note**
- New Section R9-10-306 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking at 26 A.A.R. 3041, with an immediate effective date of November 3, 2020 (Supp. 20-4).
- R9-10-307. Admission; Assessment**
- A. Except as provided in R9-10-315(E) or (F), an administrator shall ensure that:
 1. A patient is admitted based upon the patient's presenting behavioral health issue and treatment needs and the behavioral health inpatient facility's ability and authority to provide physical health services, behavioral health services, and ancillary services consistent with the patient's treatment needs;
 2. A patient is admitted on the order of a medical practitioner or clinical director;
 3. A medical practitioner or clinical director, authorized by policies and procedures to accept a patient for admission, is available;
 4. Except in an emergency or as provided in subsections (A)(6) and (7), general consent is obtained from a patient or, if applicable, the patient's representative before or at the time of admission;
 5. The general consent obtained in subsection (A)(4) or the lack of consent in an emergency is documented in the patient's medical record;
 6. General consent is not required from a patient receiving a court-ordered evaluation or court-ordered treatment;
 7. General consent is not required from a patient receiving treatment according to A.R.S. § 36-512;
 8. A medical practitioner performs a medical history and physical examination on a patient within 30 calendar days before admission or within 24 hours after admission and documents the medical history and physical examination in the patient's medical record within 24 hours after admission;
 9. If a medical practitioner performs a medical history and physical examination on a patient before admission, the medical practitioner enters an interval note into the patient's medical record within seven calendar days after admission;
 10. Except when a patient needs crisis services, a behavioral health assessment of a patient is completed to determine the acuity of the patient's behavioral health issue and to identify the behavioral health services needed by the patient before treatment for the patient is initiated and whenever the patient has a significant change in condition or experiences an event that affects treatment;
 11. If the patient was admitted after a suicide attempt or exhibits suicidal ideation, the behavioral health assessment in subsection (A)(10) includes a suicide assessment;
 12. If a behavioral health assessment in subsection (A)(10), including a suicide assessment in subsection (A)(11) if applicable, is conducted by a:
 - a. Behavioral health technician or registered nurse, within 24 hours a behavioral health professional, certified or licensed under A.R.S. Title 32 to provide the behavioral health services needed by the patient, reviews and signs the behavioral health assessment to ensure that the behavioral health assessment identifies the behavioral health services needed by and the acuity of the patient; or
 - b. Behavioral health paraprofessional, a behavioral health professional, certified or licensed under A.R.S. Title 32 to provide the behavioral health services needed by the patient, supervises the behavioral health paraprofessional during the completion of the behavioral health assessment and signs the behavioral health assessment to ensure that the behavioral health assessment identifies the behavioral health services needed by and the acuity of the patient;
 13. When a patient is admitted, a registered nurse:
 - a. Conducts a nursing assessment of a patient's medical condition and history;
 - b. Determines whether the:
 - i. Patient requires immediate physical health services, and
 - ii. Patient's behavioral health issue may be related to the patient's medical condition and history;
 - c. Determines the acuity of the patient's medical condition;
 - d. Documents the patient's nursing assessment and the determinations required in subsection (A)(13)(b) and (c) in the patient's medical record; and
 - e. Signs the patient's medical record;
 14. A behavioral health assessment:

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- a. Documents the patient's:
 - i. Presenting issue, including the acuity of the patient's presenting issue;
 - ii. Substance abuse history;
 - iii. Co-occurring disorder;
 - iv. Legal history, including:
 - (1) Custody,
 - (2) Guardianship, and
 - (3) Pending litigation;
 - v. Court-ordered evaluation;
 - vi. Court-ordered treatment;
 - vii. Criminal justice record;
 - viii. Family history;
 - ix. Behavioral health treatment history;
 - x. Symptoms reported by the patient; and
 - xi. Referrals needed by the patient, if any; and
 - b. Includes:
 - i. Recommendations for further assessment or examination of the patient's needs;
 - ii. Recommendations for staffing levels or personnel member qualifications related to the patient's treatment to ensure patient health and safety;
 - iii. For a patient who:
 - (1) Is admitted to receive crisis services, the behavioral health services and physical health services that will be provided to the patient; or
 - (2) Does not need crisis services, the behavioral health services or physical health services that will be provided to the patient until the patient's treatment plan is completed; and
 - iv. The signature and date signed of the personnel member conducting the behavioral health assessment;
15. A patient is referred to a medical practitioner if a determination is made that the patient requires immediate physical health services or the patient's behavioral health issue may be related to the patient's medical condition;
 16. A request for participation in a patient's behavioral health assessment is made to the patient or the patient's representative;
 17. An opportunity for participation in the patient's behavioral health assessment is provided to the patient or the patient's representative;
 18. The request in subsection (A)(16) and the opportunity in subsection (A)(17) are documented in the patient's medical record;
 19. For a patient who is admitted to receive crisis services, the patient's behavioral health assessment is documented in the patient's medical record within eight hours after admission;
 20. Except as provided in subsection (A)(19), a patient's behavioral health assessment is documented in the patient's medical record within 24 hours after completing the assessment; and
 21. If the information listed in subsection (A)(14) is obtained about a patient after the patient's behavioral health assessment is completed, an interval note, including the information, is documented in the patient's medical record within 48 hours after the information is obtained.
- B.** If the results of a suicide assessment required in subsection (A)(11) indicate that the patient could be a danger to self upon

discharge, an administrator shall ensure that the information in R9-10-309(B)(2) is made available to the patient or the patient's representative as part of the opportunity for participation in the patient's behavioral health assessment required in subsection (A)(17).

Historical Note

New Section R9-10-307 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by exempt rulemaking at 27 A.A.R. 661, effective May 1, 2021 (Supp. 21-2).

R9-10-308. Treatment Plan

- A.** Except for a patient admitted to receive crisis services or as provided in R9-10-315(E) or (F), an administrator shall ensure that a treatment plan is developed and implemented for a patient that:
1. Is based on the behavioral health assessment and on-going changes to the behavioral health assessment of the patient;
 2. Is completed:
 - a. By a behavioral health professional or by a behavioral health technician under the clinical oversight of a behavioral health professional, and
 - b. Before the patient receives treatment;
 3. Is documented in the patient's medical record within 24 hours after the patient first receives treatment;
 4. Includes:
 - a. The patient's presenting issue, including the acuity of the patient's presenting issue;
 - b. The behavioral health services and physical health services to be provided to the patient;
 - c. If the patient was admitted after a suicide attempt or who exhibits suicidal ideation:
 - i. The results of the suicide assessment required in R9-10-307(11), and
 - ii. Information specific to helping prevent a recurrence;
 - d. The signature of the patient or the patient's representative and date signed, or documentation of the refusal to sign;
 - e. The date when the patient's treatment plan will be reviewed;
 - f. If a discharge date has been determined, the treatment needed after discharge; and
 - g. The signature of the personnel member who developed the treatment plan and the date signed;
 5. If the treatment plan was completed by a behavioral health technician, is reviewed and signed by a behavioral health professional within 24 hours after the completion of the treatment plan to ensure that the treatment plan identifies the acuity of the patient and meets the patient's treatment needs; and
 6. Is reviewed and updated on an on-going basis:
 - a. According to the review date specified in the treatment plan,
 - b. When a treatment goal is accomplished or changes,
 - c. When additional information that affects the patient's behavioral health assessment is identified, and

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- d. When a patient has a significant change in condition or experiences an event that affects treatment.
- B.** An administrator shall ensure that:
1. A request for participation in developing a patient's treatment plan is made to the patient or the patient's representative;
 2. An opportunity for participation in developing the patient's treatment plan is provided to the patient or the patient's representative; and
 3. The request in subsection (B)(1) and the opportunity in subsection (B)(2) are documented in the patient's medical record.
- C.** If a patient who is admitted to receive crisis services remains admitted as a patient after the patient no longer needs crisis services, an administrator shall ensure that a treatment plan for the patient is:
1. Except for subsection (A)(3), completed according to the requirements in subsection (A); and
 2. Documented in the patient's medical record within 24 hours after the patient no longer needs crisis services.
- Historical Note**
- New Section R9-10-308 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by exempt rulemaking at 27 A.A.R. 661, effective May 1, 2021 (Supp. 21-2).
- R9-10-309. Discharge**
- A.** Except as provided in R9-10-315(E) or (F), an administrator shall ensure that a discharge plan for a patient is:
1. Developed that:
 - a. Identifies any specific needs of the patient after discharge;
 - b. If the discharge date has been determined, includes the discharge date;
 - c. Is completed before discharge occurs; and
 - d. Includes a description of the level of care that may meet the patient's assessed and anticipated needs after discharge;
 2. Documented in the patient's medical record within 48 hours after the discharge plan is completed; and
 3. Provided to the patient or the patient's representative before the discharge occurs.
- B.** For a patient who was admitted after a suicide attempt or who exhibits suicidal ideation, in addition to the discharge planning requirements in subsection (A), an administrator shall ensure that:
1. The patient receives a suicide assessment; and
 2. The patient or the patient's representative receives:
 - a. The results of the suicide assessment;
 - b. Information about the availability of age-appropriate, suicide crisis services, including contact information; and
 - c. Information about and instructions on how to access the Department of Insurance and Financial Institution's website, available through difi.az.gov, developed in compliance with A.R.S. § 20-3503(B), including how to file an appeal of an insurance determination.
- C.** An administrator shall ensure that:
1. A request for participation in developing a patient's discharge plan is made to the patient or the patient's representative,
 2. An opportunity for participation in developing the patient's discharge plan is provided to the patient or the patient's representative, and
 3. The request in subsection (C)(1) and the opportunity in subsection (C)(2) are documented in the patient's medical record.
- D.** An administrator shall ensure that a patient is discharged from a behavioral health inpatient facility when the patient's treatment needs are not consistent with the services that the behavioral health inpatient facility is authorized and able to provide.
- E.** An administrator shall ensure that there is a documented discharge order by a medical practitioner or behavioral health professional before a patient is discharged unless the patient leaves the behavioral health inpatient facility against a medical practitioner's or behavioral health professional's advice.
- F.** An administrator shall ensure that, at the time of discharge, a patient receives:
1. A referral for treatment or ancillary services that the patient may need after discharge, if applicable; and
 2. For a patient who was admitted after a suicide attempt or who exhibits suicidal ideation, specific information about or a referral to one of the following for ongoing or follow-up treatment related to suicide, including scheduling an appointment for the patient when practicable:
 - a. Another health care institution;
 - b. A medical practitioner or, for a patient going to another state after discharge, a similarly licensed individual in the other state; or
 - c. A behavioral health professional certified or licensed under A.R.S. Title 32 to provide treatment related to suicide or, for a patient going to another state after discharge, a similarly certified or licensed individual in the other state.
- G.** If a patient is discharged to any location other than a health care institution, an administrator shall ensure that:
1. Discharge instructions are documented, and
 2. The patient or the patient's representative is provided with a copy of the discharge instructions.
- H.** An administrator shall ensure that a discharge summary:
1. Is entered into the patient's medical record within 10 working days after a patient's discharge; and
 2. Includes:
 - a. The following information authenticated by a medical practitioner or behavioral health professional:
 - i. The patient's presenting issue and other physical health and behavioral health issues identified in the patient's nursing assessment, behavioral health assessment, or treatment plan;
 - ii. A summary of the treatment provided to the patient;
 - iii. The patient's progress in meeting treatment goals, including treatment goals that were and were not achieved; and
 - iv. The name, dosage, and frequency of each medication ordered for the patient by a medical practitioner at the behavioral health inpatient facility at the time of the patient's discharge;
 - b. For a patient who was admitted after a suicide attempt or who exhibits suicidal ideation, the following information:

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- i. A description of the specific information about ongoing or follow-up treatment related to suicide provided to the patient or the patient's representative;
 - ii. Whether a referral was made for the patient according to subsection (F)(2) for ongoing or follow-up treatment related to suicide and, if so, information about the referral; and
 - iii. Whether an appointment was scheduled for the patient according to subsection (F)(2) for ongoing or follow-up treatment related to suicide and, if so, the date and time of the appointment; and
 - c. A description of the disposition of the patient's possessions, funds, or medications brought to the behavioral health inpatient facility by the patient.
- I.** An administrator shall ensure that a patient who is dependent upon a prescribed medication is offered detoxification services, opioid treatment, or a written referral to detoxification services or opioid treatment before the patient is discharged from the behavioral health inpatient facility if a medical practitioner for the behavioral health inpatient facility will not be prescribing the medication for the patient at or after discharge.

Historical Note

New Section R9-10-309 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 27 A.A.R. 661, effective May 1, 2021 (Supp. 21-2).

R9-10-310. Transport; Transfer

- A.** Except as provided in subsection (B), an administrator shall ensure that:
- 1. A personnel member coordinates the transport and the services provided to the patient;
 - 2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before and after the transport,
 - b. Information from the patient's medical record is provided to a receiving health care institution,
 - c. A personnel member explains risks and benefits of the transport to the patient or the patient's representative, and
 - d. A personnel member communicates or documents why the personnel member did not communicate with an individual at a receiving health care institution; and
 - 3. The patient's medical record includes documentation of:
 - a. Communication or lack of communication with an individual at a receiving health care institution;
 - b. The date and time of the transport;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transport.
- B.** Subsection (A) does not apply to:
- 1. Transportation to a location other than a licensed health care institution,
 - 2. Transportation provided for a patient by the patient or the patient's representative,
 - 3. Transportation provided by an outside entity that was arranged for a patient by the patient or the patient's representative, or

- 4. A transport to another licensed health care institution in an emergency.
- C.** Except for a transfer of a patient due to an emergency, an administrator shall ensure that:
- 1. A personnel member coordinates the transfer and the services provided to the patient;
 - 2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before the transfer;
 - b. Information from the patient's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the patient or the patient's representative; and
 - 3. Documentation in the patient's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transfer.

Historical Note

Adopted as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 4, 1979 (Supp. 79-3). Amended effective January 28, 1980 (Supp. 80-1). Repealed effective February 4, 1981 (Supp. 81-1). New Section R9-10-310 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-311. Patient Rights

- A.** An administrator shall ensure that:
- 1. The requirements in subsection (B) and the patient rights in subsection (D) are conspicuously posted on the premises;
 - 2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (D); and
 - 3. Policies and procedures include:
 - a. How and when a patient or the patient's representative is informed of patient rights in subsection (D), and
 - b. Where patient rights are posted as required in subsection (A)(1).
- B.** An administrator shall ensure that:
- 1. A patient is treated with dignity, respect, and consideration;
 - 2. A patient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Except as allowed under R9-10-316, restraint or seclusion;

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- i. Retaliation for submitting a complaint to the Department or another entity;
 - j. Misappropriation of personal and private property by the behavioral health inpatient facility's personnel members, employees, volunteers, or students;
 - k. Discharge or transfer, or threat of discharge or transfer, for reasons unrelated to the patient's treatment needs, except as established in a fee agreement signed by the patient or the patient's representative; or
 - l. Treatment that involves the denial of:
 - i. Food,
 - ii. The opportunity to sleep, or
 - iii. The opportunity to use the toilet;
3. Except as provided in subsection (C), a patient is allowed to:
 - a. Associate with individuals of the patient's choice, receive visitors, and make telephone calls during the hours established by the behavioral health inpatient facility;
 - b. Have privacy in correspondence, communication, visitation, financial affairs, and personal hygiene; and
 - c. Unless restricted by a court order, send and receive uncensored and unopened mail; and
 4. Except as provided in R9-10-318, a patient or, if applicable, the patient's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated, unless the treatment is ordered by a court according to A.R.S. Title 36, Chapter 5; is necessary to save the patient's life or physical health; or is provided according to A.R.S. § 36-512;
 - c. Except in an emergency, is informed of alternatives to a proposed psychotropic medication and the associated risks and possible complications of the proposed psychotropic medication;
 - d. Is informed of the following:
 - i. The policy on health care directives, and
 - ii. The patient complaint process; and
 - e. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records.
- C.** If a medical director or clinical director determines that a patient's treatment requires the behavioral health inpatient facility to restrict the patient's ability to participate in an activity in subsection (B)(3), the medical director or clinical director shall:
1. Document a specific treatment purpose in the patient's medical record that justifies restricting the patient from the activity,
 2. Inform the patient of the reason why the activity is being restricted, and
 3. Inform the patient of the patient's right to file a complaint and the procedure for filing a complaint.
- D.** A patient has the following rights:
1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 2. To receive treatment that:
 - a. Supports and respects the patient's individuality, choices, strengths, and abilities;
 - b. Supports the patient's personal liberty and only restricts the patient's personal liberty according to a court order, by the patient's or the patient's representative's general consent, or as permitted in this Chapter; and
 - c. Is provided in the least restrictive environment that meets the patient's treatment needs;
 3. To receive privacy in treatment and care for personal needs, including the right not to be fingerprinted, photographed, or recorded without consent, except:
 - a. A patient may be photographed when admitted to a behavioral health inpatient facility for identification and administrative purposes;
 - b. For a patient receiving treatment according to A.R.S. Title 36, Chapter 37; or
 - c. For video recordings used for security purposes that are maintained only on a temporary basis;
 4. Not to be prevented or impeded from exercising the patient's civil rights unless the patient has been adjudicated incompetent or a court of competent jurisdiction has found that the patient is not able to exercise a specific right or category of rights;
 5. To review, upon written request, the patient's own medical record according to A.R.S. §§12-2293, 12-2294, and 12-2294.01;
 6. To receive a referral to another health care institution if the behavioral health inpatient facility is not authorized or not able to provide physical health services or behavioral health services needed by the patient;
 7. To participate or have the patient's representative participate in the development of a treatment plan or decisions concerning treatment;
 8. To participate or refuse to participate in research or experimental treatment; and
 9. To receive assistance from a family member, the patient's representative, or other individual in understanding, protecting, or exercising the patient's rights.

Historical Note

Section R9-10-311, formerly numbered as R9-10-211, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-311 repealed, new Section R9-10-311 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-311 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-312. Medical Records**A.** An administrator shall ensure that:

1. A medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
2. An entry in a patient's medical record is:
 - a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;

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3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
5. A patient's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the patient or the patient's representative, or
 - c. As permitted by law; and
- B. If a behavioral health inpatient facility maintains patients' medical records electronically, an administrator shall ensure that:
 1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a medical record is recorded by the computer's internal clock.
- C. An administrator shall ensure that a patient's medical record contains:
 1. Patient information that includes:
 - a. The patient's name;
 - b. The patient's address;
 - c. The patient's date of birth; and
 - d. Any known allergy, including medication allergies;
 2. Medication information that includes:
 - a. Documentation of medication ordered for the patient; and
 - b. Documentation of medication administered to the patient that includes:
 - i. The date and time of administration;
 - ii. The name, strength, dosage, amount, and route of administration;
 - iii. For a medication administered for pain on a PRN basis:
 - (1) An assessment of the patient's pain before administering the medication, and
 - (2) The effect of the medication administered;
 - iv. For a psychotropic medication administered on a PRN basis:
 - (1) An assessment of the patient's behavior before administering the psychotropic medication, and
 - (2) The effect of the psychotropic medication administered;
 - v. The identification and authentication of the individual administering the medication or providing assistance in the self-administration of the medication; and
 - vi. Any adverse reaction the patient has to the medication;
 3. If applicable, documented general consent and informed consent by the patient or the patient's representative;
 4. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
 5. The patient's medical history and results of a physical examination or an interval note;
 6. If the patient provides a health care directive, the health care directive signed by the patient or the patient's representative;
 7. An admitting diagnosis or presenting symptoms;
 8. The date of admission and, if applicable, the date of discharge;
 9. The name of the admitting medical practitioner or behavioral health professional;
 10. Orders;
 11. The patient's nursing assessment and behavioral health assessment and any interval notes;
 12. Treatment plans;
 13. Documentation of behavioral health services and physical health services provided to the patient;
 14. Progress notes;
 15. If applicable, documentation of restraint or seclusion;
 16. If applicable, documentation that evacuation from the behavioral health inpatient facility would cause harm to the patient;
 17. The disposition of the patient after discharge;
 18. The discharge plan;
 19. The discharge summary; and
 20. If applicable:
 - a. A laboratory report,
 - b. A radiologic report,
 - c. A diagnostic report, and
 - d. A consultation report.

Historical Note

Section R9-10-312, formerly numbered as R9-10-212, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-312 repealed, new Section R9-10-312 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-312 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-313. Transportation; Patient Outings

- A. An administrator of a behavioral health inpatient facility that uses a vehicle owned or leased by the behavioral health inpatient facility to provide transportation to a patient shall ensure that:
 1. The vehicle:

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- a. Is safe and in good repair,
 - b. Contains a first aid kit,
 - c. Contains drinking water sufficient to meet the needs of each patient present in the vehicle, and
 - d. Contains a working heating and air conditioning system;
- 2. Documentation of current vehicle insurance and a record of maintenance performed or a repair of the vehicle is maintained;
- 3. A driver of the vehicle:
 - a. Is 21 years of age or older;
 - b. Has a valid driver license;
 - c. Operates the vehicle in a manner that does not endanger a patient in the vehicle;
 - d. Does not leave in the vehicle an unattended:
 - i. Child;
 - ii. Patient who may be a threat to the health, safety, or welfare of the patient or another individual; or
 - iii. Patient who is incapable of independent exit from the vehicle; and
 - e. Ensures the safe and hazard-free loading and unloading of patients; and
- 4. Transportation safety is maintained as follows:
 - a. An individual in the vehicle is sitting in a seat and wearing a working seat belt while the vehicle is in motion, and
 - b. Each seat in the vehicle is securely fastened to the vehicle and provides sufficient space for a patient's body.
- B. An administrator shall ensure that an outing is consistent with the age, developmental level, physical ability, medical condition, and treatment needs of each patient participating in the outing.
- C. An administrator shall ensure that:
 - 1. At least two personnel members are present on an outing;
 - 2. In addition to the personnel members required in subsection (C)(1), a sufficient number of personnel members are present on an outing to ensure the health and safety of a patient on the outing;
 - 3. Each personnel member on the outing has documentation of current training in cardiopulmonary resuscitation according to R9-10-303(C)(1)(e) and first aid training;
 - 4. Documentation is developed before an outing that includes:
 - a. The name of each patient participating in the outing;
 - b. A description of the outing;
 - c. The date of the outing;
 - d. The anticipated departure and return times;
 - e. The name, address, and, if available, telephone number of the outing destination; and
 - f. If applicable, the license plate number of a vehicle used to provide transportation for the outing;
 - 5. The documentation described in subsection (C)(4) is updated to include the actual departure and return times and is maintained for at least 12 months after the date of the outing; and
 - 6. Emergency information for a patient participating in the outing is maintained by a personnel member participating in the outing or in the vehicle used to provide transportation for the outing and includes:
 - a. The patient's name;
 - b. Medication information, including the name, dosage, route of administration, and directions for each

- medication needed by the patient during the anticipated duration of the outing;
- c. The patient's allergies; and
- d. The name and telephone number of a designated individual, to notify in case of an emergency, who is present on the behavioral health inpatient facility's premises.

Historical Note

Section R9-10-313, formerly numbered as R9-10-213, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-313 repealed, new Section R9-10-313 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-313 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-314. Physical Health Services

- A. An administrator shall ensure that:
 - 1. Medical services are provided under the direction of a physician or registered nurse practitioner;
 - 2. Nursing services are provided:
 - a. Under the direction of a registered nurse,
 - b. According to an acuity plan developed for the behavioral health inpatient facility, and
 - c. To meet the needs of a patient based on the patient's acuity; and
 - 3. If a behavioral health inpatient facility is authorized to provide:
 - a. Clinical laboratory services, as defined in R9-10-101, the behavioral health inpatient facility complies with the requirements for clinical laboratory services in R9-10-219; or
 - b. Radiology services or diagnostic imaging services, the behavioral health inpatient facility complies with the requirements in R9-10-220.
- B. An administrator shall ensure that, if a patient requires immediate medical services to ensure the patient's health and safety that the behavioral health inpatient facility is not authorized or not able to provide, a personnel member arranges for the patient to be transported to a hospital, another health care institution, or a health care provider where the medical services can be provided.

Historical Note

Section R9-10-314, formerly numbered as R9-10-214, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-314 repealed, new Section R9-10-314 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-314 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

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R9-10-315. Behavioral Health Services**A.** An administrator shall ensure that:

1. Behavioral health services listed in the behavioral health inpatient facility's scope of services are provided to meet the needs of a patient;
2. When behavioral health services are:
 - a. Listed in the behavioral health inpatient facility's scope of services, the behavioral health services are provided on the behavioral health inpatient facility's premises; and
 - b. Provided in a setting or activity with more than one patient participating, before a patient participates, the diagnoses, treatment needs, developmental levels, social skills, verbal skills, and personal histories, including any history of physical abuse or sexual abuse, of the patients participating are reviewed to ensure that the:
 - i. Health and safety of each patient is protected, and
 - ii. Treatment needs of each patient participating in the setting or activity are being met;
3. An acuity plan is developed, documented, and implemented for each unit in the behavioral health inpatient facility that:
 - a. Includes:
 - i. A method that establishes the types and numbers of personnel members that are required for each unit in the behavioral health inpatient facility to ensure patient health and safety, and
 - ii. A policy and procedure stating the steps the behavioral health inpatient facility will take to obtain or assign the necessary personnel members to address patient acuity;
 - b. Is used when making assignments for patient treatment; and
 - c. Is reviewed and updated, as necessary, at least once every 12 months;
4. A patient is assigned to a unit in the behavioral health inpatient facility based, as applicable, on the patient's:
 - a. Presenting issue,
 - b. Substance abuse history,
 - c. Behavioral health treatment history,
 - d. Acuity, and
 - e. Treatment needs; and
5. A patient does not share any space, participate in any activity or treatment, or verbally or physically interact with any other patient that, based on the other patient's documented diagnosis, treatment needs, developmental levels, social skills, verbal skills, and personal history, may present a threat to the patient's health and safety.

B. An administrator shall ensure that counseling is:

1. Offered as described in the behavioral health inpatient facility's scope of services,
2. Provided according to the frequency and number of hours identified in the patient's treatment plan, and
3. Provided by a behavioral health professional or a behavioral health technician.

C. An administrator shall ensure that each counseling session is documented in a patient's medical record to include:

1. The date of the counseling session;
2. The amount of time spent in the counseling session;
3. Whether the counseling was individual counseling, family counseling, or group counseling;

4. The treatment goals addressed in the counseling session; and
5. The signature of the personnel member who provided the counseling and the date signed.

D. An administrator of a behavioral health inpatient facility authorized to provide pre-petition screening shall ensure pre-petition screening is provided according to the pre-petition screening requirements in A.R.S. Title 36, Chapter 5.**E.** An administrator of a behavioral health inpatient facility authorized to provide court-ordered evaluation shall ensure that court-ordered evaluation is provided according to the court-evaluation requirements in A.R.S. Title 36, Chapter 5.**F.** Except as specified in subsection (G), an administrator is not required to comply with the following provisions in this Chapter for a patient receiving court-ordered evaluation:

1. Admission requirements in R9-10-307,
2. Patient assessment requirements in R9-10-307,
3. Treatment plan requirements in R9-10-308, and
4. Discharge requirements in R9-10-309.

G. For a patient receiving court-ordered evaluation who attempts suicide or exhibits suicidal ideation, an administrator shall ensure that the following requirements are met:

1. Patient assessment requirements in R9-10-307(10), (11), and (12);
2. Treatment plan requirements in R9-10-308(A)(4)(c); and
3. Discharge requirements in R9-10-309(B), (F)(2), and (H)(2)(b).

H. An administrator of a behavioral health inpatient facility authorized to provide court-ordered treatment shall ensure that court-ordered treatment is provided according to the court-ordered treatment requirements in A.R.S. Title 36, Chapter 5.**Historical Note**

Section R9-10-315, formerly numbered as R9-10-215, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-315 repealed, new Section R9-10-315 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-315 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by exempt rulemaking at 27 A.A.R. 661, effective May 1, 2021 (Supp. 21-2).

R9-10-316. Seclusion; Restraint**A.** An administrator shall ensure that restraint is provided according to the requirements in subsection (C).**B.** An administrator of a behavioral health inpatient facility authorized to provide seclusion shall ensure that:

1. Seclusion is provided according to the requirements in subsection (C);
2. If a patient is placed in seclusion, the room used for seclusion:
 - a. Is approved for use as a seclusion room by the Department;
 - b. Is not used as a patient's bedroom or a sleeping area;
 - c. Allows full view of the patient in all areas of the room;

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- d. Is free of hazards, such as unprotected light fixtures or electrical outlets;
- e. Contains at least 60 square feet of floor space; and
- f. Except as provided in subsection (B)(3), contains a non-adjustable bed that:
 - i. Consists of a mattress on a solid platform that is:
 - (1) Constructed of a durable, non-hazardous material; and
 - (2) Raised off of the floor;
 - ii. Does not have wire springs or a storage drawer; and
 - iii. Is securely anchored in place;
- 3. If a room used for seclusion does not contain a non-adjustable bed required in subsection (B)(2)(f):
 - a. A piece of equipment is available that:
 - i. Is commercially manufactured to safely and humanely restrain a patient's body;
 - ii. Provides support to the trunk and head of a patient's body;
 - iii. Provides restraint to the trunk of a patient's body;
 - iv. Is able to restrict movement of a patient's arms, legs, body, and head;
 - v. Allows a patient's body to recline; and
 - vi. Does not inflict harm on a patient's body; and
 - b. Documentation of the manufacturer's specifications for the piece of equipment in subsection (B)(3)(a) is maintained; and
- 4. A seclusion room may be used for services or activities other than seclusion if:
 - a. A sign stating the service or activity scheduled or being provided in the room is conspicuously posted outside the room;
 - b. No permanent equipment other than the bed required in subsection (B)(2)(f) is in the room;
 - c. Policies and procedures:
 - i. Delineate which services or activities other than seclusion may be provided in the room,
 - ii. List what types of equipment or supplies may be placed in the room for the delineated services, and
 - iii. Provide for the prompt removal of equipment and supplies from the room before the room is used for seclusion; and
 - d. The sign required in subsection (B)(4)(a) and equipment and supplies in the room, other than the bed required in subsection (B)(2)(f), are removed before being used for seclusion.
- C. An administrator shall ensure that:
 - 1. Policies and procedures for providing restraint or seclusion are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Establish the process for patient assessment, including identification of a patient's medical conditions and criteria for the on-going monitoring of any identified medical condition;
 - b. Identify each type of restraint or seclusion used and include for each type of restraint or seclusion used:
 - i. The qualifications of a personnel member who can:
 - (1) Order the restraint or seclusion,
 - (2) Place a patient in the restraint or seclusion,
 - (3) Monitor a patient in the restraint or seclusion,
 - ii. Evaluate a patient's physical and psychological well-being after being placed in the restraint or seclusion and when released from the restraint or seclusion, or
 - iii. Renew the order for restraint or seclusion;
 - 2. An order for restraint or seclusion is:
 - a. Obtained from a physician or registered nurse practitioner, and
 - b. Not written as a standing order or on an as-needed basis;
 - 3. Restraint or seclusion is:
 - a. Not used as a means of coercion, discipline, convenience, or retaliation;
 - b. Only used when all of the following conditions are met:
 - i. Except as provided in subsection (C)(4), after obtaining an order for the restraint or seclusion;
 - ii. For the management of a patient's aggressive, violent, or self-destructive behavior;
 - iii. When less restrictive interventions have been determined to be ineffective; and
 - iv. To ensure the immediate physical safety of the patient, to prevent imminent harm to the patient or another individual, or to stop physical harm to another individual; and
 - c. Discontinued at the earliest possible time;
 - 4. If as a result of a patient's aggressive, violent, or self-destructive behavior, harm to the patient or another indi-

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vidual is imminent or the patient or another individual is being physically harmed, a personnel member:

- a. May initiate an emergency application of restraint or seclusion for the patient before obtaining an order for the restraint or seclusion, and
 - b. Obtains an order for the restraint or seclusion of the patient during the emergency application of the restraint or seclusion;
5. An order for restraint or seclusion includes:
- a. The name of the physician or registered nurse practitioner ordering the restraint or seclusion;
 - b. The date and time that the restraint or seclusion was ordered;
 - c. The specific restraint or seclusion ordered;
 - d. If a drug is ordered as a chemical restraint, the drug's name, strength, dosage, and route of administration;
 - e. The specific criteria for release from restraint or seclusion without an additional order; and
 - f. The maximum duration authorized for the restraint or seclusion;
6. An order for restraint or seclusion is limited to the duration of the emergency situation and does not exceed three continuous hours;
7. If an order for restraint or seclusion of a patient is not provided by the patient's attending physician, the patient's attending physician is notified as soon as possible;
8. A medical practitioner or personnel member does not participate in restraint or seclusion, assess or monitor a patient during restraint or seclusion, or evaluate a patient after restraint or seclusion, and a physician or registered nurse practitioner does not order restraint or seclusion, until the medical practitioner or personnel member, completes education and training that:
- a. Includes:
 - i. Techniques to identify medical practitioner, personnel member, and patient behaviors, events, and environmental factors that may trigger circumstances that require restraint or seclusion;
 - ii. The use of nonphysical intervention skills, such as de-escalation, mediation, conflict resolution, active listening, and verbal and observational methods;
 - iii. Techniques for identifying the least restrictive intervention based on an assessment of the patient's medical or behavioral health condition;
 - iv. The safe use of restraint and the safe use of seclusion, including training in how to recognize and respond to signs of physical and psychological distress in a patient who is restrained or secluded;
 - v. Clinical identification of specific behavioral changes that indicate that the restraint or seclusion is no longer necessary;
 - vi. Monitoring and assessing a patient while the patient is in restraint or seclusion according to policies and procedures; and
 - vii. Except for the medical practitioner, training exercises in which the personnel member successfully demonstrates the techniques that the medical practitioner or personnel member has learned for managing emergency situations; and
 - b. Is provided by individuals qualified according to policies and procedures;
9. When a patient is placed in restraint or seclusion:
- a. The restraint or seclusion is conducted according to policies and procedures;
 - b. The restraint or seclusion is proportionate and appropriate to the severity of the patient's behavior and the patient's:
 - i. Chronological and developmental age;
 - ii. Size;
 - iii. Gender;
 - iv. Physical condition;
 - v. Medical condition;
 - vi. Psychiatric condition; and
 - vii. Personal history, including any history of physical or sexual abuse;
 - c. The physician or registered nurse practitioner who ordered the restraint or seclusion is available for consultation throughout the duration of the restraint or seclusion;
 - d. The patient is monitored and assessed according to policies and procedures;
 - e. A physician or registered nurse assesses the patient within one hour after the patient is placed in the restraint or seclusion and determines:
 - i. The patient's current behavior,
 - ii. The patient's reaction to the restraint or seclusion used,
 - iii. The patient's medical and behavioral condition, and
 - iv. Whether to continue or terminate the restraint or seclusion;
 - f. The patient is given the opportunity:
 - i. To eat during mealtime, and
 - ii. To use the toilet; and
 - g. The restraint or seclusion is discontinued at the earliest possible time, regardless of the length of time identified in the order;
10. A medical practitioner or personnel member documents the following information in a patient's medical record before the end of the shift in which the patient is placed in restraint or seclusion or, if the patient's restraint or seclusion does not end during the shift in which it began, during the shift in which the patient's restraint or seclusion ends:
- a. The emergency situation that required the patient to be restrained or put in seclusion;
 - b. The times the patient's restraint or seclusion actually began and ended;
 - c. The time of the assessment required in subsection (C)(9)(e);
 - d. The monitoring required in subsection (C)(9)(d);
 - e. The names of the medical practitioners and personnel members with direct patient contact while the patient was in the restraint or seclusion;
 - f. The times the patient was given the opportunity to eat or use the toilet according to subsection (C)(9)(f); and
 - g. The patient evaluation required in subsection (C)(12);

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11. If an emergency situation continues beyond the time limit of an order for restraint or seclusion, the order is renewed according to policies and procedures that include:
 - a. The specific criteria for release from restraint or seclusion without an additional order, and
 - b. The maximum duration authorized for the restraint or seclusion; and
12. A patient is evaluated after restraint or seclusion is no longer being used for the patient.

Historical Note

Section R9-10-316, formerly numbered as R9-10-216, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-316 repealed, new Section R9-10-316 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-316 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-317. Behavioral Health Observation/Stabilization Services

- A. An administrator of a behavioral health inpatient facility authorized to provide behavioral health observation/stabilization services shall comply with the requirements for behavioral health observation/stabilization services in R9-10-1012.
- B. If a behavioral health inpatient facility is authorized to provide behavioral health observation/stabilization services to individuals under 18 years of age, an administrator shall ensure that, in addition to complying with the requirements in R9-10-1012, the behavioral health inpatient facility complies with the requirements for a patient under 18 years of age, personnel records, and physical plant in R9-10-318.

Historical Note

Section R9-10-317, formerly numbered as R9-10-221, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-317 repealed, new Section R9-10-317 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-317 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-318. Child and Adolescent Residential Treatment Services

- A. An administrator of a behavioral health inpatient facility authorized to provide child and adolescent residential treatment services shall:
 1. If abuse, neglect, or exploitation of a patient under 18 years of age is alleged or suspected to have occurred before the patient was accepted or while the patient is not on the premises and not receiving services from an employee or personnel member of the behavioral health inpatient facility, report the alleged or suspected abuse,

neglect, or exploitation of the patient according to A.R.S. § 13-3620;

2. If the administrator has a reasonable basis, according to A.R.S. § 13-3620, to believe that abuse, neglect, or exploitation of a patient under 18 years of age has occurred on the premises or while the patient is receiving services from an employee or a personnel member:
 - a. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 - b. Report the suspected abuse, neglect, or exploitation of the patient according to A.R.S. § 13-3620;
 - c. Document:
 - i. The suspected abuse, neglect, or exploitation;
 - ii. Any action taken according to subsection (A)(2)(a); and
 - iii. The report in subsection (A)(2)(b);
 - d. Maintain the documentation in subsection (A)(2)(c) for at least 12 months after the date of the report in subsection (A)(2)(b);
 - e. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (A)(2)(b):
 - i. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - ii. A description of any injury to the patient related to the suspected abuse or neglect and any change to the patient's physical, cognitive, functional, or emotional condition;
 - iii. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - iv. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 - f. Maintain a copy of the documented information required in subsection (A)(2)(e) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated;
3. If a patient who is under 18 years of age is absent and the absence is unauthorized as determined according to the criteria in R9-10-303(H), within an hour after determining that the patient's absence is unauthorized, notify:
 - a. Except as provided in subsection (A)(3)(b), the patient's parent or legal guardian; and
 - b. For a patient who is under a court's jurisdiction, the appropriate court or a person designated by the appropriate court;
4. Document the notification in subsection (A)(3) in the patient's medical record and the written log required in R9-10-303(I)(3);
5. In addition to the personnel records requirements in R9-10-306(F), ensure that a personnel record for each employee, volunteer, and student contains documentation of the individual's compliance with the finger-printing requirements in A.R.S. § 36-425.03;
6. Ensure that the patient's representative for a patient who is under 18 years of age:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent to treatment before treatment is initiated, unless the treatment is ordered by a court according to A.R.S. Title 36, Chapter 5 or A.R.S. § 8-341.01; is necessary to save the patient's

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- life or physical health; or is provided according to A.R.S. § 36-512;
- c. Except in an emergency, is informed of alternatives to a proposed psychotropic medication and the associated risks and possible complications of the proposed psychotropic medication;
 - d. Is informed of the following:
 - i. The policy on health care directives, and
 - ii. The patient complaint process; and
 - e. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records;
7. In addition to the restrictions provided in R9-10-311(C), ensure that a parent of a patient under 18 years of age is allowed to restrict the patient from:
 - a. Associating with individuals of the patient's choice, receiving visitors, and making telephone calls during the hours established by the behavioral health inpatient facility;
 - b. Having privacy in correspondence, communication, visitation, financial affairs, and personal hygiene; and
 - c. Sending and receiving uncensored and unopened mail;
 8. Establish, document, and implement policies and procedures to ensure that a patient is protected from the following from other patients at the behavioral health inpatient facility:
 - a. Threats,
 - b. Ridicule,
 - c. Verbal harassment,
 - d. Punishment, or
 - e. Abuse;
 9. Ensure that:
 - a. The interior of the behavioral health inpatient facility has furnishings and decorations appropriate to the ages of the patients receiving services at the behavioral health inpatient facility;
 - b. A patient older than three years of age does not sleep in a crib;
 - c. Clean and non-hazardous toys, educational materials, and physical activity equipment are available and accessible to patients in a quantity sufficient to meet each patient's needs and are appropriate to each patient's age, developmental level, and treatment needs; and
 - d. A patient's educational needs are addressed according to A.R.S. Title 15, Chapter 7, Article 4;
 10. In addition to the requirements for seclusion or restraint in R9-10-316, ensure that:
 - a. An order for restraint or seclusion is limited to the duration of the emergency situation and does not exceed:
 - i. Two continuous hours for a patient who is between the ages of nine and 17, or
 - ii. One continuous hour for a patient who is younger than nine; and
 - b. Requirements are established for notifying the parent or guardian of a patient who is under 18 years of age and who is restrained or secluded; and
 11. Prohibit a patient under 18 years of age from possessing or using tobacco products on the premises.

- B. An administrator of a behavioral health inpatient facility authorized to provide child and adolescent residential treatment services may continue to provide behavioral health services to a patient who is 18 years of age or older:
 1. If the patient:
 - a. Was admitted to the behavioral health inpatient facility before the patient's 18th birthday,
 - b. Is not 21 years of age or older, and
 - c. Is completing high school or a high school equivalency diploma or participating in a job training program; or
 2. Through the last calendar day of the month of the patient's 18th birthday.

Historical Note

Section R9-10-318, formerly numbered as R9-10-222, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-318 repealed, new Section R9-10-318 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-318 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-318 renumbered to R9-10-319; new Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 551, with an immediate effective date of March 3, 2020 (Supp. 20-1).

R9-10-319. Detoxification Services

An administrator of a behavioral health inpatient facility authorized to provide detoxification services shall ensure that:

1. Detoxification services are available;
2. Policies and procedures state:
 - a. Whether the behavioral health inpatient facility is authorized to provide involuntary, court-ordered alcohol treatment;
 - b. Whether the behavioral health inpatient facility includes a local alcoholism reception center, as defined in A.R.S. § 36-2021;
 - c. The types of substances for which the behavioral health inpatient facility provides detoxification services;
 - d. The detoxification process or processes used by the behavioral health inpatient facility; and
 - e. When an adjustable bed can be used by a patient and what actions are necessary, including supervision, to protect the patient's health and safety when the patient is in an adjustable bed; and
3. A physician or registered nurse practitioner with skills and knowledge in providing detoxification services is present at the behavioral health inpatient facility or on-call.

Historical Note

Section R9-10-319, formerly numbered as R9-10-223, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-319 repealed, new Section R9-10-319 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

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New Section R9-10-319 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-319 renumbered to R9-10-320; new Section R9-10-319 renumbered from R9-10-318 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-320. Medication Services**A.** An administrator shall ensure that policies and procedures for medication services:

1. Include:
 - a. A process for providing information to a patient about medication prescribed for the patient including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse reaction to a medication, or
 - iii. A medication overdose;
 - c. Procedures to ensure that a patient's medication regimen is reviewed by a medical practitioner to ensure the medication regimen meets the patient's needs;
 - d. Procedures for documenting medication administration and assistance in the self-administration of medication;
 - e. Procedures for assisting a patient in obtaining medication; and
 - f. If applicable, procedures for providing medication administration or assistance in the self-administration of medication off the premises; and
2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.

B. If a behavioral health inpatient facility provides medication administration, an administrator shall ensure that:

1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a patient only as prescribed; and
 - d. Cover the documentation of a patient's refusal to take prescribed medication in the patient's medical record;
2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
3. A medication administered to a patient is:
 - a. Administered in compliance with an order, and
 - b. Documented in the patient's medical record.

C. If a behavioral health inpatient facility provides assistance in the self-administration of medication, an administrator shall ensure that:

1. A patient's medication is stored by the behavioral health inpatient facility;
2. The following assistance is provided to a patient:

- a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the patient;
 - c. Observing the patient while the patient removes the medication from the container;
 - d. Verifying that the medication is taken as ordered by the patient's medical practitioner by confirming that:
 - i. The patient taking the medication is the individual stated on the medication container label,
 - ii. The patient is taking the dosage of the medication stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label, and
 - iii. The patient is taking the medication at the time stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label; or
 - e. Observing the patient while the patient takes the medication;
3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a medical practitioner or registered nurse;
 4. Training for a personnel member, other than a medical practitioner or registered nurse, in assistance in the self-administration of medication:
 - a. Is provided by a medical practitioner or registered nurse or an individual trained by a medical practitioner or registered nurse; and
 - b. Includes:
 - i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. The process for notifying the appropriate entities when an emergency medical intervention is needed;
 5. A personnel member, other than a medical practitioner or registered nurse, completes the training in subsection (C)(4) before the personnel member provides assistance in the self-administration of medication; and
 6. Assistance in the self-administration of medication provided to a patient:
 - a. Is in compliance with an order, and
 - b. Is documented in the patient's medical record.

D. An administrator shall ensure that:

1. A current drug reference guide is available for use by personnel members;
2. A current toxicology reference guide is available for use by personnel members; and
3. If pharmaceutical services are provided on the premises:
 - a. A committee, composed of at least one physician, one pharmacist, and other personnel members as determined by policies and procedures, is established to:
 - i. Develop a drug formulary,
 - ii. Update the drug formulary at least once every 12 months,
 - iii. Develop medication usage and medication substitution policies and procedures, and

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- iv. Specify which medications and medication classifications are required to be stopped automatically after a specific time period unless the ordering medical practitioner specifically orders otherwise;
 - b. The pharmaceutical services are provided under the direction of a pharmacist;
 - c. The pharmaceutical services comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - d. A copy of the pharmacy license is provided to the Department upon request.
 - E. When medication is stored at a behavioral health inpatient facility, an administrator shall ensure that:
 1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 2. Medication is stored according to the instructions on the medication container; and
 3. Policies and procedures are established, documented, and implemented for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication, including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of patients who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.
 - F. An administrator shall ensure that a personnel member immediately reports a medication error or a patient's adverse reaction to a medication to the medical practitioner who ordered the medication and, if applicable, the behavioral health inpatient facility's clinical director.
- Historical Note**
- Section R9-10-320, formerly numbered as R9-10-231, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-320 repealed, new Section R9-10-320 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-320 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-320 renumbered to R9-10-321; new Section R9-10-320 renumbered from R9-10-319 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).
- R9-10-321. Food Services**
- A. An administrator shall ensure that:
 1. The behavioral health inpatient facility obtains a license or permit as a food establishment under 9 A.A.C. 8, Article 1;
 2. A copy of the behavioral health inpatient facility's food establishment license or permit is maintained;
 3. If a behavioral health inpatient facility contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the behavioral health inpatient facility:
 - a. A copy of the contracted food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the behavioral health inpatient facility; and
 - b. The behavioral health inpatient facility is able to store, refrigerate, and reheat food to meet the dietary needs of a patient;
 4. A registered dietitian is employed full-time, part-time, or as a consultant; and
 5. If a registered dietitian is not employed full-time, an individual is designated as a director of food services who consults with a registered dietitian as often as necessary to meet the nutritional needs of the patients.
 - B. A registered dietitian or director of food services shall ensure that:
 1. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served each day,
 - c. Is conspicuously posted at least one calendar day before the first meal on the food menu will be served,
 - d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;
 2. Meals and snacks provided by the behavioral health inpatient facility are served according to posted menus;
 3. Meals and snacks for each day are planned using:
 - a. The applicable guidelines in <http://www.health.gov/dietaryguidelines/2015>, and
 - b. Preferences for meals and snacks obtained from patients;
 4. A patient is provided:
 - a. A diet that meets the patient's nutritional needs as specified in the patient's assessment or treatment plan;
 - b. Three meals a day with not more than 14 hours between the evening meal and breakfast except as provided in subsection (B)(4)(d);
 - c. The option to have a daily evening snack identified in subsection (B)(4)(d)(ii) or other snack; and
 - d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:
 - i. A patient group agrees; and
 - ii. The patient is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;
 5. A patient requiring assistance to eat is provided with assistance that recognizes the patient's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils; and
 6. Water is available and accessible to patients.
 - C. An administrator shall ensure that food is obtained, prepared, served, and stored as follows:
 1. Food is free from spoilage, filth, or other contamination and is safe for human consumption;
 2. Food is protected from potential contamination;
 3. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a patient such as cut, chopped, ground, pureed, or thickened;

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4. Potentially hazardous food is maintained as follows:
 - a. Foods requiring refrigeration are maintained at 41° F or below; and
 - b. Foods requiring cooking are cooked to heat all parts of the food to a temperature of at least 145° F for 15 seconds, except that:
 - i. Ground beef and ground meats are cooked to heat all parts of the food to at least 155° F;
 - ii. Poultry, poultry stuffing, stuffed meats, and stuffing that contains meat are cooked to heat all parts of the food to at least 165° F;
 - iii. Pork and any food containing pork are cooked to heat all parts of the food to at least 155° F;
 - iv. Raw shell eggs for immediate consumption are cooked to at least 145° F for 15 seconds and any food containing raw shell eggs is cooked to heat all parts of the food to at least 155° F;
 - v. Roast beef and beef steak are cooked to an internal temperature of at least 155° F; and
 - vi. Leftovers are reheated to a temperature of at least 165° F;
5. A refrigerator contains a thermometer, accurate to plus or minus 3° F, placed at the warmest part of the refrigerator;
6. Frozen foods are stored at a temperature of 0° F or below; and
7. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair.

Historical Note

Section R9-10-321, formerly numbered as R9-10-232, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-321 repealed, new Section R9-10-321 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-321 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-321 renumbered to R9-10-322; new Section R9-10-321 renumbered from R9-10-320 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-322. Emergency and Safety Standards

- A. An administrator shall ensure that a behavioral health inpatient facility has:
 1. A fire alarm system installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in R9-10-104.01, and a sprinkler system installed according to the National Fire Protection Association 13 Standard for the Installation of Sprinkler Systems, incorporated by reference in R9-10-104.01, that are in working order; or
 2. An alternative method to ensure a patient's safety, documented and approved by the local jurisdiction.
- B. An administrator shall ensure that:
 1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and other employees, and, if necessary, implemented that includes:
 - a. When, how, and where patients will be relocated;
 - b. How a patient's medical record will be available to individuals providing services to the patient during a disaster;
 - c. A plan to ensure each patient's medication will be available to administer to the patient during a disaster; and
 - d. A plan for obtaining food and water for individuals present in the behavioral health inpatient facility or the behavioral health inpatient facility's relocation site during a disaster;
 2. The disaster plan required in subsection (B)(1) is reviewed at least once every 12 months;
 3. Documentation of a disaster plan review required in subsection (B)(2) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each personnel member, employee, volunteer, or student participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
 4. A disaster drill for employees is conducted on each shift at least once every three months and documented;
 5. An evacuation drill for employees and patients:
 - a. Is conducted at least once every six months; and
 - b. Includes all individuals on the premises except for:
 - i. A patient whose medical record contains documentation that evacuation from the behavioral health inpatient facility would cause harm to the patient, and
 - ii. Sufficient personnel members to ensure the health and safety of patients not evacuated according to subsection (B)(5)(b)(i);
 6. Documentation of each evacuation drill is created, is maintained for at least 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for employees and patients to evacuate to a designated area;
 - c. If applicable:
 - i. An identification of patients needing assistance for evacuation, and
 - ii. An identification of patients who were not evacuated;
 - d. Any problems encountered in conducting the evacuation drill; and
 - e. Recommendations for improvement, if applicable; and
 7. An evacuation path is conspicuously posted on each hallway of each floor of the behavioral health inpatient facility.
- C. An administrator shall:
 1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 2. Make any repairs or corrections stated on the fire inspection report, and
 3. Maintain documentation of a current fire inspection.

Historical Note

Section R9-10-322, formerly numbered as R9-10-233, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979

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(Supp. 79-3). Former Section R9-10-322 repealed, new Section R9-10-322 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-322 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-322 renumbered to R9-10-323; new Section R9-10-322 renumbered from R9-10-321 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-323. Environmental Standards**A.** An administrator shall ensure that:

1. The premises and equipment are:
 - a. Cleaned and, if applicable, disinfected according to policies and procedures designed to prevent, minimize, and control illness or infection; and
 - b. Free from a condition or situation that may cause a patient or other individual to suffer physical injury;
2. A pest control program that complies with A.A.C. R3-8-201(C)(4) is implemented and documented;
3. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
4. Equipment used at the behavioral health inpatient facility is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
5. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
6. Garbage and refuse are:
 - a. In areas used for food storage, food preparation, or food service, stored in covered containers lined with plastic bags;
 - b. In areas not used for food storage, food preparation, or food service, stored:
 - i. According to the requirements in subsection (6)(a), or
 - ii. In a paper-lined container that is cleaned and sanitized as often as necessary to ensure that the container is clean; and
 - c. Removed from the premises at least once a week;
7. Heating and cooling systems maintain the behavioral health inpatient facility at a temperature between 70° F and 84° F;
8. Common areas:
 - a. Are lighted to assure the safety of patients, and
 - b. Have lighting sufficient to allow personnel members to monitor patient activity;
9. Hot water temperatures are maintained between 95° F and 120° F in the areas of a behavioral health inpatient facility used by patients;
10. The supply of hot and cold water is sufficient to meet the personal hygiene needs of patients and the cleaning and sanitation requirements in this Article;

11. Soiled linen and soiled clothing stored by the behavioral health inpatient facility are maintained separate from clean linen and clothing and stored in closed containers away from food storage, kitchen, and dining areas;
12. Oxygen containers are secured in an upright position;
13. Poisonous or toxic materials stored by the behavioral health inpatient facility are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to patients;
14. Combustible or flammable liquids and hazardous materials stored by a behavioral health inpatient facility are stored in the original labeled containers or safety containers in a locked area inaccessible to patients;
15. If pets or animals are allowed in the behavioral health inpatient facility, pets or animals are:
 - a. Controlled to prevent endangering the patients and to maintain sanitation;
 - b. Licensed consistent with local ordinances; and
 - c. For a dog or cat, vaccinated against rabies;
16. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
 - c. Documentation of testing is maintained for at least 12 months after the date of the test; and
17. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to applicable state laws and rules.

B. An administrator shall ensure that:

1. Smoking tobacco products is not permitted within a behavioral health inpatient facility; and
2. Except as provided in R9-10-318(A)(11), smoking tobacco products may be permitted on the premises outside a behavioral health inpatient facility if:
 - a. Signs designating smoking areas are conspicuously posted, and
 - b. Smoking is prohibited in areas where combustible materials are stored or in use.

C. If a swimming pool is located on the premises, an administrator shall ensure that:

1. At least one personnel member with cardiopulmonary resuscitation training that meets the requirements in R9-10-303(C)(1)(e) is present in the pool area when a patient is in the pool area, and
2. At least two personnel members are present in the pool area when two or more patients are in the pool area.

Historical Note

Section R9-10-323, formerly numbered as R9-10-234, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-323 repealed, new Section R9-10-323 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-323 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-323 renumbered to R9-10-324; new Section R9-10-323 renumbered from R9-10-322 and amended by

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exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).
Amended by final expedited rulemaking at 25 A.A.R. 259, effective January 8, 2019 (Supp. 19-1).

R9-10-324. Physical Plant Standards

A. An administrator shall ensure that the premises and equipment are sufficient to accommodate:

1. The services stated in the behavioral health inpatient facility's scope of services, and
2. An individual accepted as a patient by the behavioral health inpatient facility.

B. An administrator shall ensure that:

1. A behavioral health inpatient facility has a:
 - a. Waiting area with seating for patients and visitors;
 - b. Room that provides privacy for a patient to receive treatment or visitors; and
 - c. Common area and a dining area that:
 - i. Are not converted, partitioned, or otherwise used as a sleeping area; and
 - ii. Contain furniture and materials to accommodate the recreational and socialization needs of the patients and other individuals in the behavioral health inpatient facility;
2. A bathroom is available for use by visitors during the behavioral health inpatient facility's hours of operation and:
 - a. Provides privacy; and
 - b. Contains:
 - i. A working sink with running water,
 - ii. A working toilet that flushes and has a seat,
 - iii. Toilet tissue,
 - iv. Soap for hand washing,
 - v. Paper towels or a mechanical air hand dryer,
 - vi. Lighting, and
 - vii. A window that opens or another means of ventilation;
3. For every six patients, there is at least one working toilet that flushes and has a seat and one sink with running water;
4. For every eight patients, there is at least one working bathtub or shower with a slip-resistant surface;
5. A patient bathroom complies with the following:
 - a. Provides privacy when in use;
 - b. Contains:
 - i. A shatterproof mirror, unless the patient's treatment plan requires otherwise;
 - ii. A window that opens or another means of ventilation; and
 - iii. Nonporous surfaces for shower enclosures and slip-resistant surfaces in tubs and showers;
 - c. Has plumbing, piping, ductwork, or other potentially hazardous elements concealed above a ceiling;
 - d. If the bathroom or shower area has a door, the door swings outward to allow for staff emergency access;
 - e. If grab bars for the toilet and tub or shower or other assistive devices are identified in the patient's treatment plan, has grab bars or other assistive devices to provide for patient safety;
 - f. If a grab bar is provided, has the space between the grab bar and the wall filled to prevent a cord being tied around the grab bar;
 - g. Does not contain a towel bar, a shower curtain rod, or a lever handle that is not a specifically designed anti-ligature lever handle;

- h. Has tamper-resistant lighting fixtures, sprinkler heads, and electrical outlets; and
 - i. For a bathroom with a sprinkler head where a patient is not supervised while the patient is in the bathroom, has a sprinkler head that is recessed or designed to minimize patient access;
6. If a patient bathroom door locks from the inside, an employee has a key and access to the bathroom;
 7. Each patient is provided a bedroom for sleeping;
 8. A patient bedroom complies with the following:
 - a. Is not used as a common area;
 - b. Is not used as a passageway to another bedroom or bathroom unless the bathroom is for the exclusive use of a patient occupying the bedroom;
 - c. Contains a door that opens into a hallway, common area, or outdoors and, except as provided in subsection (E), another means of egress;
 - d. Is constructed and furnished to provide unimpeded access to the door;
 - e. Has window or door covers that provide patient privacy;
 - f. Has floor to ceiling walls:
 - g. Is a:
 - i. Private bedroom that contains at least 60 square feet of floor space, not including the closet; or
 - ii. Shared bedroom that:
 - (1) Is shared by no more than four patients;
 - (2) Contains, except as provided in subsection (B)(9), at least 60 square feet of floor space, not including a closet, for each patient occupying the bedroom; and
 - (3) Provides sufficient space between beds to ensure that a patient has unobstructed access to the bedroom door;
 - h. Contains for each patient occupying the bedroom:
 - i. A bed that is: at least 36 inches wide and at least 72 inches long, and consists of at least a frame and mattress and linens that is not a threat to health and safety; and
 - ii. Individual storage space for personnel effects and clothing such as shelves, a dresser, or chest of drawers;
 - i. Has clean linen for each bed including mattress pad, sheets large enough to tuck under the mattress, pillows, pillow cases, bedspread, waterproof mattress covers as needed, and blankets to ensure warmth and comfort for each patient;
 - j. Has sufficient lighting for a patient occupying the bedroom to read; and
 - k. If applicable, has a drawer pull that is recessed to eliminate the possibility of use as a tie-off point;
 9. If a behavioral health inpatient facility licensed before November 1, 2003 was approved for 50 square feet of floor space for each patient in a bedroom, ensure that the bedroom contains at least 50 square feet for each patient not including the closet;
 10. In a patient bathroom or a patient bedroom:
 - a. The ceiling is secured from access or at least 9 feet in height; and
 - b. A ventilation grille is:
 - i. Secured and has perforations that are too small to use as a tie-off point, or
 - ii. Of sufficient height to prevent patient access;

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11. For a door located in an area of the behavioral health inpatient facility that is accessible to patients:
 - a. A door closing device, if used on a patient bedroom door, is mounted on the public side of the door;
 - b. A door's hinges are designed to minimize points for hanging;
 - c. Except for a door lever handle that contains specifically designed anti-ligature hardware, a door lever handle points downward when in the latched or unlatched position; and
 - d. Hardware has tamper-resistant fasteners; and
 12. A window located in an area of the behavioral health inpatient facility that is accessible to patients is fabricated with laminated safety glass or protected by polycarbonate, laminate, or safety screens.
- C.** An administrator of a licensed behavioral health inpatient facility may submit a request, in a Department-provided format, for additional time to comply with a physical plant requirement in subsection (B)(5)(c) through (B)(5)(i), (B)(10), (B)(11), or (B)(12) that includes:
1. The rule citation for the specific plant requirement,
 2. The current physical plant condition that does not comply with the physical plant requirement,
 3. How the current physical plant condition will be changed to comply with the physical plant requirement,
 4. Estimated completion date of the identified physical plant change, and
 5. Specific actions taken to ensure the health and safety of a patient until the physical plant requirement is met.
- D.** When the Department receives a request for additional time to comply with a physical plant requirement in subsection (B)(5)(c) through (B)(5)(i), (B)(10), (B)(11), or (B)(12) submitted according to subsection (C), the Department may approve the request for up to 24 months after the effective date of these rules based on:
1. The behavioral health inpatient facility's scope of services,
 2. The expected patient acuity based on the behavioral health inpatient facility's scope of services,
 3. The specific physical plant requirement in the request, and
 4. The threat to patients' health and safety.
- E.** A bedroom in a behavioral health inpatient facility is not required to have a second means of egress if:
1. An administrator ensures that policies and procedures are established, documented, and implemented that provide for the safe evacuation of a patient in the bedroom based on the patient's physical and mental limitations and the location of the bedroom; or
 2. The building where the bedroom is located has a fire alarm system and a sprinkler system required in R9-10-322(A)(1).
- F.** If a swimming pool is located on the premises, an administrator shall ensure that:
1. The swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;
 - b. Has no vertical openings greater than four inches across;
 - c. Has no horizontal openings, except as described in subsection (F)(1)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
 - f. Has a self-closing, self-latching gate that:
 - i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground, and
 - iii. Is locked when the swimming pool is not in use; and
2. A life preserver or shepherd's crook is available and accessible in the pool area.
- G.** An administrator shall ensure that a spa that is not enclosed by a wall or fence as described in subsection (F)(1) is covered and locked when not in use.

Historical Note

Section R9-10-324, formerly numbered as R9-10-235, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-324 repealed, new Section R9-10-324 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-324 renumbered from R9-10-323 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-325. Repealed**Historical Note**

Section R9-10-325, formerly numbered as R9-10-236, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-325 repealed, new Section R9-10-325 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-326. Repealed**Historical Note**

Section R9-10-326, formerly numbered as R9-10-237, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-326 repealed, new Section R9-10-326 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-327. Repealed**Historical Note**

Section R9-10-327, formerly numbered as R9-10-241, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-327 repealed, new Section R9-10-327 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-328. Repealed

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Historical Note

Section R9-10-328, formerly numbered as R9-10-242, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-328 repealed, new Section R9-10-328 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-329. Repealed**Historical Note**

Section R9-10-329, formerly numbered as R9-10-243, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-329 repealed, new Section R9-10-329 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-330. Repealed**Historical Note**

Section R9-10-330, formerly numbered as R9-10-244, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-330 repealed, new Section R9-10-330 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-331. Repealed**Historical Note**

Section R9-10-331, formerly numbered as R9-10-245, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-331 repealed, new Section R9-10-331 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-332. Repealed**Historical Note**

Section R9-10-332, formerly numbered as R9-10-246, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-332 repealed, new Section R9-10-332 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-333. Repealed**Historical Note**

Section R9-10-333, formerly numbered as R9-10-247, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Former Section R9-10-333 repealed, new Section R9-10-333 adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-334. Repealed**Historical Note**

Section R9-10-334, formerly numbered as R9-10-249, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Repealed effective February 4, 1981 (Supp. 81-1).

R9-10-335. Repealed**Historical Note**

Section R9-10-335, formerly numbered as R9-10-250, renumbered as an emergency effective February 22, 1979, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 79-1). Adopted effective June 14, 1979 (Supp. 79-3). Repealed effective February 4, 1981 (Supp. 81-1).

ARTICLE 4. NURSING CARE INSTITUTIONS

Article 4, consisting of Sections R9-10-411 through R9-10-438, repealed at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-401. Definitions

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following definitions apply in this Article unless otherwise specified:

1. "Administrator" has the same meaning as in A.R.S. § 36-446.
2. "Care plan" means a documented description of physical health services and behavioral health services expected to be provided to a resident, based on the resident's comprehensive assessment, that includes measurable objectives and the methods for meeting the objectives.
3. "Direct care" means medical services, nursing services, or social services provided to a resident.
4. "Director of nursing" means an individual who is responsible for the nursing services provided in a nursing care institution.
5. "Highest practicable" means a resident's optimal level of functioning and well-being based on the resident's current functional status and potential for improvement as determined by the resident's comprehensive assessment.
6. "Intermittent" means not on a regular basis.
7. "Nursing care institution services" means medical services, nursing services, behavioral care, health-related services, ancillary services, social services, and environmental services provided to a resident.
8. "Resident group" means residents or residents' family members who:
 - a. Plan and participate in resident activities, or
 - b. Meet to discuss nursing care institution issues and policies.
9. "Secured" means the use of a method, device, or structure that:
 - a. Prevents a resident from leaving an area of the nursing care institution's premises, or
 - b. Alerts a personnel member of a resident's departure from the nursing care institution.
10. "Social services" means assistance provided to or activities provided for a resident to maintain or improve the resident's physical, mental, and psychosocial capabilities.

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11. "Total health condition" means a resident's overall physical and psychosocial well-being as determined by the resident's comprehensive assessment.
12. "Unnecessary drug" means a medication that is not required because:
 - a. There is no documented indication for a resident's use of the medication;
 - b. The medication is duplicative;
 - c. The medication is administered before determining whether the resident requires the medication; or
 - d. The resident has experienced an adverse reaction from the medication, indicating that the medication should be reduced or discontinued.
13. "Ventilator" means a device designed to provide, to a resident who is physically unable to breathe or who is breathing insufficiently, the mechanism of breathing by mechanically moving breathable air into and out of the resident's lungs.

Historical Note

New Section R9-10-401 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-402. Supplemental Application Requirements

In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for a license as a nursing care institution shall include:

1. In a Department-provided format whether the applicant:
 - a. Has:
 - i. A secured area for a resident with Alzheimer's disease or other dementia, or
 - ii. An area for a resident on a ventilator;
 - b. Is requesting authorization to provide to a resident:
 - i. Behavioral health services,
 - ii. Clinical laboratory services,
 - iii. Dialysis services, or
 - iv. Radiology services and diagnostic imaging services; and
 - c. Is requesting authorization to operate a nutrition and feeding assistant training program; and
2. If the governing authority is requesting authorization to operate a nutrition and feeding assistant training program, the information in R9-10-116(B)(1)(a), (B)(1)(c), and (B)(2).

Historical Note

New Section R9-10-402 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-403. Administration**A. A governing authority shall:**

1. Consist of one or more individuals responsible for the organization, operation, and administration of a nursing care institution;

2. Establish, in writing, the nursing care institution's scope of services;
 3. Designate, in writing, a nursing care institution administrator licensed according to A.R.S. Title 36, Chapter 4, Article 6;
 4. Adopt a quality management program according to R9-10-404;
 5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
 6. Designate, in writing, an acting administrator licensed according to A.R.S. § Title 36, Chapter 4, Article 6, if the administrator is:
 - a. Expected not to be present on the nursing care institution's premises for more than 30 calendar days, or
 - b. Not present on the nursing care institution's premises for more than 30 calendar days; and
 7. Except as permitted in subsection (A)(6), when there is a change of administrator, notify the Department according to A.R.S. § 36-425(I) and submit a copy of the new administrator's license under A.R.S. Title 36, Chapter 4, Article 6 to the Department.
- B. An administrator:**
1. Is directly accountable to the governing authority of a nursing care institution for the daily operation of the nursing care institution and all services provided by or at the nursing care institution;
 2. Has the authority and responsibility to manage the nursing care institution;
 3. Except as provided in subsection (A)(6), designates, in writing, an individual who is present on the nursing care institution's premises and accountable for the nursing care institution when the administrator is not present on the nursing care institution's premises;
 4. Ensures the nursing care institution's compliance with A.R.S. § 36-411; and
 5. If the nursing care institution provides feeding and nutrition assistant training, ensures the nursing care institution complies with the requirements for the operation of a feeding and nutrition assistant training program in R9-10-116.
- C. An administrator shall ensure that:**
1. Policies and procedures are established, documented, and implemented to protect the health and safety of a resident that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to resident care;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training including:
 - i. Which personnel members are required to obtain cardiopulmonary resuscitation training,
 - ii. The method and content of cardiopulmonary resuscitation training,
 - iii. The qualifications for an individual to provide cardiopulmonary resuscitation training,

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- iv. The time-frame for renewal of cardiopulmonary resuscitation training, and
 - v. The documentation that verifies an individual has received cardiopulmonary resuscitation training;
 - f. Cover first aid training;
 - g. Include a method to identify a resident to ensure the resident receives physical health services and behavioral health services as ordered;
 - h. Cover resident rights, including assisting a resident who does not speak English or who has a disability to become aware of resident rights;
 - i. Cover specific steps for:
 - i. A resident to file a complaint, and
 - ii. The nursing care institution to respond to a resident's complaint;
 - j. Cover health care directives;
 - k. Cover medical records, including electronic medical records;
 - l. Cover a quality management program, including incident reports and supporting documentation;
 - m. Cover contracted services;
 - n. Cover resident's personal accounts;
 - o. Cover petty cash funds;
 - p. Cover fees and refund policies;
 - q. Cover misappropriation of resident property; and
 - r. Cover when an individual may visit a resident in a nursing care institution; and
2. Policies and procedures for physical health services and behavioral health services are established, documented, and implemented to protect the health and safety of a resident that:
 - a. Cover resident screening, admission, transport, transfer, discharge planning, and discharge;
 - b. Cover the provision of physical health services and behavioral health services;
 - c. Include when general consent and informed consent are required;
 - d. Cover storing, dispensing, administering, and disposing of medication;
 - e. Cover infection control;
 - f. Cover how personnel members will respond to a resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual;
 - g. Cover telemedicine, if applicable; and
 - h. Cover environmental services that affect resident care;
 3. Policies and procedures are reviewed at least once every three years and updated as needed;
 4. Policies and procedures are available to personnel members, employees, volunteers, and students; and
 5. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a nursing care institution, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the nursing care institution.
- D.** Except for health screening services, an administrator shall ensure that medical services, nursing services, health-related services, behavioral health services, or ancillary services provided by a nursing care institution are only provided to a resident.
- E.** If abuse, neglect, or exploitation of a resident is alleged or suspected to have occurred before the resident was admitted or while the resident is not on the premises and not receiving services from a nursing care institution's employee or personnel member, an administrator shall report the alleged or suspected abuse, neglect, or exploitation of the resident as follows:
1. For a resident 18 years of age or older, according to A.R.S. § 46-454; or
 2. For a resident under 18 years of age, according to A.R.S. § 13-3620.
- F.** If an administrator has a reasonable basis, according to A.R.S. § 13-3620 or 46-454, to believe that abuse, neglect, or exploitation has occurred on the premises or while a resident is receiving services from a nursing care institution's employee or personnel member, an administrator shall:
1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Report the suspected abuse, neglect, or exploitation of the resident as follows:
 - a. For a resident 18 years of age or older, according to A.R.S. § 46-454; or
 - b. For a resident under 18 years of age, according to A.R.S. § 13-3620;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (F)(1); and
 - c. The report in subsection (F)(2);
 4. Maintain the documentation in subsection (F)(3) for at least 12 months after the date of the report in subsection (F)(2);
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (F)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the resident related to the suspected abuse or neglect and any change to the resident's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 6. Maintain a copy of the documented information required in subsection (F)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- G.** An administrator shall:
1. Allow a resident advocate to assist a resident, the resident's representative, or a resident group with a request or recommendation, and document in writing any complaint submitted to the nursing care institution;
 2. Ensure that a monthly schedule of recreational activities for residents is developed, documented, and implemented; and
 3. Ensure that the following are conspicuously posted on the premises:
 - a. The current nursing care institution license and quality rating issued by the Department;
 - b. The name, address, and telephone number of:

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- i. The Department's Office of Long Term Care,
- ii. The State Long-Term Care Ombudsman Program, and
- iii. Adult Protective Services of the Department of Economic Security;
- c. A notice that a resident may file a complaint with the Department concerning the nursing care institution;
- d. The monthly schedule of recreational activities; and
- e. One of the following:
 - i. A copy of the current license survey report with information identifying residents redacted, any subsequent reports issued by the Department, and any plan of correction that is in effect; or
 - ii. A notice that the current license survey report with information identifying residents redacted, any subsequent reports issued by the Department, and any plan of correction that is in effect are available for review upon request.

H. An administrator shall provide written notification to the Department of a resident's:

- 1. Death, if the resident's death is required to be reported according to A.R.S. § 11-593, within one working day after the resident's death; and
- 2. Self-injury, within two working days after the resident inflicts a self-injury that requires immediate intervention by an emergency medical services provider.

I. If an administrator administers a resident's personal account at the request of the resident or the resident's representative, the administrator shall:

- 1. Comply with policies and procedures established according to subsection (C)(1)(n);
- 2. Designate a personnel member who is responsible for the personal accounts;
- 3. Maintain a complete and separate accounting of each personal account;
- 4. Obtain written authorization from the resident or the resident's representative for a personal account transaction;
- 5. Document an account transaction and provide a copy of the documentation to the resident or the resident's representative upon request and at least every three months;
- 6. Transfer all money from the resident's personal account in excess of \$50.00 to an interest-bearing account and credit the interest to the resident's personal account; and
- 7. Within 30 calendar days after the resident's death, transfer, or discharge, return all money in the resident's personal account and a final accounting to the resident, the resident's representative, or the probate jurisdiction administering the resident's estate.

J. If a petty cash fund is established for use by residents, the administrator shall ensure that:

- 1. The policies and procedures established according to subsection (C)(1)(o) include:
 - a. A prescribed cash limit of the petty cash fund, and
 - b. The hours of the day a resident may access the petty cash fund; and
- 2. A resident's written acknowledgment is obtained for a petty cash transaction.

Historical Note

New Section R9-10-403 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-404. Quality Management

An administrator shall ensure that:

- 1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to residents;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to resident care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to resident care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
- 2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to resident care; and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to resident care; and
- 3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

New Section R9-10-404 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-405. Contracted Services

An administrator shall ensure that:

- 1. Contracted services are provided according to the requirements in this Article, and
- 2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

New Section R9-10-405 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-406. Personnel

A. An administrator shall ensure that a behavioral health technician or behavioral health paraprofessional is at least 18 years old.

B. An administrator shall ensure that:

- 1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the residents receiving physical health services or behavioral health services from the personnel member according to the established job description; and

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- b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;
- 2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures;
- 3. Sufficient personnel members are present on a nursing care institution's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the nursing care institution's scope of services,
 - b. Meet the needs of a resident, and
 - c. Ensure the health and safety of a resident.
- C. Except as provided in R9-10-415, an administrator shall ensure that, if a personnel member provides social services that require a license under A.R.S. Title 32, Chapter 33, Article 5, the personnel member is licensed under A.R.S. Title 32, Chapter 33, Article 5.
- D. An administrator shall ensure that an individual who is a licensed baccalaureate social worker, master social worker, associate marriage and family therapist, associate counselor, or associate substance abuse counselor is under direct supervision as defined in 4 A.A.C. 6, Article 1.
- E. An administrator shall ensure that a personnel member or an employee or volunteer who has or is expected to have direct interaction with a resident for more than eight hours a week provides evidence of freedom from infectious tuberculosis:
 - 1. On or before the date the individual begins providing services at or on behalf of the nursing care institution, and
 - 2. As specified in R9-10-113.
- F. An administrator shall ensure that a personnel record is maintained for each personnel member, employee, volunteer, or student that includes:
 - 1. The individual's name, date of birth, and contact telephone number;
 - 2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 - 3. Documentation of:
 - a. The individual's qualifications including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
 - c. The individual's compliance with the requirements in A.R.S. § 36-411;
 - d. Orientation and in-service education as required by policies and procedures;
- e. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
- f. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
- g. Cardiopulmonary resuscitation training, if required for the individual according to R9-10-303(C)(1)(e);
- h. First aid training, if required for the individual according to this Article or policies and procedures; and
- i. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (E); and
- j. If the individual is a nutrition and feeding assistant:
 - i. Completion of the nutrition and feeding assistant training course required in R9-10-116, and
 - ii. A nurse's observations required in R9-10-423(C)(6).
- G. An administrator shall ensure that personnel records are:
 - 1. Maintained:
 - a. Throughout the individual's period of providing services in or for the nursing care institution, and
 - b. For at least 24 months after the last date the individual provided services in or for the nursing care institution; and
 - 2. For a personnel member who has not provided physical health services or behavioral health services at or for the nursing care institution during the previous 12 months, provided to the Department within 72 hours after the Department's request.
- H. An administrator shall ensure that:
 - 1. A plan to provide orientation specific to the duties of a personnel member, an employee, a volunteer, and a student is developed, documented, and implemented;
 - 2. A personnel member completes orientation before providing behavioral health services or physical health services;
 - 3. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
 - 4. A plan to provide in-service education specific to the duties of a personnel member is developed, documented, and implemented;
 - 5. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training.
 - 5. A work schedule of each personnel member is developed and maintained at the nursing care institution for at least 12 months after the date of the work schedule.
- I. An administrator shall designate a qualified individual to provide:
 - 1. Social services, and
 - 2. Recreational activities.

Historical Note

New Section R9-10-406 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R.

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3041, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-10-407. Admission

An administrator shall ensure that:

1. A resident is admitted only on a physician's order;
2. The physician's admitting order includes the nursing care institution services required to meet the immediate needs of a resident, such as medication and food services;
3. At the time of a resident's admission, a registered nurse conducts or coordinates an initial assessment on a resident to ensure the resident's immediate needs for nursing care institution services are met;
4. A resident's needs do not exceed the medical services and nursing services available at the nursing care institution as established in the nursing care institution's scope of services;
5. Before or at the time of admission, a resident or the resident's representative:
 - a. Receives a documented agreement with the nursing care institution that includes rates and charges,
 - b. Is informed of third-party coverage for rates and charges,
 - c. Is informed of the nursing care institution's refund policy, and
 - d. Receives written information concerning the nursing care institution's policies and procedures related to a resident's health care directives;
6. Within 30 calendar days before admission or 10 working days after admission, a medical history and physical examination is completed on a resident by:
 - a. A physician, or
 - b. A physician assistant or a registered nurse practitioner designated by the attending physician;
7. Except as specified in subsection (8), a resident provides evidence of freedom from infectious tuberculosis:
 - a. Before or within seven calendar days after the resident's admission, and
 - b. As specified in R9-10-113;
8. A resident who transfers from a nursing care institution to another nursing care institution is not required to be rescreened for tuberculosis as specified in R9-10-113 if:
 - a. Fewer than 12 months have passed since the resident was screened for tuberculosis, and
 - b. The documentation of freedom from infectious tuberculosis required in subsection (7) accompanies the resident at the time of transfer; and
9. Compliance with the requirements in subsection (6) is documented in the resident's medical record.

Historical Note

New Section R9-10-407 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 28 A.A.R. 1113 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-10-408. Transfer; Discharge

A. An administrator shall ensure that:

1. A resident is transferred or discharged if:
 - a. The nursing care institution is not authorized or not able to meet the needs of the resident, or

- b. The resident's behavior is a threat to the health or safety of the resident or other individuals at the nursing care institution; and
 2. Documentation of a resident's transfer or discharge includes:
 - a. The date of the transfer or discharge;
 - b. The reason for the transfer or discharge;
 - c. A 30-day written notice except:
 - i. In an emergency, or
 - ii. If the resident no longer requires nursing care institution services as determined by a physician or the physician's designee;
 - d. A notation by a physician or the physician's designee if the transfer or discharge is due to any of the reasons listed in subsection (A)(1); and
 - e. If applicable, actions taken by a personnel member to protect the resident or other individuals if the resident's behavior is a threat to the health and safety of the resident or other individuals in the nursing care institution.
- B. An administrator may transfer or discharge a resident for failure to pay for residency if:
 1. The resident or resident's representative receives a 30-day written notice of transfer or discharge, and
 2. The 30-day written notice includes an explanation of the resident's right to appeal the transfer or discharge.
- C. Except for a transfer of a resident due to an emergency, an administrator shall ensure that:
 1. A personnel member coordinates the transfer and the services provided to the resident;
 2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before the transfer;
 - b. Information from the resident's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the resident or the resident's representative; and
 3. Documentation in the resident's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the resident during a transfer.
- D. Except in an emergency, a director of nursing shall ensure that before a resident is discharged:
 1. Written follow-up instructions are developed with the resident or the resident's representative that includes:
 - a. Information necessary to meet the resident's need for medical services and nursing services; and
 - b. The state long-term care ombudsman's name, address, and telephone number;
 2. A copy of the written follow-up instructions is provided to the resident or the resident's representative; and
 3. A discharge summary is developed by a personnel member and authenticated by the resident's attending physician or designee and includes:
 - a. The resident's medical condition at the time of transfer or discharge,
 - b. The resident's medical and psychosocial history,
 - c. The date of the transfer or discharge, and

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- d. The location of the resident after discharge.

Historical Note

New Section R9-10-408 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-409. Transport

- A.** Except as provided in subsection (B), an administrator shall ensure that:
1. A personnel member coordinates the transport and the services provided to the resident;
 2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before and after the transport,
 - b. Information from the resident's medical record is provided to a receiving health care institution, and
 - c. A personnel member explains risks and benefits of the transport to the resident or the resident's representative; and
 3. Documentation in the resident's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transport;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the resident during a transport.
- B.** Subsection (A) does not apply to:
1. Transportation to a location other than a licensed health care institution,
 2. Transportation provided for a resident by the resident or the resident's representative,
 3. Transportation provided by an outside entity that was arranged for a resident by the resident or the resident's representative, or
 4. A transport to another licensed health care institution in an emergency.

Historical Note

New Section R9-10-409 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-410. Resident Rights

- A.** An administrator shall ensure that:
1. The requirements in subsection (B) and the resident rights in subsection (C) are conspicuously posted on the premises;
 2. At the time of admission, a resident or the resident's representative receives a written copy of the requirements in subsection (B) and the resident rights in subsection (C); and
 3. Policies and procedures include:
 - a. How and when a resident or the resident's representative is informed of resident rights in subsection (C), and
 - b. Where resident rights are posted as required in subsection (A)(1).
- B.** An administrator shall ensure that:
1. A resident has privacy in:
 - a. Treatment,
 - b. Bathing and toileting,
 - c. Room accommodations, and
 - d. A visit or meeting with another resident or an individual;
 2. A resident is treated with dignity, respect, and consideration;
 3. A resident is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by a nursing care institution's personnel members, employees, volunteers, or students; and
 4. A resident or the resident's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of proposed alternatives to psychotropic medication or a surgical procedure and the associated risks and possible complications of the psychotropic medication or surgical procedure;
 - d. Is informed of the following:
 - i. The health care institution's policy on health care directives, and
 - ii. The resident complaint process;
 - e. Consents to photographs of the resident before the resident is photographed, except that the resident may be photographed when admitted to a nursing care institution for identification and administrative purposes;
 - f. May manage the resident's financial affairs;
 - g. May review the nursing care institution's current license survey report and, if applicable, plan of correction in effect;
 - h. Has access to and may communicate with any individual, organization, or agency;
 - i. May participate in a resident group;
 - j. May review the resident's financial records within two working days and medical record within one working day after the resident's or the resident's representative's request;
 - k. May obtain a copy of the resident's financial records and medical record within two working days after the resident's request and in compliance with A.R.S. § 12-2295;
 - l. Except as otherwise permitted by law, consents, in writing, to the release of information in the resident's:
 - i. Medical record, and
 - ii. Financial records;
 - m. May select a pharmacy of choice if the pharmacy complies with policies and procedures and does not pose a risk to the resident;

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- n. Is informed of the method for contacting the resident's attending physician;
 - o. Is informed of the resident's total health condition;
 - p. Is provided with a copy of those sections of the resident's medical record that are required for continuity of care free of charge, according to A.R.S. § 12-2295, if the resident is transferred or discharged;
 - q. Is informed in writing of a change in rates and charges at least 60 calendar days before the effective date of the change; and
 - r. Except in the event of an emergency, is informed orally or in writing before the nursing care institution makes a change in a resident's room or roommate assignment and notification is documented in the resident's medical record.
- C.** A resident has the following rights:
- 1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 - 2. To receive treatment that supports and respects the resident's individuality, choices, strengths, and abilities;
 - 3. To choose activities and schedules consistent with the resident's interests that do not interfere with other residents;
 - 4. To participate in social, religious, political, and community activities that do not interfere with other residents;
 - 5. To retain personal possessions including furnishings and clothing as space permits unless use of the personal possession infringes on the rights or health and safety of other residents;
 - 6. To share a room with the resident's spouse if space is available and the spouse consents;
 - 7. To receive a referral to another health care institution if the nursing care institution is not authorized or not able to provide physical health services or behavioral health services needed by the resident;
 - 8. To participate or have the resident's representative participate in the development of, or decisions concerning, treatment;
 - 9. To participate or refuse to participate in research or experimental treatment; and
 - 10. To receive assistance from a family member, the resident's representative, or other individual in understanding, protecting, or exercising the resident's rights.

Historical Note

New Section R9-10-410 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-411. Medical Records

- A.** An administrator shall ensure that:
- 1. A medical record is established and maintained for each resident according to A.R.S. Title 12, Chapter 13, Article 7.1;
 - 2. An entry in a resident's medical record is:
 - a. Recorded only by an individual authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 - 3. An order is:
 - a. Dated when the order is entered in the resident's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
 - 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 - 5. A resident's medical record is available to an individual:
 - a. Authorized to access the resident's medical record according to policies and procedures;
 - b. If the individual is not authorized to access the resident's medical record according to policies and procedures, with the written consent of the resident or the resident's representative; or
 - c. As permitted by law; and
 - 6. A resident's medical record is protected from loss, damage, or unauthorized use.
- B.** If a nursing care institution maintains residents' medical records electronically, an administrator shall ensure that:
- 1. Safeguards exist to prevent unauthorized access, and
 - 2. The date and time of an entry in a resident's medical record is recorded by the computer's internal clock.
- C.** An administrator shall ensure that a resident's medical record contains:
- 1. Resident information that includes:
 - a. The resident's name;
 - b. The resident's date of birth; and
 - c. Any known allergies, including medication allergies;
 - 2. The admission date and, if applicable, the date of discharge;
 - 3. The admitting diagnosis or presenting symptoms;
 - 4. Documentation of general consent and, if applicable, informed consent;
 - 5. If applicable, the name and contact information of the resident's representative and:
 - a. The document signed by the resident consenting for the resident's representative to act on the resident's behalf; or
 - b. If the resident's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
 - 6. The medical history and physical examination required in R9-10-407(6);
 - 7. A copy of the resident's living will or other health care directive, if applicable;
 - 8. The name and telephone number of the resident's attending physician;
 - 9. Orders;
 - 10. Care plans;
 - 11. Behavioral care plans, if the resident is receiving behavioral care;

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12. Documentation of nursing care institution services provided to the resident;
 13. Progress notes;
 14. If applicable, documentation of any actions taken to control the resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual;
 15. If applicable, documentation that evacuation from the nursing care institution would cause harm to the resident;
 16. The disposition of the resident after discharge;
 17. The discharge plan;
 18. The discharge summary;
 19. Transfer documentation;
 20. If applicable:
 - a. A laboratory report,
 - b. A radiologic report,
 - c. A diagnostic report, and
 - d. A consultation report;
 21. Documentation of freedom from infectious tuberculosis required in R9-10-407(7);
 22. Documentation of a medication administered to the resident that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. The type of vaccine, if applicable;
 - d. For a medication administered for pain on a PRN basis:
 - i. An evaluation of the resident's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - e. For a psychotropic medication administered on a PRN basis:
 - i. An evaluation of the resident's symptoms before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - f. The identification, signature, and professional designation of the individual administering the medication; and
 - g. Any adverse reaction a resident has to the medication;
 23. If the resident has been assessed for receiving nutrition and feeding assistance from a nutrition and feeding assistant, documentation of the assessment and the determination of eligibility; and
 24. If applicable, a copy of written notices, including follow-up instructions, provided to the resident or the resident's representative.
1. Nursing services are provided 24 hours a day in a nursing care institution;
 2. A director of nursing is appointed who:
 - a. Is a registered nurse,
 - b. Works full-time at the nursing care institution, and
 - c. Is responsible for the direction of nursing services;
 3. The director of nursing or an individual designated by the administrator participates in the quality management program; and
 4. If the daily census of the nursing care institution is 60 or more, the director of nursing does not provide direct care to residents on a regular basis.
- B.** A director of nursing shall ensure that:
1. A method is established and documented that identifies the types and numbers of nursing personnel that are necessary to provide nursing services to residents based on the residents' comprehensive assessments, orders for physical health services and behavioral health services, and care plans and the nursing care institution's scope of services;
 2. Sufficient nursing personnel, as determined by the method in subsection (B)(1), are on the nursing care institution premises to meet the needs of a resident for nursing services;
 3. At least one nurse is present on the nursing care institution's premises and responsible for providing direct care to not more than 64 residents;
 4. Documentation of nursing personnel present on the nursing care institution's premises each day is maintained and includes:
 - a. The date,
 - b. The number of residents,
 - c. The name and license or certification title of each nursing personnel member who worked that day, and
 - d. The actual number of hours each nursing personnel member worked that day;
 5. The documentation of nursing personnel required in subsection (B)(4) is maintained for at least 12 months after the date of the documentation;
 6. As soon as possible but not more than 24 hours after one of the following events occur, a nurse notifies a resident's attending physician and, if applicable, the resident's representative, if the resident:
 - a. Is injured,
 - b. Is involved in an incident that may require medical services, or
 - c. Has a significant change in condition; and
 7. An unnecessary drug is not administered to a resident.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-411 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-412. Nursing Services

A. An administrator shall ensure that:

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-412 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-413. Medical Services

A. An administrator shall appoint a medical director.

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B. A medical director shall ensure that:

1. A resident has an attending physician;
2. An attending physician is available 24 hours a day;
3. An attending physician designates a physician who is available when the attending physician is not available;
4. A physical examination is performed on a resident at least once every 12 months after the date of admission by an individual listed in R9-10-407(6);
5. As required in A.R.S. § 36-406, vaccinations for influenza and pneumonia are available to each resident at least once every 12 months unless:
 - a. The attending physician provides documentation that the vaccination is medically contraindicated;
 - b. The resident or the resident's representative refuses the vaccination or vaccinations and documentation is maintained in the resident's medical record that the resident or the resident's representative has been informed of the risks and benefits of a vaccination refused; or
 - c. The resident or the resident's representative provides documentation that the resident received a pneumonia vaccination within the last five years or the current recommendation from the U.S. Department of Health and Human Services, Center for Disease Control and Prevention; and
6. If the any of the following services are not provided by the nursing care institution and needed by a resident, the resident is assisted in obtaining, at the resident's expense:
 - a. Vision services;
 - b. Hearing services;
 - c. Dental services;
 - d. Clinical laboratory services from a laboratory that holds a certificate of accreditation or certificate of compliance issued by the United States Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Improvement Act of 1967;
 - e. Psychosocial services;
 - f. Physical therapy;
 - g. Speech therapy;
 - h. Occupational therapy;
 - i. Behavioral health services; and
 - j. Services for an individual who has a developmental disability, as defined in A.R.S. Title 36, Chapter 5.1, Article 1.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-413 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-414. Comprehensive Assessment; Care Plan**A.** A director of nursing shall ensure that:

1. A comprehensive assessment of a resident:
 - a. Is conducted or coordinated by a registered nurse in collaboration with an interdisciplinary team;
 - b. Is completed for the resident within 14 calendar days after the resident's admission to a nursing care institution;
 - c. Is updated:

- i. No later than 12 months after the date of the resident's last comprehensive assessment, and
- ii. When the resident experiences a significant change;
- d. Includes the following information for the resident:
 - i. Identifying information;
 - ii. An evaluation of the resident's hearing, speech, and vision;
 - iii. An evaluation of the resident's ability to understand and recall information;
 - iv. An evaluation of the resident's mental status;
 - v. Whether the resident's mental status or behaviors:
 - (1) Put the resident at risk for physical illness or injury,
 - (2) Significantly interfere with the resident's care,
 - (3) Significantly interfere with the resident's ability to participate in activities or social interactions,
 - (4) Put other residents or personnel members at significant risk for physical injury,
 - (5) Significantly intrude on another resident's privacy, or
 - (6) Significantly disrupt care for another resident;
 - vi. Preferences for customary routine and activities;
 - vii. An evaluation of the resident's ability to perform activities of daily living;
 - viii. Need for a mobility device;
 - ix. An evaluation of the resident's ability to control the resident's bladder and bowels;
 - x. Any diagnosis that impacts nursing care institution services that the resident may require;
 - xi. Any medical conditions that impact the resident's functional status, quality of life, or need for nursing care institution services;
 - xii. An evaluation of the resident's ability to maintain adequate nutrition and hydration;
 - xiii. An evaluation of the resident's oral and dental status;
 - xiv. An evaluation of the condition of the resident's skin;
 - xv. Identification of any medication or treatment administered to the resident during a seven-day calendar period that includes the time the comprehensive assessment was conducted;
 - xvi. Identification of any treatment or medication ordered for the resident;
 - xvii. A description of the resident or resident's representative's participation in the comprehensive assessment;
 - xviii. The name and title of the interdisciplinary team members who participated in the resident's comprehensive assessment;
 - xix. Potential for rehabilitation; and
 - xx. Potential for discharge; and
- e. Is signed and dated by:
 - i. The registered nurse who conducts or coordinates the comprehensive assessment or review; and
 - ii. If a behavioral health professional is required to review according to subsection (A)(2), the

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behavioral health professional who reviewed the comprehensive assessment or review;

2. If any of the conditions in (A)(1)(d)(v) are answered in the affirmative during the comprehensive assessment or review, a behavioral health professional reviews a resident's comprehensive assessment or review and care plan to ensure that the resident's needs for behavioral health services are being met;
 3. A new comprehensive assessment is not required for a resident who is hospitalized and readmitted to a nursing care institution unless a physician, an individual designated by the physician, or a registered nurse determines the resident has a significant change in condition; and
 4. A resident's comprehensive assessment is reviewed by a registered nurse at least once every three months after the date of the current comprehensive assessment and if there is a significant change in the resident's condition.
- B.** An administrator shall ensure that a care plan for a resident:
1. Is developed, documented, and implemented for the resident within seven calendar days after completing the resident's comprehensive assessment required in subsection (A)(1);
 2. Is reviewed and revised based on any change to the resident's comprehensive assessment; and
 3. Ensures that a resident is provided nursing care institution services that:
 - a. Address any medical condition or behavioral health issue identified in the resident's comprehensive assessment, and
 - b. Assist the resident in maintaining the resident's highest practicable well-being according to the resident's comprehensive assessment.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-414 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-415. Behavioral Health Services

Except for behavioral care, if a nursing care institution is authorized to provide behavioral health services, an administrator shall ensure that:

1. The behavioral health services are provided:
 - a. Under the direction of a behavioral health professional licensed or certified to provide the type of behavioral health services in the nursing care institution's scope of services; and
 - b. In compliance with the requirements:
 - i. For behavioral health paraprofessionals and behavioral health technicians, in R9-10-115; and
 - ii. For an assessment, in R9-10-1011(B); and
2. Except for a psychotropic drug ordered by a medical practitioner for a resident's out-of-control behavior or administered according to an order from a court of competent jurisdiction, informed consent is obtained from a resident or the resident's representative for a psychotropic

drug and documented in the resident's medical record before the psychotropic drug is administered to the resident.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-415 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-416. Clinical Laboratory Services

If clinical laboratory services are authorized to be provided on a nursing care institution's premises, an administrator shall ensure that:

1. Clinical laboratory services and pathology services are provided through a laboratory that holds a certificate of accreditation, certificate of compliance, or certificate of waiver issued by the United States Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Improvement Act of 1967;
2. A copy of the certificate of accreditation, certificate of compliance, or certificate of waiver in subsection (1) is provided to the Department for review upon the Department's request;
3. The nursing care institution:
 - a. Is able to provide the clinical laboratory services delineated in the nursing care institution's scope of services when needed by the residents,
 - b. Obtains specimens for the clinical laboratory services delineated in the nursing care institution's scope of services without transporting the residents from the nursing care institution's premises, and
 - c. Has the examination of the specimens performed by a clinical laboratory;
4. Clinical laboratory and pathology test results are:
 - a. Available to the ordering physician:
 - i. Within 24 hours after the test is complete with results if the test is performed at a laboratory on the nursing care institution's premises, or
 - ii. Within 24 hours after the test result is received if the test is performed at a laboratory outside of the nursing care institution's premises; and
 - b. Documented in a resident's medical record;
5. If a test result is obtained that indicates a resident may have an emergency medical condition, as established in policies and procedures, personnel notify:
 - a. The ordering physician,
 - b. A registered nurse in the resident's assigned unit,
 - c. The nursing care institution's administrator, or
 - d. The director of nursing;
6. If a clinical laboratory report is completed on a resident, a copy of the report is included in the resident's medical record;
7. If the nursing care institution provides blood or blood products, policies and procedures are established, documented, and implemented for:
 - a. Procuring, storing, transfusing, and disposing of blood or blood products;

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- b. Blood typing, antibody detection, and blood compatibility testing; and
- c. Investigating transfusion adverse reactions that specify a process for review through the quality management program; and
- 8. Expired laboratory supplies are discarded according to policies and procedures.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-416 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-417. Dialysis Services

If dialysis services are authorized to be provided on a nursing care institution's premises, an administrator shall ensure that the dialysis services are provided in compliance with the requirements in R9-10-1018.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-417 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-418. Radiology Services and Diagnostic Imaging Services

If radiology services or diagnostic imaging services are authorized to be provided on a nursing care institution's premises, an administrator shall ensure that:

1. Radiology services and diagnostic imaging services are provided in compliance with A.R.S. Title 30, Chapter 4 and 9 A.A.C. 7;
2. A copy of a certificate documenting compliance with subsection (1) is maintained by the nursing care institution;
3. When needed by a resident, radiology services and diagnostic imaging services delineated in the nursing care institution's scope of services are provided on the nursing care institution's premises;
4. Radiology services and diagnostic imaging services are provided:
 - a. Under the direction of a physician; and
 - b. According to an order that includes:
 - i. The resident's name,
 - ii. The name of the ordering individual,
 - iii. The radiological or diagnostic imaging procedure ordered, and
 - iv. The reason for the procedure;
5. A medical director, attending physician, or radiologist interprets the radiologic or diagnostic image;
6. A radiologic or diagnostic imaging report is prepared that includes:
 - a. The resident's name;
 - b. The date of the procedure;
 - c. A medical director, attending physician, or radiologist's interpretation of the image;

- d. The type and amount of radiopharmaceutical used, if applicable; and
- e. The resident's adverse reaction to the radiopharmaceutical, if any; and
- 7. A radiologic or diagnostic imaging report is included in the resident's medical record.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-418 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-419. Respiratory Care Services

If respiratory care services are provided on a nursing care institution's premises, an administrator shall ensure that:

1. Respiratory care services are provided under the direction of a medical director or attending physician;
2. Respiratory care services are provided according to an order that includes:
 - a. The resident's name;
 - b. The name and signature of the ordering individual;
 - c. The type, frequency, and, if applicable, duration of treatment;
 - d. The type and dosage of medication and diluent; and
 - e. The oxygen concentration or oxygen liter flow and method of administration;
3. Respiratory care services provided to a resident are documented in the resident's medical record and include:
 - a. The date and time of administration;
 - b. The type of respiratory care services provided;
 - c. The effect of the respiratory care services;
 - d. The resident's adverse reaction to the respiratory care services, if any; and
 - e. The authentication of the individual providing the respiratory care services; and
4. Any area or unit that performs blood gases or clinical laboratory tests complies with the requirements in R9-10-416.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-419 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-420. Rehabilitation Services

If rehabilitation services are provided on a nursing care institution's premises, an administrator shall ensure that:

1. Rehabilitation services are provided:
 - a. Under the direction of an individual qualified according to policies and procedures,
 - b. By an individual licensed to provide the rehabilitation services, and

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- c. According to an order; and
- 2. The medical record of a resident receiving rehabilitation services includes:
 - a. An order for rehabilitation services that includes the name of the ordering individual and a referring diagnosis,
 - b. A documented care plan that is developed in coordination with the ordering individual and the individual providing the rehabilitation services,
 - c. The rehabilitation services provided,
 - d. The resident's response to the rehabilitation services, and
 - e. The authentication of the individual providing the rehabilitation services.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-420 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-421. Medication Services

- A. An administrator shall ensure that policies and procedures for medication services:
 - 1. Include:
 - a. A process for providing information to a resident about medication prescribed for the resident including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse response to a medication, or
 - iii. A medication overdose;
 - c. Procedures to ensure that a pharmacist reviews a resident's medications at least once every three months and provides documentation to the resident's attending physician and the director of nursing indicating potential medication problems such as incompatible or duplicative medications;
 - d. Procedures for documenting medication services; and
 - e. Procedures for assisting a resident in obtaining medication; and
 - 2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B. An administrator shall ensure that:
 - 1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by the director of nursing;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a resident only as prescribed; and
 - d. Cover the documentation of a resident's refusal to take prescribed medication in the resident's medical record;
- 2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law;
- 3. A medication administered to a resident:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the resident's medical record; and
- 4. If a psychotropic medication is administered to a resident, the psychotropic medication:
 - a. Is only administered to a resident for a diagnosed medical condition; and
 - b. Unless clinically contraindicated or otherwise ordered by an attending physician or the attending physician's designee, is gradually reduced in dosage while the resident is simultaneously provided with interventions such as behavior and environment modification in an effort to discontinue the psychotropic medication, unless a dose reduction is attempted and the resident displays behavior justifying the need for the psychotropic medication, and the attending physician documents the necessity for the continued use and dosage.
- C. An administrator shall ensure that:
 - 1. A current drug reference guide is available for use by personnel members; and
 - 2. If pharmaceutical services are provided:
 - a. The pharmaceutical services are provided under the direction of a pharmacist;
 - b. The pharmaceutical services comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - c. A copy of the pharmacy license is provided to the Department upon request.
- D. When medication is stored at a nursing care institution, an administrator shall ensure that:
 - 1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 - 2. Medication is stored according to the instructions on the medication container; and
 - 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a resident for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of residents who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.
- E. An administrator shall ensure that a personnel member immediately reports a medication error or a resident's adverse reaction to a medication to the medical practitioner who ordered the medication and the nursing care institution's director of nursing.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-421

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made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-422. Infection Control

An administrator shall ensure that:

1. An infection control program is established, under the direction of an individual qualified according to policies and procedures, to prevent the development and transmission of infections and communicable diseases including:
 - a. A method to identify and document infections occurring at the nursing care institution;
 - b. Analysis of the types, causes, and spread of infections and communicable diseases at the nursing care institution;
 - c. The development of corrective measures to minimize or prevent the spread of infections and communicable diseases at the nursing care institution; and
 - d. Documentation of infection control activities including:
 - i. The collection and analysis of infection control data,
 - ii. The actions taken related to infections and communicable diseases, and
 - iii. Reports of communicable diseases to the governing authority and state and county health departments;
2. Infection control documentation is maintained for at least 12 months after the date of the documentation;
3. Policies and procedures are established, documented, and implemented that cover:
 - a. Handling and disposal of biohazardous medical waste;
 - b. Sterilization, disinfection, and storage of medical equipment and supplies;
 - c. Using personal protective equipment such as aprons, gloves, gowns, masks, or face protection when applicable;
 - d. Cleaning of an individual's hands when the individual's hands are visibly soiled and before and after providing a service to a resident;
 - e. Training of personnel members, employees, and volunteers in infection control practices; and
 - f. Work restrictions for a personnel member with a communicable disease or infected skin lesion;
4. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
5. Soiled linen and clothing are:
 - a. Collected in a manner to minimize or prevent contamination;
 - b. Bagged at the site of use; and
 - c. Maintained separate from clean linen and clothing and away from food storage, kitchen, or dining areas; and
6. A personnel member, an employee, or a volunteer washes hands or uses a hand disinfection product after a resident contact and after handling soiled linen, soiled clothing, or potentially infectious material.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-422 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-423. Food Services

A. An administrator shall ensure that:

1. The nursing care institution has a license or permit as a food establishment under 9 A.A.C. 8, Article 1;
2. A copy of the nursing care institution's food establishment license or permit is maintained;
3. If a nursing care institution contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the nursing care institution:
 - a. A copy of the contracted food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the nursing care institution; and
 - b. The nursing care institution is able to store, refrigerate, and reheat food to meet the dietary needs of a resident;
4. A registered dietitian:
 - a. Reviews a food menu before the food menu is used to ensure that a resident's nutritional needs are being met,
 - b. Documents the review of a food menu, and
 - c. Is available for consultation regarding a resident's nutritional needs; and
5. If a registered dietitian is not employed full-time, an individual is designated as a director of food services who consults with a registered dietitian as often as necessary to ensure that the nutritional needs of a resident are met.

B. A registered dietitian or director of food services shall ensure that:

1. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a resident such as cut, chopped, ground, pureed, or thickened;
2. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served on each day,
 - c. Is conspicuously posted at least one day before the first meal on the food menu will be served,
 - d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;
3. Meals and snacks for each day are planned and served using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp>;
4. A resident is provided:
 - a. A diet that meets the resident's nutritional needs as specified in the resident's comprehensive assessment and care plan;
 - b. Three meals a day with not more than 14 hours between the evening meal and breakfast except as provided in subsection (B)(4)(d);
 - c. The option to have a daily evening snack identified in subsection (B)(4)(d)(ii) or other snack; and

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- d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:
 - i. A resident group agrees; and
 - ii. The resident is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;
 5. A resident is provided with food substitutions of similar nutritional value if:
 - a. The resident refuses to eat the food served, or
 - b. The resident requests a substitution;
 6. Recommendations and preferences are requested from a resident or the resident's representative for meal planning;
 7. A resident requiring assistance to eat is provided with assistance that recognizes the resident's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils;
 8. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair;
 9. A resident eats meals in a dining area unless the resident chooses to eat in the resident's room or is confined to the resident's room for medical reasons documented in the resident's medical record; and
 10. Water is available and accessible to residents.
- C. If a nursing care institution has nutrition and feeding assistants, an administrator shall ensure that:
1. A nutrition and feeding assistant:
 - a. Is at least 16 years of age;
 - b. If applicable, complies with the fingerprint clearance card requirements in A.R.S. § 36-411;
 - c. Completes a nutrition and feeding assistant training course within 12 months before initially providing nutrition and feeding assistance;
 - d. Provides nutrition and feeding assistance where nursing personnel are present;
 - e. Immediately reports an emergency to a nurse or, if a nurse is not present in the common area, to nursing personnel; and
 - f. If the nutrition and feeding assistant observes a change in a resident's physical condition or behavior, reports the change to a nurse or, if a nurse is not present in the common area, to nursing personnel;
 2. A resident is not eligible to receive nutrition and feeding assistance from a nutrition and feeding assistant if the resident:
 - a. Has difficulty swallowing,
 - b. Has had recurrent lung aspirations,
 - c. Requires enteral feedings,
 - d. Requires parenteral feedings, or
 - e. Has any other eating or drinking difficulty that may cause the resident's health or safety to be compromised if the resident receives nutrition and feeding assistance from a nutrition and feeding assistant;
 3. Only an eligible resident receives nutrition and feeding assistance from a nutrition and feeding assistant;
 4. A nurse determines if a resident is eligible to receive nutrition and feeding assistance from a nutrition and feeding assistant, based on:
 - a. The resident's comprehensive assessment,
 - b. The resident's care plan, and
 - c. An assessment conducted by the nurse when making the determination;
 5. A method is implemented that identifies eligible residents that ensures only eligible residents receive nutrition and feeding assistance from a nutrition and feeding assistant;
 6. When a nutrition and feeding assistant initially provides nutrition and feeding assistance and at least once every three months, a nurse observes the nutrition and feeding assistant while the nutrition and feeding assistant is providing nutrition and feeding assistance to ensure that the nutrition and feeding assistant is providing nutrition and feeding assistance appropriately;
 7. A nurse documents the nurse's observations required in subsection (C)(6); and
 8. A nutrition and feeding assistant is provided additional training:
 - a. According to policies and procedures, and
 - b. If a nurse identifies a need for additional training based on the nurse's observation in subsection (C)(6).

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-423 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-424. Emergency and Safety Standards

- A. An administrator shall ensure that:
1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and other employees, and, if necessary, implemented that includes:
 - a. When, how, and where residents will be relocated, including:
 - i. Instructions for the evacuation or transfer of residents,
 - ii. Assigned responsibilities for each employee and personnel member, and
 - iii. A plan for continuing to provide services to meet a resident's needs;
 - b. How a resident's medical record will be available to individuals providing services to the resident during a disaster;
 - c. A plan for back-up power and water supply;
 - d. A plan to ensure a resident's medications will be available to administer to the resident during a disaster;
 - e. A plan to ensure a resident is provided nursing services and other services required by the resident during a disaster; and
 - f. A plan for obtaining food and water for individuals present in the nursing care institution or the nursing care institution's relocation site during a disaster;
 2. The disaster plan required in subsection (A)(1) is reviewed at least once every 12 months;
 3. Documentation of a disaster plan review required in subsection (A)(2) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;

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- b. The name of each personnel member, employee, or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
 - 4. A disaster drill for employees is conducted on each shift at least once every three months and documented;
 - 5. An evacuation drill for employees and residents:
 - a. Is conducted at least once every six months; and
 - b. Includes all individuals on the premises except for:
 - i. A resident whose medical record contains documentation that evacuation from the nursing care institution would cause harm to the resident, and
 - ii. Sufficient personnel members to ensure the health and safety of residents not evacuated according to subsection (A)(5)(b)(i);
 - 6. Documentation of each evacuation drill is created, is maintained for at least 12 months after the date of the drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for employees and residents to evacuate to a designated area;
 - c. If applicable:
 - i. An identification of residents needing assistance for evacuation, and
 - ii. An identification of residents who were not evacuated;
 - d. Any problems encountered in conducting the evacuation drill; and
 - e. Recommendations for improvement, if applicable; and
 - 7. An evacuation path is conspicuously posted on each hallway of each floor of the nursing care institution.
- B. An administrator shall ensure that, if applicable, a sign is placed at the entrance to a room or area indicating that oxygen is in use.
- C. An administrator shall:
 - 1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 - 2. Make any repairs or corrections stated on the fire inspection report, and
 - 3. Maintain documentation of a current fire inspection.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-424 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-425. Environmental Standards

- A. An administrator shall ensure that:
 - 1. A nursing care institution's premises and equipment are:
 - a. Cleaned and disinfected according to policies and procedures or manufacturer's instructions to prevent, minimize, and control illness and infection; and
 - b. Free from a condition or situation that may cause a resident or an individual to suffer physical injury;
 - 2. A pest control program that complies with A.A.C. R3-8-201(C)(4) is implemented and documented;
 - 3. Equipment used to provide direct care is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
 - 4. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
 - 5. Garbage and refuse are:
 - a. In areas used for food storage, food preparation, or food service, stored in a covered container lined with a plastic bag;
 - b. In areas not used for food storage, food preparation, or food service, stored:
 - i. According to the requirements in subsection (A)(5)(a), or
 - ii. In a paper-lined or plastic-lined container that is cleaned and sanitized as often as necessary to ensure that the container is clean; and
 - c. Removed from the premises at least once a week;
 - 6. Heating and cooling systems maintain the nursing care institution at a temperature between 70° F and 84° F;
 - 7. Common areas:
 - a. Are lighted to assure the safety of residents, and
 - b. Have lighting sufficient to allow personnel members to monitor resident activity;
 - 8. The supply of hot and cold water is sufficient to meet the personal hygiene needs of residents and the cleaning and sanitation requirements in this Article;
 - 9. Linens are clean before use, without holes and stains, and not in need of repair;
 - 10. Oxygen containers are secured in an upright position;
 - 11. Poisonous or toxic materials stored by the nursing care institution are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to residents;
 - 12. Combustible or flammable liquids stored by the nursing care institution are stored in the original labeled containers or safety containers in a locked area inaccessible to residents;
 - 13. If pets or animals are allowed in the nursing care institution, pets or animals are:
 - a. Controlled to prevent endangering the residents and to maintain sanitation;
 - b. Licensed consistent with local ordinances; and
 - c. For a dog or cat, vaccinated against rabies;
 - 14. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
 - c. Documentation of testing is retained for at least 12 months after the date of the test; and

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15. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to all applicable state laws and rules.
- B.** An administrator shall ensure that:
 1. Smoking tobacco products is not permitted within a nursing care institution, and
 2. Smoking tobacco products may be permitted outside a nursing care institution if:
 - a. Signs designating smoking areas are conspicuously posted, and
 - b. Smoking is prohibited in areas where combustible materials are stored or in use.
- C.** If a swimming pool is located on the premises, an administrator shall ensure that:
 1. At least one personnel member with cardiopulmonary resuscitation training that meets the requirements in R9-10-403(C)(1)(e) is present in the pool area when a resident is in the pool area, and
 2. At least two personnel members are present in the pool area when two or more residents are in the pool area.
6. A resident has a separate bed, a nurse call system, and furniture to meet the resident's needs in a resident room or suite of rooms;
7. A resident room has:
 - a. A window to the outside with window coverings for controlling light and visual privacy, and the location of the window permits a resident to see outside from a sitting position;
 - b. A closet with clothing racks and shelves accessible to the resident; and
 - c. If the resident room contains more than one bed, a curtain or similar type of separation between the beds for privacy; and
8. A resident room or a suite of rooms:
 - a. Is accessible without passing through another resident's room; and
 - b. Does not open into any area where food is prepared, served, or stored.
- B.** If a swimming pool is located on the premises, an administrator shall ensure that:
 1. The swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;
 - b. Has no vertical openings greater than four inches across;
 - c. Has no horizontal openings, except as described in subsection (B)(1)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
 - f. Has a self-closing, self-latching gate that:
 - i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground, and
 - iii. Is locked when the swimming pool is not in use; and
 2. A life preserver or shepherd's crook is available and accessible in the pool area.
- C.** An administrator shall ensure that a spa that is not enclosed by a wall or fence as described in subsection (B)(1) is covered and locked when not in use.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-425 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-426. Physical Plant Standards

- A.** An administrator shall ensure that:
 1. A nursing care institution complies with:
 - a. The applicable physical plant health and safety codes and standards, incorporated by reference in R9-10-104.01, that were in effect on the date the nursing care institution submitted architectural plans and specifications to the Department for approval according to R9-10-104; and
 - b. The requirements for Existing Health Care Occupancies in National Fire Protection Association 101, Life Safety Code, incorporated by reference in R9-10-104.01;
 2. The premises and equipment are sufficient to accommodate:
 - a. The services stated in the nursing care institution's scope of services, and
 - b. An individual accepted as a resident by the nursing care institution;
 3. A nursing care institution is ventilated by windows or mechanical ventilation, or a combination of both;
 4. The corridors are equipped with handrails on each side that are firmly attached to the walls and are not in need of repair;
 5. No more than two individuals reside in a resident room unless:
 - a. The nursing care institution was operating before October 31, 1982; and
 - b. The resident room has not undergone a modification as defined in A.R.S. § 36-401;

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-426 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-427. Quality Rating

- A.** As required in A.R.S. § 36-425.02(A), the Department shall issue a quality rating to each licensed nursing care institution based on the results of a compliance inspection.
- B.** The following quality ratings are established:
 1. A quality rating of "A" for excellent is issued if the nursing care institution achieves a score of 90 to 100 points,
 2. A quality rating of "B" is issued if the nursing care institution achieves a score of 80 to 89 points,

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3. A quality rating of "C" is issued if the nursing care institution achieves a score of 70 to 79 points, and
 4. A quality rating of "D" is issued if the nursing care institution achieves a score of 69 or fewer points.
- C. The quality rating is determined by the total number of points awarded based on the following criteria:
1. Nursing Services:
 - a. 15 points: The nursing care institution is implementing a system that ensures residents are provided nursing services to maintain the resident's highest practicable physical, mental, and psychosocial well-being according to the resident's comprehensive assessment and care plan.
 - b. 5 points: The nursing care institution ensures that each resident is free from medication errors that resulted in actual harm.
 - c. 5 points: The nursing care institution ensures the resident's representative is notified and the resident's attending physician is consulted if a resident has a significant change in condition or if the resident is in an incident that requires medical services.
 2. Resident Rights:
 - a. 10 points: The nursing care institution is implementing a system that ensures a resident's privacy needs are met.
 - b. 10 points: The nursing care institution ensures that a resident is free from physical and chemical restraints for purposes other than to treat the resident's medical condition.
 - c. 5 points: The nursing care institution ensures that a resident or the resident's representative is allowed to participate in the planning of, or decisions concerning treatment including the right to refuse treatment and to formulate a health care directive.
 3. Administration:
 - a. 10 points: The nursing care institution has no repeat deficiencies that resulted in actual harm or immediate jeopardy to residents that were cited during the last compliance inspection or a complaint investigation conducted between the last compliance inspection and the current compliance inspection.
 - b. 5 points: The nursing care institution is implementing a system to prevent abuse of a resident and misappropriation of resident property, investigate each allegation of abuse of a resident and misappropriation of resident's property, and report each allegation of abuse of a resident and misappropriation of resident's property to the Department and as required by A.R.S. § 46-454.
 - c. 5 points: The nursing care institution is implementing a quality management program that addresses nursing care institution services provided to residents, resident complaints, and resident concerns, and documents actions taken for response, resolution, or correction of issues about nursing care institution services provided to residents, resident complaints, and resident concerns.
 - d. 1 point: The nursing care institution is implementing a system to provide social services and a program of ongoing recreational activities to meet the resident's needs based on the resident's comprehensive assessment.
 - e. 1 point: The nursing care institution is implementing a system to ensure that records documenting freedom from infectious pulmonary tuberculosis are maintained for each personnel member, volunteer, and resident.
 - f. 2 points: The nursing care institution is implementing a system to ensure that a resident is free from unnecessary drugs.
 - g. 1 point: The nursing care institution is implementing a system to ensure a personnel member attends in-service education according to policies and procedures.
 4. Environment and Infection Control:
 - a. 5 points: The nursing care institution environment is free from a condition or situation within the nursing care institution's control that may cause a resident injury.
 - b. 1 point: The nursing care institution establishes and maintains a pest control program that complies with A.A.C. R3-8-201(C)(4).
 - c. 1 point: The nursing care institution develops a written disaster plan that includes procedures for protecting the health and safety of residents.
 - d. 1 point: The nursing care institution ensures orientation to the disaster plan for each personnel member is completed within the first scheduled week of employment.
 - e. 1 point: The nursing care institution maintains a clean and sanitary environment.
 - f. 5 points: The nursing care institution is implementing a system to prevent and control infection.
 - g. 1 point: An employee cleans the employee's hands after each direct resident contact or when hand cleaning is indicated to prevent the spread of infection.
 5. Food Services:
 - a. 1 point: The nursing care institution complies with 9 A.A.C. 8, Article 1, for food preparation, storage and handling as evidenced by a current food establishment license.
 - b. 3 points: The nursing care institution provides each resident with food that meets the resident's needs as specified in the resident's comprehensive assessment and care plan.
 - c. 2 points: The nursing care institution obtains input from each resident or the resident's representative and implements recommendations for meal planning and food choices consistent with the resident's dietary needs.
 - d. 2 points: The nursing care institution provides assistance to a resident who needs help in eating so that the resident's nutritional, physical, and social needs are met.
 - e. 1 point: The nursing care institution prepares menus at least one week in advance, conspicuously posts each menu, and adheres to each planned menu unless an uncontrollable situation such as food spoilage or non-delivery of a specified food requires substitution.
 - f. 1 point: The nursing care institution provides food substitution of similar nutritive value for residents who refuse the food served or who request a substitution.
- D. A nursing care institution's quality rating remains in effect until a subsequent compliance inspection or complaint investigation.

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gation is conducted by the Department except as provided in subsection (E).

- E. If the Department issues a provisional license, the current quality rating is terminated. A provisional licensee may submit an application for a substantial compliance inspection. If the Department determines that, as a result of a substantial compliance inspection, the nursing care institution is in substantial compliance, the Department shall issue a new quality rating according to subsection (C).
- F. The issuance of a quality rating does not preclude the Department from seeking a civil penalty as provided in A.R.S. § 36-431.01, or suspension or revocation of a license as provided in A.R.S. § 36-427.

Historical Note

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2). New Section R9-10-427 made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3334, effective October 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-428. Repealed**Historical Note**

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-429. Repealed**Historical Note**

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-430. Repealed**Historical Note**

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-431. Repealed**Historical Note**

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-432. Repealed**Historical Note**

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-433. Repealed**Historical Note**

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-434. Repealed**Historical Note**

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-435. Repealed**Historical Note**

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-436. Repealed**Historical Note**

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-437. Repealed**Historical Note**

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-438. Repealed**Historical Note**

Adopted effective January 28, 1980 (Supp. 80-1). Section repealed by final rulemaking at 8 A.A.R. 2785, effective October 1, 2002 (Supp. 02-2).

R9-10-439. Repealed**Historical Note**

Adopted effective January 28, 1980 (Supp. 80-1). Repealed effective October 30, 1989 (Supp. 89-4).

ARTICLE 5. INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES**R9-10-501. Definitions**

In addition to the definitions in A.R.S. §§ 36-401 and 36-551 and R9-10-101, the following definitions apply in this Article unless otherwise specified:

1. "Active treatment" means rehabilitative services and habilitation services provided to a resident to address the resident's developmental disability and, if applicable, medical condition.
2. "Acuity" means a resident's need for medical services, nursing services, rehabilitative services, or habilitation services based on the patient's medical condition or developmental disability.
3. "Acuity plan" means a method for establishing requirements for nursing personnel or therapists by unit based on a resident's acuity.
4. "Advocate" means an individual who:
 - a. Assists a resident or the resident's representative to make the resident's wants and needs known,
 - b. Recommends a course of action to address the resident's wants and needs, and
 - c. Supports the resident or the resident's representative in addressing the resident's wants and needs.
5. "Assistive device" means a piece of equipment or mechanism that is designed to enable an individual to better carry out activities of daily living.
6. "Dental services" means activities, methods, and procedures included in the practice of dentistry, as described in A.R.S. § 32-1202.

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7. "Direct care" means medical services, nursing services, rehabilitation services, or habilitation services provided to a resident.
8. "Inappropriate behavior" means actions by a resident that may:
 - a. Put the resident at risk for physical illness or injury,
 - b. Significantly interfere with the resident's care,
 - c. Significantly interfere with the resident's ability to participate in activities or social interactions,
 - d. Put other residents or personnel members at significant risk for physical injury,
 - e. Significantly intrude on another resident's privacy, or
 - f. Significantly disrupt care for another resident.
9. "Medical care plan" means a documented guide for providing medical services and nursing services to a resident requiring continuous nursing services that includes measurable objectives and the methods for meeting the objectives.
10. "Nursing care plan" means a documented guide for providing intermittent nursing services to a resident that includes measurable objectives and the methods for meeting the objectives.
11. "Outing" means a social or recreational activity or habilitation services that:
 - a. Occur away from the premises, and
 - b. May be part of a resident's individual program plan.
12. "Qualified intellectual disabilities professional" means one of the following who has at least one year of experience working directly with individuals who have developmental disabilities:
 - a. A physician;
 - b. A registered nurse;
 - c. A physical therapist;
 - d. An occupational therapist;
 - e. A psychologist, as defined in A.R.S. § 32-2061;
 - f. A speech-language pathologist;
 - g. An audiologist, as defined in A.R.S. § 36-1901;
 - f. A registered dietitian, as defined in A.R.S. § 36-416;
 - g. A licensed clinical social worker under A.R.S. § 32-3293; or
 - h. A nursing care institution administrator.
13. "Resident's representative" has the same meaning as "responsible person" in A.R.S. § 36-551.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Emergency expired. Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Section R9-10-501 renumbered to R9-10-2101; new Sec-

tion R9-10-501 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by exempt rulemaking, at 26 A.A.R. 72 with an effective date of January 1, 2020 (Supp. 19-4). Amended by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-502. Supplemental Application Requirements and Documentation Submission Requirements

- A. In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for a license as an ICF/IID shall include:
 1. In a Department-provided format, whether the applicant is requesting authorization:
 - a. To admit residents who:
 - i. Require continuous nursing services,
 - ii. Require intermittent nursing services, or
 - iii. Do not require nursing services; and
 - b. To provide:
 - i. Active treatment to individuals under 18 years of age, including the licensed capacity requested;
 - ii. Seclusion;
 - iii. Clinical laboratory services;
 - iv. Respiratory care services, or
 - v. Services to residents who have a nursing care plan or medical care plan; and
 2. Documentation of the applicant's certification as an ICF/IID by the federal Centers for Medicare and Medicaid Services.
- B. A licensee shall submit to the Department, with the relevant fees required in R9-10-106(C) and in a Department-provided format:
 1. The information required in subsection (A)(1), as applicable, and
 2. The documentation specified in subsection (A)(2).

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Section R9-10-502 renumbered to R9-10-2102; new Section R9-10-502 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by exempt rulemaking, at 26 A.A.R. 72 with an effective date of January 1, 2020 (Supp. 19-4).

R9-10-503. Administration

- A. A governing authority shall:

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1. Consist of one or more individuals responsible for the organization, operation, and administration of an ICF/IID;
 2. Establish, in writing, the ICF/IID's scope of services;
 3. Designate, in writing, an administrator for the ICF/IID who:
 - a. Is at least 21 years old; and
 - b. Either:
 - i. Is a nursing care institution administrator, or
 - ii. Has a minimum of three-years' experience working in an ICF/IID;
 4. Adopt a quality management program according to R9-10-504;
 5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
 6. Designate, in writing, an acting administrator who meets the requirements in subsection (A)(3), if the administrator is:
 - a. Expected not to be present on the premises of the ICF/IID for more than 30 calendar days, or
 - b. Not present on the premises of the ICF/IID for more than 30 calendar days; and
 7. Except as permitted in subsection (A)(6), when there is a change of administrator, notify the Department according to A.R.S. § 36-425(I) and, if applicable, submit a copy of the new administrator's license under A.R.S. § 36-446.04 to the Department.
- B. An administrator:**
1. Is directly accountable to the governing authority of an ICF/IID for the daily operation of the ICF/IID and all services provided by or at the ICF/IID;
 2. Has the authority and responsibility to manage the ICF/IID;
 3. Except as provided in subsection (A)(6), designates, in writing, an individual who is present on the premises of the ICF/IID and accountable for the ICF/IID when the administrator is not present on the ICF/IID's premises; and
 4. Ensures the ICF/IID's compliance with A.R.S. § 36-411 and, as applicable, A.R.S. § 8-804 or § 46-459.
- C. An administrator shall ensure that:**
1. Policies and procedures are established, documented, and implemented to protect the health and safety of a resident that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover the process for checking on a personnel member through the adult protective services registry established according to A.R.S. § 46-459;
 - c. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - d. Include methods to prevent abuse or neglect of a resident, including:
 - i. Training of personnel members, at least annually, on how to recognize the signs and symptoms of abuse or neglect; and
 - ii. Reporting of abuse or neglect of a resident;
 - e. Include how a personnel member may submit a complaint relating to resident care;
 - f. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - g. Cover cardiopulmonary resuscitation training including:
 - i. Which personnel members are required to obtain cardiopulmonary resuscitation training,
 - ii. The method and content of cardiopulmonary resuscitation training,
 - iii. The qualifications for an individual to provide cardiopulmonary resuscitation training,
 - iv. The time-frame for renewal of cardiopulmonary resuscitation training, and
 - v. The documentation that verifies an individual has received cardiopulmonary resuscitation training;
 - h. Cover first aid training;
 - i. Include a method to identify a resident to ensure the resident receives active treatment and other physical health services and behavioral care as ordered;
 - j. Cover resident rights, including assisting a resident who does not speak English or who has a disability to become aware of resident rights;
 - k. Cover specific steps for:
 - i. A resident to file a complaint, and
 - ii. The ICF/IID to respond to a resident's complaint;
 - l. Cover health care directives;
 - m. Cover medical records, including electronic medical records;
 - n. Cover a quality management program, including incident reports and supporting documentation;
 - o. Cover contracted services;
 - p. Cover the process for receiving a fee for a resident and refunding a fee for a resident;
 - q. Cover resident's personal accounts;
 - r. Cover petty cash funds;
 - s. Cover fees and refund policies;
 - t. Cover smoking and the use of tobacco products on the premises; and
 - u. Cover when an individual may visit a resident in an ICF/IID; and
2. Policies and procedures for active treatment and other physical health services and behavioral care are established, documented, and implemented to protect the health and safety of a resident that:
 - a. Cover resident screening, admission, transport, transfer, discharge planning, and discharge;
 - b. Cover the provision of active treatment and other physical health services and behavioral care;
 - c. Cover acuity, including a process for obtaining sufficient nursing personnel and therapists to meet the needs of residents;
 - d. Include when general consent and informed consent are required;
 - e. Cover storing, dispensing, administering, and disposing of medication, including provisions for inventory control and preventing diversion of controlled substances;
 - f. Cover infection control;
 - g. Cover interventions to address a resident's inappropriate behavior, including:
 - i. The hierarchy for use;
 - ii. Use of time outs for inappropriate behavior; and

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- iii. Except in an emergency, require positive techniques for behavior modification to be used before more restrictive methods are used;
 - h. Cover restraints, both chemical restraints and physical restraints if applicable, that:
 - i. Require an order, including the frequency of monitoring and assessing the restraint; and
 - ii. Are necessary to prevent imminent harm to self or others, including how personnel members will respond to a resident's sudden, intense, or out-of-control behavior;
 - i. Cover seclusion of a resident including:
 - i. The requirements for an order; and
 - ii. The frequency of monitoring and assessing a resident in seclusion;
 - j. Cover telemedicine, if applicable;
 - k. Cover environmental services that affect resident care;
 - l. Cover the security of a resident's possessions that are allowed on the premises;
 - m. Cover methods to encourage participation of a resident's family or friends or other individuals in activities planned according to R9-10-513(C)(2);
 - n. Include a method for obtaining an advocate for a resident, if necessary;
 - o. Cover resident outings;
 - p. Cover the process for obtaining resident preferences for social, recreational, or rehabilitative activities and meals and snacks; and
 - q. Cover whether pets and animals are allowed on the premises, including procedures to ensure that any pets or animals allowed on the premises do not endanger the health or safety of residents or the public;
3. Policies and procedures are reviewed at least once every three years and updated as needed;
 4. Policies and procedures are available to personnel members, employees, volunteers, and students; and
 5. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of an ICF/IID, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the ICF/IID.
- D.** An administrator shall designate an individual who is:
1. A qualified intellectual disabilities professional to oversee rehabilitation services provided by or on behalf of the ICF/IID; and
 2. If the facility is authorized to admit patients who require intermittent nursing services or continuous nursing services, a registered nurse is appointed as director of nursing to oversee nursing services provided by or on behalf of the ICF/IID.
- E.** If abuse, neglect, or exploitation of a resident is alleged or suspected to have occurred before the resident was admitted or while the resident is not on the premises and not receiving services from an ICF/IID's employee or personnel member, an administrator shall report the alleged or suspected abuse, neglect, or exploitation of the resident as follows:
1. For a resident 18 years of age or older, according to A.R.S. § 46-454; or
 2. For a resident under 18 years of age, according to A.R.S. § 13-3620.
- F.** If an administrator has a reasonable basis, according to A.R.S. §§ 13-3620 or 46-454, to believe that abuse, neglect, or exploitation has occurred on the premises or while a resident is receiving services from an ICF/IID's employee or personnel member, an administrator shall:
1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Report the suspected abuse, neglect, or exploitation of the resident as follows:
 - a. For a resident 18 years of age or older, according to A.R.S. § 46-454; or
 - b. For a resident under 18 years of age, according to A.R.S. § 13-3620;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (F)(1); and
 - c. The report in subsection (F)(2);
 4. Maintain the documentation in subsection (F)(3) for at least 12 months after the date of the report in subsection (F)(2);
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (F)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the resident related to the suspected abuse or neglect and any change to the resident's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 6. Maintain a copy of the documented information required in subsection (F)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- G.** An administrator shall:
1. Allow a resident advocate to assist a resident or the resident's representative with a request or recommendation, and document in writing any complaint submitted to the ICF/IID;
 2. Ensure that a monthly schedule of recreational activities for residents is developed, documented, and implemented; and
 3. Ensure that the following are conspicuously posted on the premises:
 - a. The current ICF/IID license issued by the Department;
 - b. The name, address, and telephone number of:
 - i. The Department's Office of Long Term Care, and
 - ii. Adult Protective Services of the Department of Economic Security;
 - c. A notice that a resident may file a complaint with the Department concerning the ICF/IID;
 - d. The monthly schedule of recreational activities; and
 - e. One of the following:
 - i. A copy of the current license survey report with information identifying residents redacted, any

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- subsequent reports issued by the Department, and any plan of correction that is in effect; or
- ii. A notice that the current license survey report with information identifying residents redacted, any subsequent reports issued by the Department, and any plan of correction that is in effect are available for review upon request.
- H.** An administrator shall provide written notification to the Department of a resident's:
1. Death, if the resident's death is required to be reported according to A.R.S. § 11-593, within one working day after the resident's death; and
 2. Self-injury, within two working days after the resident inflicts a self-injury that requires immediate intervention by an emergency medical services provider.
- I.** An administrator shall:
1. Notify a resident's representative, family member, or other individual designated by the resident within one calendar day after:
 - a. The resident's death,
 - b. There is a significant change in the resident's medical condition, or
 - c. The resident has an illness or injury that requires immediate intervention by an emergency medical services provider or treatment by a health care provider; and
 2. For an illness or injury in subsection (I)(1)(c), document the following:
 - a. The date and time of the illness or injury;
 - b. A description of the illness or injury;
 - c. If applicable, the names of individuals who observed the injury;
 - d. The actions taken by personnel members, according to policies and procedures;
 - e. The individuals notified by the personnel members; and
 - f. Any action taken to prevent the illness or injury from occurring in the future.
- J.** If an administrator administers a resident's personal account at the request of the resident or the resident's representative, the administrator shall:
1. Comply with policies and procedures established according to subsection (C)(1)(q);
 2. Designate a personnel member who is responsible for the personal accounts;
 3. Maintain a complete and separate accounting of each personal account;
 4. Obtain written authorization from the resident or the resident's representative for a personal account transaction;
 5. Document an account transaction and provide a copy of the documentation to the resident or the resident's representative upon request and at least every three months;
 6. Transfer all money from the resident's personal account in excess of \$50.00 to an interest-bearing account and credit the interest to the resident's personal account; and
 7. Within 30 calendar days after the resident's death, transfer, or discharge, return all money in the resident's personal account and a final accounting to the resident, the resident's representative, or the probate jurisdiction administering the resident's estate.
- K.** If a petty cash fund is established for use by residents, the administrator shall ensure that:
1. The policies and procedures established according to subsection (C)(1)(r) include:
 - a. A prescribed cash limit of the petty cash fund, and
 - b. The hours of the day a resident may access the petty cash fund; and
 2. A resident's written acknowledgment is obtained for a petty cash transaction.
- L.** An administrator shall ensure that an acuity plan is developed, documented, and implemented for each unit in the ICF/IID that:
1. Includes:
 - a. A method that establishes the types and numbers of personnel members that are required for each unit in the ICF/IID to ensure resident health and safety, and
 - b. A policy and procedure stating the steps the ICF/IID will take to obtain or assign the necessary personnel members to address resident acuity;
 2. Is used when making assignments for resident treatment; and
 3. Is reviewed and updated, as necessary, at least once every 12 months.
- M.** An administrator shall establish and document the criteria for determining when a resident's absence is unauthorized, including the criteria for a resident who:
1. Is absent against medical advice,
 2. Is under the age of 18, or
 3. Does not return to the ICF/IID at the expected time after an authorized absence.
- N.** An administrator shall ensure that the following are on the premises of the ICF/IID:
1. The most recent inspection report of the ICF/IID conducted by the Arizona Department of Economic Security under A.R.S. § 36-557(G)(1), and
 2. Documentation of the most recent monitoring of the ICF/IID conducted by the Arizona Department of Economic Security under A.R.S. § 36-557(G)(2).

Historical Note

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R9-10-504. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:

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- a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to residents;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to resident care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to resident care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to resident care; and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to resident care; and
 3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

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R9-10-505. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

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41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Section R9-10-505 renumbered to R9-10-2105; new Section R9-10-505 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-506. Personnel

A. An administrator shall ensure that:

1. A personnel member is:
 - a. At least 21 years old, or
 - b. At least 18 years old and is licensed or certified under A.R.S. Title 32 and providing services within the personnel member's scope of practice;
2. An employee is at least 18 years old;
3. A student is at least 18 years old; and
4. A volunteer is at least 21 years old.

B. An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of active treatment or other physical health services or behavioral care expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the residents receiving active treatment or other physical health services or behavioral care from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected active treatment or other physical health services and behavioral care listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected active treatment or other physical health services or behavioral care listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected active treatment or other physical health services or behavioral care listed in the established job description;
2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides active treatment or other physical health services or and behavioral care, and
 - b. According to policies and procedures; and
3. Sufficient personnel members are present on an ICF/IID's premises with the qualifications, skills, and knowledge necessary to:

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- a. Provide the services in the ICF/IID's scope of services,
 - b. Meet the needs of a resident, and
 - c. Ensure the health and safety of a resident.
- C. An administrator shall ensure that an organizational chart of the ICF/IID is established, updated as necessary, and maintained on the premises:
 - 1. Outlining the roles, responsibilities, and relationships within the ICF/IID; and
 - 2. Including the name and, if applicable, the license or certification credential of each individual shown on the organizational chart.
- D. An administrator shall ensure that, if a personnel member provides services that require a license under A.R.S. Title 32 or 36, the personnel member is licensed under A.R.S. Title 32 or 36, as applicable.
- E. An administrator shall ensure that an individual who is a licensed baccalaureate social worker, master social worker, associate marriage and family therapist, associate counselor, or associate substance abuse counselor is under direct supervision as defined in 4 A.A.C. 6, Article 1.
- F. An administrator shall ensure that a personnel member or an employee or volunteer who has or is expected to have direct interaction with a resident for more than eight hours a week provides evidence of freedom from infectious tuberculosis:
 - 1. On or before the date the individual begins providing services at or on behalf of the ICF/IID, and
 - 2. As specified in R9-10-113.
- G. An administrator shall ensure that:
 - 1. The types and numbers of nurses or therapists required according to the acuity plan in R9-10-503(L) are present in each unit in the ICF/IID;
 - 2. Documentation of the nurses or therapists present on the ICF/IID's premises each day is maintained and includes:
 - a. The date;
 - b. The number of residents;
 - c. The name, license or certification credential, and assigned duties of each nurse or therapist who worked that day; and
 - d. The actual number of hours each nurse or therapist worked that day; and
 - 3. The documentation of nurses or therapists required in subsection (G)(2) is maintained for at least 12 months after the date of the documentation.
- H. An administrator shall ensure that a personnel member is:
 - 1. On duty, on the premises, awake, and able to respond, according to policies and procedures, to injuries, symptoms of illness, or fire or other emergencies on the premises if the ICF/IID provides services to:
 - a. More than 16 residents;
 - b. A resident who has a nursing care plan or medical care plan; or
 - c. A resident who requires additional supervision because the resident:
 - i. Is aggressive,
 - ii. May cause harm to self or others, or
 - iii. May attempt an unauthorized absence; and
 - 2. On duty, on the premises, and able to respond, according to policies and procedures, to injuries, symptoms of illness, or fire or other emergencies on the premises if:
 - a. The ICF/IID provides services to 16 or fewer residents, and
 - b. None of the residents has a nursing care plan or medical care plan or requires additional supervision according to subsection (H)(1)(c).
- I. An administrator shall ensure that a personnel record is maintained for each personnel member, employee, volunteer, or student that includes:
 - 1. The individual's name, date of birth, and contact telephone number;
 - 2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 - 3. Documentation of:
 - a. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
 - c. The individual's compliance with the requirements in A.R.S. § 36-411;
 - d. The ICF/IID's check on the individual in the adult protective services registry established according to A.R.S. § 46-459;
 - e. Orientation and in-service education as required by policies and procedures;
 - f. Training in preventing, recognizing, and reporting abuse or neglect, required according to R9-10-503(C)(1)(d)(i);
 - g. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - h. The individual's qualifications and on-going training for each type of restraint or seclusion used, as required in R9-10-515;
 - i. Cardiopulmonary resuscitation training, if required for the individual according to R9-10-503(C)(1)(g);
 - j. First aid training, if required for the individual according to this Article or policies and procedures; and
 - k. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (F).
- J. An administrator shall ensure that personnel records are:
 - 1. Maintained:
 - a. Throughout the individual's period of providing services in or for the ICF/IID, and
 - b. For at least 24 months after the last date the individual provided services in or for the ICF/IID; and
 - 2. For a personnel member who has not provided active treatment or other physical health services or behavioral care at or for the ICF/IID during the previous 12 months, provided to the Department within 72 hours after the Department's request.
- K. An administrator shall ensure that:
 - 1. A plan to provide orientation specific to the duties of a personnel member, an employee, a volunteer, and a student is developed, documented, and implemented;
 - 2. A personnel member completes orientation before providing active treatment or other physical health services or behavioral care;
 - 3. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
 - 4. A plan to provide in-service education specific to the duties of a personnel member is developed, documented, and implemented;

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5. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training; and
6. A work schedule of each personnel member is developed and maintained at the ICF/IID for at least 12 months after the date of the work schedule.
- L. An administrator shall designate a qualified individual to provide:
 1. Social services, and
 2. Recreational activities.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Section R9-10-506 renumbered to R9-10-2106; new Section R9-10-506 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Section R9-10-506 renumbered to R9-10-2106; new Section R9-10-506 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by exempt rulemaking, at 26 A.A.R. 72 with an effective date of January 1, 2020 (Supp. 19-4).

R9-10-507. Admission

An administrator shall ensure that:

1. A resident is admitted only:
 - a. On a physician's order;
 - b. If the resident has a developmental disability or cognitive disability, as defined in A.R.S. § 36-551;
 - c. If the resident's placement evaluation indicates that the resident's needs can be met by the ICF/IID; and
 - d. Except when the resident's placement evaluation states that the resident would benefit from being part of a group that includes residents of different ages, developmental levels, or social needs, if the resident can be assigned to a room or unit within the ICF/IID with other residents of similar ages, developmental levels, or social needs;
2. The physician's admitting order or placement evaluation documentation includes the active treatment or other physical health services or behavioral care required to meet the immediate needs of a resident, such as habilitation services, medication, and food services;
3. At the time of a resident's admission, a registered nurse conducts or coordinates an initial assessment on a resident to determine the resident's acuity and ensure the resident's immediate needs are met;

4. A resident's needs do not exceed the medical services, rehabilitation services, and nursing services available at the ICF/IID as established in the ICF/IID's scope of services;
5. A resident is assigned to a unit in the ICF/IID based, as applicable, on the patient's:
 - a. Documented diagnosis,
 - b. Treatment needs,
 - c. Developmental level,
 - d. Social skills,
 - e. Verbal skills, and
 - f. Acuity;
6. A resident does not share any space, participate in any activity or treatment, or verbally or physically interact with any other resident that, based on the other resident's documented diagnosis, treatment needs, developmental level, social skills, verbal skills, and personal history, may present a threat to the resident's health and safety;
7. Within 30 calendar days before admission or 10 working days after admission, a medical history and physical examination is completed on a resident by:
 - a. A physician, or
 - b. A physician assistant or a registered nurse practitioner designated by the attending physician;
8. Compliance with the requirements in subsection (7) is documented in the resident's medical record;
9. Except as specified in subsection (10), a resident provides evidence of freedom from infectious tuberculosis:
 - a. Before or within seven calendar days after the resident's admission, and
 - b. As specified in R9-10-113; and
10. A resident who transfers from an ICF/IID or nursing care institution to the ICF/IID is not required to be rescreened for tuberculosis as specified in R9-10-113 if:
 - a. Fewer than 12 months have passed since the resident was screened for tuberculosis, and
 - b. The documentation of freedom from infectious tuberculosis required in subsection (9) accompanies the resident at the time of transfer.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Section R9-10-507 renumbered to R9-10-2107; new Section R9-10-507 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by final expedited rulemaking at 28 A.A.R. 1113 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

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R9-10-508. Transfer; Discharge

A. An administrator, in coordination with the Arizona Department of Economic Security, Division of Developmental Disabilities, shall ensure that:

1. A resident is transferred or discharged if:
 - a. The ICF/IID is not authorized or not able to meet the needs of the resident, or
 - b. The resident's behavior is a threat to the health or safety of the resident or other individuals at the ICF/IID; and
2. Documentation of a resident's transfer or discharge includes:
 - a. The date of the transfer or discharge;
 - b. The reason for the transfer or discharge;
 - c. A 30-day written notice except:
 - i. In an emergency, or
 - ii. If the resident no longer requires rehabilitation services or habilitation services as determined by a physician or the physician's designee;
 - d. A notation by a physician or the physician's designee if the transfer or discharge is due to any of the reasons listed in subsection (A)(1); and
 - e. If applicable, actions taken by a personnel member to protect the resident or other individuals if the resident's behavior is a threat to the health and safety of the resident or other individuals in the ICF/IID and beyond the ICF/IID's scope of services.

B. Except for a transfer of a resident due to an emergency, an administrator shall ensure that:

1. A qualified intellectual disabilities professional or, if the resident has a nursing care plan or medical care plan, a registered nurse coordinates the transfer and the services provided to the resident;
2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before the transfer;
 - b. Information from the resident's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the resident or the resident's representative; and
3. Documentation in the resident's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the resident during a transfer.

C. Except in an emergency, a qualified intellectual disabilities professional or, if the resident has a nursing care plan or medical care plan, a registered nurse shall ensure that before a resident is discharged:

1. Written follow-up instructions are developed with the resident or the resident's representative that include:
 - a. Information necessary to meet the resident's need for medical services and nursing services; and
 - b. The state long-term care ombudsman's name, address, and telephone number;
2. A copy of the written follow-up instructions is provided to the resident or the resident's representative; and
3. A discharge summary:

- a. Is developed by a qualified intellectual disabilities professional or, if the resident has a nursing care plan or medical care plan, a registered nurse;
- b. Authenticated by the resident's attending physician or designee; and
- c. Includes:
 - i. The resident's need for rehabilitation services or habilitation services at the time of transfer or discharge;
 - ii. The resident's need for medical services or nursing services;
 - iii. The resident's developmental, behavioral, social, and nutritional status;
 - iv. The resident's medical and psychosocial history;
 - v. The date of the discharge; and
 - vi. The location of the resident after discharge.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Section R9-10-508 renumbered to R9-10-2108; new Section R9-10-508 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by exempt rulemaking, at 26 A.A.R. 72 with an effective date of January 1, 2020 (Supp. 19-4).

R9-10-509. Transport

A. Except as provided in subsections (B) and (C), an administrator shall ensure that:

1. A personnel member authorized by policies and procedures coordinates the transport and the services provided to the resident;
2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before and after the transport,
 - b. Information from the resident's medical record is provided to a receiving health care institution, and
 - c. A personnel member explains risks and benefits of the transport to the resident or the resident's representative; and
3. Documentation in the resident's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transport;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the resident during a transport.

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- B.** If the transport of a resident is to provide the resident with rehabilitation services or habilitation services off the premises, an administrator shall ensure that:
1. The rehabilitation services or habilitation services are included in the resident's individual program plan,
 2. A qualified intellectual disabilities professional coordinates the transport and the services provided to the resident, and
 3. The resident is transported according to R9-10-510(A).
- C.** Subsection (A) does not apply to:
1. Except as provided in subsection (B), transportation according to R9-10-510 to a location other than a licensed health care institution;
 2. Transportation provided for a resident by the resident or the resident's representative;
 3. Transportation provided by an outside entity that was arranged for a resident by the resident or the resident's representative; or
 4. A transport to another licensed health care institution in an emergency.
- ii. Resident who may be a threat to the health, safety, or welfare of the resident or another individual; or
- iii. Resident who is incapable of independent exit from the vehicle; and
- e. Ensures the safe and hazard-free loading and unloading of residents; and
4. Transportation safety is maintained as follows:
- a. An individual in the vehicle is sitting in a seat, which may include the seat of a wheel chair, and wearing a working seat belt while the vehicle is in motion; and
 - b. Each seat in the vehicle is securely fastened to the vehicle and provides sufficient space for a resident's body.
- B.** An administrator shall ensure that an outing is consistent with the age, developmental level, physical ability, medical condition, and treatment needs of each resident participating in the outing.
- C.** An administrator shall ensure that:

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Section R9-10-509 renumbered to R9-10-2109; new Section R9-10-509 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-510. Transportation; Resident Outings

- A.** An administrator of an ICF/IID that uses a vehicle owned or leased by the ICF/IID to provide transportation to a resident shall ensure that:
1. The vehicle:
 - a. Is safe and in good repair,
 - b. Contains a first aid kit,
 - c. Contains drinking water sufficient to meet the needs of each resident present in the vehicle, and
 - d. Contains a working heating and air conditioning system;
 2. Documentation of current vehicle insurance and a record of maintenance performed or a repair of the vehicle is maintained;
 3. A driver of the vehicle:
 - a. Is 21 years of age or older;
 - b. Has a valid driver license;
 - c. Operates the vehicle in a manner that does not endanger a resident in the vehicle;
 - d. Does not leave in the vehicle an unattended:
 - i. Child;
- ii. Resident who may be a threat to the health, safety, or welfare of the resident or another individual; or
- iii. Resident who is incapable of independent exit from the vehicle; and
- e. Ensures the safe and hazard-free loading and unloading of residents; and
4. Transportation safety is maintained as follows:
- a. An individual in the vehicle is sitting in a seat, which may include the seat of a wheel chair, and wearing a working seat belt while the vehicle is in motion; and
 - b. Each seat in the vehicle is securely fastened to the vehicle and provides sufficient space for a resident's body.
- B.** An administrator shall ensure that an outing is consistent with the age, developmental level, physical ability, medical condition, and treatment needs of each resident participating in the outing.
- C.** An administrator shall ensure that:
1. Except when only one resident is participating in an outing, at least two personnel members are present on the outing;
 2. In addition to the personnel members required in subsection (C)(1), a sufficient number of personnel members are present on an outing to ensure the health and safety of a resident on the outing;
 3. Each personnel member on the outing has documentation of current training in cardiopulmonary resuscitation according to R9-10-503(C)(1)(g) and first aid training;
 4. Documentation is developed before an outing that includes:
 - a. The name of each resident participating in the outing;
 - b. A description of the outing;
 - c. The date of the outing;
 - d. The anticipated departure and return times;
 - e. The name, address, and, if available, telephone number of the outing destination; and
 - f. If applicable, the license plate number of a vehicle used to provide transportation for the outing;
 5. The documentation described in subsection (C)(4) is updated to include the actual departure and return times and is maintained for at least 12 months after the date of the outing; and
 6. Emergency information for a resident participating in the outing is maintained by a personnel member participating in the outing or in the vehicle used to provide transportation for the outing and includes:
 - a. The resident's name;
 - b. Medication information, including the name, dosage, route of administration, and directions for each medication needed by the resident during the anticipated duration of the outing;
 - c. The resident's allergies; and
 - d. The name and telephone number of a designated individual, who is present on the ICF/IID's premises, to notify in case of an emergency.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp.

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89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Section R9-10-510 renumbered to R9-10-2110; new Section R9-10-510 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by exempt rulemaking, at 26 A.A.R. 72 with an effective date of January 1, 2020 (Supp. 19-4).

R9-10-511. Resident Rights**A.** An administrator shall ensure that:

1. The requirements in subsection (B) and the resident rights in subsection (C) are conspicuously posted on the premises;
2. At the time of admission, a resident or the resident's representative receives a written copy of the requirements in subsection (B) and the resident rights in subsection (C); and
3. Policies and procedures include:
 - a. How and when a resident or the resident's representative is informed of resident rights in subsection (C), and
 - b. Where resident rights are posted as required in subsection (A)(1).

B. An administrator shall ensure that:

1. A resident has privacy in:
 - a. Treatment,
 - b. Bathing and toileting,
 - c. Room accommodations, and
 - d. Visiting or meeting with another resident or an individual;
2. A resident is treated with dignity, respect, and consideration;
3. A resident is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Except as allowed in R9-10-515, seclusion or restraint;
 - i. Retaliation for submitting a complaint to the Department or another entity;
 - j. Misappropriation of personal and private property by an ICF/IID's personnel members, employees, volunteers, or students; or
 - k. Segregation solely on the basis of the resident's disability; and
4. A resident or the resident's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;

- c. Except in an emergency, is informed of proposed alternatives to psychotropic medication and the associated risks and possible complications of the psychotropic medication;
- d. Is informed of the following:
 - i. The health care institution's policy on health care directives, and
 - ii. The resident complaint process;
- e. Consents to photographs of the resident before the resident is photographed, except that the resident may be photographed when admitted to an ICF/IID for identification and administrative purposes;
- f. May manage the resident's financial affairs;
- g. Has access to and may communicate with any individual, organization, or agency;
- h. Except as provided in the resident's individual program plan, has privacy:
 - i. In interactions with other residents or visitors to the ICF/IID,
 - ii. In the resident's mail, and
 - iii. For telephone calls made by or to the resident;
- i. May review the ICF/IID's current license survey report and, if applicable, plan of correction in effect;
- j. May review the resident's financial records within two working days and medical record within one working day after the resident's or the resident's representative's request;
- k. May obtain a copy of the resident's financial records and medical record within two working days after the resident's request and in compliance with A.R.S. § 12-2295;
- l. Except as otherwise permitted by law, consents, in writing, to the release of information in the resident's:
 - i. Medical record, and
 - ii. Financial records;
- m. May select a pharmacy of choice if the pharmacy complies with policies and procedures and does not pose a risk to the resident;
- n. Is informed of the method for contacting the resident's attending physician;
- o. Is informed of the resident's overall physical and psychosocial well-being, as determined by the resident's comprehensive assessment;
- p. Is provided with a copy of those sections of the resident's medical record that are required for continuity of care free of charge, according to A.R.S. § 12-2295, if the resident is transferred or discharged; and
- q. Except in the event of an emergency, is informed orally or in writing before the ICF/IID makes a change in a resident's room or roommate assignment and notification is documented in the resident's medical record.

C. In addition to the rights in A.R.S. § 36-551.01, a resident has the following rights:

1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
2. To receive treatment that supports and respects the resident's individuality, choices, strengths, and abilities;
3. To choose activities and schedules consistent with the resident's interests that do not interfere with other residents;

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4. To participate in social, religious, political, and community activities that do not interfere with other residents;
5. To retain personal possessions including furnishings and clothing as space permits unless use of the personal possession infringes on the rights or health and safety of other residents;
6. To share a room with the resident's spouse if space is available and the spouse consents;
7. To receive a referral to another health care institution if the ICF/IID is not authorized or not able to provide active treatment or other physical health services or behavioral care needed by the resident;
8. To participate or have the resident's representative participate in the development of the resident's individual program plan or decisions concerning treatment;
9. To participate or refuse to participate in research or experimental treatment; and
10. To receive assistance from a family member, the resident's representative, or other individual in understanding, protecting, or exercising the resident's rights.

Historical Note

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R9-10-512. Medical Records**A.** An administrator shall ensure that:

1. A medical record is established and maintained for each resident according to A.R.S. Title 12, Chapter 13, Article 7.1;
 2. An entry in a resident's medical record is:
 - a. Recorded only by an individual authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 3. An order is:
 - a. Dated when the order is entered in the resident's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 5. A resident's medical record is available to an individual:
 - a. Authorized to access the resident's medical record according to policies and procedures;
 - b. If the individual is not authorized to access the resident's medical record according to policies and procedures, with the written consent of the resident or the resident's representative; or
 - c. As permitted by law; and
 6. A resident's medical record is protected from loss, damage, or unauthorized use.
- B.** If an ICF/IID maintains residents' medical records electronically, an administrator shall ensure that:
1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a resident's medical record is recorded by the computer's internal clock.
- C.** An administrator shall ensure that a resident's medical record contains:
1. Resident information that includes:
 - a. The resident's name;
 - b. The resident's date of birth; and
 - c. Any known allergies, including medication allergies;
 2. The admission date and, if applicable, the date of discharge;
 3. The admitting diagnosis or presenting symptoms;
 4. Documentation of the resident's placement evaluation;
 5. Documentation of general consent and, if applicable, informed consent;
 6. If applicable, the name and contact information of the resident's representative and:
 - a. The document signed by the resident consenting for the resident's representative to act on the resident's behalf; or
 - b. If the resident's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
 7. The name and contact information of an individual to be contacted under R9-10-503(I);
 8. Documentation of the initial assessment required in R9-10-507(3) to determine acuity;
 9. The medical history and physical examination required in R9-10-516(A)(4);
 10. A copy of the resident's living will or other health care directive, if applicable;
 11. The name and telephone number of the resident's attending physician;
 12. Orders;
 13. Documentation of the resident's comprehensive assessment;
 14. Individual program plans, including nursing care plans or medical care plans, if applicable;
 15. Documentation of active treatment and other physical health services or behavioral care provided to the resident;
 16. Progress notes, including data needed to evaluate the effectiveness of the methods, schedule, and strategies

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being used to accomplish the goals in the resident's individual program plan;

17. If applicable, documentation of restraint or seclusion;
18. If applicable, documentation of any actions other than restraint or seclusion taken to control or address the resident's behavior to prevent harm to the resident or another individual or to improve the resident's social interactions;
19. If applicable, documentation that evacuation from the ICF/IID would cause harm to the resident;
20. The disposition of the resident after discharge;
21. The discharge plan;
22. The discharge summary;
23. Transfer documentation;
24. If applicable:
 - a. A laboratory report,
 - b. A radiologic report,
 - c. A diagnostic report, and
 - d. A consultation report;
25. Documentation of freedom from infectious tuberculosis required in R9-10-507(10);
26. Documentation of a medication administered to the resident that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. The type of vaccine, if applicable;
 - d. For a medication administered for pain on a PRN basis:
 - i. An evaluation of the resident's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - e. For a psychotropic medication administered on a PRN basis:
 - i. An evaluation of the resident's symptoms before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - f. The identification, signature, and professional designation of the individual administering the medication; and
 - g. Any adverse reaction a resident has to the medication; and
27. If applicable, a copy of written notices, including follow-up instructions, provided to the resident or the resident's representative.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to

Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Section R9-10-512 renumbered to R9-10-2112; new Section R9-10-512 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by exempt rulemaking, at 26 A.A.R. 72 with an effective date of January 1, 2020 (Supp. 19-4).

R9-10-513. Rehabilitation Services and Habilitation Services

- A.** Except as provided in subsection (D), an administrator shall ensure that:
 1. Personnel members are available to provide the following rehabilitation services:
 - a. Physical therapy, as defined in A.R.S. § 32-2001;
 - b. Occupational therapy, A.R.S. § 32-3401;
 - c. Psychological service, as defined in A.R.S. § 32-2061;
 - d. Speech-language pathology, as defined in A.R.S. § 36-1901; and
 - e. Audiology, as defined in A.R.S. § 36-1901;
 2. Rehabilitation services are provided:
 - a. Under the direction of a qualified intellectual disabilities professional according to policies and procedures, and
 - b. According to an order;
 3. A resident receives the rehabilitation services required in the resident's individual program plan;
 4. Unless otherwise required in the resident's individual program plan:
 - a. A resident does not remain in bed or in the resident's bedroom;
 - b. If the resident is not able to independently move from place to place, even with the use of an assistive device, the resident is moved from place to place in the ICF/IID; and
 - c. A resident receiving rehabilitation services is encouraged to participate in activities that are planned according to subsection (C)(2) and are appropriate to objectives in the resident's individual program plan;
 5. A qualified intellectual disabilities professional reviews the rehabilitation services provided to a resident and revises the frequency, duration, method, or type of rehabilitation services being provided in the resident's individual program plan:
 - a. As necessary, if the resident is losing skills or failing to progress; or
 - b. If a goal in the resident's individual program plan has been accomplished and a new objective is to be initiated; and
 6. The medical record of a resident receiving rehabilitation services includes:
 - a. An order for rehabilitation services that includes the name of the ordering individual and a referring diagnosis;
 - b. The resident's individual program plan, including all updates;
 - c. The rehabilitation services provided;
 - d. The resident's response to the rehabilitation services; and
 - e. The authentication of the individual providing the rehabilitation services.
- B.** Except as provided in subsection (D), an administrator shall ensure that:

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1. Personnel members are available to provide a resident with habilitation services required in the resident's individual program plan;
 2. A personnel member is only assigned to provide the habilitation services the personnel member has the documented skills and knowledge to perform;
 3. A resident receives the habilitation services in the resident's individual program plan;
 4. If applicable, a personnel member:
 - a. Suggests techniques a resident may use to maintain or improve the resident's independence in performing activities of daily living; and
 - b. Provides assistance with, supervises, or directs a resident's personal hygiene according to the resident's individual program plan;
 5. A resident receiving habilitation services is encouraged to participate in activities of the resident's choosing that are planned according to subsection (C)(2); and
 6. The medical record of a resident receiving habilitation services includes:
 - a. The resident's individual program plan, including all updates;
 - b. The habilitation services provided;
 - c. The resident's response to the habilitation services; and
 - d. The authentication of the individual providing the habilitation services.
- C.** An administrator shall ensure that:
1. Multiple media sources, such as daily newspapers, current magazines, internet sources, and a variety of reading materials, are available and accessible to a resident to maintain the resident's continued awareness of current news, social events, and other noteworthy information;
 2. Daily social or recreational activities are planned according to residents' preferences, needs, and abilities;
 3. A calendar of planned activities is:
 - a. Prepared at least one week in advance of the date the activity is provided,
 - b. Posted in a location that is easily seen by residents,
 - c. Updated as necessary to reflect substitutions in the activities provided, and
 - d. Maintained for at least 12 months after the last scheduled activity;
 4. Equipment and supplies are available and accessible to accommodate a resident who chooses to participate in a planned activity on the premises;
 5. Outings are provided according to R9-10-510(B) and (C); and
 6. If necessary and unless otherwise required in the resident's individual program plan, a resident is assisted to participate in outings and other opportunities to leave the premises of the ICF/IID.
- D.** An administrator is not required to ensure that personnel members providing rehabilitation services or habilitation services are on the premises if no resident of the ICF/IID is on the premises because the residents are:
1. Receiving rehabilitation services off the premises,
 2. Receiving habilitation services off the premises,
 3. Participating in an outing, or
 4. Otherwise absent from the ICF/IID.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without

change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Section R9-10-513 renumbered to R9-10-2113; new Section R9-10-513 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-514. Individual Program Plan**A.** An administrator shall ensure that:

1. A comprehensive assessment of a resident:
 - a. Is conducted or coordinated by a qualified intellectual disabilities professional, in collaboration with an interdisciplinary team that includes:
 - i. The resident's attending physician or designee;
 - ii. A registered nurse;
 - iii. If the resident is receiving medications as part of active treatment, a pharmacist; and
 - iv. Personnel members qualified to provide each type of rehabilitation services identified in a placement evaluation or the initial assessment required in R9-10-507(3);
 - b. Is completed for the resident within 30 calendar days after the resident's admission to an ICF/IID;
 - c. Is updated:
 - i. No later than 12 months after the date of the resident's last comprehensive assessment, and
 - ii. When the resident experiences a significant change;
 - d. Includes the following information for the resident:
 - i. Identifying information;
 - ii. An evaluation of the resident's hearing, speech, and vision;
 - iii. An evaluation of the resident's ability to understand and recall information;
 - iv. An evaluation of the resident's mental status;
 - v. Whether the resident demonstrates inappropriate behavior;
 - vi. Preferences for customary routine and activities;
 - vii. An evaluation of the resident's ability to perform activities of daily living;
 - viii. Need for a mobility device;
 - ix. An evaluation of the resident's ability to control the resident's bladder and bowels;
 - x. Any diagnosis that impacts rehabilitation services or other physical health services or behavioral care that the resident may require;
 - xi. Any medical conditions that impact the resident's functional status, quality of life, or need for nursing services;
 - xii. An evaluation of the resident's ability to maintain adequate nutrition and hydration;

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- xiii. An evaluation of the resident's oral and dental status;
 - xiv. An evaluation of the condition of the resident's skin;
 - xv. Identification of any medication or treatment administered to the resident during a seven-day calendar period that includes the time the comprehensive assessment was conducted;
 - xvi. Identification of any treatment or medication ordered for the resident;
 - xvii. Identification of interventions that may support the resident towards independence;
 - xviii. Identification of any assistive devices needed by the resident;
 - xix. Identification of the active treatment needed by the resident, including active treatment not provided by the ICF/IID;
 - xx. Identification of measurable goals and behavioral objective for the active treatment, in priority order, with time limits for attainment;
 - xxi. Identification of the methods, schedule, and strategies to accomplish the goals in subsection (A)(1)(d)(xviii), including the personnel member responsible;
 - xxii. Evaluation procedures for determining if the methods and strategies in subsection (A)(1)(d)(xix) are working, including the type of data required and frequency of collection;
 - xxiii. Whether any restraints have been used for the resident during a seven-day calendar period that includes the time the comprehensive assessment was conducted;
 - xxiv. If the resident demonstrates inappropriate behavior, as reported according to subsection (A)(1)(d)(v), identification of the methods, schedule, and strategies for replacement of the inappropriate behavior with appropriate behavioral expressions, including the hierarchy for use;
 - xxv. If restraint or seclusion is included in subsection (A)(1)(d)(xxiv), the specific restraints or conditions of seclusion that may be used because of the resident's inappropriate behavior;
 - xxvi. A description of the resident or resident's representative's participation in the comprehensive assessment;
 - xxvii. The name and title of the interdisciplinary team members who participated in the resident's comprehensive assessment;
 - xxviii. Potential for rehabilitation, including the resident's strengths and specific developmental or behavioral health needs; and
 - xxix. Potential for discharge;
- e. Is signed and dated by the qualified intellectual disabilities professional who conducts or coordinates the comprehensive assessment or review; and
- f. Is used to determine or update the resident's acuity;
2. If any of the conditions in subsection (A)(1)(d)(v) are answered in the affirmative during the comprehensive assessment or review, a behavioral health professional reviews a resident's comprehensive assessment or review and individual program plan to ensure that the resident's needs for behavioral care are being met;
3. A new comprehensive assessment is not required for a resident who is hospitalized and readmitted to an ICF/IID unless a physician, an individual designated by the physician, a qualified intellectual disabilities professional, or a registered nurse determines the resident has a significant change in condition; and
4. A resident's comprehensive assessment is reviewed at least once every three months after the date of the current comprehensive assessment and if there is a significant change in the resident's condition by:
- a. A qualified intellectual disabilities professional; and
 - b. If the resident has a nursing care plan or medical care plan, a registered nurse.
- B.** An administrator shall ensure that an individual program plan for a resident:
- 1. Is developed, documented, and implemented for the resident within seven calendar days after completing the resident's comprehensive assessment required in subsection (A)(1);
 - 2. Includes the acuity of the resident;
 - 3. Is reviewed at least annually by the interdisciplinary team required in subsection (A)(1)(a) and revised based on any change to the resident's comprehensive assessment; and
 - 4. Ensures that a resident is provided rehabilitation services and other physical health services or behavioral care that:
 - a. Address any medical condition or behavioral care issue identified in the resident's comprehensive assessment, and
 - b. Assist the resident in maintaining the resident's highest practicable well-being according to the resident's comprehensive assessment.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed, new Section adopted effective April 4, 1994 (Supp. 94-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-514 renumbered to R9-10-2114; new Section R9-10-514 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by exempt rulemaking, at 26 A.A.R. 72 with an effective date of January 1, 2020 (Supp. 19-4).

R9-10-515. Seclusion; Restraint**A.** An administrator shall ensure that:

- 1. An ICF/IID's policies and procedures for managing a resident's inappropriate behavior, as described in R9-10-503(C)(2)(g) are reviewed, approved, and monitored through the quality management process in R9-10-504; and

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2. Restraint is provided according to the requirements in subsection (C).
- B.** An administrator of an ICF/IID authorized to provide seclusion shall ensure that:
 1. Seclusion is provided according to the requirements in subsection (C);
 2. If a resident is placed in seclusion, the room used for seclusion:
 - a. Is approved for use as a seclusion room by the Department;
 - b. Is not used as a resident's bedroom or a sleeping area;
 - c. Allows full view of the resident in all areas of the room;
 - d. Is free of hazards, such as unprotected light fixtures or electrical outlets;
 - e. Contains at least 60 square feet of floor space; and
 - f. Except as provided in subsection (B)(3), contains a non-adjustable bed that:
 - i. Consists of a mattress on a solid platform that is:
 - (1) Constructed of a durable, non-hazardous material; and
 - (2) Raised off of the floor;
 - ii. Does not have wire springs or a storage drawer; and
 - iii. Is securely anchored in place;
 3. If a room used for seclusion does not contain a non-adjustable bed required in subsection (B)(2)(f):
 - a. A piece of equipment is available that:
 - i. Is commercially manufactured to safely and humanely restrain a resident's body;
 - ii. Provides support to the trunk and head of a resident's body;
 - iii. Provides restraint to the trunk of a resident's body;
 - iv. Is able to restrict movement of a resident's arms, legs, body, and head;
 - v. Allows a resident's body to recline; and
 - vi. Does not inflict harm on a resident's body; and
 - b. Documentation of the manufacturer's specifications for the piece of equipment in subsection (B)(3)(a) is maintained; and
 4. A seclusion room may be used for services or activities other than seclusion if:
 - a. A sign stating the service or activity scheduled or being provided in the room is conspicuously posted outside the room;
 - b. No permanent equipment other than the bed required in subsection (B)(2)(f) is in the room;
 - c. Policies and procedures:
 - i. Delineate which services or activities other than seclusion may be provided in the room,
 - ii. List what types of equipment or supplies may be placed in the room for the delineated services, and
 - iii. Provide for the prompt removal of equipment and supplies from the room before the room is used for seclusion; and
 - d. The sign required in subsection (B)(4)(a) and equipment and supplies in the room, other than the bed required in subsection (B)(2)(f), are removed before use as a seclusion room.
- C.** An administrator shall ensure that:
 1. Policies and procedures for providing restraint or seclusion are established, documented, and implemented to protect the health and safety of a resident that:
 - a. Establish the process for resident assessment, including identification of a resident's medical conditions and criteria for the on-going monitoring of any identified medical condition;
 - b. Identify each type of restraint or seclusion used and include for each type of restraint or seclusion used:
 - i. The qualifications of a personnel member who can:
 - (1) Order the restraint or seclusion,
 - (2) Place a resident in the restraint or seclusion,
 - (3) Monitor a resident in the restraint or seclusion,
 - (4) Evaluate a resident's physical and psychological well-being after being placed in the restraint or seclusion and when released from the restraint or seclusion, or
 - (5) Renew the order for restraint or seclusion;
 - ii. On-going training requirements for a personnel member who has direct resident contact while the resident is in a restraint or seclusion; and
 - iii. Criteria for monitoring and assessing a resident including:
 - (1) Frequencies of monitoring and assessment based on a resident's medical condition and risks associated with the specific restraint or seclusion;
 - (2) For the renewal of an order for restraint or seclusion, whether an assessment is required before the order is renewed and, if an assessment is required, who may conduct the assessment;
 - (3) Assessment content, which may include, depending on a resident's condition, the resident's vital signs, respiration, circulation, hydration needs, elimination needs, level of distress and agitation, mental status, cognitive functioning, neurological functioning, and skin integrity;
 - (4) If a mechanical restraint is used, how often the mechanical restraint is loosened; and
 - (5) A process for meeting a resident's nutritional needs and elimination needs;
 - c. Establish the criteria and procedures for renewing an order for restraint or seclusion;
 - d. Establish procedures for internal review of the use of restraint or seclusion; and
 - e. Establish medical record and personnel record documentation requirements for restraint and seclusion, if applicable;
 2. An order for restraint or seclusion is:
 - a. Obtained from a physician or registered nurse practitioner, and
 - b. Not written as a standing order or on an as-needed basis;
 3. Restraint or seclusion is:
 - a. Not used as a means of coercion, discipline, convenience, or retaliation;
 - b. Only used when all of the following conditions are met:

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- i. Except as provided in subsection (C)(4), after obtaining an order for the restraint or seclusion;
 - ii. For the management of a resident's aggressive, violent, or self-destructive behavior;
 - iii. When less restrictive interventions have been determined to be ineffective; and
 - iv. To ensure the immediate physical safety of the resident, to prevent imminent harm to the resident or another individual, or to stop physical harm to another individual; and
- c. Discontinued at the earliest possible time;
- 4. If as a result of a resident's aggressive, violent, or self-destructive behavior, harm to the resident or another individual is imminent or the resident or another individual is being physically harmed, a personnel member:
 - a. May initiate an emergency application of restraint or seclusion for the resident before obtaining an order for the restraint or seclusion, and
 - b. Obtains an order for the restraint or seclusion of the resident during the emergency application of the restraint or seclusion;
- 5. An order for restraint or seclusion includes:
 - a. The name of the physician or registered nurse practitioner ordering the restraint or seclusion;
 - b. The date and time that the restraint or seclusion was ordered;
 - c. The specific restraint or seclusion ordered;
 - d. If a drug is ordered as a chemical restraint, the drug's name, strength, dosage, and route of administration;
 - e. The specific criteria for release from restraint or seclusion without an additional order; and
 - f. The maximum duration authorized for the restraint or seclusion;
- 6. An order for restraint or seclusion is limited to the duration of the emergency situation and does not exceed three continuous hours;
- 7. If an order for restraint or seclusion of a resident is not provided by the resident's attending physician, the resident's attending physician is notified as soon as possible;
- 8. A medical practitioner or personnel member does not participate in restraint or seclusion, assess or monitor a resident during restraint or seclusion, or evaluate a resident after restraint or seclusion, and a physician or registered nurse practitioner does not order restraint or seclusion, until the medical practitioner or personnel member, completes education and training that:
 - a. Includes:
 - i. Techniques to identify medical practitioner, personnel member, and resident behaviors, events, and environmental factors that may trigger circumstances that require restraint or seclusion;
 - ii. The use of nonphysical intervention skills, such as de-escalation, mediation, conflict resolution, active listening, and verbal and observational methods;
 - iii. Techniques for identifying the least restrictive intervention based on an assessment of the resident's medical or behavioral health condition;
 - iv. The safe use of restraint and the safe use of seclusion, including training in how to recognize and respond to signs of physical and psychological distress in a resident who is restrained or secluded;
 - v. Clinical identification of specific behavioral changes that indicate that the restraint or seclusion is no longer necessary;
 - vi. Monitoring and assessing a resident while the resident is in restraint or seclusion according to policies and procedures; and
 - vii. Except for the medical practitioner, training exercises in which the personnel member successfully demonstrates the techniques that the medical practitioner or personnel member has learned for managing emergency situations; and
- b. Is provided by individuals qualified according to policies and procedures;
- 9. When a resident is placed in restraint or seclusion:
 - a. The restraint or seclusion is conducted according to policies and procedures;
 - b. The restraint or seclusion is proportionate and appropriate to the severity of the resident's behavior and the resident's:
 - i. Chronological and developmental age;
 - ii. Size;
 - iii. Gender;
 - iv. Physical condition;
 - v. Medical condition;
 - vi. Psychiatric condition; and
 - vii. Personal history, including any history of physical or sexual abuse;
 - c. The physician or registered nurse practitioner who ordered the restraint or seclusion is available for consultation throughout the duration of the restraint or seclusion;
 - d. The resident is monitored and assessed according to policies and procedures;
 - e. A physician or registered nurse assesses the resident within one hour after the resident is placed in the restraint or seclusion and determines:
 - i. The resident's current behavior,
 - ii. The resident's reaction to the restraint or seclusion used,
 - iii. The resident's medical and behavioral condition, and
 - iv. Whether to continue or terminate the restraint or seclusion;
 - f. The resident is given the opportunity:
 - i. To eat during mealtime, and
 - ii. To use the toilet; and
 - g. The restraint or seclusion is discontinued at the earliest possible time, regardless of the length of time identified in the order;
- 10. A medical practitioner or personnel member documents the following information in a resident's medical record before the end of the shift in which the resident is placed in restraint or seclusion or, if the resident's restraint or seclusion does not end during the shift in which it began, during the shift in which the resident's restraint or seclusion ends:
 - a. The emergency situation that required the resident to be restrained or put in seclusion,
 - b. The times the resident's restraint or seclusion actually began and ended,
 - c. The monitoring required in subsection (C)(9)(d),

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- d. The time of the assessment required in subsection (C)(9)(e),
 - e. The names of the medical practitioners and personnel members with direct resident contact while the resident was in the restraint or seclusion,
 - f. The times the resident was given the opportunity to eat or use the toilet according to subsection (C)(9)(f), and
 - g. The resident evaluation required in subsection (C)(12);
11. If an emergency situation continues beyond the time limit of an order for restraint or seclusion, the order is renewed according to policies and procedures that include:
- a. The specific criteria for release from restraint or seclusion without an additional order, and
 - b. The maximum duration authorized for the restraint or seclusion; and
12. A resident is evaluated after restraint or seclusion is no longer being used for the resident.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed effective April 4, 1994 (Supp. 94-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Section R9-10-515 renumbered to R9-10-2115; new Section R9-10-515 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-516. Physical Health Services**A.** An administrator shall ensure that:

- 1. A resident has an attending physician;
 - 2. An attending physician is available 24 hours a day;
 - 3. An attending physician designates a physician who is available when the attending physician is not available;
 - 4. A physical examination is performed on a resident by a physician or by a physician assistant or registered nurse practitioner designated by the resident's attending physician:
 - a. If indicated, based on the resident's placement evaluation or comprehensive assessment; and
 - b. At least once every 12 months after the date of admission, including an assessment of the acuity of the resident's medical condition;
 - 5. If a resident's physical examination, placement evaluation, or comprehensive assessment indicates a need for:
 - a. Intermittent nursing services, the resident's attending physician, in conjunction with the director of nursing, develops a nursing care plan of treatment for the resident, which is integrated into the resident's individual program plan; or
 - b. Continuous nursing services, the resident's attending physician, in conjunction with the director of nursing, develops a medical care plan of treatment for the resident, which is integrated into the resident's individual program plan; and
 - 6. Vaccinations for influenza and pneumonia are available to each resident at least once every 12 months unless:
 - a. The attending physician provides documentation that the vaccination is medically contraindicated;
 - b. The resident or the resident's representative refuses the vaccination or vaccinations and documentation is maintained in the resident's medical record that the resident or the resident's representative has been informed of the risks and benefits of a vaccination refused; or
 - c. The resident or the resident's representative provides documentation that the resident received a pneumonia vaccination within the last five years or the current recommendation from the U.S. Department of Health and Human Services, Center for Disease Control and Prevention.
- B.** An administrator shall ensure that:
- 1. Nursing services are available 24 hours a day in an ICF/IID;
 - 2. For an ICF/IID authorized to admit a resident requiring:
 - a. Continuous nursing services, a registered nurse is on the premises; or
 - b. Intermittent nursing services, a nurse is on the premises according to the schedule in a resident's nursing care plan; and
 - 3. The director of nursing or an individual designated by the director of nursing participates in the quality management program.
- C.** A director of nursing shall ensure that:
- 1. A method is established and documented that identifies the types and numbers of nursing personnel that are necessary to provide nursing services to residents based on:
 - a. The acuity of the residents, and
 - b. The ICF/IID's scope of services;
 - 2. Sufficient nursing personnel, as determined by the method in subsection (C)(1), are on the ICF/IID's premises to meet the needs of a resident for nursing services;
 - 3. A registered nurse participates in the development, review, and updating of a resident's nursing care plan or medical care plan;
 - 4. Personnel members providing direct care to a resident with a nursing care plan or medical care plan receive direction from a nurse;
 - 5. At least once every three months, a nurse:
 - a. Assesses the health of a resident without a nursing care plan or medical care plan;
 - b. Documents the results in the resident's medical record; and
 - c. If the assessment indicates the need for physical health services or behavioral care, initiates action, according to policies and procedures, to address the resident's needs;
 - 6. Nursing personnel provide education and training to:
 - a. Residents on hygiene and other behaviors that promote health; and
 - b. Personnel members on:
 - i. Detecting signs of illness or injury or significant changes in condition,
 - ii. First aid, and

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- iii. Basic skills for caring for residents;
 - 7. As soon as possible but not more than 24 hours after one of the following events occur, a nurse notifies a resident's attending physician and, if applicable, the resident's representative, if the resident:
 - a. Is injured,
 - b. Is involved in an incident that requires medical services, or
 - c. Has a significant change in condition; and
 - 8. Only a medication required by an order is administered to a resident.
- D. An administrator shall ensure that:
 - 1. Dental services are provided to a resident by an individual licensed as:
 - a. A dentist under A.R.S. Title 32, Chapter 11, Article 2; or
 - b. A dental hygienist under A.R.S. Title 32, Chapter 11, Article 4;
 - 2. If needed, based on a resident's initial assessment, a dentist or dental hygienist in subsection (D)(1) participates as part of an interdisciplinary team in the development of the resident's individual program plan;
 - 3. A resident is provided with a complete dental examination within one month after admission, unless the ICF/IID has documentation of the resident's dental examination completed within 12 months before admission;
 - 4. If a resident's dental examination indicates the resident needs dental treatment:
 - a. A dentist or dental hygienist in subsection (D)(1) participates as part of an interdisciplinary team in the review and updating of the resident's individual program plan, and
 - b. The resident is provided with dental treatment;
 - 5. A dental examination is performed by a dentist or dental hygienist in subsection (D)(1) on a resident at least once every 12 months and treatment is provided as needed;
 - 6. If needed, a resident is provided with emergency dental services;
 - 7. A resident is provided with education and training in oral hygiene; and
 - 8. A resident's medical record contains documentation of:
 - a. Each dental examination of the resident,
 - b. All dental treatment provided to the resident, and
 - c. The resident's education and training in oral hygiene.
- E. An administrator shall ensure that:
 - 1. A resident's vision and hearing are assessed as part of the resident's comprehensive assessment and, if applicable, as part of the update of the comprehensive assessment; and
 - 2. If an issue is identified with the resident's vision or hearing, the resident is provided, as applicable, with:
 - a. Treatment to address the identified issue, or
 - b. An assistive device to address an issue.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an

emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed effective April 4, 1994 (Supp. 94-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Section R9-10-516 renumbered to R9-10-2116; new Section R9-10-516 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by exempt rulemaking, at 26 A.A.R. 72 with an effective date of January 1, 2020 (Supp. 19-4).

R9-10-517. Behavioral Care

- A. An administrator shall ensure that:
 - 1. A resident who receives behavioral care from the ICF/IID is evaluated by a behavioral health professional or medical practitioner:
 - a. Within 30 calendar days before the resident is admitted to the ICF/IID or before the resident begins receiving behavioral care, and
 - b. At least once every six months throughout the duration of the resident's need for behavioral care;
 - 2. A behavioral health professional or medical practitioner:
 - a. Documents that the behavioral care needed by the resident is within the ICF/IID's scope of services, and
 - b. Includes measurable objectives for the behavioral care and the methods for meeting the objectives in the resident's individual program plan; and
 - 3. The documentation in subsection (A)(2) is included in the resident's medical record.
- B. If a resident of an ICF/IID requires behavioral health services provided by a behavioral health professional on an intermittent basis as part of behavioral care, an administrator shall ensure that:
 - 1. The behavioral health services are provided by a behavioral health professional licensed or certified to provide the type of behavioral health services required by the resident; and
 - 2. Except for a psychotropic drug used as a chemical restraint or administered according to an order from a court of competent jurisdiction, informed consent is obtained from a resident or the resident's representative for a psychotropic drug and documented in the resident's medical record before the psychotropic drug is administered to the resident.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Section repealed effective April 4, 1994 (Supp. 94-2). New Section made by exempt rulemaking at 19 A.A.R.

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2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 25 A.A.R. 259, effective January 8, 2019 (Supp. 19-1). Section R9-10-517 renumbered to R9-10-2117; new Section R9-10-517 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-518. Clinical Laboratory Services

If clinical laboratory services are authorized to be provided on an ICF/IID's premises, an administrator shall ensure that:

1. Clinical laboratory services and pathology services are provided through a laboratory that holds a certificate of accreditation, certificate of compliance, or certificate of waiver issued by the United States Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Improvement Act of 1967;
2. A copy of the certificate of accreditation, certificate of compliance, or certificate of waiver in subsection (1) is provided to the Department for review upon the Department's request;
3. The ICF/IID:
 - a. Is able to provide the clinical laboratory services delineated in the ICF/IID's scope of services when needed by the residents;
 - b. Obtains specimens for the clinical laboratory services delineated in the ICF/IID's scope of services without transporting the residents from the ICF/IID's premises; and
 - c. Has the examination of the specimens performed by a clinical laboratory;
4. Clinical laboratory and pathology test results are:
 - a. Available to the ordering physician:
 - i. Within 24 hours after the test is complete with results if the test is performed at a laboratory on the ICF/IID's premises; or
 - ii. Within 24 hours after the test result is received if the test is performed at a laboratory outside of the ICF/IID's premises; and
 - b. Documented in a resident's medical record;
5. If a test result is obtained that indicates a resident may have an emergency medical condition, as established in policies and procedures, personnel notify:
 - a. The ordering physician;
 - b. A registered nurse in the resident's assigned unit;
 - c. The ICF/IID's administrator;
 - d. The director of nursing;
6. If a clinical laboratory report is completed on a resident, a copy of the report is included in the resident's medical record;
7. If the ICF/IID provides blood or blood products, policies and procedures are established, documented, and implemented for:
 - a. Procuring, storing, transfusing, and disposing of blood or blood products;
 - b. Blood typing, antibody detection, and blood compatibility testing; and
 - c. Investigating transfusion adverse reactions that specify a process for review through the quality management program; and
8. Expired laboratory supplies are discarded according to policies and procedures.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Section repealed effective April 4, 1994 (Supp. 94-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Section R9-10-518 renumbered to R9-10-2118; new Section R9-10-518 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-519. Respiratory Care Services

If respiratory care services are authorized to be provided on an ICF/IID's premises, an administrator shall ensure that:

1. Respiratory care services are provided under the direction of an attending physician;
2. Respiratory care services are provided according to an order that includes:
 - a. The resident's name;
 - b. The name and signature of the ordering individual;
 - c. The type, frequency, and, if applicable, duration of treatment;
 - d. The type and dosage of medication and diluent; and
 - e. The oxygen concentration or oxygen liter flow and method of administration;
3. Respiratory care services provided to a resident are documented in the resident's medical record and include:
 - a. The date and time of administration;
 - b. The type of respiratory care services provided;
 - c. The effect of the respiratory care services;
 - d. The resident's adverse reaction to the respiratory care services, if any; and
 - e. The authentication of the individual providing the respiratory care services; and
4. Any area or unit that performs blood gases or clinical laboratory tests complies with the requirements in R9-10-518.

Historical Note

R9-10-519 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-520. Medication Services

A. An administrator shall ensure that policies and procedures for medication services:

1. Include:
 - a. A process for providing information to a resident about medication prescribed for the resident including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and

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- iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse response to a medication, or
 - iii. A medication overdose;
 - c. Procedures to ensure that a pharmacist reviews a resident's medications at least once every three months and provides documentation to the resident's attending physician and the director of nursing indicating potential medication problems such as incompatible or duplicative medications;
 - d. Procedures for documenting medication services; and
 - e. Procedures for assisting a resident in obtaining medication; and
2. Specify a process for review through the quality management program of:
- a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B.** An administrator shall ensure that:
- 1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a pharmacist;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a resident only as prescribed; and
 - d. Cover the documentation of a resident's refusal to take prescribed medication in the resident's medical record;
 - 2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law;
 - 3. A medication administered to a resident:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the resident's medical record; and
 - 4. If a psychotropic medication is administered to a resident, the psychotropic medication:
 - a. Is only administered to a resident for a diagnosed medical condition; and
 - b. Unless clinically contraindicated or otherwise ordered by an attending physician or the attending physician's designee, is gradually reduced in dosage while the resident is simultaneously provided with interventions such as behavior and environment modification in an effort to discontinue the psychotropic medication, unless a dose reduction is attempted and the resident displays behavior justifying the need for the psychotropic medication, and the attending physician documents the necessity for the continued use and dosage.
- C.** If an ICF/IID provides assistance in the self-administration of medication, an administrator shall ensure that:
- 1. A resident's medication is stored by the ICF/IID;
 - 2. The following assistance is provided to a resident:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the resident;
 - c. Observing the resident while the resident removes the medication from the container;
 - d. Verifying that the medication is taken as ordered by the resident's attending physician by confirming that:
 - i. The resident taking the medication is the individual stated on the medication container label,
 - ii. The resident is taking the dosage of the medication stated on the medication container label or according to an order from the resident's attending physician dated later than the date on the medication container label, and
 - iii. The resident is taking the medication at the time stated on the medication container label or according to an order from the resident's attending physician dated later than the date on the medication container label; or
 - e. Observing the resident while the resident takes the medication;
3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by the resident's attending physician or registered nurse;
4. Training for a personnel member, other than a physician, physician assistant, or registered nurse, in assistance in the self-administration of medication:
- a. Is provided by the resident's attending physician, another physician, a physician assistant, or a registered nurse or an individual trained by a physician, physician assistant, or registered nurse; and
 - b. Includes:
 - i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. The process for notifying the appropriate entities when an emergency medical intervention is needed;
5. A personnel member, other than a physician, physician assistant, or registered nurse, completes the training in subsection (C)(4) before the personnel member provides assistance in the self-administration of medication; and
6. Assistance in the self-administration of medication provided to a resident:
- a. Is in compliance with an order, and
 - b. Is documented in the resident's medical record.
- D.** An administrator shall ensure that:
- 1. A current drug reference guide is available for use by personnel members; and
 - 2. If pharmaceutical services are provided:
 - a. The pharmaceutical services are provided under the direction of a pharmacist;
 - b. The pharmaceutical services comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - c. A copy of the pharmacy license is provided to the Department upon request.
- E.** When medication is stored at an ICF/IID, an administrator shall ensure that:
- 1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 - 2. Medication is stored according to the instructions on the medication container; and
 - 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a resident for:

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- a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of residents who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.
- F.** An administrator shall ensure that a personnel member immediately reports a medication error or a resident's adverse reaction to a medication to the resident's attending physician or the physician who ordered the medication and the ICF/IID's director of nursing.
4. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
 5. Soiled linen and clothing are:
 - a. Collected in a manner to minimize or prevent contamination;
 - b. Bagged at the site of use; and
 - c. Maintained separate from clean linen and clothing and away from food storage, kitchen, or dining areas;
 6. A resident's personal laundry is washed separately from towels, sheets, and bedding; and
 7. A personnel member, an employee, or a volunteer washes hands or uses a hand disinfection product after a resident contact and after handling soiled linen, soiled clothing, or potentially infectious material.

Historical Note

R9-10-520 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-521. Infection Control

An administrator shall ensure that:

1. An infection control program is established, under the direction of an individual qualified according to policies and procedures, to prevent the development and transmission of infections and communicable diseases including:
 - a. A method to identify and document infections occurring at the ICF/IID;
 - b. Analysis of the types, causes, and spread of infections and communicable diseases at the ICF/IID;
 - c. The development of corrective measures to minimize or prevent the spread of infections and communicable diseases at the ICF/IID; and
 - d. Documentation of infection control activities including:
 - i. The collection and analysis of infection control data,
 - ii. The actions taken related to infections and communicable diseases, and
 - iii. Reports of communicable diseases to the governing authority and state and county health departments;
2. Infection control documentation is maintained for at least 12 months after the date of the documentation;
3. Policies and procedures are established, documented, and implemented that cover:
 - a. Handling and disposal of biohazardous medical waste;
 - b. Sterilization, disinfection, and storage of medical equipment and supplies;
 - c. Using personal protective equipment such as aprons, gloves, gowns, masks, or face protection when applicable;
 - d. Cleaning of an individual's hands when the individual's hands are visibly soiled and before and after providing a service to a resident;
 - e. Cleaning of a resident's bedroom, furniture, and bedding after the resident's discharge before the bedroom is reassigned to another resident;
 - f. Training of personnel members, employees, and volunteers in infection control practices; and
 - g. Work restrictions for a personnel member with a communicable disease or infected skin lesion;

Historical Note

R9-10-521 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-522. Food Services

A. An administrator shall ensure that:

1. The ICF/IID has a license or permit as a food establishment under 9 A.A.C. 8, Article 1;
2. A copy of the ICF/IID's food establishment license or permit is maintained;
3. If the ICF/IID contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the ICF/IID:
 - a. A copy of the contracted food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the ICF/IID; and
 - b. The ICF/IID is able to store, refrigerate, and reheat food to meet the dietary needs of a resident;
4. A registered dietitian:
 - a. Participates as part of an interdisciplinary team for a resident requiring a modified or special diet,
 - b. Reviews a food menu before the food menu is used to ensure that a resident's nutritional needs are being met,
 - c. Documents the review of a food menu, and
 - d. Is available for consultation regarding a resident's nutritional needs; and
5. If a registered dietitian is not employed full-time, an individual is designated as a director of food services who consults with a registered dietitian as often as necessary to ensure that the nutritional needs of a resident are met.

B. A registered dietitian or director of food services shall ensure that:

1. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a resident such as cut, chopped, ground, pureed, or thickened;
2. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served on each day,
 - c. Is conspicuously posted at least one day before the first meal on the food menu will be served,
 - d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;

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3. Meals and snacks for each day are planned and served using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2015.asp>;
 4. A resident is provided:
 - a. A diet that meets the resident's nutritional needs as specified in the resident's comprehensive assessment and individual program plan;
 - b. Food served in sufficient quantities to meet the resident's nutritional needs and at an appropriate temperature;
 - c. Three meals a day with not more than 14 hours between the evening meal and breakfast, except as provided in subsection (B)(4)(e);
 - d. The option to have a daily evening snack identified in subsection (B)(4)(e)(ii) or other snack; and
 - e. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:
 - i. A resident group agrees; and
 - ii. The resident is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;
 5. A resident is provided with food substitutions of similar nutritional value if:
 - a. The resident refuses to eat the food served, or
 - b. The resident requests a substitution;
 6. Recommendations and preferences are requested from a resident or the resident's representative for meal planning;
 7. If food is used as a part of a program to manage a resident's inappropriate behavior:
 - a. A special diet is included as part of the resident's individual program plan, and
 - b. The special diet is reviewed and evaluated by a physician and a dietitian to ensure the special diet meets the resident's nutritional needs;
 8. Meals are served to residents at tables in a dining area and in a manner that allows the resident to eat from an upright position, unless otherwise specified in the resident's individual program plan or by an attending physician;
 9. A resident requiring assistance to eat is provided with assistance that recognizes the resident's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils;
 10. Personnel members supervise meals in dining areas to:
 - a. Direct a resident's self-help dining procedures,
 - b. Ensure a resident consumes enough food to meet the resident's nutritional needs, and
 - c. Ensure that a resident eats in a manner consistent with the resident's developmental level;
 11. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair; and
 12. Water is available and accessible to residents.
- a. A floor plan of the facility showing emergency protection equipment, evacuation routes, and exits;
 - b. When, how, and where residents will be relocated, including:
 - i. Instructions for the evacuation or transfer of residents,
 - ii. Assigned responsibilities for each employee and personnel member, and
 - iii. A plan for continuing to provide services to meet a resident's needs;
 - c. How a resident's medical record will be available to individuals providing services to the resident during a disaster;
 - d. A plan for back-up power and water supply;
 - e. A plan to ensure a resident's medications will be available to administer to the resident during a disaster;
 - f. A plan to ensure a resident is provided nursing services, rehabilitation services, and other services required by the resident during a disaster; and
 - g. A plan for obtaining food and water for individuals present in the ICF/IID or the ICF/IID's relocation site during a disaster;
2. Personnel members receive training on the content and use of the disaster plan required in subsection (A)(1);
 3. The disaster plan required in subsection (A)(1) is reviewed at least once every 12 months;
 4. Documentation of a disaster plan review required in subsection (A)(3) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each personnel member, employee, or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
 5. A disaster drill for employees is conducted on each shift at least once every three months and documented;
 6. An evacuation drill for employees is conducted on each shift at least once every three months and documented;
 7. An evacuation drill for residents:
 - a. Is conducted at least once each year on each shift and documented; and
 - b. Includes all residents on the premises except for:
 - i. A resident whose medical record contains documentation that evacuation from the ICF/IID would cause harm to the resident, and
 - ii. Sufficient personnel members to ensure the health and safety of residents not evacuated according to subsection (A)(7)(b)(i);
 8. Documentation of each evacuation drill is created, is maintained for at least 12 months after the date of the drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for employees and residents to evacuate to a designated area;
 - c. If applicable:
 - i. An identification of residents needing assistance for evacuation, and
 - ii. An identification of residents who were not evacuated;
 - d. Any problems encountered in conducting the evacuation drill; and

Historical Note

R9-10-522 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-523. Emergency and Safety Standards**A. An administrator shall ensure that:**

1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and other employees, and, if necessary, implemented that includes:

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- e. Recommendations for improvement, if applicable; and
- 9. An evacuation path is conspicuously posted on each hallway of each floor of the ICF/IID.
- B.** An administrator shall ensure that, if an ICF/IID has:
 - 1. More than 16 residents or a resident who has a medical care plan or whose medical record contains documentation that evacuation from the ICF/IID would cause harm to the resident:
 - a. A fire alarm system is installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in R9-10-104.01, and is in working order; and
 - b. A sprinkler system is installed according to the National Fire Protection Association 13 Standard for the Installation of Sprinkler Systems, incorporated by reference in R9-10-104.01, and is in working order; and
 - 2. Sixteen or fewer residents, none of whom have a medical care plan or whose medical record contains documentation that evacuation from the ICF/IID would cause harm to the resident:
 - a. A fire alarm system and a sprinkler system meeting the requirements in subsection (B)(1) are installed and in working order; or
 - b. The ICF/IID has:
 - i. A fire extinguisher that is:
 - (1) Labeled as rated at least 2A-10-BC by the Underwriters Laboratories;
 - (2) Accessible to personnel members and inaccessible to residents;
 - (3) If a disposable fire extinguisher, replaced when its indicator reaches the red zone; and
 - (4) If a rechargeable fire extinguisher, is serviced at least once every 12 months, as documented by a tag attached to the fire extinguisher that specifies the date of the last servicing and the identification of the person who serviced the fire extinguisher; and
 - ii. Smoke detectors that are:
 - (1) Installed in each bedroom, hallway that adjoins a bedroom, storage room, laundry room, attached garage, and room or hallway adjacent to the kitchen, and other places recommended by the manufacturer;
 - (2) Either battery operated or, if hard-wired into the electrical system of the ICF/IID, has a back-up battery;
 - (3) In working order; and
 - (4) Tested at least once a month, with documentation of the test maintained for at least 12 months after the date of the test.
- C.** An administrator shall:
 - 1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 - 2. Make any repairs or corrections stated on the fire inspection report, and
 - 3. Maintain documentation of a current fire inspection.
- D.** An administrator shall ensure that, if applicable, a sign is placed at the entrance to a room or area indicating that oxygen is in use.

Historical Note

R9-10-523 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by exempt rulemaking, at 26 A.A.R. 72 with an effective date of January 1, 2020 (Supp. 19-4).

R9-10-524. Environmental Standards

- A.** An administrator shall ensure that:
 - 1. An ICF/IID's premises and equipment are:
 - a. Cleaned and disinfected according to policies and procedures or manufacturer's instructions to prevent, minimize, and control illness and infection; and
 - b. Free from a condition or situation that may cause a resident or an individual to suffer physical injury;
 - 2. A pest control program that complies with A.A.C. R3-8-201(C)(4) is implemented and documented;
 - 3. Equipment used to provide direct care is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
 - 4. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
 - 5. Garbage and refuse are:
 - a. In areas used for food storage, food preparation, or food service, stored in a covered container lined with a plastic bag;
 - b. In areas not used for food storage, food preparation, or food service, stored:
 - i. According to the requirements in subsection (A)(5)(a), or
 - ii. In a paper-lined or plastic-lined container that is cleaned and sanitized as often as necessary to ensure that the container is clean; and
 - c. Removed from the premises at least once a week;
 - 6. Heating and cooling systems maintain the ICF/IID at a temperature between 70° F and 84° F;
 - 7. Common areas:
 - a. Are lighted to assure the safety of residents, and
 - b. Have lighting sufficient to allow personnel members to monitor resident activity;
 - 8. The supply of hot and cold water is sufficient to meet the personal hygiene needs of residents and the cleaning and sanitation requirements in this Article;
 - 9. The temperature of the hot water does not exceed 120° F;
 - 10. Linens are clean before use, without holes and stains, and not in need of repair;
 - 11. Oxygen containers are secured in an upright position;
 - 12. Poisonous or toxic materials stored by the ICF/IID are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to residents;
 - 13. Combustible or flammable liquids stored by the ICF/IID are stored in the original labeled containers or safety containers in a locked area inaccessible to residents;

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14. If pets or animals are allowed in the ICF/IID, pets or animals are:
 - a. Controlled to prevent endangering the residents and to maintain sanitation;
 - b. Licensed consistent with local ordinances; and
 - c. For a dog or cat, vaccinated against rabies;
15. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
 - c. Documentation of testing is retained for at least 12 months after the date of the test; and
16. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to all applicable state laws and rules.

B. An administrator shall ensure that:

1. Smoking tobacco products are not permitted within an ICF/IID; and
2. Smoking tobacco products may be permitted outside an ICF/IID if:
 - a. Signs designating smoking areas are conspicuously posted, and
 - b. Smoking is prohibited in areas where combustible materials are stored or in use.

C. If a swimming pool is located on the premises, an administrator shall ensure that:

1. At least one personnel member with cardiopulmonary resuscitation training that meets the requirements in R9-10-503(C)(1)(g) is present in the pool area when a resident is in the pool area, and
2. At least two personnel members are present in the pool area when two or more residents are in the pool area.

Historical Note

R9-10-524 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-525. Physical Plant Standards**A. An administrator shall ensure that, if an ICF/IID has:**

1. More than 16 residents, the ICF/IID complies with:
 - a. The applicable physical plant health and safety codes and standards, incorporated by reference in R9-10-104.01, that were in effect on the earlier of:
 - i. The date the ICF/IID was originally certified as an ICF/IID by the federal Centers for Medicare and Medicaid Services, or
 - ii. The date the ICF/IID submitted architectural plans and specifications to the Department for approval according to R9-10-104; and
 - b. The requirements for Existing Health Care Occupancies in National Fire Protection Association 101, Life Safety Code, incorporated by reference in R9-10-104.01; and
2. Sixteen or fewer residents, the ICF/IID complies with the requirements for Existing Health Care Occupancies in National Fire Protection Association 101, Life Safety Code, incorporated by reference in R9-10-104.01.

B. An administrator shall ensure that:

1. The premises and equipment are sufficient to accommodate:

- a. The services stated in the ICF/IID's scope of services, and
 - b. An individual accepted as a resident by the ICF/IID;
2. A common area for use by residents is provided that has sufficient space and furniture to accommodate the recreational and socialization needs of residents;
 3. A dining area has sufficient space and tables and chairs to accommodate the needs of the residents;
 4. At least one bathroom is accessible from a common area and:
 - a. May be used by residents and visitors;
 - b. Does not open into an area in which food is prepared;
 - c. Provides privacy when in use; and
 - d. Contains the following:
 - i. At least one working sink with running water,
 - ii. At least one working toilet that flushes and has a seat,
 - iii. Toilet tissue for each toilet,
 - iv. Soap in a dispenser accessible from each sink,
 - v. Paper towels in a dispenser or a mechanical air hand dryer,
 - vi. Lighting, and
 - vii. A window that opens or another means of ventilation;
 5. An outside activity space is provided and available that:
 - a. Is on the premises,
 - b. Has a hard-surfaced section for wheelchairs, and
 - c. Has an available shaded area;
 6. Exterior doors are equipped with ramps or other devices to allow use by a resident using a wheelchair or other assistive device; and
 7. The key to the door of a lockable bathroom or bedroom is available to a personnel member.

C. An administrator shall ensure that:

1. For every eight residents there is at least one working toilet that flushes and has a seat and one sink with running water;
2. For every eight residents there is at least one working bathtub or shower;
3. A resident bathroom provides privacy when in use and contains:
 - a. A mirror;
 - b. Toilet tissue for each toilet;
 - c. Soap accessible from each sink;
 - d. Paper towels in a dispenser or a mechanical air hand dryer for a bathroom that is used by more than one resident;
 - e. A window that opens or another means of ventilation;
 - f. Grab bars for the toilet and, if applicable, the bathtub or shower and other assistive devices, if required to provide for resident safety; and
 - g. Nonporous surfaces for shower enclosures and slip-resistant surfaces in tubs and showers;
4. An ICF/IID is ventilated by windows or mechanical ventilation, or a combination of both;
5. If required for the residents of the ICF/IID, the corridors are equipped with handrails on each side that are firmly attached to the walls and are not in need of repair;
6. No more than two individuals reside in a resident bedroom; and
7. A resident's bedroom;

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- a. Is accessible without passing through a storage area, an equipment room, or another resident's bedroom;
 - b. Is constructed and furnished to provide unimpeded access to the door;
 - c. Has floor-to-ceiling walls with at least one door;
 - d. Does not open into any area where food is prepared, served, or stored;
 - e. If a private bedroom, has at least 80 square feet of floor space, not including a closet or bathroom;
 - f. If a shared bedroom, has at least 60 square feet of floor space for each individual occupying the shared bedroom, not including a closet or bathroom;
 - g. Has a separate bed, at least 36 inches in width and 72 inches in length, for each resident, consisting of at least a frame and mattress that is clean and in good repair;
 - h. Has clean linen, including a mattress pad, sheets large enough to tuck under the mattress, pillows, pillow cases, a bedspread, waterproof mattress covers as needed, and blankets to ensure warmth and comfort for the resident;
 - i. Has furniture to meet the resident's needs and sufficient light for reading;
 - j. Has an openable window to the outside with window coverings for controlling light and visual privacy, and the location of the window permits a resident to see outside from a sitting position;
 - k. Has individual storage space for a resident's possessions and assistive devices; and
 - l. Has a closet with clothing racks and shelves accessible to the resident.
- D.** If a swimming pool is located on the premises, an administrator shall ensure that:
- 1. The swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;
 - b. Has no vertical openings greater than four inches across;
 - c. Has no horizontal openings, except as described in subsection (D)(1)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
 - f. Has a self-closing, self-latching gate that:
 - i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground, and
 - iii. Is locked when the swimming pool is not in use; and
 - 2. A life preserver or shepherd's crook is available and accessible in the pool area.
- E.** An administrator shall ensure that a spa that is not enclosed by a wall or fence as described in subsection (D)(1) is covered and locked when not in use.

Historical Note

R9-10-525 made by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by exempt rulemaking, at 26 A.A.R. 72 with an effective date of January 1, 2020 (Supp. 19-4).

ARTICLE 6. HOSPICES**R9-10-601. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following apply in this Article unless otherwise specified:

- 1. "Medical social services" means assistance, other than medical services or nursing services, provided by a personnel member to a patient to assist the patient to cope with concerns about the patient's illness, finances, or personal issues and may include problem-solving, interventions, and identification of resources to address the patient's or the patient's family's concerns.
- 2. "Palliative care" means medical services or nursing services provided to a patient that is not curative and is designed for pain control or symptom management.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-602. Supplemental Application Requirements

In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for a license as a hospice service agency or hospice inpatient facility shall include on the application:

- 1. For an application as a hospice service agency:
 - a. The hours of operation for the hospice's administrative office, and
 - b. The geographic region to be served by the hospice service agency; and
- 2. For an application as a hospice inpatient facility, the requested licensed capacity.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-603. Administration

A. A governing authority shall:

- 1. Consist of one or more individuals responsible for the organization, operation, and administration of the hospice;
- 2. Establish, in writing:
 - a. A hospice's scope of services, and
 - b. Qualifications for an administrator;
- 3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
- 4. Adopt a quality management plan according to R9-10-604;
- 5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
- 6. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b), if the administrator is:
 - a. Expected not to be present:
 - i. At a hospice service agency's administrative office for more than 30 calendar days, or
 - ii. On a hospice inpatient facility's premises for more than 30 calendar days; or
 - b. Not present:
 - i. At a hospice service agency's administrative office for more than 30 calendar days, or

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- ii. On a hospice inpatient facility's premises for more than 30 calendar days; and
- 7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425(I) when there is a change in the administrator and identify the name and qualifications of the new administrator.
- B.** An administrator:
 - 1. Is directly accountable to the governing authority of a hospice for the daily operation of the hospice and all services provided by or through the hospice;
 - 2. Has the authority and responsibility to manage the hospice;
 - 3. Except as provided in subsection (A)(6), designates, in writing, an individual who is present on the hospice's premises and accountable for the:
 - a. Hospice service agency when the administrator is not present at the hospice service agency's administrative office, or
 - b. Inpatient hospice facility when the administrator is not on hospice inpatient facility's premises; and
 - 4. Designates a personnel member to provide direction for volunteers.
- C.** An administrator shall ensure that:
 - 1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to patient care;
 - d. Include methods to prevent abuse or neglect of a patient, including:
 - i. Training of personnel members, at least annually, on how to recognize the signs and symptoms of abuse or neglect; and
 - ii. Reporting of abuse or neglect of a patient;
 - e. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - f. Include a method to identify a patient to ensure the patient receives hospice services as ordered;
 - g. Cover patient rights, including assisting a patient who does not speak English or who has a disability to become aware of patient rights;
 - h. Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. The hospice service agency or hospice inpatient facility to respond to a patient's complaint;
 - i. Cover health care directives;
 - j. Cover medical records, including electronic medical records;
 - k. Cover a quality management program, including incident reports and supporting documentation;
 - l. Cover contracted services; and
 - m. Cover information and education to a patient or a patient's representative of proper disposal of schedule II controlled substances in compliance with A.R.S. § 36-425.04;
 - 2. Policies and procedures for hospice services are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover patient screening, admission, transfer, discharge planning, and discharge;
 - b. Cover the provision of hospice services;
 - c. Include when general consent and informed consent are required;
 - d. Cover how personnel members will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 - e. Cover dispensing, administering, and disposing of medication;
 - f. Cover infection control; and
 - g. Cover telemedicine, if applicable;
 - h. Cover clergy visitation procedures in compliance with A.R.S. § 36-407.02;
 - 3. For a hospice inpatient facility, policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover visitation of a patient, including:
 - i. Allowing visitation by individuals 24 hours a day, and
 - ii. Allowing a visitor to bring a pet to visit the patient;
 - b. Cover the use and display of a patient's personal belongings; and
 - c. Cover environmental services that affect patient care;
 - 4. Policies and procedures are reviewed and updated at least once every three years;
 - 5. Policies and procedures are available to personnel members, employees, volunteers, and students; and
 - 6. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a hospice, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the hospice.
- D.** An administrator shall designate, in writing, a:
 - 1. Physician as the medical director who has the authority and responsibility for providing direction for the medical services provided by the hospice, and
 - 2. Registered nurse as the director of nursing who has the authority and responsibility for managing nursing services provided by the hospice.
- E.** An administrator shall ensure that the following are conspicuously posted:
 - 1. The current Department-issued license;
 - 2. The current telephone number of the Department; and
 - 3. The location at which the following are available for review:
 - a. A copy of the most recent Department inspection report;
 - b. A list of the services provided by the hospice; and
 - c. A written copy of rates and charges, as required in A.R.S. § 36-436.03.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to

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Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 30 A.A.R. 2499 (August 2, 2024), with an immediate effective date of July 8, 2024 (Supp. 24-3).

R9-10-604. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to patient care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to patient care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-605. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-606. Personnel

A. An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving physical health services from the personnel member

according to the established job description; and

b. Include:

- i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services listed in the established job description,
- ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services listed in the established job description, and
- iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services listed in the established job description;

2. A personnel member's skills and knowledge are verified and documented:

- a. Before the personnel member provides physical health services, and
- b. According to policies and procedures;

3. Sufficient personnel members are available and, for a hospice inpatient facility, present on the hospice inpatient facility's premises, with the qualifications, skills, and knowledge necessary to:

- a. Provide the services in the hospice's scope of services,
- b. Meet the needs of a patient, and
- c. Ensure the health and safety of a patient;

4. Orientation occurs within the first week of providing hospice services and includes:

- a. Informing personnel about Department rules for licensing and regulating hospices and where the rules may be obtained,
- b. Reviewing the process by which a personnel member may submit a complaint about patient care to a hospice, and
- c. Providing the information required by hospice policies and procedures;

5. Personnel receive in-service education according to criteria established in hospice policies and procedures;

6. In-service education documentation for a personnel member includes:

- a. The subject matter,
- b. The date of the in-service education, and
- c. The signature of each individual who participated in the in-service education; and

7. A personnel member, or an employee or a volunteer who has or is expected to have direct interaction with a patient, provides evidence of freedom from infectious tuberculosis:

- a. On or before the date the individual begins providing services at or on behalf of the hospice service facility or hospice inpatient facility, and
- b. As specified in R9-10-113.

B. An administrator shall ensure that record is maintained for each personnel member, employee, volunteer, or student that includes:

1. The individual's name, date of birth, and contact telephone number;

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2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
3. Documentation of:
 - a. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
 - c. The individual's completed orientation and in-service education as required by policies and procedures;
 - d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures; and
 - e. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (A)(7).

C. An administrator shall ensure that personnel records are:

1. Maintained:
 - a. Throughout the individual's period of providing services in or for the hospice, and
 - b. For at least 24 months after the last date the individual provided services in or for the hospice; and
2. For a personnel member who has not provided physical health services at or for the hospice during the previous 12 months, provided to the Department within 72 hours after the Department's request.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-607. Admission

- A.** Before admitting an individual as a patient, an administrator shall obtain:
1. The name of the individual's physician;
 2. Documentation that the individual has a diagnosis by a physician that indicates that the individual has a specific, progressive, normally irreversible disease that is likely to cause the individual's death in six months or less; and
 3. Documentation from the individual or the individual's representative acknowledging that:
 - a. Hospice services include palliative care and supportive services and are not curative, and
 - b. The individual or individual's representative has received a list of services to be provided by the hospice.
- B.** At the time of admission, a physician or registered nurse shall:
1. Assess a patient's medical, social, nutritional, and psychological needs; and
 2. As applicable, obtain informed consent or general consent.
- C.** Before or at the time of admission, a personnel member qualified according to policies and procedures shall assess the social and psychological needs of a patient's family, if applicable.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-608. Care Plan

- A.** An administrator shall ensure that a care plan is developed for each patient:
1. Based on the:
 - a. Assessment of the:
 - i. Patient; and
 - ii. Patient's family, if applicable;
 - b. Hospice service agency's or inpatient hospice facility's scope of service;
 2. With participation from a:
 - a. Physician,
 - b. Registered nurse, and
 - c. Another personnel member as designated in R9-10-612(A)(4); and
 3. That includes:
 - a. The patient's diagnosis;
 - b. The patient's health care directives;
 - c. The patient's cognitive awareness of self, location, and time;
 - d. The patient's functional abilities and limitations;
 - e. Goals for pain control and symptom management;
 - f. The type, duration, and frequency of services to be provided to the patient and, if applicable, the patient's family;
 - g. Treatments the patient is receiving from a health care institution or health care professional other than the hospice, if applicable;
 - h. Medications ordered for the patient;
 - i. Any known allergies;
 - j. Nutritional requirements and preferences; and
 - k. Specific measures to improve the patient's safety and protect the patient against injury.
- B.** An administrator shall ensure that:
1. A request for participation in a patient's care plan is made to the patient or patient's representative;
 2. An opportunity for participation in the patient's care plan is provided to the patient, patient's representative, or patient's family; and
 3. The request in subsection (B)(1) and the opportunity in subsection (B)(2) are documented in the patient's medical record.
- C.** An administrator shall ensure that:
1. Hospice services are provided to a patient and, if applicable, the patient's family according to the patient's care plan;
 2. A patient's care plan is reviewed and updated:
 - a. Whenever there is a change in the patient's condition that indicates a need for a change in the type, duration, or frequency of the services being provided;
 - b. If the patient's physician orders a change in the care plan; and
 - c. At least every 30 calendar days; and
 3. A patient's physician authenticates the care plan with a signature within 14 calendar days after the care plan is initially developed and whenever the care plan is reviewed or updated.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-608 renumbered to R9-10-609; new Section R9-10-608 renumbered from R9-10-611 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

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R9-10-609. Transfer

Except for a transfer of a patient due to an emergency, an administrator shall ensure that:

1. A personnel member coordinates the transfer and the services provided to the patient;
2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before the transfer;
 - b. Information from the patient's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the patient or the patient's representative; and
3. Documentation in the patient's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transfer.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-609 renumbered to R9-10-610; new Section R9-10-609 renumbered from R9-10-608 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-610. Patient Rights

A. An administrator shall ensure that:

1. The requirements in subsection (B) and the patient rights in subsection (C) are conspicuously posted on the premises;
2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C); and
3. Policies and procedures include:
 - a. How and when a patient or the patient's representative is informed of patient rights in subsection (C), and
 - b. Where patient rights are posted as required in subsection (A)(1).

B. An administrator shall ensure that:

1. A patient is treated with dignity, respect, and consideration;
2. A patient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by the hospice's personnel members, employees, volunteers, or students; and
3. A patient or the patient's representative:

- a. Except in an emergency, either consents to or refuses treatment;
- b. May refuse or withdraw consent for treatment before treatment is initiated;
- c. Except in an emergency, is informed of proposed treatment alternatives, associated risks, and possible complications;
- d. Consents to photographs of the patient before the patient is photographed, except that a patient may be photographed when admitted to a hospice for identification and administrative purposes;
- e. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records;
- f. Is informed of:
 - i. The components of hospice services provided by the hospice;
 - ii. The rates and charges for the components of hospice services before the components are initiated and before a change in rates, charges, or services;
 - iii. The hospice's policy on health care directives; and
 - iv. The patient complaint process; and
- g. Is informed that a written copy of rates and charges, as required in A.R.S. § 36-436.03, may be requested.

C. A patient has the following rights:

1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
2. To receive treatment that supports and respects the patient's individuality, choices, strengths, and abilities;
3. To receive privacy in treatment and care for personal needs;
4. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
5. To receive a referral to another health care institution if the hospice inpatient facility is not authorized or not able to provide physical health services needed by the patient;
6. To participate or have the patient's representative participate in the development of, or decisions concerning, treatment;
7. To participate or refuse to participate in research or experimental treatment;
8. To participate in religious visitation by a clergy member according to A.R.S. § 36-407.02; and
9. To receive assistance from a family member, the patient's representative, or other individual in understanding, protecting, or exercising the patient's rights.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-610 renumbered to R9-10-611; new Section R9-10-610 renumbered from R9-10-609 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 30 A.A.R. 2499 (August 2, 2024), with an immediate effective date of July 8, 2024 (Supp. 24-3).

R9-10-611. Medical Records

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- A.** An administrator shall ensure that:
1. A patient's medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
 2. An entry in a patient's medical record is:
 - a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner issuing the order;
 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 5. A patient's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of a patient or the patient's representative; or
 - c. As permitted by law; and
 6. A patient's medical record is protected from loss, damage, or unauthorized use.
- B.** If a hospice maintains patients' medical records electronically, an administrator shall ensure that:
1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a patient's medical record is recorded by the computer's internal clock.
- C.** An administrator shall ensure that a patient's medical record contains:
1. Patient information that includes:
 - a. The patient's name,
 - b. The patient's address,
 - c. The patient's telephone number,
 - d. The patient's date of birth, and
 - e. Any known allergy;
 2. The admission date and, if applicable, the date that the patient stopped receiving services from the hospice;
 3. The name and telephone number of the patient's physician;
 4. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:
 - i. Is a legal guardian, a copy of the court order establishing guardianship; or
 - ii. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney;
 5. The admitting diagnosis;
 6. If applicable, documented general consent and informed consent, by the patient or the patient's representative;
 7. Documentation of medical history;
 8. A copy of the patient's living will, health care power of attorney, or other health care directive, if applicable;
 9. Orders;
 10. The assessment required in R9-10-607(B)(1);
 11. Care plans;
 12. Progress notes for each patient contact, including:
 - a. The date of the patient contact,
 - b. The services provided,
 - c. A description of the patient's condition, and
 - d. Instructions given to the patient or patient's representative;
 13. Documentation of hospice services provided to the patient;
 14. If applicable, documentation of any actions taken to control the patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 15. Documentation of coordination of patient care;
 16. Documentation of contacts with the patient's physician by a personnel member;
 17. The discharge summary, if applicable;
 18. If applicable, transfer documentation from a sending health care institution; and
 19. Documentation of a medication administered to the patient that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain, when initially administered or when administered on a PRN basis:
 - i. An assessment of the patient's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication, when initially administered or when administered on a PRN basis:
 - i. An assessment of the patient's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The identification, signature, and professional designation of the individual administering the medication; and
 - f. Any adverse reaction a patient has to the medication.

Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-611 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). R9-10-611 renumbered to R9-10-608; new Section R9-10-611 renumbered from R9-10-610 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-612. Hospice Services

- A.** An administrator shall ensure that the following are included in the hospice services provided by the hospice:
1. Medical services;
 2. Nursing services;

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3. Nutritional services, including menu planning and the designation of the kind and amount of food appropriate for a patient;
 4. Medical social services, provided as follows by a personnel member:
 - a. Qualified according to policies and procedures to coordinate medical social services; and
 - b. Who is licensed under A.R.S. Title 32, Chapter 33, Article 5, if applicable;
 5. Bereavement counseling for a patient's family for at least one year after the death of the patient; and
 6. Spiritual counseling services, consistent with a patient's customs, religious preferences, cultural background, and ethnicity.
- B.** In addition to the services specified in subsection (A), an administrator of a hospice service agency shall ensure that the following are included in the hospice services provided by the hospice:
1. Home health aide services;
 2. Respite care services; and
 3. Supportive services, as defined in A.R.S. § 36-151.
- C.** An administrator shall ensure that the medical director provides direction for medical services provided by or through the hospice.
- D.** A medical director shall ensure that:
1. A patient's need for medical services is met, according to the patient's care plan and the hospice's scope of services; and
 2. If a patient is receiving medical services not provided by or through the hospice, hospice services are coordinated with the physician providing medical services to the patient.
- E.** A director of nursing shall ensure that:
1. A registered nurse or practical nurse provides nursing services according to the hospice's policies and procedures;
 2. A sufficient number of nurses are available to provide the nursing services identified in each patient's care plan;
 3. The care plan for a patient is implemented;
 4. A personnel member is only assigned to provide services the personnel member can competently perform;
 5. A registered nurse:
 - a. Assigns tasks in writing to a home health aide who is providing home health aide service to a patient,
 - b. Provides direction for the home health aide services provided to a patient, and
 - c. Verifies the competency of the home health aide in performing assigned tasks;
 6. A registered dietitian or a personnel member under the direction of a registered dietitian plans menus for a patient;
 7. A patient's condition and the services provided to the patient are documented in the patient's medical record after each patient contact;
 8. A patient's physician is immediately informed of a change in the patient's condition that requires medical services; and
 9. The implementation of a patient's care plan is coordinated among the personnel members providing hospice services to the patient.

Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-612 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, §

17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 30 A.A.R. 2499 (August 2, 2024), with an immediate effective date of July 8, 2024 (Supp. 24-3).

R9-10-613. Medication Services

- A.** An administrator shall ensure that policies and procedures for medication services:
1. Include:
 - a. A process for providing information to a patient about medication prescribed for the patient including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse reaction to a medication, or
 - iii. A medication overdose;
 - c. Procedures to ensure that a patient's medication regimen and method of administration is reviewed by a medical practitioner to ensure the medication regimen meets the patient's needs;
 - d. Procedures for:
 - i. Documenting medication administration; and
 - ii. Monitoring a patient who self-administers medication;
 - e. Procedures for assisting a patient in obtaining medication; and
 - f. If applicable, procedures for providing medication administration off the premises; and
 2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B.** If a hospice provides medication administration, an administrator shall ensure that:
1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a patient only as prescribed; and
 - d. Cover the documentation of a patient's refusal to take prescribed medication in the patient's medical record;
 2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
 3. A medication administered to a patient:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the patient's medical record.
- C.** An administrator shall ensure that:

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1. A current drug reference guide is available for use by personnel members;
 2. A current toxicology reference guide is available for use by personnel members;
 3. If pharmaceutical services are provided on the premises:
 - a. A committee, composed of at least one physician, one pharmacist, and other personnel members as determined by the hospice's policies and procedures is established to:
 - i. Develop a drug formulary,
 - ii. Update the drug formulary at least every 12 months,
 - iii. Develop medication usage and medication substitution policies and procedures, and
 - iv. Specify which medications and medication classifications are required to be stopped automatically after a specific time period unless the ordering medical practitioner specifically orders otherwise;
 - b. The pharmaceutical services are provided under the direction of a pharmacist;
 - c. The pharmaceutical services comply with ARS Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - d. A copy of the pharmacy license is provided to the Department upon request.
 - D. When medication is stored at a hospice inpatient facility, an administrator shall ensure that:
 1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 2. Medication is stored according to the instructions on the medication container; and
 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of patients who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.
 - E. An administrator shall ensure that a personnel member immediately reports a medication error or a patient's adverse reaction to a medication to the medical practitioner who ordered the medication and, if applicable, the hospice's director of nursing.
1. An infection control program is established, under the direction of an individual qualified according to policies and procedures, to prevent the development and transmission of infections and communicable diseases including:
 - a. A method to identify and document infections;
 - b. Analysis of the types, causes, and spread of infections and communicable diseases;
 - c. The development of corrective measures to minimize or prevent the spread of infections and communicable diseases; and
 - d. Documenting infection control activities including:
 - i. The collection and analysis of infection control data,
 - ii. The actions taken relating to infections and communicable diseases, and
 - iii. Reports of communicable diseases to the governing authority and state and county health departments;
 2. Infection control documents are maintained for at least 12 months after the date of the documents;
 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that cover:
 - a. Handling and disposal of biohazardous medical waste;
 - b. Sterilization and disinfection of medical equipment and supplies;
 - c. Use of personal protective equipment such as aprons, gloves, gowns, masks, or face protection when applicable;
 - d. Cleaning of an individual's hands when the individual's hands are visibly soiled and before and after providing a service to a patient;
 - e. Training of personnel members in infection control practices; and
 - f. Work restrictions for a personnel member with a communicable disease or infected skin lesion;
 4. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures; and
 5. A personnel member washes hands or use a hand disinfection product after each patient contact and after handling soiled linen, soiled clothing, or potentially infectious material.

Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-614 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-615. Food Services for a Hospice Inpatient Facility

- A. An administrator of a hospice inpatient facility shall ensure that:
1. Meals and snacks provided by the hospice inpatient facility are served according to a patient's dietary needs and preferences;
 2. Meals and snacks for each day are planned using:

R9-10-614. Infection Control

An administrator shall ensure that:

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- a. The applicable most recent dietary guidelines according to the U.S. Department of Health and Human Services and U.S. Department of Agriculture, and
 - b. Preferences for meals and snacks obtained from patients;
 3. A patient requiring assistance to eat is provided with assistance that recognizes the patient's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils; and
 4. Water is available and accessible to patients at all times, unless otherwise stated in a patient's care plan.
- B.** An administrator of a hospice inpatient facility shall ensure that food is obtained, prepared, served, and stored as follows:
1. Food is free from spoilage, filth, or other contamination and is safe for human consumption;
 2. Food is protected from potential contamination;
 3. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a patient, such as cut, chopped, ground, pureed, or thickened;
 4. Potentially hazardous food is maintained as follows:
 - a. Foods requiring refrigeration are maintained at 41° F or below;
 - b. Foods requiring cooking are cooked to heat all parts of the food to a temperature of at least 145° F for 15 seconds, except that:
 - i. Ground beef and ground meats are cooked to heat all parts of the food to at least 155° F;
 - ii. Poultry, poultry stuffing, stuffed meats, and stuffing that contains meat are cooked to heat all parts of the food to at least 165° F;
 - iii. Pork and any food containing pork are cooked to heat all parts of the food to at least 155° F;
 - iv. Raw shell eggs for immediate consumption are cooked to at least 145° F for 15 seconds and any food containing raw shell eggs is cooked to heat all parts of the food to at least 155° F;
 - v. Roast beef and beef steak are cooked to an internal temperature of at least 155° F; and
 - vi. Leftovers are reheated to a temperature of at least 165° F;
 5. A refrigerator contains a thermometer, accurate to plus or minus 3° F, at the warmest part of the refrigerator;
 6. Frozen foods are stored at a temperature of 0° F or below; and
 7. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair.
- C.** An administrator shall ensure that:
1. For a hospice inpatient facility with a licensed capacity of more than 20 beds, the hospice inpatient facility:
 - a. Has a license or permit as a food establishment under 9 A.A.C. 8, Article 1, and
 - b. Maintains a copy of the hospice inpatient facility's food establishment license or permit;
 2. If the hospice inpatient facility contracts with food establishment, as defined in 9 A.A.C. 8, Article 1, to prepare and deliver food to the hospice inpatient facility a copy of the contracted food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the hospice inpatient facility; and
 3. Food is stored, refrigerated, and reheated to meet the dietary needs of a patient.

Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-615 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 30 A.A.R. 2499 (August 2, 2024), with an immediate effective date of July 8, 2024 (Supp. 24-3).

R9-10-616. Emergency and Safety Standards for a Hospice Inpatient Facility

- A.** An administrator of a hospice inpatient facility shall ensure that:
1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and other employees, and, if necessary, implemented that includes:
 - a. When, how, and where patients will be relocated, including:
 - i. Instructions for the evacuation or transfer of patients,
 - ii. Assigned responsibilities for each employee and personnel member, and
 - iii. A plan for providing continuing services to meet patient's needs;
 - b. How each patient's medical record will be available to individuals providing services to the patient during a disaster;
 - c. A plan to ensure each patient's medication will be available to administer to the patient during a disaster; and
 - d. A plan for obtaining food and water for individuals present in the hospice inpatient facility or the hospice inpatient facility's relocation site during a disaster;
 2. The disaster plan required in subsection (A)(1) is reviewed at least once every 12 months;
 3. Documentation of a disaster plan review required in subsection (A)(2) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each personnel member, employee, or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
 4. A disaster drill for employees is conducted on each shift at least once every three months and documented; and
 5. An evacuation path is conspicuously posted on each hallway of each floor of the hospice inpatient facility.
- B.** An administrator shall:
1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 2. Make any repairs or corrections stated on the fire inspection report, and
 3. Maintain documentation of a current fire inspection.

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Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-616 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-617. Environmental Standards for a Hospice Inpatient Facility

A. An administrator of a hospice inpatient facility shall ensure that:

1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that cover:
 - a. Cleaning and storing of soiled linens and clothing,
 - b. Housekeeping procedures that ensure a clean environment, and
 - c. Isolation of a patient who may spread an infection;
2. The premises and equipment are:
 - a. Cleaned and disinfected according to policies and procedures or manufacturer's instructions to prevent, minimize, and control illness or infection; and
 - b. Free from a condition or situation that may cause a patient or other individual to suffer physical injury or illness;
3. A pest control program that complies with A.A.C. R3-8-201(C)(4) is implemented and documented;
4. Equipment used at the hospice inpatient facility is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in the hospice inpatient facility's policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
5. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
6. Garbage and refuse are:
 - a. Stored in covered containers lined with plastic bags, and
 - b. Removed from the premises at least once a week;
7. Soiled linen and clothing are:
 - a. Collected in a manner to minimize or prevent contamination;
 - b. Bagged at the site of use; and
 - c. Maintained separate from clean linen and clothing and away from food storage, kitchen, or dining areas;
8. Heating and cooling systems maintain the hospice inpatient facility at a temperature between 70° F and 84° F at all times;
9. Common areas:
 - a. Are lighted to assure the safety of patients, and
 - b. Have lighting sufficient to allow personnel members to monitor patient activity;
10. The supply of hot and cold water is sufficient to meet the personal hygiene needs of patients and the cleaning and sanitation requirements in this Article;
11. Oxygen containers are secured in an upright position;

12. Poisonous or toxic materials stored by the hospice inpatient facility are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to patients;
13. Except for medical supplies needed by a patient, combustible or flammable liquids and hazardous materials are stored by the hospice inpatient facility in the original labeled containers or safety containers in a locked area inaccessible to patients;
14. If pets or animals are allowed in the hospice inpatient facility, pets or animals are:
 - a. Controlled to prevent endangering the patients and to maintain sanitation, and
 - b. Licensed consistent with local ordinances;
15. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink, and
 - c. Documentation of testing is retained for at least 12 months after the date of the test; and
16. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to all applicable state laws and rules.

B. An administrator of a hospice inpatient facility shall ensure that a patient is allowed to use and display personal belongings.

Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-617 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 25 A.A.R. 259, effective January 8, 2019 (Supp. 19-1).

R9-10-618. Physical Plant Standards for a Hospice Inpatient Facility

- A.** An administrator shall ensure that a hospice inpatient facility complies with applicable physical plant health and safety codes and standards, incorporated by reference in R9-10-104.01.
- B.** An administrator of a hospice inpatient facility shall ensure that the premises and equipment are sufficient to accommodate:
1. The services stated in the hospice inpatient facility's scope of services, and
 2. An individual accepted as a patient by the hospice inpatient facility.
- C.** An administrator of a hospice inpatient facility shall ensure that a patient's sleeping area:
1. Is shared by no more than four patients;
 2. Measures at least 80 square feet of floor space per patient, not including a closet;
 3. Has walls from floor to ceiling;

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4. Contains a door that opens into a hallway, common area, or outdoors;
 5. Is at or above ground level;
 6. Is vented to the outside of the hospice inpatient facility;
 7. Has a working thermometer for measuring the temperature in the sleeping area;
 8. For each patient, has a:
 - a. Bed,
 - b. Bedside table,
 - c. Bedside chair,
 - d. Reading light,
 - e. Privacy screen or curtain, and
 - f. Closet or drawer space;
 9. Is equipped with a bell, intercom, or other mechanical means for a patient to alert a personnel member;
 10. Is no farther than 20 feet from a room containing a toilet and a sink;
 11. Is not used as a passageway to another sleeping area, a toilet room, or a bathing room;
 12. Contains one of the following to provide sunlight:
 - a. A window to the outside of the hospice inpatient facility, or
 - b. A transparent or translucent door to the outside of the hospice inpatient facility; and
 13. Has coverings for windows and for transparent or translucent doors that provide patient privacy.
- D.** An administrator of a hospice inpatient facility shall ensure that there is:
1. For every six patients, a toilet room that contains:
 - a. At least one working toilet that flushes and has a seat;
 - b. At least one working sink with running water;
 - c. Soap for hand washing;
 - d. Paper towels or a mechanical air hand dryer;
 - e. Grab bars attached to a wall that an individual may hold onto to assist the individual in becoming or remaining erect;
 - f. A mirror;
 - g. Lighting;
 - h. Space for a personnel member to assist a patient;
 - i. A bell, intercom, or other mechanical means for a patient to alert a personnel member; and
 - j. An operable window to the outside of the hospice inpatient facility or other means of ventilation;
 2. For every 12 patients, at least one working bathtub or shower accessible to a wheeled shower chair, with a slip-resistant surface, located in a toilet room or in a separate bathing room;
 3. For a patient occupying a sleeping area with one or more other patients, a separate room in which the patient can meet privately with family members;
 4. Space in a lockable closet, drawer, or cabinet for a patient to store the patient's private or valuable items;
 5. A room other than a sleeping area that can be used for social activities;
 6. Sleeping accommodations for family members;
 7. A designated toilet room, other than a patient toilet room, for personnel and visitors that:
 - a. Provides privacy; and
 - b. Contains:
 - i. A working sink with running water,
 - ii. A working toilet that flushes and has a seat,
 - iii. Toilet tissue,
 - iv. Soap for hand washing,
 - v. Paper towels or a mechanical air hand dryer,
 - vi. Lighting, and
 - vii. A window that opens or another means of ventilation;
 8. If the hospice inpatient facility has a kitchen with a stove or oven, a mechanism to vent the stove or oven to the outside of the hospice inpatient facility; and
 9. Space designated for administrative responsibilities that is separate from sleeping areas, toilet rooms, bathing rooms, and drug storage areas.

Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-618 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-619. Repealed**Historical Note**

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-619 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

R9-10-620. Repealed**Historical Note**

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-620 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

R9-10-621. Repealed**Historical Note**

Adopted effective November 6, 1978 (Supp. 78-6). Correction, subsection (H), after "... 105° F" added "nor more than 110° F" as certified effective November 6, 1978 (Supp. 87-2). Section R9-10-621 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

R9-10-622. Repealed**Historical Note**

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-622 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

R9-10-623. Repealed

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Historical Note

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-623 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

R9-10-624. Repealed**Historical Note**

Adopted effective November 6, 1978 (Supp. 78-6). Section R9-10-624 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

ARTICLE 7. BEHAVIORAL HEALTH RESIDENTIAL FACILITIES**R9-10-701. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following applies in this Article unless otherwise specified:

“Emergency safety response” means physically holding a resident to manage the resident’s sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted without changes effective October 30, 1989 (Supp. 89-4). Section R9-10-701 repealed, new Section R9-10-701 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-702. Supplemental Application and Documentation Submission Requirements

A. In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for a license as a behavioral health residential facility shall include on the application:

1. Whether the applicant is planning to provide:
 - a. Behavioral health services to individuals under 18 years of age, including the licensed capacity requested;
 - b. Behavioral health services to individuals 18 years of age and older, including the licensed capacity requested; or
 - c. Respite services;

2. Whether the applicant is requesting authorization to provide an outdoor behavioral health care program, including:
 - a. The requested licensed capacity for providing the outdoor behavioral health care program to individuals 12 to 17 years of age, and
 - b. The requested licensed capacity for providing the outdoor behavioral health care program to individuals 18 to 24 years of age;
 3. Whether the applicant is requesting authorization to provide:
 - a. Court-ordered evaluation,
 - b. Court-ordered treatment,
 - c. Behavioral health services to individuals 18 years of age or older whose behavioral health issue limits the individuals’ ability to function independently, or
 - d. Personal care services;
 4. Whether the applicant is requesting authorization to provide recidivism reduction services as an adult residential care institution, including the requested licensed capacity for providing recidivism reduction services;
 5. For a behavioral health residential facility requesting authorization to provide respite services, the requested number of individuals the behavioral health residential facility plans to admit for respite services who:
 - a. Are included in the requested licensed capacities in subsections (A)(1)(a) and (b),
 - b. Are under 18 years of age and who do not stay overnight in the behavioral health residential facility, and
 - c. Are 18 years of age and older and who do not stay overnight in the behavioral health residential facility; and
 6. For an outdoor behavioral health care program, a copy of the outdoor behavioral health care program’s current accreditation report.
- B. A licensee of an outdoor behavioral health care program shall submit a copy of the outdoor behavioral health care program’s current accreditation report to the Department with the relevant fees required in R9-10-106(C).

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section R9-10-702 repealed, new Section R9-10-702 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking at

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26 A.A.R. 551, with an immediate effective date of
March 3, 2020 (Supp. 20-1).

R9-10-703. Administration

- A.** A governing authority shall:
1. Consist of one or more individuals responsible for the organization, operation, and administration of a behavioral health residential facility;
 2. Establish, in writing:
 - a. A behavioral health residential facility's scope of services, and
 - b. Qualifications for an administrator;
 3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
 4. Adopt a quality management program according to R9-10-704;
 5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
 6. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b), if the administrator is:
 - a. Expected not to be present on the behavioral health residential facility's premises for more than 30 calendar days, or
 - b. Not present on the behavioral health residential facility's premises for more than 30 calendar days; and
 7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425(I) when there is a change in the administrator and identify the name and qualifications of the new administrator.
- B.** An administrator:
1. Is directly accountable to the governing authority of a behavioral health residential facility for the daily operation of the behavioral health residential facility and all services provided by or at the behavioral health residential facility;
 2. Has the authority and responsibility to manage the behavioral health residential facility; and
 3. Except as provided in subsection (A)(6), designates, in writing, an individual who is present on the behavioral health residential facility's premises and accountable for the behavioral health residential facility when the administrator is not present on the behavioral health residential facility's premises.
- C.** An administrator shall ensure that:
1. Policies and procedures are established, documented, and implemented to protect the health and safety of a resident that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to services provided to a resident;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training including:
 - i. The method and content of cardiopulmonary resuscitation training, which includes a demonstration of the individual's ability to perform cardiopulmonary resuscitation;
 - ii. The qualifications for an individual to provide cardiopulmonary resuscitation training;
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training; and
 - iv. The documentation that verifies that the individual has received cardiopulmonary resuscitation training;
 - f. Cover implementation of the requirements in A.R.S. §§ 36-411, 36-411.01, and 36-425.03, as applicable;
 - g. Cover implementation of the requirements in A.R.S. § 8-804, if applicable;
 - h. Cover first aid training;
 - i. Include a method to identify a resident to ensure the resident receives physical health services and behavioral health services as ordered;
 - j. Cover resident rights, including assisting a resident who does not speak English or who has a physical or other disability to become aware of resident rights;
 - k. Cover specific steps for:
 - i. A resident to file a complaint, and
 - ii. The behavioral health residential facility to respond to a resident complaint;
 - l. Cover health care directives;
 - m. Cover medical records, including electronic medical records;
 - n. Cover a quality management program, including incident reports and supporting documentation;
 - o. Cover contracted services; and
 - p. Cover when an individual may visit a resident in a behavioral health residential facility;
 2. Policies and procedures for behavioral health services and physical health services are established, documented, and implemented to protect the health and safety of a resident that:
 - a. Cover resident screening, admission, assessment, treatment plan, transport, transfer, discharge planning, and discharge;
 - b. Cover the provision of behavioral health services and physical health services;
 - c. Include when general consent and informed consent are required;
 - d. Cover emergency safety responses;
 - e. Cover a resident's personal funds account;
 - f. Cover dispensing medication, administering medication, assistance in the self-administration of medication, and disposing of medication, including provisions for inventory control and preventing diversion of controlled substances;
 - g. Cover prescribing a controlled substance to minimize substance abuse by a resident;
 - h. Cover respite services, including, as applicable, respite services for individuals who are admitted:
 - i. To receive respite services for up to 30 calendar days as a resident of the behavioral health residential facility, and
 - ii. For respite services and do not stay overnight in the behavioral health residential facility;
 - i. Cover services provided by an outdoor behavioral health care program, if applicable;
 - j. Cover infection control;
 - k. Cover resident time-out;
 - l. Cover resident outings;

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- m. Cover environmental services that affect resident care;
 - n. Cover whether pets and other animals are allowed on the premises, including procedures to ensure that any pets or other animals allowed on the premises do not endanger the health or safety of residents or the public;
 - o. If animals are used as part of a therapeutic program, cover:
 - i. Inoculation/vaccination requirements, and
 - ii. Methods to minimize risks to a resident's health and safety;
 - p. Cover the process for receiving a fee from a resident and refunding a fee to a resident;
 - q. Cover the process for obtaining resident preferences for social, recreational, or rehabilitative activities and meals and snacks;
 - r. Cover the security of a resident's possessions that are allowed on the premises;
 - s. Cover smoking and the use of tobacco products on the premises; and
 - t. Cover how the behavioral health residential facility will respond to a resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual;
3. Policies and procedures are reviewed at least once every three years and updated as needed;
 4. Policies and procedures are available to personnel members, employees, volunteers, and students; and
 5. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a behavioral health residential facility, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the behavioral health residential facility.
- D.** If an applicant requests or a behavioral health residential facility has a licensed capacity of 10 or more residents, an administrator shall designate a clinical director who:
1. Provides direction for the behavioral health services provided by or at the behavioral health residential facility;
 2. Is a behavioral health professional; and
 3. May be the same individual as the administrator, if the individual meets the qualifications in subsections (A)(2)(b) and (D)(1) and (2).
- E.** Except for respite services, an administrator shall ensure that medical services, nursing services, health-related services, or ancillary services provided by a behavioral health residential facility are only provided to a resident who is expected to be present in the behavioral health residential facility for more than 24 hours.
- F.** The administrator of a behavioral health residential facility providing services to children shall notify the Department within 30 calendar days after:
1. Beginning to contract exclusively with the federal government, and
 2. Receiving only federal monies for services provided.
- G.** An administrator shall provide written notification to the Department of a resident's:
1. Death, if the resident's death is required to be reported according to A.R.S. § 11-593, within one working day after the resident's death; and
 2. Self-injury, within two working days after the resident inflicts a self-injury or has an accident that requires immediate intervention by an emergency medical services provider.
- H.** If abuse, neglect, or exploitation of a resident is alleged or suspected to have occurred before the resident was admitted or while the resident is not on the premises and not receiving services from a behavioral health residential facility's employee or personnel member, an administrator shall report the alleged or suspected abuse, neglect, or exploitation of the resident as follows:
1. For a resident 18 years of age or older, according to A.R.S. § 46-454; or
 2. For a resident under 18 years of age, according to A.R.S. § 13-3620.
- I.** If an administrator has a reasonable basis, according to A.R.S. § 13-3620 or 46-454, to believe abuse, neglect, or exploitation has occurred on the premises or while a resident is receiving services from a behavioral health residential facility's employee or personnel member, the administrator shall:
1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Report the suspected abuse, neglect, or exploitation of the resident:
 - a. For a resident 18 years of age or older, according to A.R.S. § 46-454; or
 - b. For a resident under 18 years of age, according to A.R.S. § 13-3620;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (I)(1); and
 - c. The report in subsection (I)(2);
 4. Maintain the documentation in subsection (I)(3) for at least 12 months after the date of the report in subsection (I)(2);
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in (I)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the resident related to the suspected abuse or neglect and any change to the resident's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 6. Maintain a copy of the documented information required in subsection (I)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- J.** In addition to the notification requirements in subsections (F), (G), (H), and (I), an administrator of a behavioral health residential facility providing services to children that contracts exclusively with the federal government and receives only federal monies for services provided shall comply with A.R.S. § 36-418.
- K.** An administrator shall:

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1. Establish and document requirements regarding residents, personnel members, employees, and other individuals entering and exiting the premises;
 2. For a behavioral health residential facility licensed according to A.R.S. § 36-425.06 and in addition to the requirements in subsection (K)(1), establish and document requirements for a resident admitted according to A.R.S. § 36-550.09, consistent with R9-10-722(D);
 3. Establish and document guidelines for meeting the needs of an individual residing at a behavioral health residential facility with a resident, such as a child accompanying a parent in treatment, if applicable;
 4. If children under the age of 12, who are not admitted to a behavioral health residential facility, are residing at the behavioral health residential facility and being cared for by employees or personnel members, ensure that:
 - a. An employee or personnel member caring for children has current cardiopulmonary resuscitation and first aid training specific to the ages of children being cared for; and
 - b. The staff-to-children ratios in A.A.C. R9-5-404(A) are maintained, based on the age of the youngest child in the group;
 5. Establish and document the process for responding to a resident's need for immediate and unscheduled behavioral health services or physical health services;
 6. Establish and document the criteria for determining when a resident's absence is unauthorized, including criteria for a resident who:
 - a. Was admitted under A.R.S. Title 36, Chapter 5, Articles 3, 4, 5, or 10;
 - b. Is absent against medical advice; or
 - c. Is under the age of 18;
 7. If a resident's absence is unauthorized as determined according to the criteria in subsection (K)(5), within an hour after determining that the resident's absence is unauthorized, notify:
 - a. For a resident who is under 18 years of age, the resident's parent or legal guardian; and
 - b. For a resident who is under a court's jurisdiction, the appropriate court;
 8. Maintain a written log of unauthorized absences for at least 12 months after the date of a resident's absence that includes the:
 - a. Name of a resident absent without authorization,
 - b. Name of the individual to whom the report required in subsection (K)(6) was submitted, and
 - c. Date of the report; and
 9. Evaluate and take action related to unauthorized absences under the quality management program in R9-10-704.
- L.** An administrator shall ensure that a personnel member who is able to read, write, understand, and communicate in English is on the premises of the behavioral health residential facility.
- M.** An administrator shall ensure that the following information or documents are conspicuously posted on the premises and are available upon request to a personnel member, employee, resident, or a resident's representative:
1. The behavioral health residential facility's current license,
 2. The location at which inspection reports required in R9-10-720(C) are available for review or can be made available for review, and
 3. The calendar days and times when a resident may accept visitors or make telephone calls.
- N.** An administrator shall ensure that:
1. Labor performed by a resident for the behavioral health residential facility is consistent with A.R.S. § 36-510;
 2. A resident who is a child is only released to the child's custodial parent, guardian, or custodian or as authorized in writing by the child's custodial parent, guardian, or custodian;
 3. The administrator obtains documentation of the identity of the parent, guardian, custodian, or family member authorized to act on behalf of a resident who is a child; and
 4. A resident, who is an incapacitated person according to A.R.S. § 14-5101 or who is gravely disabled, is assisted in obtaining a resident's representative to act on the resident's behalf.
- O.** If an administrator determines that a resident is incapable of handling the resident's financial affairs, the administrator shall:
1. Notify the resident's representative or contact a public fiduciary or a trust officer to take responsibility of the resident's financial affairs, and
 2. Maintain documentation of the notification required in subsection (O)(1) in the resident's medical record for at least 12 months after the date of the notification.
- P.** If an administrator manages a resident's money through a personal funds account, the administrator shall ensure that:
1. Policies and procedure are established, developed, and implemented for:
 - a. Using resident's funds in a personal funds account,
 - b. Protecting resident's funds in a personal funds account,
 - c. Investigating a complaint about the use of resident's funds in a personal funds account and ensuring that the complaint is investigated by an individual who does not manage the personal funds account,
 - d. Processing each deposit into and withdrawal from a personal funds account, and
 - e. Maintaining a record for each deposit into and withdrawal from a personal funds account; and
 2. The personal funds account is only initiated after receiving a written request that:
 - a. Is provided:
 - i. Voluntarily by the resident,
 - ii. By the resident's representative, or
 - iii. By a court of competent jurisdiction;
 - b. May be withdrawn at any time; and
 - c. Is maintained in the resident's record.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section R9-10-703 repealed, new Section R9-10-703 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed

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with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking at 26 A.A.R. 551, with an immediate effective date of March 3, 2020 (Supp. 20-1). At the request of the Department clerical errors have been corrected to R9-10-703(K)(7) and (8)(b), referencing subsections that were not amended when subsection (I) was renamed to subsection (K) at 26 A.A.R. 551 (Supp. 21-2).

R9-10-704. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to residents;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to resident care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to resident care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to resident care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to resident care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section R9-10-704 repealed, new Section R9-10-704 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-705. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section R9-10-705 repealed, new Section R9-10-705 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-706. Personnel

A. An administrator shall ensure that:

1. A personnel member, an employee, or a student is at least 18 years old; and
2. A volunteer is at least 21 years old.

B. An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of behavioral health services or physical health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the residents receiving behavioral health services or physical health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected behavioral health services or physical health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected behavioral health services or physical health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected behav-

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- ioral health services or physical health services listed in the established job description;
- 2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures; and
- 3. Sufficient personnel members are present on a behavioral health residential facility's premises with the qualifications, experience, skills, and knowledge necessary to:
 - a. Provide the services in the behavioral health residential facility's scope of services,
 - b. Meet the needs of a resident, and
 - c. Ensure the health and safety of a resident.
- C. An administrator shall comply with the requirements for behavioral health technicians and behavioral health paraprofessionals in R9-10-115.
- D. An administrator shall ensure that an individual who is licensed under A.R.S. Title 32, Chapter 33 as a baccalaureate social worker, master social worker, associate marriage and family therapist, associate counselor, or associate substance abuse counselor is under direct supervision, as defined in A.A.C. R4-6-101.
- E. An administrator shall ensure that:
 - 1. A plan to provide orientation specific to the duties of a personnel member, an employee, a volunteer, and a student is developed, documented, and implemented;
 - 2. A personnel member completes orientation before providing behavioral health services or physical health services;
 - 3. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
 - 4. A written plan is developed and implemented to provide in-service education specific to the duties of a personnel member; and
 - 5. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training.
- F. An administrator shall ensure that a personnel member, or an employee, a volunteer, or a student who has or is expected to have more than eight hours of direct interaction per week with residents, provides evidence of freedom from infectious tuberculosis:
 - 1. On or before the date the individual begins providing services at or on behalf of the behavioral health residential facility, and
 - 2. As specified in R9-10-113.
- G. An administrator shall ensure that a personnel record is maintained for each personnel member, employee, volunteer, or student that includes:
 - 1. The individual's name, date of birth, and contact telephone number;
 - 2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 - 3. Documentation of:
 - a. The individual's qualifications including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
- c. The individual's completed orientation and in-service education as required by policies and procedures;
- d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
- e. The individual's compliance with requirements in A.R.S. §§ 36-411, 36-411.01, and 36-425.03, as applicable;
- f. The individual's compliance with the requirements in A.R.S. § 8-804, if applicable;
- g. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
- h. Cardiopulmonary resuscitation training, if required for the individual according to R9-10-703(C)(1)(e);
- i. First aid training, if required for the individual according to this Article or policies and procedures; and
- j. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (F).
- H. An administrator shall ensure that personnel records are:
 - 1. Maintained:
 - a. Throughout an individual's period of providing services at or for the behavioral health residential facility, and
 - b. For at least 24 months after the last date the individual provided services in or for the behavioral health residential facility; and
 - 2. For a personnel member who has not provided physical health services or behavioral health services at or for the behavioral health residential facility during the previous 12 months, provided to the Department within 72 hours after the Department's request.
- I. An administrator shall ensure that a personnel member who is recidivism reduction staff at an adult residential care institution:
 - 1. Submits an application for a fingerprint clearance card according to A.R.S. § 36-411; and
 - 2. If the personnel member is denied a fingerprint clearance card, is evaluated to determine whether the personnel member:
 - a. Has successfully completed treatment for recidivism reduction as shown by:
 - i. Documentation of completion of treatment for recidivism reduction;
 - ii. If applicable, continued negative results on random drug screening tests;
 - iii. If applicable, continued participation in a self-help group, such as Alcoholics Anonymous or Narcotics Anonymous, or a support group related to the personnel member's behavioral health issue; and
 - iv. No arrests or convictions of the personnel member related to the reason for denial of the fingerprint clearance card within the previous two years; and
 - b. Is not likely to be a threat to the health or safety of staff or residents through:
 - i. Review of the reasons for denial of a fingerprint clearance card;
 - ii. Assessment of the situations or circumstances that may have contributed to the reasons for denial of a fingerprint clearance card;

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- iii. Review of the steps taken by the personnel member to address the situations or circumstances that may have contributed to the reasons for denial of a fingerprint clearance card;
- iv. Observation of the personnel member's interactions with residents while under direct visual supervision, as defined in A.R.S. § 36-411, by personnel members having a valid fingerprint clearance card; and
- v. Institution of any other methods, according to policies and procedures, specific to the:
 - (1) Behavioral health residential facility;
 - (2) Issues of the residents that place them at risk for a future threat of prosecution, diversion, or incarceration; and
 - (3) Recidivism reduction services that are expected to be provided by the personnel member.

J. An administrator shall ensure that the following personnel members have first-aid and cardiopulmonary resuscitation training specific to the populations served by the behavioral health residential facility:

- 1. At least one personnel member who is present at the behavioral health residential facility during hours of operation of the behavioral health residential facility, and
- 2. Each personnel member participating in an outing.

K. An administrator shall ensure that:

- 1. At least one personnel member is present and awake at the behavioral health residential facility when a resident is on the premises;
- 2. In addition to the personnel member in subsection (K)(1), at least one personnel member is on-call and available to come to the behavioral health residential facility if needed;
- 3. There is a daily staffing schedule that:
 - a. Indicates the date, scheduled work hours, and name of each employee assigned to work, including on-call personnel members;
 - b. Includes documentation of the employees who work each calendar day and the hours worked by each employee; and
 - c. Is maintained for at least 12 months after the last date on the documentation;
- 4. A behavioral health professional is present at the behavioral health residential facility or on-call;
- 5. A registered nurse is present at the behavioral health residential facility or on-call; and
- 6. If a resident requires services that the behavioral health residential facility is not authorized or not able to provide, a personnel member arranges for the resident to be transported to a hospital or another health care institution where the services can be provided.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent

rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section R9-10-706 repealed, new Section R9-10-706 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking at 26 A.A.R. 551, with an immediate effective date of March 3, 2020 (Supp. 20-1).

Amended by final expedited rulemaking at 26 A.A.R. 3041, with an immediate effective date of November 3, 2020 (Supp. 20-4). The Notice of Final Expedited rulemaking filed by the Department and published at 26 A.A.R. 3041 (File no. R20-200), contained omissions of amended rule text previously codified. This notice did not include amendments made to subsections R9-10-706(G)(3)(e), and R9-10-706(I), (J), and (K) as published at 25 A.A.R. 1583 (File no. R19-115); amendments to subsections R9-10-706(G)(3)(f), (g), (h), (i) and (j) as published at 25 A.A.R. 551 (File no. R20-42); the new Section R9-10-706 as made with subsection R9-10-706(B)(2)(b), including the word "and" after the semicolon as published at 19 A.A.R. 2015 (File no. R13-15). This notice also erroneously included a change to the reference of a subsection in (G)(3)(h) which has been corrected to R9-10-703(C)(1)(e) as originally made at 19 A.A.R. 2015 and amended at 20 A.A.R. 1409 (File no. R14-68). The omission of amendments to these subsections were published as filed by the Department and have been corrected as amended in the original notices at the Department's request (Supp. 21-2). Due to a Department error published at 26 A.A.R. 551, subsections R9-10-706(I), (J), and (K) have been corrected as amended at 25 A.A.R. 1583 (Supp. 21-3).

R9-10-707. Admission; Assessment

A. An administrator shall ensure that:

- 1. A resident is admitted based upon:
 - a. The resident's primary condition for which the resident is admitted to the behavioral health residential facility being a behavioral health issue, and
 - b. The resident's behavioral health issue and treatment needs are within the behavioral health residential facility's scope of services;
- 2. A behavioral health professional, authorized by policies and procedures to admit a resident, is available;
- 3. Except as provided in subsection (A)(4), general consent is obtained from:
 - a. An adult resident or the resident's representative before or at the time of admission, or
 - b. A resident's representative, if the resident is not an adult;
- 4. General consent is not required from a patient receiving a court-ordered evaluation or court-ordered treatment;
- 5. The general consent obtained in subsection (A)(3) is documented in the resident's medical record;
- 6. Except as provided in subsection (E)(1)(a), a medical practitioner performs a medical history and physical examination or a registered nurse performs a nursing assessment on a resident within 30 calendar days before

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- admission or within 72 hours after admission and documents the medical history and physical examination or nursing assessment in the resident's medical record within 72 hours after admission;
7. If a medical practitioner performs a medical history and physical examination or a nurse performs a nursing assessment on a resident before admission, the medical practitioner enters an interval note or the nurse enters a progress note in the resident's medical record within seven calendar days after admission;
 8. If a behavioral health assessment is conducted by a:
 - a. Behavioral health technician or registered nurse, within 24 hours a behavioral health professional, certified or licensed to provide the behavioral health services needed by the resident, reviews and signs the behavioral health assessment to ensure that the behavioral health assessment identifies the behavioral health services needed by the resident; or
 - b. Behavioral health paraprofessional, a behavioral health professional, certified or licensed to provide the behavioral health services needed by the resident, supervises the behavioral health paraprofessional during the completion of the assessment and signs the assessment to ensure that the assessment identifies the behavioral health services needed by the resident;
 9. Except as provided in subsection (A)(10), a behavioral health assessment for a resident is completed before treatment for the resident is initiated;
 10. If a behavioral health assessment that complies with the requirements in this Section is received from a behavioral health provider other than the behavioral health residential facility or if the behavioral health residential facility has a medical record for the resident that contains a behavioral health assessment that was completed within 12 months before the date of the resident's current admission:
 - a. The resident's assessment information is reviewed before treatment for the resident is initiated and updated if additional information that affects the resident's assessment is identified, and
 - b. The review and update of the resident's assessment information is documented in the resident's medical record within 48 hours after the review is completed;
 11. A behavioral health assessment:
 - a. Documents a resident's:
 - i. Presenting issue;
 - ii. Substance abuse history;
 - iii. Co-occurring disorder;
 - iv. Legal history, including:
 - (1) Custody,
 - (2) Guardianship, and
 - (3) Pending litigation;
 - v. Criminal justice record;
 - vi. Family history;
 - vii. Behavioral health treatment history;
 - viii. Symptoms reported by the resident; and
 - ix. Referrals needed by the resident, if any;
 - b. Includes:
 - i. Recommendations for further assessment or examination of the resident's needs,
 - ii. The physical health services or ancillary services that will be provided to the resident until the resident's treatment plan is completed, and
 - iii. The signature and date signed of the personnel member conducting the behavioral health assessment; and
 - c. Is documented in resident's medical record;
 12. A resident is referred to a medical practitioner if a determination is made that the resident requires immediate physical health services or the resident's behavioral health issue may be related to the resident's medical condition; and
 13. Except as provided in subsection (E)(1)(d), a resident provides evidence of freedom from infectious tuberculosis:
 - a. Before or within seven calendar days after the resident's admission, and
 - b. As specified in R9-10-113.
- B.** An administrator shall ensure that:
1. A request for participation in a resident's behavioral health assessment is made to the resident or the resident's representative,
 2. An opportunity for participation in the resident's behavioral health assessment is provided to the resident or the resident's representative, and
 3. The request in subsection (B)(1) and the opportunity in subsection (B)(2) are documented in the resident's medical record.
- C.** An administrator shall ensure that a resident's behavioral health assessment information is documented in the medical record within 48 hours after completing the behavioral health assessment.
- D.** If information in subsection (A)(10) is obtained about a resident after the resident's behavioral health assessment is completed, an administrator shall ensure that an interval note, including the information, is documented in the resident's medical record within 24 hours after the information is obtained.
- E.** If a behavioral health residential facility is authorized to provide respite services, an administrator shall ensure that:
1. Upon admission of a resident for respite services:
 - a. Except as provided in subsection (F), a medical history and physical examination of the resident:
 - i. Is performed; or
 - ii. If dated within the previous 12 months, is available in the resident's medical record from a previous admission to the behavioral health residential facility;
 - b. A treatment plan that meets the requirements in R9-10-708:
 - i. Is developed; or
 - ii. If dated within the previous 12 months, is available in the resident's medical record from a previous admission to the behavioral health residential facility;
 - c. If a treatment plan, dated within the previous 12 months, is available, the treatment plan is reviewed, updated, and documented in the resident's medical record; and
 - d. The resident is not required to comply with the requirements in subsection (A)(13) if the resident is not expected to be present in the behavioral health residential facility:
 - i. For more than seven consecutive days, or
 - ii. For 10 days or more days in a 90-consecutive-day period;

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2. The common area required in R9-10-722(B)(1)(b) provides at least 25 square feet for each resident, including residents who do not stay overnight; and
 3. In addition to the requirements in R9-10-722(B)(3), toilets and hand-washing sinks are available to residents, including residents who do not stay overnight, as follows:
 - a. There is at least one working toilet that flushes and has a seat and one sink with running water for every 10 residents,
 - b. There are at least two working toilets that flush and have seats and two sinks with running water if there are 11 to 25 residents, and
 - c. There is at least one additional working toilet that flushes and has a seat and one additional sink with running water for each additional 20 residents.
- F. A medical history and physical examination is not required for a child who is admitted or expected to be admitted to a residential behavioral health facility for less than 10 days in a 90-consecutive-day period.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section R9-10-707 repealed, new Section R9-10-707 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking at 26 A.A.R. 551, with an immediate effective date of March 3, 2020 (Supp. 20-1).

R9-10-708. Treatment Plan

- A. An administrator shall ensure that a treatment plan is developed and implemented for each resident that:
1. Is based on the medical history and physical examination or nursing assessment required in R9-10-707(A)(6) or (E)(1)(a) and the behavioral health assessment required in R9-10-707(A)(9) or (10) and on-going changes to the behavioral health assessment of the resident;
 2. Is completed:
 - a. By a behavioral health professional or a behavioral health technician under the clinical oversight of a behavioral health professional, and
 - b. Before the resident receives physical health services or behavioral health services or within 48 hours after the assessment is completed;

3. Is documented in the resident's medical record within 48 hours after the resident first receives physical health services or behavioral health services;
 4. Includes:
 - a. The resident's presenting issue;
 - b. The physical health services or behavioral health services to be provided to the resident;
 - c. The signature of the resident or the resident's representative and date signed, or documentation of the refusal to sign;
 - d. The date when the resident's treatment plan will be reviewed;
 - e. If a discharge date has been determined, the treatment needed after discharge; and
 - f. The signature of the personnel member who developed the treatment plan and the date signed;
 5. If the treatment plan was completed by a behavioral health technician, is reviewed and signed by a behavioral health professional within 24 hours after the completion of the treatment plan to ensure that the treatment plan is complete and accurate and meets the resident's treatment needs; and
 6. Is reviewed and updated on an on-going basis:
 - a. According to the review date specified in the treatment plan,
 - b. When a treatment goal is accomplished or changed,
 - c. When additional information that affects the resident's behavioral health assessment is identified, and
 - d. When a resident has a significant change in condition or experiences an event that affects treatment.
- B. An administrator shall ensure that:
1. A request for participation in developing a resident's treatment plan is made to the resident or the resident's representative,
 2. An opportunity for participation in developing the resident's treatment plan is provided to the resident or the resident's representative, and
 3. The request in subsection (B)(1) and the opportunity in subsection (B)(2) are documented in the resident's medical record.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section R9-10-708 repealed, new Section R9-10-708 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final

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rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking at 26 A.A.R. 551, with an immediate effective date of March 3, 2020 (Supp. 20-1).

R9-10-709. Discharge

- A.** An administrator shall ensure that a discharge plan for a resident is:
 1. Developed that:
 - a. Identifies any specific needs of the resident after discharge,
 - b. Is completed before discharge occurs, and
 - c. Includes a description of the level of care that may meet the resident's assessed and anticipated needs after discharge;
 2. Documented in the resident's medical record within 48 hours after the discharge plan is completed; and
 3. Provided to the resident or the resident's representative before the discharge occurs.
- B.** An administrator shall ensure that:
 1. A request for participation in developing a resident's discharge plan is made to the resident or the resident's representative,
 2. An opportunity for participation in developing the resident's discharge plan is provided to the resident or the resident's representative, and
 3. The request in subsection (B)(1) and the opportunity in subsection (B)(2) are documented in the resident's medical record.
- C.** An administrator shall ensure that a resident is discharged from a behavioral health residential facility when the resident's treatment needs are not consistent with the services that the behavioral health residential facility is authorized and able to provide.
- D.** An administrator shall ensure that there is a documented discharge order by a medical practitioner or behavioral health professional before a resident is discharged unless the resident leaves the behavioral health residential facility against a medical practitioner's or behavioral health professional's advice.
- E.** An administrator shall ensure that, at the time of discharge, a resident receives a referral for treatment or ancillary services that the resident may need after discharge, if applicable.
- F.** If a resident is discharged to any location other than a health care institution, an administrator shall ensure that:
 1. Discharge instructions are documented, and
 2. The resident or the resident's representative is provided with a copy of the discharge instructions.
- G.** An administrator shall ensure that a discharge summary for a resident:
 1. Is entered into the resident's medical record within 10 working days after a resident's discharge; and
 2. Includes:
 - a. The following information authenticated by a medical practitioner or behavioral health professional:
 - i. The resident's presenting issue and other physical health and behavioral health issues identified in the resident's treatment plan;
 - ii. A summary of the treatment provided to the resident;
 - iii. The resident's progress in meeting treatment goals, including treatment goals that were and were not achieved; and
 - iv. The name, dosage, and frequency of each medication ordered for the resident by a medical practitioner at the behavioral health residential

facility at the time of the resident's discharge; and

- b. A description of the disposition of the resident's possessions, funds, or medications brought to the behavioral health residential facility by the resident.

- H.** An administrator shall ensure that a resident who is dependent upon a prescribed medication is offered a written referral to detoxification services or opioid treatment before the resident is discharged from the behavioral health residential facility if a medical practitioner for the behavioral health residential facility will not be prescribing the medication for the resident at or after discharge.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section R9-10-709 repealed, new Section R9-10-709 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-710. Transport; Transfer

- A.** Except as provided in subsection (B), an administrator shall ensure that:
 1. A personnel member coordinates the transport and the services provided to the resident;
 2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before and after the transport,
 - b. Information from the resident's medical record is provided to a receiving health care institution, and
 - c. A personnel member explains risks and benefits of the transport to the resident or the resident's representative; and
 3. Documentation in the resident's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transport;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the resident during a transport.
- B.** Subsection (A) does not apply to:
 1. Transportation to a location other than a licensed health care institution,
 2. Transportation provided for a resident by the resident or the resident's representative,
 3. Transportation provided by an outside entity that was arranged for a resident by the resident or the resident's representative, or

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4. A transport to another licensed health care institution in an emergency.
- C. Except for a transfer of a resident due to an emergency, an administrator shall ensure that:
 1. A personnel member coordinates the transfer and the services provided to the resident;
 2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before the transfer;
 - b. Information from the resident's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the resident or the resident's representative; and
 3. Documentation in the resident's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the resident during a transfer.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Section R9-10-710 repealed, new Section R9-10-710 adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-711. Resident Rights

- A. An administrator shall ensure that:
 1. The requirements in subsection (B) and the resident rights in subsection (E) are conspicuously posted on the premises;
 2. At the time of admission, a resident or the resident's representative receives a written copy of the requirements in subsection (B) and the resident rights in subsection (E); and
 3. Policies and procedures include:
 - a. How and when a resident or the resident's representative is informed of the resident rights in subsection (E), and
 - b. Where resident rights are posted as required in subsection (A)(1).
- B. An administrator shall ensure that:
 1. A resident is treated with dignity, respect, and consideration;
 2. A resident is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity;
 - k. Misappropriation of personal and private property by the behavioral health residential facility's personnel members, employees, volunteers, or students;
 - l. Discharge or transfer, or threat of discharge or transfer, for reasons unrelated to the resident's treatment needs, except as established in a fee agreement signed by the resident or the resident's representative; or
 - m. Treatment that involves the denial of:
 - i. Food,
 - ii. The opportunity to sleep, or
 - iii. The opportunity to use the toilet;
 3. Except as provided in subsection (C) or (D), and unless restricted by the resident's representative, a resident is allowed to:
 - a. Associate with individuals of the resident's choice, receive visitors, and make telephone calls during the hours established by the behavioral health residential facility;
 - b. Have privacy in correspondence, communication, visitation, financial affairs, and personal hygiene; and
 - c. Unless restricted by a court order, send and receive uncensored and unopened mail; and
 4. A resident or the resident's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated, unless the treatment is:
 - i. Ordered by a court according to A.R.S. Title 36, Chapter 5 or A.R.S. § 8-341.01;
 - ii. Necessary to save the resident's life or physical health; or
 - iii. Provided according to A.R.S. § 36-512;
 - c. Except in an emergency, is informed of proposed treatment alternatives, associated risks, and possible complications;
 - d. Is informed of the following:
 - i. The behavioral health residential facility's policy on health care directives, and
 - ii. The resident complaint process; and
 - e. Except as otherwise permitted by law, provides written consent to the release of information in the resident's:
 - i. Medical record, or
 - ii. Financial records.
- C. For a behavioral health residential facility with licensed capacity of less than 10 residents, if a behavioral health professional determines that a resident's treatment requires the behavioral health residential facility to restrict the resident's ability to par-

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ticipate in the activities in subsection (B)(3), the behavioral health professional shall:

1. Document a specific treatment purpose in the resident's medical record that justifies restricting the resident from the activity;
 2. Inform the resident or resident's representative of the reason why the activity is being restricted; and
 3. Inform the resident or resident's representative of the resident's right to file a complaint and the procedure for filing a complaint.
- D.** For a behavioral health residential facility with a licensed capacity of 10 or more residents, if a clinical director determines that a resident's treatment requires the behavioral health residential facility to restrict the resident's ability to participate in the activities in subsection (B)(3), the clinical director shall comply with the requirements in subsections (C)(1) through (3).
- E.** A resident has the following rights:
1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 2. To receive treatment that:
 - a. Supports and respects the resident's individuality, choices, strengths, and abilities;
 - b. Supports the resident's personal liberty and only restricts the resident's personal liberty according to a court order, by the resident's or the resident's representative's general consent, or as permitted in this Chapter; and
 - c. Is provided in the least restrictive environment that meets the resident's treatment needs;
 3. To receive privacy in treatment and care for personal needs, including the right not to be fingerprinted, photographed, or recorded without consent, except:
 - a. A resident may be photographed when admitted to a behavioral health residential facility for identification and administrative purposes;
 - b. For a resident receiving treatment according to A.R.S. Title 36, Chapter 37; or
 - c. For video recordings used for security purposes that are maintained only on a temporary basis;
 4. Not to be prevented or impeded from exercising the resident's civil rights unless the resident has been adjudicated incompetent or a court of competent jurisdiction has found that the resident is not able to exercise a specific right or category of rights;
 5. To review, upon written request, the resident's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
 6. To be provided locked storage space for the resident's belongings while the resident receives treatment;
 7. To have opportunities for social contact and daily social, recreational, or rehabilitative activities;
 8. To be informed of the requirements necessary for the resident's discharge or transfer to a less restrictive physical environment;
 9. To receive a referral to another health care institution if the behavioral health residential facility is not authorized or not able to provide physical health services or behavioral health services needed by the resident;
 10. To participate or have the resident's representative participate in the development of a treatment plan or decisions concerning treatment;

11. To participate or refuse to participate in research or experimental treatment; and
12. To receive assistance from a family member, the resident's representative, or other individual in understanding, protecting, or exercising the resident's rights.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-712. Medical Records

- A.** An administrator shall ensure that:
1. A medical record is established and maintained for each resident according to A.R.S. Title 12, Chapter 13, Article 7.1;
 2. An entry in a resident's medical record is:
 - a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 3. An order is:
 - a. Dated when the order is entered in the resident's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 5. A resident's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the resident's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the resident or the resident's representative; or
 - c. As permitted by law;
 6. Policies and procedures include the maximum time-frame to retrieve a resident's medical record at the request of a medical practitioner, behavioral health professional, or authorized personnel member; and
 7. A resident's medical record is protected from loss, damage, or unauthorized use.
- B.** If a behavioral health residential facility maintains residents' medical records electronically, an administrator shall ensure that:
1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a resident's medical record is recorded by the computer's internal clock.
- C.** An administrator shall ensure that a resident's medical record contains:
1. Resident information that includes:

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- a. The resident's name;
- b. The resident's address;
- c. The resident's date of birth; and
- d. Any known allergies, including medication allergies;
2. The name of the admitting medical practitioner or behavioral health professional;
3. An admitting diagnosis or presenting behavioral health issues;
4. The date of admission and, if applicable, date of discharge;
5. If applicable, the name and contact information of the resident's representative and:
 - a. If the resident is 18 years of age or older or an emancipated minor, the document signed by the resident consenting for the resident's representative to act on the resident's behalf; or
 - b. If the resident's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
6. If applicable, documented general consent and informed consent for treatment by the resident or the resident's representative;
7. Documentation of medical history and results of a physical examination;
8. A copy of resident's health care directive, if applicable;
9. Orders;
10. If applicable, documentation that evaluation or treatment was ordered by a court according to A.R.S. Title 36, Chapter 5 or A.R.S. § 8-341.01;
11. Assessment;
12. Treatment plans;
13. Interval notes;
14. Progress notes;
15. Documentation of behavioral health services and physical health services provided to the resident;
16. If applicable, documentation of the use of an emergency safety response;
17. If applicable, documentation of time-out required in R9-10-714(6);
18. Except as allowed in R9-10-707(E)(1)(d), documentation of freedom from infectious tuberculosis required in R9-10-707(A)(13);
19. The disposition of the resident after discharge;
20. The discharge plan;
21. The discharge summary, if applicable;
22. If applicable:
 - a. Laboratory reports,
 - b. Radiologic reports,
 - c. Diagnostic reports, and
 - d. Consultation reports; and
23. Documentation of medication administered to the resident that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain, when administered initially or on a PRN basis:
 - i. An assessment of the resident's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication, when administered initially or on a PRN basis:
 - i. An assessment of the resident's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The identification, signature, and professional designation of the individual administering or providing assistance in the self-administration of the medication; and
 - f. Any adverse reaction a resident has to the medication.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking at 26 A.A.R. 551, with an immediate effective date of March 3, 2020 (Supp. 20-1).

R9-10-713. Transportation; Resident Outings

- A.** An administrator of a behavioral health residential facility that uses a vehicle owned or leased by the behavioral health residential facility to provide transportation to a resident shall ensure that:
1. The vehicle:
 - a. Is safe and in good repair,
 - b. Contains a first aid kit,
 - c. Contains drinking water sufficient to meet the needs of each resident present in the vehicle, and
 - d. Contains a working heating and air conditioning system;
 2. Documentation of current vehicle insurance and a record of maintenance performed or a repair of the vehicle are maintained;
 3. A driver of the vehicle:
 - a. Is 21 years of age or older;
 - b. Has a valid driver license;
 - c. Operates the vehicle in a manner that does not endanger a resident in the vehicle;
 - d. Does not leave in the vehicle an unattended:
 - i. Child,
 - ii. Resident who may be a threat to the health or safety of the resident or another individual, or
 - iii. Resident who is incapable of independent exit from the vehicle; and
 - e. Ensures the safe and hazard-free loading and unloading of residents; and
 4. Transportation safety is maintained as follows:
 - a. Each individual in the vehicle is sitting in a seat and wearing a working seat belt while the vehicle is in motion, and

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- b. Each seat in the vehicle is securely fastened to the vehicle and provides sufficient space for a resident's body.
- B.** An administrator shall ensure that:
 1. An outing is consistent with the age, developmental level, physical ability, medical condition, and treatment needs of each resident participating in the outing;
 2. At least two personnel members are present on an outing;
 3. In addition to the personnel members required in subsection (B)(2), a sufficient number of personnel members are present to ensure each resident's health and safety on the outing;
 4. Documentation is developed before an outing that includes:
 - a. The name of each resident participating in the outing;
 - b. A description of the outing;
 - c. The date of the outing;
 - d. The anticipated departure and return times;
 - e. The name, address, and, if available, telephone number of the outing destination; and
 - f. If applicable, the license plate number of each vehicle used to transport a resident;
 5. The documentation described in subsection (B)(4) is updated to include the actual departure and return times and is maintained for at least 12 months after the date of the outing; and
 6. Emergency information for each resident participating in the outing is maintained by a personnel member participating in the outing or in the vehicle used to provide transportation for the outing and includes:
 - a. The resident's name;
 - b. Medication information, including the name, dosage, route of administration, and directions for each medication needed by the resident during the anticipated duration of the outing;
 - c. The resident's allergies; and
 - d. The name and telephone number of a designated individual to notify in case of an emergency, who is present on the behavioral health residential facility's premises.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-714. Resident Time-Out

An administrator shall ensure that a time-out:

1. Is provided to a resident who voluntarily decides to go in a time-out;
2. Takes place in an area that is unlocked, lighted, quiet, and private;
3. Is time-limited and does not exceed the amount of time as determined by the resident;
4. Does not result in a resident missing a meal if the resident is in time-out at mealtime;
5. Includes monitoring of the resident by a personnel member at least once every 15 minutes to ensure the resident's health and safety and to discuss with the resident if the resident is ready to leave time-out; and
6. Is documented in the resident's medical record, to include:
 - a. The date of the time-out,
 - b. The reason for the time-out,
 - c. The duration of the time-out, and
 - d. The action planned and taken by the administrator to prevent the use of time-out in the future.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-715. Physical Health Services

An administrator of a behavioral health residential facility that is authorized to provide personal care services shall ensure that:

1. Personnel members who provide personal care services have documentation of completion of a caregiver training program that complies with A.A.C. R4-33-702(A)(5);
2. Residents receive personal care services according to the requirements in R9-10-814(A), (D), (E), and (F); and
3. A resident who has a stage 3 or stage 4 pressure sore is not admitted to the behavioral health residential facility.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-716. Behavioral Health Services

A. An administrator shall ensure that:

1. If a behavioral health residential facility is authorized to provide court-ordered evaluation or court-ordered treatment:
 - a. Court-ordered evaluation is provided in compliance with the requirements in A.R.S. Title 36, Chapter 5, Article 4; and
 - b. Court-ordered treatment is provided in compliance with the requirements in A.R.S. Title 36, Chapter 5, Article 5;
2. If a behavioral health residential facility is authorized to provide behavioral health services to individuals whose behavioral health issue limits the individuals' ability to function independently, a resident admitted to the behavioral health residential facility with limited ability to function independently receives:

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- a. Behavioral health services and personal care services as indicated in the resident's treatment plan, and
 - b. Continuous protective oversight;
- 3. A resident admitted to the behavioral health residential facility who needs behavioral health services to maintain or enhance the resident's ability to function independently:
 - a. Receives behavioral health services, and, if indicated in the resident's treatment plan, personal care services; and
 - b. Is provided an opportunity to participate in activities designed to maintain or enhance the resident's ability to function independently while:
 - i. The resident receives services to maintain the resident's health, safety, or personal hygiene; or
 - ii. Homemaking functions are performed for the resident;
- 4. Behavioral health services are provided to meet the needs of a resident and are consistent with a behavioral health residential facility's scope of services;
- 5. Behavioral health services listed in the behavioral health residential facility's scope of services are provided on the premises;
- 6. Before a resident participates in behavioral health services provided in a setting or activity with more than one resident participating, the diagnoses, treatment needs, developmental levels, social skills, verbal skills, and personal histories, including any history of physical or sexual abuse, of the residents participating are reviewed to ensure that the:
 - a. Health and safety of each resident is protected, and
 - b. Treatment needs of each resident participating are being met; and
- 7. A resident does not:
 - a. Use or have access to any materials, furnishings, or equipment or participate in any activity or treatment that may present a threat to the resident's health or safety based on the resident's documented diagnosis, treatment needs, developmental levels, social skills, verbal skills, or personal history; or
 - b. Share any space, participate in any activity or treatment, or verbally or physically interact with any other resident that may present a threat to the resident's health or safety, based on the other resident's documented diagnosis, treatment needs, developmental levels, social skills, verbal skills, and personal history.
- B. An administrator shall ensure that counseling is:
 - 1. Offered as described in the behavioral health residential facility's scope of services,
 - 2. Provided according to the frequency and number of hours identified in the resident's treatment plan, and
 - 3. Provided by a behavioral health professional or a behavioral health technician.
- C. An administrator shall ensure that:
 - 1. A personnel member providing counseling that addresses a specific type of behavioral health issue has the skills and knowledge necessary to provide the counseling that addresses the specific type of behavioral health issue; and
 - 2. Each counseling session is documented in a resident's medical record to include:
 - a. The date of the counseling session;
 - b. The amount of time spent in the counseling session;
 - c. Whether the counseling was individual counseling, family counseling, or group counseling;
 - d. The treatment goals addressed in the counseling session; and
 - e. The signature of the personnel member who provided the counseling and the date signed.
- D. An administrator of a behavioral health residential facility authorized to provide behavioral health services to individuals under 18 years of age:
 - 1. May continue to provide behavioral health services to a resident who is 18 years of age or older:
 - a. If the resident:
 - i. Was admitted to the behavioral health residential facility before the resident's 18th birthday;
 - ii. Is not 21 years of age or older; and
 - iii. Is:
 - (1) Attending classes or completing coursework to obtain a high school or a high school equivalency diploma, or
 - (2) Participating in a job training program; or
 - b. Through the last calendar day of the month of the resident's 18th birthday; and
 - 2. Shall ensure that:
 - a. A resident does not receive the following from other residents at the behavioral health residential facility:
 - i. Threats,
 - ii. Ridicule,
 - iii. Verbal harassment,
 - iv. Punishment, or
 - v. Abuse;
 - b. The interior of the behavioral health residential facility has furnishings and decorations appropriate to the ages of the residents receiving services at the behavioral health residential facility;
 - c. A resident older than three years of age does not sleep in a crib;
 - d. Clean and non-hazardous toys, educational materials, and physical activity equipment are available and accessible to residents on the premises in a quantity sufficient to meet each resident's needs and are appropriate to each resident's age, developmental level, and treatment needs; and
 - e. A resident's educational needs are addressed according to A.R.S. Title 15, Chapter 7, Article 4.
- E. An administrator shall ensure that:
 - 1. An emergency safety response is:
 - a. Only used:
 - i. By a personnel member trained to use an emergency safety response,
 - ii. For the management of a resident's violent or self-destructive behavior, and
 - iii. When less restrictive interventions have been determined to be ineffective; and
 - b. Discontinued at the earliest possible time, but no longer than five minutes after the emergency safety response is initiated;
 - 2. Within 24 hours after an emergency safety response is used for a resident, the following information is entered into the resident medical record:
 - a. The date and time the emergency safety response was used;
 - b. The name of each personnel member who used an emergency safety response;
 - c. The specific emergency safety response used;

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- d. The personnel member or resident behavior, event, or environmental factor that caused the need for the emergency safety response; and
- e. Any injury that resulted from the use of the emergency safety response;
- 3. Within 10 working days after an emergency safety response is used for a resident, the administrator or clinical director reviews the information in subsection (E)(2); and
- 4. After the review required in subsection (E)(3), the following information is entered, according to policies and procedures, into the resident's medical record:
 - a. Actions taken or planned actions to prevent the need for the use of an emergency safety response for the resident,
 - b. A determination of whether the resident is appropriately placed at the behavioral health residential facility, and
 - c. Whether the resident's treatment plan was reviewed or needs to be reviewed and amended to ensure that the resident's treatment plan is meeting the resident's treatment needs.
- F. An administrator shall ensure that:
 - 1. A personnel member whose job description includes the ability to use an emergency safety response:
 - a. Completes training in crisis intervention that includes:
 - i. Techniques to identify personnel member and resident behaviors, events, and environmental factors that may trigger the need for the use of an emergency safety response;
 - ii. The use of nonphysical intervention skills, such as de-escalation, mediation, conflict resolution, active listening, and verbal and observational methods; and
 - iii. The safe use of an emergency safety response including the ability to recognize and respond to signs of physical distress in a client who is receiving an emergency safety response; and
 - b. Completes training required in subsection (F)(1)(a):
 - i. Before providing behavioral health services, and
 - ii. At least once every 12 months after the date the personnel member completed the initial training;
 - 2. Documentation of the completed training in subsection (F)(1)(a) includes:
 - a. The name and credentials of the individual providing the training,
 - b. Date of the training, and
 - c. Verification of a personnel member's ability to use the training; and
 - 3. The materials used to provide the completed training in crisis intervention, including handbooks, electronic presentations, and skills verification worksheets, are maintained for at least 12 months after each personnel member who received training using the materials no longer provides services at the behavioral health residential facility.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt

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R9-10-717. Outdoor Behavioral Health Care Programs

- A. An administrator of a behavioral health residential facility authorized to provide an outdoor behavioral health care program shall ensure that:
 - 1. Behavioral health services are provided to a resident participating in the outdoor behavioral health care program consistent with the age, developmental level, physical ability, medical condition, and treatment needs of the resident;
 - 2. Continuous protective oversight is provided to a resident;
 - 3. Transportation is provided to a resident from the behavioral health residential facility's administrative office for the outdoor behavioral health care program to the location where the outdoor behavioral health care program is provided and from the location where the outdoor behavioral health care program is provided to the behavioral health residential facility's administrative office for the outdoor behavioral health care program; and
 - 4. Communication is available between the outdoor behavioral health care program personnel and:
 - a. A behavioral health professional,
 - b. A registered nurse,
 - c. An emergency medical response team, and
 - d. The behavioral health residential facility's administrative office for the outdoor behavioral health care program.
- B. An administrator of a behavioral health residential facility authorized to provide an outdoor behavioral health care program shall ensure that:
 - 1. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a resident such as cut, chopped, ground, pureed, or thickened;
 - 2. A food menu is prepared based on the number of calendar days scheduled for the behavioral health care program;
 - 3. Meals and snacks provided by the behavioral health care program are served according to menus;
 - 4. Meals and snacks for each day are planned using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2015>;
 - 5. A resident is provided:
 - a. A diet that meets the resident's nutritional needs as specified in the resident's assessment or treatment plan;
 - b. Three meals a day with not more than 14 hours between the evening meal and breakfast, except as provided in subsection (B)(5)(d);
 - c. The option to have a daily evening snack or other snack; and
 - d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if the resident agrees;
 - 6. Water is available and accessible to residents unless otherwise stated in a resident's treatment plan;

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7. Food is free from spoilage, filth, or other contamination and is safe for human consumption;
 8. Food is protected from potential contamination; and
 9. Food being maintained in coolers containing ice is not in direct contact with ice or water if water may enter the food because of the nature of the food's packaging, wrapping, or container or the positioning of the food in the ice or water.
- C. An administrator of a behavioral health residential facility authorized to provide an outdoor behavioral health care program shall ensure that:
1. The location and, if applicable, equipment used by the outdoor behavioral health care program are sufficient to accommodate the activities, treatment, and ancillary services required by the residents participating in the behavioral health care program;
 2. The location and equipment are maintained in a condition that allows the location and equipment to be used for the original purpose of the location and equipment;
 3. Garbage and refuse are:
 - a. Stored in plastic bags in covered containers, and
 - b. Removed from the location used by the outdoor behavioral health care program at least once a week;
 4. Common areas:
 - a. Are lighted when in use to assure the safety of residents, and
 - b. Have sufficient lighting to allow personnel members to monitor resident activity;
 5. The supply of hot and cold water is sufficient to meet the personal hygiene needs of residents and the cleaning and sanitation requirements in this Article;
 6. Soiled clothing is stored in closed containers away from food storage, medications, and eating areas;
 7. Poisonous or toxic materials are maintained in labeled containers, secured, and separate from food preparation and storage, eating areas, and medications and inaccessible to residents;
 8. Combustible or flammable liquids and hazardous materials are stored in the original labeled containers or safety containers, secured, and inaccessible to residents;
 9. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
 - c. Documentation of testing is retained for at least 12 months after the date of the test; and
 10. Smoking or the use of tobacco products may be permitted away from the residents.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-717.01. Recidivism Reduction Services

An administrator of a behavioral health residential facility that is an adult residential care institution and is authorized to provide recidivism reduction services shall ensure that:

1. A personnel member who is recidivism reduction staff at the adult residential care institution does not provide:
 - a. Behavioral health services other than recidivism reduction services; or
 - b. Recidivism reduction services to a resident who has not been referred by a physician, behavioral health professional, or court of competent jurisdiction to receive recidivism reduction services;
2. The adult residential care institution accepts an individual as a resident only if the individual:
 - a. Is at least 18 years of age; and
 - b. Has documentation of a referral to receive recidivism reduction services that:
 - i. Was made by a physician, behavioral health professional, or court of competent jurisdiction; and
 - ii. Complies with the requirements in A.R.S. § 36-411.01(D);
3. The referral is included in the resident's medical record; and
4. The recidivism reduction services provided to a resident are:
 - a. Consistent with the age, developmental level, physical ability, medical condition, and treatment needs of the resident; and
 - b. Provided by recidivism reduction staff whose experience is compatible with the experience of the resident.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-718. Medication Services

A. An administrator shall ensure that policies and procedures for medication services:

1. Include:
 - a. A process for providing information to a resident about medication prescribed for the resident including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting any of the following:
 - i. A medication error,
 - ii. An adverse reaction to a medication, or
 - iii. A medication overdose;
 - c. Procedures to ensure that a resident's medication regimen is reviewed by a medical practitioner to ensure the medication regimen meets the resident's needs;
 - d. Procedures for documenting, as applicable, medication administration and assistance in the self-administration of medication;
 - e. A process for monitoring a resident who self-administers medication;

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- f. Procedures for assisting a resident in obtaining medication; and
 - g. If applicable, procedures for providing medication administration or assistance in the self-administration of medication off the premises; and
- 2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B.** If a behavioral health residential facility provides medication administration, an administrator shall ensure that:
 - 1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a resident only as ordered; and
 - d. Cover the documentation of a resident's refusal to take prescribed medication in the resident's medical record;
 - 2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
 - 3. A medication administered to a resident:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the resident's medical record.
- C.** If a behavioral health residential facility provides assistance in the self-administration of medication, an administrator shall ensure that:
 - 1. A resident's medication is stored by the behavioral health residential facility;
 - 2. The following assistance is provided to a resident:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the resident;
 - c. Observing the resident while the resident removes the medication from the container;
 - d. Verifying that the medication is taken as prescribed by the resident's medical practitioner by confirming that:
 - i. The resident taking the medication is the individual stated on the medication container label,
 - ii. The resident is taking the dosage of the medication stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label, and
 - iii. The resident is taking the medication at the time stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label; or
 - e. Observing the resident while the resident takes the medication;
 - 3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a medical practitioner or registered nurse;
 - 4. Training for a personnel member, other than a medical practitioner or registered nurse, in assistance in the self-administration of medication:
 - a. Is provided by a medical practitioner or registered nurse or an individual trained by a medical practitioner or registered nurse; and
 - b. Includes:
 - i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. The process for notifying the appropriate entities when an emergency medical intervention is needed;
- 5. A personnel member, other than a medical practitioner or registered nurse, completes the training in subsection (C)(4) before the personnel member provides assistance in the self-administration of medication; and
- 6. Assistance in the self-administration of medication provided to a resident:
 - a. Is in compliance with an order, and
 - b. Is documented in the resident's medical record.
- D.** An administrator shall ensure that:
 - 1. A current drug reference guide is available for use by personnel members;
 - 2. A current toxicology reference guide is available for use by personnel members; and
 - 3. If pharmaceutical services are provided on the premises:
 - a. A committee, composed of at least one physician, one pharmacist, and other personnel members as determined by policies and procedures, is established to:
 - i. Develop a drug formulary,
 - ii. Update the drug formulary at least once every 12 months,
 - iii. Develop medication usage and medication substitution policies and procedures, and
 - iv. Specify which medications and medication classifications are required to be stopped automatically after a specific time period unless the ordering medical practitioner specifically orders otherwise;
 - b. The pharmaceutical services are provided under the direction of a pharmacist;
 - c. The pharmaceutical services comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - d. A copy of the pharmacy license is provided to the Department upon request.
- E.** When medication is stored at a behavioral health residential facility, an administrator shall ensure that:
 - 1. Medication is stored in a separate locked room, closet, cabinet, or self-contained unit used only for medication storage;
 - 2. Medication is stored according to the instructions on the medication container; and
 - 3. Policies and procedures are established, documented, and implemented for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication, including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of residents who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.

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- F. An administrator shall ensure that a personnel member immediately reports a medication error or a resident's adverse reaction to a medication to the medical practitioner who ordered or prescribed the medication and, if applicable, the behavioral health residential facility's clinical director.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-719. Food Services

- A. Except for an outdoor behavioral health care program provided by a behavioral health residential facility, an administrator shall ensure that:
- For a behavioral health residential facility that has a licensed capacity of more than 10 residents:
 - The behavioral health residential facility obtains a license or permit as a food establishment under 9 A.A.C. 8, Article 1; and
 - A copy of the behavioral health residential facility's food establishment license or permit is maintained;
 - If a behavioral health residential facility contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the behavioral health residential facility, a copy of the food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the behavioral health residential facility;
 - Food is stored, refrigerated, and reheated to meet the dietary needs of a resident;
 - A registered dietitian is employed full-time, part-time, or as a consultant; and
 - If a registered dietitian is not employed full-time, an individual is designated as a director of food services who consults with a registered dietitian as often as necessary to meet the nutritional needs of the residents.
- B. Except for an outdoor behavioral health care program provided by a behavioral health residential facility, a registered dietitian or director of food services shall ensure that:
- Food is prepared:
 - Using methods that conserve nutritional value, flavor, and appearance; and
 - In a form to meet the needs of a resident, such as cut, chopped, ground, pureed, or thickened;
 - A food menu:
 - Is prepared at least one week in advance,
 - Includes the foods to be served each day,
 - Is conspicuously posted at least one calendar day before the first meal on the food menu will be served,
 - Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - Is maintained for at least 60 calendar days after the last day included in the food menu;
 - Meals and snacks provided by the behavioral health residential facility are served according to posted menus;
- Meals and snacks for each day are planned using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2015/>;
 - A resident is provided:
 - A diet that meets the resident's nutritional needs as specified in the resident's assessment or treatment plan;
 - Three meals a day with not more than 14 hours between the evening meal and breakfast, except as provided in subsection (B)(5)(d);
 - The option to have a daily evening snack identified in subsection (B)(5)(d)(ii) or other snack; and
 - The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:
 - The resident agrees; and
 - The resident is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;
 - A resident requiring assistance to eat is provided with assistance that recognizes the resident's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils; and
 - Water is available and accessible to residents unless otherwise stated in a resident's treatment plan.
- C. Except for an outdoor behavioral health care program provided by a behavioral health residential facility, an administrator shall ensure that food is obtained, prepared, served, and stored as follows:
- Food is free from spoilage, filth, or other contamination and is safe for human consumption;
 - Food is protected from potential contamination;
 - Potentially hazardous food is maintained as follows:
 - Foods requiring refrigeration are maintained at 41° F or below; and
 - Foods requiring cooking are cooked to heat all parts of the food to a temperature of at least 145° F for 15 seconds, except that:
 - Ground beef and ground meats are cooked to heat all parts of the food to at least 155° F;
 - Poultry, poultry stuffing, stuffed meats, and stuffing that contains meat are cooked to heat all parts of the food to at least 165° F;
 - Pork and any food containing pork are cooked to heat all parts of the food to at least 155° F;
 - Raw shell eggs for immediate consumption are cooked to at least 145° F for 15 seconds and any food containing raw shell eggs is cooked to heat all parts of the food to at least 155° F;
 - Roast beef and beef steak are cooked to an internal temperature of at least 155° F; and
 - Leftovers are reheated to a temperature of at least 165° F;
 - A refrigerator contains a thermometer, accurate to plus or minus 3° F, placed at the warmest part of the refrigerator;
 - Frozen foods are stored at a temperature of 0° F or below; and
 - Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure

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Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-720. Emergency and Safety Standards

- A.** Except for an outdoor behavioral health care program provided by a behavioral health residential facility, an administrator shall ensure that a behavioral health residential facility has:
1. A fire alarm system installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in R9-10-104.01, and a sprinkler system installed according to the National Fire Protection Association 13: Standard for the Installation of Sprinkler Systems, incorporated by reference in R9-10-104.01, that are in working order; or
 2. An alternative method to ensure resident's safety that is documented and approved by the local jurisdiction.
- B.** Except for an outdoor behavioral health care program provided by a behavioral health residential facility, an administrator shall ensure that:
1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and other employees, and, if necessary, implemented that includes:
 - a. When, how, and where residents will be relocated;
 - b. How each resident's medical record will be available to individuals providing services to the resident during a disaster;
 - c. A plan to ensure each resident's medication will be available to administer to the resident during a disaster; and
 - d. A plan for obtaining food and water for individuals present in the behavioral health residential facility, under the care and supervision of personnel members, or in the behavioral health residential facility's relocation site during a disaster;
 2. The disaster plan required in subsection (B)(1) is reviewed at least once every 12 months;
 3. Documentation of a disaster plan review required in subsection (B)(2) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each personnel member, employee, or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
 4. A disaster drill for employees is conducted on each shift at least once every three months and documented;
 5. An evacuation drill for employees and residents on the premises is conducted at least once every six months on each shift;
 6. Documentation of each evacuation drill is created, is maintained for 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for all employees and residents to evacuate the behavioral health residential facility;

- c. Names of employees participating in the evacuation drill;
 - d. An identification of residents needing assistance for evacuation;
 - e. Any problems encountered in conducting the evacuation drill; and
 - f. Recommendations for improvement, if applicable; and
7. An evacuation path is conspicuously posted on each hallway of each floor of the behavioral health residential facility.
- C.** An administrator shall:
1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 2. Make any repairs or corrections stated on the fire inspection report, and
 3. Maintain documentation of a current fire inspection.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-721. Environmental Standards

- A.** Except for an outdoor behavioral health care program provided by a behavioral health residential facility, an administrator shall ensure that:
1. The premises and equipment are:
 - a. Maintained in a condition that allows the premises and equipment to be used for the original purpose of the premises and equipment;
 - b. Cleaned and, if applicable, disinfected according to policies and procedures designed to prevent, minimize, and control illness or infection; and
 - c. Free from a condition or situation that may cause a resident or other individual to suffer physical injury;
 2. A pest control program that complies with A.A.C. R3-8-201(C)(4) is implemented and documented;
 3. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
 4. Equipment used at the behavioral health residential facility is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
 5. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
 6. Garbage and refuse are:

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- a. Stored in covered containers lined with plastic bags, and
 - b. Removed from the premises at least once a week;
 7. Heating and cooling systems maintain the behavioral health residential facility at a temperature between 70° F and 84° F;
 8. A space heater is not used;
 9. Common areas:
 - a. Are lighted to assure the safety of residents, and
 - b. Have lighting sufficient to allow personnel members to monitor resident activity;
 10. Hot water temperatures are maintained between 95° F and 120° F in the areas of the behavioral health residential facility used by residents;
 11. The supply of hot and cold water is sufficient to meet the personal hygiene needs of residents and the cleaning and sanitation requirements in this Article;
 12. Soiled linen and soiled clothing stored by the behavioral health residential facility are maintained separate from clean linen and clothing and stored in closed containers away from food storage, kitchen, and dining areas;
 13. Oxygen containers are secured in an upright position;
 14. Poisonous or toxic materials stored by the behavioral health residential facility are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to residents;
 15. Combustible or flammable liquids and hazardous materials stored by a behavioral health residential facility are stored in the original labeled containers or safety containers in a locked area inaccessible to residents;
 16. If pets or animals are allowed in the behavioral health residential facility, pets or animals are:
 - a. Controlled to prevent endangering the residents and to maintain sanitation;
 - b. Licensed consistent with local ordinances; and
 - c. For a dog or cat, vaccinated against rabies;
 17. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
 - c. Documentation of testing is retained for at least 12 months after the date of the test; and
 18. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to all applicable state laws and rules.
- B.** An administrator shall ensure that:
1. Smoking tobacco products is not permitted within a behavioral health residential facility; and
 2. Smoking tobacco products may be permitted on the premises outside a behavioral health residential facility if:
 - a. Signs designating smoking areas are conspicuously posted, and
 - b. Smoking is prohibited in areas where combustible materials are stored or in use.
- C.** If a swimming pool is located on the premises, an administrator shall ensure that:
1. On each day that a resident uses the swimming pool, an employee:
 - a. Tests the swimming pool's water quality at least once for compliance with one of the following chemical disinfection standards:
 - i. A free chlorine residual between 1.0 and 3.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test;
 - ii. A free bromine residual between 2.0 and 4.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test; or
 - iii. An oxidation-reduction potential equal to or greater than 650 millivolts; and
 - b. Records the results of the water quality tests in a log that includes each testing date and test result;
 2. Documentation of the water quality test is maintained for at least 12 months after the date of the test;
 3. A swimming pool is not used by a resident if a water quality test shows that the swimming pool water does not comply with subsection (C)(1)(a);
 4. At least one personnel member, with cardiopulmonary resuscitation training that meets the requirements in R9-10-703(C)(1)(e), is present in the pool area when a resident is in the pool area; and
 5. At least two personnel members are present in the pool area if two or more residents are in the pool area.

Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 25 A.A.R. 259, effective January 8, 2019 (Supp. 19-1).

R9-10-722. Physical Plant Standards

- A.** Except for a behavioral health outdoor program, an administrator shall ensure that the premises and equipment are sufficient to accommodate:
1. The services in the behavioral health residential facility's scope of services, and
 2. An individual admitted as a resident by the behavioral health residential facility.
- B.** An administrator shall ensure that:
1. A behavioral health residential facility has a:
 - a. Room that provides privacy for a resident to receive treatment or visitors; and
 - b. Common area and a dining area that contain furniture and materials to accommodate the recreational and socialization needs of the residents and other individuals in the behavioral health residential facility;
 2. At least one bathroom is accessible from a common area that:
 - a. May be used by residents and visitors;
 - b. Provides privacy when in use; and
 - c. Contains the following:
 - i. At least one working sink with running water,
 - ii. At least one working toilet that flushes and has a seat,
 - iii. Toilet tissue for each toilet,
 - iv. Soap in a dispenser accessible from each sink,

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- v. Paper towels in a dispenser or a mechanical air hand dryer,
 - vi. Lighting, and
 - vii. A window that opens or another means of ventilation;
- 3. For every six residents who stay overnight at the behavioral health residential facility, there is at least one working toilet that flushes and has a seat, and one sink with running water;
- 4. For every eight residents who stay overnight at the behavioral health residential facility, there is at least one working bathtub or shower;
- 5. A resident bathroom provides privacy when in use and contains:
 - a. A shatter-proof mirror, unless the resident's treatment plan allows for otherwise;
 - b. A window that opens or another means of ventilation; and
 - c. Nonporous surfaces for shower enclosures and slip-resistant surfaces in tubs and showers;
- 6. If a resident bathroom door locks from the inside, an employee has a key and access to the bathroom;
- 7. Each resident is provided a sleeping area that is in a bedroom; and
- 8. A resident bedroom complies with the following:
 - a. Is not used as a common area;
 - b. Is not used as a passageway to another bedroom or bathroom unless the bathroom is for the exclusive use of an individual occupying the bedroom;
 - c. Contains a door that opens into a hallway, common area, or outdoors;
 - d. Is constructed and furnished to provide unimpeded access to the door;
 - e. Has window or door covers that provide resident privacy;
 - f. Has floor to ceiling walls;
 - g. Is a:
 - i. Private bedroom that contains at least 60 square feet of floor space, not including the closet; or
 - ii. Shared bedroom that:
 - (1) Is shared by no more than eight residents;
 - (2) Except as provided in subsection (C), contains at least 60 square feet of floor space, not including a closet, for each individual occupying the shared bedroom; and
 - (3) Provides at least three feet of floor space between beds or bunk beds;
 - h. Contains for each resident occupying the bedroom:
 - i. A bed that is at least 36 inches wide and at least 72 inches long, and consists of at least a frame and mattress and linens; and
 - ii. Individual storage space for personal effects and clothing such as shelves, a dresser, or chest of drawers;
 - i. Has clean linen for each bed including mattress pad, sheets large enough to tuck under the mattress, pillows, pillow cases, bedspread, waterproof mattress covers as needed, and blankets to ensure warmth and comfort for each resident;
 - j. Has sufficient lighting for a resident occupying the bedroom to read; and
 - k. Has a clothing rod or hook in the bedroom designed to minimize the opportunity for a resident to cause self-injury.
- C. A behavioral health residential facility that was licensed as a Level 4 transitional agency before October 1, 2013 may continue to use a shared bedroom that provides at least 40 square feet of floor space, not including a closet, for each individual occupying the shared bedroom. If there is a modification to the shared bedroom, the behavioral health residential facility shall comply with the requirement in subsection (B)(8)(g).
- D. For a behavioral health residential facility licensed according to A.R.S. § 36-425.06, an administrator shall ensure that:
 - 1. The premises are secure, as defined in A.R.S. § 36-425.06; and
 - 2. There is a means of exiting the facility for a resident who does not have special knowledge for egress that meets one of the following:
 - a. Provides access to an outside area that:
 - i. Allows the resident to be at least 30 feet away from the facility, and
 - ii. Controls or alerts employees of the egress of a resident from the facility;
 - b. Provides access to an outside area:
 - i. From which a resident may exit to a location at least 30 feet away from the facility, and
 - ii. Controls or alerts employees of the egress of a resident from the facility; or
 - c. Uses a mechanism that meets the Special Egress-Control Devices provisions in the Uniform Building Code incorporated by reference in A.A.C. R9-10-104.01.
- E. If a swimming pool is located on the premises, an administrator shall ensure that:
 - 1. The swimming pool is equipped with the following:
 - a. An operational water circulation system that clarifies and disinfects the swimming pool water continuously and that includes at least:
 - i. A removable strainer,
 - ii. Two swimming pool inlets located on opposite sides of the swimming pool, and
 - iii. A drain located at the swimming pool's lowest point and covered by a grating that cannot be removed without using tools; and
 - b. An operational vacuum cleaning system;
 - 2. The swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;
 - b. Has no vertical openings greater than four inches across;
 - c. Has no horizontal openings, except as described in subsection (E)(2)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
 - f. Has a self-closing, self-latching gate that:
 - i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground, and
 - iii. Is locked when the swimming pool is not in use; and
 - 3. A life preserver or shepherd's crook is available and accessible in the pool area.
- F. An administrator shall ensure that a spa that is not enclosed by a wall or fence as described in subsection (E)(2) is covered and locked when not in use.

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Historical Note

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking at 26 A.A.R. 551, with an immediate effective date of March 3, 2020 (Supp. 20-1).

R9-10-723. Repealed**Historical Note**

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Repealed by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-724. Repealed**Historical Note**

Adopted effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). Repealed by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

ARTICLE 8. ASSISTED LIVING FACILITIES**R9-10-801. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following definitions apply in this Article, unless the context otherwise requires:

1. "Accept" or "acceptance" means:
 - a. An individual begins living in and receiving assisted living services from an assisted living facility; or
 - b. An individual begins receiving adult day health care services or respite care services from an assisted living facility.
2. "Assistant caregiver" means an employee or volunteer who helps a manager or caregiver provide supervisory care services, personal care services, or directed care services to a resident, and does not include a family member of the resident.
3. "Assisted living services" means supervisory care services, personal care services, directed care services, behavioral care, or ancillary services provided to a resident by or on behalf of an assisted living facility.
4. "Caregiver" means an individual who provides supervisory care services, personal care services, or directed care services to a resident, and does not include a family member of the resident.
5. "Manager" means an individual designated by a governing authority to act on behalf of the governing authority in the onsite management of the assisted living facility.
6. "Medication organizer" means a container that is designed to hold doses of medication and is divided according to date or time increments.

7. "Primary care provider" means a physician, a physician's assistant, or registered nurse practitioner who directs a resident's medical services.
8. "Residency agreement" means a document signed by a resident or the resident's representative and a manager, detailing the terms of residency.
9. "Service plan" means a written description of a resident's need for supervisory care services, personal care services, directed care services, ancillary services, or behavioral health services and the specific assisted living services to be provided to the resident.
10. "Termination of residency" or "terminate residency" means a resident is no longer living in and receiving assisted living services from an assisted living facility.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-802. Supplemental Application Requirements; Exemption

- A. In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for a license as an assisted living facility shall include in a Department-provided format:
 1. Which of the following levels of assisted living services the applicant is requesting authorization to provide:
 - a. Supervisory care services,
 - b. Personal care services, or
 - c. Directed care services; and
 2. Whether the applicant is requesting authorization to provide:
 - a. Adult day health care services, or
 - b. Behavioral health services other than behavioral care.
- B. The Arizona Pioneers' Home is exempt from:
 1. Architectural plans and specifications for a health care institution specified in R9-10-104; and
 2. Physical plant codes and standards for a health care institution specified in R9-10-105(A)(5)(a).

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to

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A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking at 28 A.A.R. 869 (April 29, 2022), with an immediate effective date of April 8, 2022 (Supp. 22-2).

R9-10-803. Administration**A.** A governing authority shall:

1. Consist of one or more individuals responsible for the organization, operation, and administration of an assisted living facility;
2. Establish, in writing, an assisted living facility's scope of services;
3. Designate, in writing, a manager who:
 - a. Is 21 years of age or older; and
 - b. Except for the manager of an adult foster care home, has either a:
 - i. Certificate as an assisted living facility manager issued under A.R.S. § 36-446.04(C), or
 - ii. A temporary certificate as an assisted living facility manager issued under A.R.S. § 36-446.06;
4. Adopt a quality management program that complies with R9-10-804;
5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
6. Designate, in writing, an acting manager who has the qualifications established in subsection (A)(3), if the manager is:
 - a. Expected not to be present on the assisted living facility's premises for more than 30 calendar days, or
 - b. Not present on the assisted living facility's premises for more than 30 calendar days;
7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425(I) when there is a change in the manager and identify the name and qualifications of the new manager;
8. Ensure that a manager or caregiver who is able to read, write, understand, and communicate in English is on an assisted living facility's premises; and
9. Ensure compliance with A.R.S. § 36-411.

B. A manager:

1. Is directly accountable to the governing authority of an assisted living facility for the daily operation of the assisted living facility and all services provided by or at the assisted living facility;
2. Has the authority and responsibility to manage the assisted living facility; and
3. Except as provided in subsection (A)(6), designates, in writing, a caregiver who is:
 - a. At least 21 years of age, and
 - b. Present on the assisted living facility's premises and accountable for the assisted living facility when the

manager is not present on the assisted living facility premises.

C. A manager shall ensure that policies and procedures are:

1. Established, documented, and implemented to protect the health and safety of a resident that:
 - a. Cover job descriptions, duties, and qualifications, including required skills and knowledge, education, and experience for employees and volunteers;
 - b. Cover orientation and in-service education for employees and volunteers;
 - c. Include how an employee may submit a complaint related to resident care;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Except as provided in subsection (M), cover cardiopulmonary resuscitation training for applicable employees and volunteers, including:
 - i. The method and content of cardiopulmonary resuscitation training, which includes a demonstration of the employee's or volunteer's ability to perform cardiopulmonary resuscitation;
 - ii. The qualifications for an individual to provide cardiopulmonary resuscitation training;
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training; and
 - iv. The documentation that verifies that the employee or volunteer has received cardiopulmonary resuscitation training;
 - f. Cover first aid training;
 - g. Cover how a caregiver will respond to a resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual;
 - h. Cover staffing and recordkeeping;
 - i. Cover resident acceptance and resident rights;
 - j. Cover termination of residency, including:
 - i. Termination initiated by the manager of an assisted living facility, and
 - ii. Termination initiated by a resident or the resident's representative;
 - k. Cover the provision of assisted living services, including:
 - i. Coordinating the provision of assisted living services,
 - ii. Making vaccination for influenza and pneumonia available to residents according to A.R.S. § 36-406(1)(d), and
 - iii. Obtaining resident preferences for food and the provision of assisted living services;
 - l. Cover the provision of respite services or adult day health services, if applicable;
 - m. Cover methods by which the assisted living facility is aware of the general or specific whereabouts of a resident, based on the level of assisted living services provided to the resident and the assisted living services the assisted living facility is authorized to provide;
 - n. Cover resident medical records, including electronic medical records;
 - o. Cover personal funds accounts, if applicable;
 - p. Cover specific steps for:
 - i. A resident to file a complaint, and
 - ii. The assisted living facility to respond to a resident's complaint;
 - q. Cover health care directives;

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- r. Cover assistance in the self-administration of medication, and medication administration;
 - s. Cover food services;
 - t. Cover contracted services;
 - u. Cover equipment inspection and maintenance, if applicable;
 - v. Cover infection control; and
 - w. Cover a quality management program, including incident report and supporting documentation;
- 2. Available to employees and volunteers of the assisted living facility; and
- 3. Reviewed at least once every three years and updated as needed.
- D.** A manager shall ensure that the following are conspicuously posted:
 - 1. A list of resident rights;
 - 2. The assisted living facility's license;
 - 3. Current phone numbers of:
 - a. The unit in the Department responsible for licensing and monitoring the assisted living facility,
 - b. Adult Protective Services in the Department of Economic Security,
 - c. The State Long-Term Care Ombudsman, and
 - d. The Arizona Center for Disability Law; and
 - 4. The location at which a copy of the most recent Department inspection report and any plan of correction resulting from the Department inspection may be viewed.
- E.** A manager shall ensure that, unless otherwise stated:
 - 1. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - 2. When documentation or information is required by this Chapter to be submitted on behalf of an assisted living facility, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the assisted living facility.
- F.** If a requirement in this Article states that a manager shall ensure an action or condition or sign a document:
 - 1. A governing authority or licensee may ensure the action or condition or sign the document and retain the responsibility to ensure compliance with the requirement in this Article;
 - 2. The manager may delegate ensuring the action or condition or signing the document to another individual, but the manager retains the responsibility to ensure compliance with the requirement in the Article; and
 - 3. If the manager delegates ensuring an action or condition or signing a document, the delegation is documented and the documentation includes the name of the individual to whom the action, condition, or signing is delegated and the effective date of the delegation.
- G.** A manager shall:
 - 1. Not act as a resident's representative and not allow an employee or a family member of an employee to act as a resident's representative for a resident who is not a family member of the employee;
 - 2. If the assisted living facility administers personal funds accounts for residents and is authorized in writing by a resident or the resident's representative to administer a personal funds account for the resident:
 - a. Ensure that the resident's personal funds account does not exceed \$2,000;
- b. Maintain a separate record for each resident's personal funds account, including receipts and expenditures;
 - c. Maintain the resident's personal funds account separate from any account of the assisted living facility; and
 - d. Provide a copy of the record of the resident's personal funds account to the resident or the resident's representative at least once every three months;
- 3. Notify the resident's representative, family member, public fiduciary, or trust officer if the manager determines that a resident is incapable of handling financial affairs; and
- 4. Except when a resident's need for assisted living services changes, as documented in the resident's service plan, ensure that a resident receives at least 30 calendar days written notice before any increase in a fee or charge.
- H.** A manager shall permit the Department to interview an employee, a volunteer, or a resident as part of a compliance survey or a complaint investigation.
- I.** If abuse, neglect, or exploitation of a resident is alleged or suspected to have occurred before the resident was accepted or while the resident is not on the premises and not receiving services from an assisted living facility's manager, caregiver, or assistant caregiver, the manager shall report the alleged or suspected abuse, neglect, or exploitation of the resident according to A.R.S. § 46-454.
- J.** If a manager has a reasonable basis, according to A.R.S. § 46-454, to believe abuse, neglect or exploitation has occurred on the premises or while a resident is receiving services from an assisted living facility's manager, caregiver, or assistant caregiver, the manager shall:
 - 1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 - 2. Report the suspected abuse, neglect, or exploitation of the resident according to A.R.S. § 46-454;
 - 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (J)(1); and
 - c. The report in subsection (J)(2);
 - 4. Maintain the documentation in subsection (J)(3) for at least 12 months after the date of the report in subsection (J)(2);
 - 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (J)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the resident related to the suspected abuse or neglect and any change to the resident's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the manager to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 - 6. Maintain a copy of the documented information required in subsection (J)(5) for at least 12 months after the date the investigation was initiated.
- K.** A manager shall provide written notification to the Department of a resident's:

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1. Death, if the resident's death is required to be reported according to A.R.S. § 11-593, within one working day after the resident's death; and
 2. Self-injury, within two working days after the resident inflicts a self-injury that requires immediate intervention by an emergency services provider.
- L.** If a resident is receiving services from a home health agency or hospice service agency, a manager shall ensure that:
1. The resident's medical record contains:
 - a. The name, address, and contact individual, including contact information, of the home health agency or hospice service agency;
 - b. Any information provided by the home health agency or hospice service agency; and
 - c. A copy of resident follow-up instructions provided to the resident by the home health agency or hospice service agency; and
 2. Any care instructions for a resident provided to the assisted living facility by the home health agency or hospice service agency are:
 - a. Within the assisted living facility's scope of services,
 - b. Communicated to a caregiver, and
 - c. Documented in the resident's service plan.
- M.** A manager of an assisted living home may establish, in policies and procedures, requirements that a caregiver obtains and provides documentation of cardiopulmonary resuscitation training specific to adults, which includes a demonstration of the caregiver's ability to perform cardiopulmonary resuscitation, from one of the following organizations:
1. American Red Cross,
 2. American Heart Association, or
 3. National Safety Council.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Former Section R9-10-803 renumbered to R9-10-804; new Section R9-10-803 made by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-804. Quality Management

A manager shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;

- b. A method to collect data to evaluate services provided to residents;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to resident care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to resident care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to resident care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to resident care; and
 3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Section repealed; new Section R9-10-804 renumbered from R9-10-803 and amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-805. Contracted Services

A manager shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted as an emergency and (A)(1)(a)(i)(1) amended effective January 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Section repealed; new Section made by final rulemaking

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at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1).
 Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-806. Personnel**A.** A manager shall ensure that:

1. A caregiver:
 - a. Is 18 years of age or older; and
 - b. Provides documentation of:
 - i. Completion of a caregiver training program approved by the Department or the Board of Examiners for Nursing Care Institution Administrators and Assisted Living Facility Managers;
 - ii. For supervisory care services, employment as a manager or caregiver of a supervisory care home before November 1, 1998;
 - iii. For supervisory care services or personal care services, employment as a manager or caregiver of a supportive residential living center before November 1, 1998; or
 - iv. For supervisory care services, personal care services, or directed services, one of the following:
 - (1) A nursing care institution administrator's license issued by the Board of Examiners;
 - (2) A nurse's license issued to the individual under A.R.S. Title 32, Chapter 15;
 - (3) Documentation of employment as a manager or caregiver of an unclassified residential care institution before November 1, 1998; or
 - (4) Documentation of sponsorship of or employment as a caregiver in an adult foster care home before November 1, 1998;
2. An assistant caregiver:
 - a. Is 16 years of age or older; and
 - b. Interacts with residents under the supervision of a manager or caregiver;
3. The qualifications, skills, and knowledge required for a caregiver or assistant caregiver:
 - a. Are based on:
 - i. The type of assisted living services, behavioral health services, or behavioral care expected to be provided by the caregiver or assistant caregiver according to the established job description; and
 - ii. The acuity of the residents receiving assisted living services, behavioral health services, or behavioral care from the caregiver or assistant caregiver according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the caregiver or assistant caregiver to provide the expected assisted living services, behavioral health services, or behavioral care listed in the established job description;
 - ii. The type and duration of education that may allow the caregiver or assistant caregiver to provide the expected assisted living services, behavioral health services, or behavioral care listed in the established job description; and

- iii. The type and duration of experience that may allow the caregiver or assistant caregiver to have acquired the specific skills and knowledge for the caregiver or assistant caregiver to provide the expected assisted living services, behavioral health services or behavioral care listed in the established job description;

4. A caregiver's or assistant caregiver's skills and knowledge are verified and documented:
 - a. Before the caregiver or assistant caregiver provides physical health services or behavioral health services, and
 - b. According to policies and procedures;
5. An assisted living facility has a manager, caregivers, and assistant caregivers with the qualifications, experience, skills, and knowledge necessary to:
 - a. Provide the assisted living services, behavioral health services, behavioral care, and ancillary services in the assisted living facility's scope of services;
 - b. Meet the needs of a resident; and
 - c. Ensure the health and safety of a resident;
6. At least one manager or caregiver is present and awake at an assisted living center when a resident is on the premises;
7. Documentation is maintained for at least 12 months after the last date on the documentation of the caregivers and assistant caregivers working each day, including the hours worked by each;
8. A manager, a caregiver, and an assistant caregiver, or an employee or a volunteer who has or is expected to have more than eight hours per week of direct interaction with residents, provides evidence of freedom from infectious tuberculosis:
 - a. On or before the date the individual begins providing services at or on behalf of the assisted living facility, and
 - b. As specified in R9-10-113;
9. Before providing assisted living services to a resident, a caregiver or an assistant caregiver receives orientation that is specific to the duties to be performed by the caregiver or assistant caregiver; and
10. Before providing assisted living services to a resident, a manager or caregiver provides current documentation of first aid training and cardiopulmonary resuscitation training certification specific to adults.

B. A manager of an assisted living home shall ensure that:

1. An individual residing in an assisted living home, who is not a resident, a manager, a caregiver, or an assistant caregiver:
 - a. Either:
 - i. Complies with the fingerprinting requirements in A.R.S. § 36-411, or
 - ii. Interacts with residents only under the supervision of an individual who has a valid fingerprint clearance card; and
 - b. If the individual is 12 years of age or older, provides evidence of freedom from infectious tuberculosis as specified in R9-10-113;
2. Documentation of compliance with the requirements in subsection (B)(1)(a) and evidence of freedom from infectious tuberculosis.

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- tious tuberculosis, if required under subsection (B)(1)(b), is maintained for an individual residing in the assisted living home who is not a resident, a manager, a caregiver, or an assistant caregiver;
3. As part of the policies and procedures required in R9-10-803(C)(1)(h), a plan is established, documented, and implemented to ensure that the manager or a caregiver is available as back-up to provide assisted living services to a resident if the manager or a caregiver assigned to work is not available or not able to provide the required assisted living services; and
 4. At least the manager or a caregiver is present at an assisted living home when a resident is present in the assisted living home and:
 - a. Except for nighttime hours, the manager or caregiver is awake; and
 - b. If the manager or caregiver is not awake during nighttime hours:
 - i. The manager or caregiver can hear and respond to a resident needing assistance; and
 - ii. If the assisted living home is authorized to provide directed care services, policies and procedures are developed, documented, and implemented to establish a process for checking on a resident receiving directed care services during nighttime hours to ensure the resident's health and safety.
- C. A manager shall ensure that a personnel record for each employee or volunteer:
1. Includes:
 - a. The individual's name, date of birth, and contact telephone number;
 - b. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 - c. Documentation of:
 - i. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - ii. The individual's education and experience applicable to the individual's job duties;
 - iii. The individual's completed orientation and in-service education required by policies and procedures;
 - iv. The individual's license or certification, if the individual is required to be licensed or certified in this Article or in policies and procedures;
 - v. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - vi. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (A)(8);
 - vii. Cardiopulmonary resuscitation training, if required for the individual in this Article or policies and procedures;
 - viii. First aid training, if required for the individual in this Article or policies and procedures; and
 - ix. Documentation of compliance with the requirements in A.R.S. § 36-411(A) and (C);
 2. Is maintained:
 - a. Throughout the individual's period of providing services in or for the assisted living facility, and
 - b. For at least 24 months after the last date the individual provided services in or for the assisted living facility; and
3. For a manager, a caregiver, or an assistant caregiver who has not provided physical health services or behavioral health services at or for the assisted living facility during the previous 12 months, is provided to the Department within 72 hours after the Department's request.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-807. Residency and Residency Agreements

- A. Except as provided in R9-10-808(B)(2), a manager shall ensure that a resident provides evidence of freedom from infectious tuberculosis:
1. Before or within seven calendar days after the resident's date of occupancy, and
 2. As specified in R9-10-113.
- B. A manager shall ensure that before or at the time of acceptance of an individual, the individual submits documentation that is dated within 90 calendar days before the individual is accepted by an assisted living facility and:
1. If an individual is requesting or is expected to receive supervisory care services, personal care services, or directed care services:
 - a. Includes whether the individual requires:
 - i. Continuous medical services,
 - ii. Continuous or intermittent nursing services, or
 - iii. Restraints; and
 - b. Is dated and signed by a:
 - i. Physician,
 - ii. Registered nurse practitioner,
 - iii. Registered nurse, or
 - iv. Physician assistant; and
 2. If an individual is requesting or is expected to receive behavioral health services, other than behavioral care, in addition to supervisory care services, personal care services, or directed care services from an assisted living facility:
 - a. Includes whether the individual requires continuous behavioral health services, and
 - b. Is signed and dated by a behavioral health professional.
- C. A manager shall not accept or retain an individual if:
1. The individual requires continuous:

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- a. Medical services;
- b. Nursing services, unless the assisted living facility complies with A.R.S. § 36-401(C); or
- c. Behavioral health services;
- 2. The primary condition for which the individual needs assisted living services is a behavioral health issue;
- 3. The services needed by the individual are not within the assisted living facility's scope of services and a home health agency or hospice service agency is not involved in the care of the individual;
- 4. The assisted living facility does not have the ability to provide the assisted living services needed by the individual; or
- 5. The individual requires restraints, including the use of bedrails.
- D.** Before or at the time of an individual's acceptance by an assisted living facility, a manager shall ensure that there is a documented residency agreement with the assisted living facility that includes:
 - 1. The individual's name;
 - 2. Terms of occupancy, including:
 - a. Date of occupancy or expected date of occupancy,
 - b. Resident responsibilities, and
 - c. Responsibilities of the assisted living facility;
 - 3. A list of the services to be provided by the assisted living facility to the resident;
 - 4. A list of the services available from the assisted living facility at an additional fee or charge;
 - 5. For an assisted living home, whether the manager or a caregiver is awake during nighttime hours;
 - 6. The policy for refunding fees, charges, or deposits;
 - 7. The policy and procedure for a resident to terminate residency, including terminating residency because services were not provided to the resident according to the resident's service plan;
 - 8. The policy and procedure for an assisted living facility to terminate residency;
 - 9. The complaint process; and
 - 10. The manager's signature and date signed.
- E.** Before or within five working days after a resident's acceptance by an assisted living facility, a manager shall obtain on the documented agreement, required in subsection (D), the signature of one of the following individuals:
 - 1. The resident,
 - 2. The resident's representative,
 - 3. The resident's legal guardian, or
 - 4. Another individual who has been designated by the individual under A.R.S. § 36-3221 to make health care decisions on the individual's behalf.
- F.** A manager shall:
 - 1. Before or at the time of an individual's acceptance by an assisted living facility, provide to the resident or resident's representative a copy of:
 - a. The residency agreement in subsection (D),
 - b. Resident's rights, and
 - c. The policy and procedure on health care directives; and
 - 2. Maintain the original of the residency agreement in subsection (D) in the resident's medical record.
- G.** A manager may terminate residency of a resident as follows:
 - 1. Without notice, if the resident exhibits behavior that is an immediate threat to the health and safety of the resident or other individuals in an assisted living facility;
 - 2. With a 14-calendar-day written notice of termination of residency:
 - a. For nonpayment of fees, charges, or deposit; or
 - b. Under any of the conditions in subsection (C); or
 - 3. With a 30-calendar-day written notice of termination of residency, for any other reason.
- H.** A manager shall ensure that the written notice of termination of residency in subsection (G) includes:
 - 1. The date of notice;
 - 2. The reason for termination;
 - 3. The policy for refunding fees, charges, or deposits;
 - 4. The deposition of a resident's fees, charges, and deposits; and
 - 5. Contact information for the State Long-Term Care Ombudsman.
- I.** A manager shall provide the following to a resident when the manager provides the written notice of termination of residency in subsection (G):
 - 1. A copy of the resident's current service plan, and
 - 2. Documentation of the resident's freedom from infectious tuberculosis.
- J.** If an assisted living facility issues a written notice of termination of residency as provided in subsection (G) to a resident or the resident's representative because the resident needs services the assisted living facility is either not licensed to provide or is licensed to provide but not able to provide, a manager shall ensure that the written notice of termination of residency includes a description of the specific services that the resident needs that the assisted living facility is either not licensed to provide or is licensed to provide but not able to provide.

Historical Note

Adopted as an emergency effective October 26, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989 pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-808. Service Plans

- A.** Except as required in subsection (B), a manager shall ensure that a resident has a written service plan that:
 - 1. Is completed no later than 14 calendar days after the resident's date of acceptance;
 - 2. Is developed with assistance and review from:
 - a. The resident or resident's representative,
 - b. The manager, and
 - c. Any individual requested by the resident or the resident's representative;
 - 3. Includes the following:

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- a. A description of the resident's medical or health problems, including physical, behavioral, cognitive, or functional conditions or impairments;
 - b. The level of service the resident is expected to receive;
 - c. The amount, type, and frequency of assisted living services being provided to the resident, including medication administration or assistance in the self-administration of medication;
 - d. For a resident who requires intermittent nursing services or medication administration, review by a nurse or medical practitioner;
 - e. For a resident who requires behavioral care:
 - i. Any of the following that is necessary to provide assistance with the resident's psychosocial interactions to manage the resident's behavior:
 - (1) The psychosocial interactions or behaviors for which the resident requires assistance,
 - (2) Psychotropic medications ordered for the resident,
 - (3) Planned strategies and actions for changing the resident's psychosocial interactions or behaviors, and
 - (4) Goals for changes in the resident's psychosocial interactions or behaviors; and
 - ii. Review by a medical practitioner or behavioral health professional; and
 - f. For a resident who will be storing medication in the resident's bedroom or residential unit, how the medication will be stored and controlled;
4. Is reviewed and updated based on changes in the requirements in subsections (A)(3)(a) through (f):
 - a. No later than 14 calendar days after a significant change in the resident's physical, cognitive, or functional condition; and
 - b. As follows:
 - i. At least once every 12 months for a resident receiving supervisory care services,
 - ii. At least once every six months for a resident receiving personal care services, and
 - iii. At least once every three months for a resident receiving directed care services; and
 5. When initially developed and when updated, is signed and dated by:
 - a. The resident or resident's representative;
 - b. The manager;
 - c. If a review is required in subsection (A)(3)(d), the nurse or medical practitioner who reviewed the service plan; and
 - d. If a review is required in subsection (A)(3)(e)(ii), the medical practitioner or behavioral health professional who reviewed the service plan.
- B.** For a resident receiving respite care services, a manager shall ensure that:
1. A written service plan is:
 - a. Based on a determination of the resident's current needs and:
 - i. Is completed no later than three working days after the resident's date of acceptance; or
 - ii. If the resident has a service plan in the resident's medical record that was developed within the previous 12 months, is reviewed and updated based on changes in the requirements in subsections (A)(3)(a) through (f) within three working days after the resident's date of acceptance; and
 - b. If a significant change in the resident's physical, cognitive, or functional condition occurs while the resident is receiving respite care services, updated based on changes in the requirements in subsections (A)(3)(a) through (f) within three working days after the significant change occurs; and
 2. If the resident is not expected to be present in the assisted living facility for more than seven calendar days, the resident is not required to comply with the requirements in R9-10-807(A).
- C.** A manager shall ensure that:
1. A caregiver or an assistant caregiver:
 - a. Provides a resident with the assisted living services in the resident's service plan;
 - b. Is only assigned to provide the assisted living services the caregiver or assistant caregiver has the documented skills and knowledge to perform;
 - c. Provides assistance with activities of daily living according to the resident's service plan;
 - d. If applicable, suggests techniques a resident may use to maintain or improve the resident's independence in performing activities of daily living;
 - e. Provides assistance with, supervises, or directs a resident's personal hygiene according to the resident's service plan;
 - f. Encourages a resident to participate in activities planned according to subsection (E); and
 - g. Documents the services provided in the resident's medical record; and
 2. A volunteer or an assistant caregiver who is 16 or 17 years of age does not provide:
 - a. Assistance to a resident for:
 - i. Bathing,
 - ii. Toileting, or
 - iii. Moving the resident's body from one surface to another surface;
 - b. Assistance in the self-administration of medication;
 - c. Medication administration; or
 - d. Nursing services.
- D.** A manager of an assisted living facility that is authorized to provide adult day health services shall ensure that the adult day health care services are provided as specified in R9-10-1113.
- E.** A manager shall ensure that:
1. Daily social, recreational, or rehabilitative activities are planned according to residents' preferences, needs, and abilities;
 2. A calendar of planned activities is:
 - a. Prepared at least one week in advance of the date the activity is provided,
 - b. Posted in a location that is easily seen by residents,
 - c. Updated as necessary to reflect substitutions in the activities provided, and
 - d. Maintained for at least 12 months after the last scheduled activity;
 3. Equipment and supplies are available and accessible to accommodate a resident who chooses to participate in a planned activity; and
 4. Multiple media sources, such as daily newspapers, current magazines, internet sources, and a variety of reading materials, are available and accessible to a resident to

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maintain the resident's continued awareness of current news, social events, and other noteworthy information.

- F. If a resident is not receiving assistance with the resident's psychosocial interactions under the direction of a behavioral health professional or any other behavioral health services at an assisted living facility, the resident is not considered to be receiving behavioral care or behavioral health services from the assisted living facility if the resident:
1. Is prescribed a psychotropic medication, or
 2. Is receiving directed care services and has a primary diagnosis of:
 - a. Dementia,
 - b. Alzheimer's disease-related dementia, or
 - c. Traumatic brain injury.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-809. Transport; Transfer

- A. Except as provided in subsection (B), a manager shall ensure that:
1. A caregiver or employee coordinates the transport and the services provided to the resident;
 2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before and after the transport, and
 - b. Information from the resident's medical record is provided to a receiving health care institution; and
 3. Documentation includes:
 - a. If applicable, any communication with an individual at a receiving health care institution;
 - b. The date and time of the transport; and
 - c. If applicable, the name of the caregiver accompanying the resident during a transport.
- B. Subsection (A) does not apply to:
1. Transportation to a location other than a licensed health care institution,
 2. Transportation provided for a resident by the resident or the resident's representative,
 3. Transportation provided by an outside entity that was arranged for a resident by the resident or the resident's representative, or
 4. A transport to another licensed health care institution in an emergency.
- C. Except for a transfer of a resident due to an emergency, a manager shall ensure that:

1. A caregiver coordinates the transfer and the services provided to the resident;
2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before the transfer;
 - b. Information from the resident's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A caregiver explains risks and benefits of the transfer to the resident or the resident's representative; and
3. Documentation in the resident's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the caregiver accompanying the resident during a transfer.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Former Section R9-10-809 renumbered to R9-10-812; new Section R9-10-809 made by final rulemaking at 9 A.A.R. 319, effective March 31, 2003 (Supp. 03-1). R9-10-809(E) reflects a corrected reference to Article 14 from Article 4 (05-2). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-810. Resident Rights

- A. A manager shall ensure that, at the time of acceptance, a resident or the resident's representative receives a written copy of the requirements in subsection (B) and the resident rights in subsection (C).
- B. A manager shall ensure that:
1. A resident is treated with dignity, respect, and consideration;
 2. A resident is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or

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- k. Misappropriation of personal and private property by the assisted living facility's manager, caregivers, assistant caregivers, employees, or volunteers; and
3. A resident or the resident's representative:
 - a. Is informed of the following:
 - i. The policy on health care directives, and
 - ii. The resident complaint process;
 - b. Consents to photographs of the resident before the resident is photographed, except that a resident may be photographed when accepted as a resident by an assisted living facility for identification and administrative purposes;
 - c. Except as otherwise permitted by law, provides written consent before the release of information in the resident's:
 - i. Medical record, or
 - ii. Financial records;
 - d. May:
 - i. Request or consent to relocation within the assisted living facility; and
 - ii. Except when relocation is necessary based on a change in the resident's condition as documented in the resident's service plan, refuse relocation within the assisted living facility;
 - e. Has access to the resident's records during normal business hours or at a time agreed upon by the resident or resident's representative and the manager; and
 - f. Is informed of:
 - i. The rates and charges for services before the services are initiated;
 - ii. A change in rates or charges at least 30 calendar days before the change is implemented, unless the change in rates or charges results from a change in services; and
 - iii. A change in services at least 30 calendar days before the change is implemented, unless the resident's service plan changes.
- C. A resident has the following rights:
 1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 2. To receive assisted living services that support and respect the resident's individuality, choices, strengths, and abilities;
 3. To receive privacy in:
 - a. Care for personal needs;
 - b. Correspondence, communications, and visitation; and
 - c. Financial and personal affairs;
 4. To maintain, use, and display personal items unless the personal items constitute a hazard;
 5. To choose to participate or refuse to participate in social, recreational, rehabilitative, religious, political, or community activities;
 6. To review, upon written request, the resident's own medical record;
 7. To receive a referral to another health care institution if the assisted living facility is not authorized or not able to provide physical health services or behavioral health services needed by the patient;
 8. To choose to access services from a health care provider, health care institution, or pharmacy other than the assisted living facility where the resident is residing and receiving services or a health care provider, health care institution, or pharmacy recommended by the assisted living facility;
 9. To participate or have the resident's representative participate in the development of, or decisions concerning, the resident's service plan; and
 10. To receive assistance from a family member, the resident's representative, or other individual in understanding, protecting, or exercising the resident's rights.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted effective October 30, 1989 (Supp. 89-4). Former Section R9-10-810 renumbered to R9-10-813; new Section R9-10-810 made by final rulemaking at 9 A.A.R. 319, effective March 31, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-811. Medical Records

- A. A manager shall ensure that:
 1. A medical record is established and maintained for each resident according to A.R.S. Title 12, Chapter 13, Article 7.1;
 2. An entry in a resident's medical record is:
 - a. Only recorded by an individual authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 3. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 4. A resident's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the resident's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the resident or the resident's representative; or
 - c. As permitted by law; and
 5. A resident's medical record is protected from loss, damage, or unauthorized use.
- B. If an assisted living facility maintains residents' medical records electronically, a manager shall ensure that:
 1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a resident's medical record is recorded by the computer's internal clock.
- C. A manager shall ensure that a resident's medical record contains:
 1. Resident information that includes:

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- a. The resident's name, and
- b. The resident's date of birth;
2. The names, addresses, and telephone numbers of:
 - a. The resident's primary care provider;
 - b. Other persons, such as a home health agency or hospice service agency, involved in the care of the resident; and
 - c. An individual to be contacted in the event of emergency, significant change in the resident's condition, or termination of residency;
3. If applicable, the name and contact information of the resident's representative and:
 - a. The document signed by the resident consenting for the resident's representative to act on the resident's behalf; or
 - b. If the resident's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
4. The date of acceptance and, if applicable, date of termination of residency;
5. Documentation of the resident's needs required in R9-10-807(B);
6. Documentation of general consent and informed consent, if applicable;
7. Except as allowed in R9-10-808(B)(2), documentation of freedom from infectious tuberculosis as required in R9-10-807(A);
8. A copy of resident's health care directive, if applicable;
9. The resident's signed residency agreement and any amendments;
10. Resident's service plan and updates;
11. Documentation of assisted living services provided to the resident;
12. A medication order from a medical practitioner for each medication that is administered to the resident or for which the resident receives assistance in the self-administration of the medication;
13. Documentation of medication administered to the resident or for which the resident received assistance in the self-administration of medication that includes:
 - a. The date and time of administration or assistance;
 - b. The name, strength, dosage, and route of administration;
 - c. The name and signature of the individual administering or providing assistance in the self-administration of medication; and
 - d. An unexpected reaction the resident has to the medication;
14. Documentation of the resident's refusal of a medication, if applicable;
15. If applicable, documentation of any actions taken to control the resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual;
16. If applicable, documentation of a determination by a medical practitioner that evacuation from the assisted living facility during an evacuation drill would cause harm to the resident;
17. Documentation of notification of the resident of the availability of vaccination for influenza and pneumonia, according to A.R.S. § 36-406(1)(d);
18. Documentation of the resident's orientation to exits from the assisted living facility required in R9-10-818(B);
19. If a resident is receiving behavioral health services other than behavioral care, documentation of the determination in R9-10-813(3);
20. If a resident is receiving behavioral care, documentation of the determination in R9-10-812(3);
21. If applicable, for a resident who is unable to direct self-care, the information required in R9-10-815(F);
22. Documentation of any significant change in a resident's behavior, physical, cognitive, or functional condition and the action taken by a manager or caregiver to address the resident's changing needs;
23. Documentation of the notification required in R9-10-803(G) if the resident is incapable of handling financial affairs; and
24. If the resident no longer resides and receives assisted living services from the assisted living facility:
 - a. A written notice of termination of residency; or
 - b. If the resident terminated residency, the date the resident terminated residency.

Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Former Section R9-10-811 renumbered to R9-10-814; new Section R9-10-811 made by final rulemaking at 9 A.A.R. 319, effective March 31, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-812. Behavioral Care

A manager shall ensure that for a resident who requests or receives behavioral care from the assisted living facility, a behavioral health professional or medical practitioner:

1. Evaluates the resident:
 - a. Within 30 calendar days before acceptance of the resident or before the resident begins receiving behavioral care, and
 - b. At least once every six months throughout the duration of the resident's need for behavioral care;
2. Reviews the assisted living facility's scope of services; and
3. Signs and dates a determination stating that the resident's need for behavioral care can be met by the assisted living facility within the assisted living facility's scope of services and, for retention of a resident, are being met by the assisted living facility.

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Historical Note

Adopted as an emergency effective October 26, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-4). Emergency expired. Readopted without change as an emergency effective January 27, 1989, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 89-1). Emergency expired. Readopted without change as an emergency effective April 27, 1989 (Supp. 89-2). Emergency expired. Readopted without change as an emergency effective July 31, 1989 (Supp. 89-3). Permanent rules adopted with changes effective October 30, 1989 (Supp. 89-4). Section repealed; new Section R9-10-812 renumbered from R9-10-809 and amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-813. Behavioral Health Services

If an assisted living facility is authorized to provide behavioral health services other than behavioral care, a manager shall ensure that:

1. Policies and procedures are established, documented, and implemented that cover when general consent and informed consent are required and by whom general consent and informed consent may be given;
2. The behavioral health services:
 - a. Are provided under the direction of a behavioral health professional; and
 - b. Comply with the requirements:
 - i. For behavioral health paraprofessionals and behavioral health technicians, in R9-10-115; and
 - ii. For an assessment, in R9-10-1011(B); and
3. For a resident who requests or receives behavioral health services from the assisted living facility, a behavioral health professional:
 - a. Evaluates the resident within 30 calendar days before acceptance of the resident and at least once every six months throughout the duration of the resident's need for behavioral health services;
 - b. Reviews the assisted living facility's scope of services; and
 - c. Signs and dates a determination stating that the resident's needs can be met by the assisted living facility within the assisted living facility's scope of services and, for retention of a resident, are being met by the assisted living facility.

Historical Note

New Section renumbered from R9-10-810 and amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-814. Personal Care Services

- A.** A manager of an assisted living facility authorized to provide personal care services shall not accept or retain a resident who:
1. Is unable to direct self-care;

2. Except as specified in subsection (B), is confined to a bed or chair because of an inability to ambulate even with assistance; or
 3. Except as specified in subsection (C), has a stage 3 or stage 4 pressure sore, as determined by a registered nurse or medical practitioner.
- B.** A manager of an assisted living facility authorized to provide personal care services may accept or retain a resident who is confined to a bed or chair because of an inability to ambulate even with assistance if:
1. The condition is a result of a short-term illness or injury; or
 2. The following requirements are met at the onset of the condition or when the resident is accepted by the assisted living facility:
 - a. The resident or resident's representative requests that the resident be accepted by or remain in the assisted living facility;
 - b. The resident's primary care provider or other medical practitioner:
 - i. Examines the resident at the onset of the condition, or within 30 calendar days before acceptance, and at least once every six months throughout the duration of the resident's condition;
 - ii. Reviews the assisted living facility's scope of services; and
 - iii. Signs and dates a determination stating that the resident's needs can be met by the assisted living facility within the assisted living facility's scope of services and, for retention of a resident, are being met by the assisted living facility; and
 - c. The resident's service plan includes the resident's increased need for personal care services.
- C.** A manager of an assisted living facility authorized to provide personal care services may accept or retain a resident who has a stage 3 or stage 4 pressure sore, as determined by a registered nurse or medical practitioner, if the requirements in subsection (B)(2) are met.
- D.** A manager of an assisted living facility authorized to provide personal care services may accept or retain a resident who:
1. Is receiving nursing services from a home health agency or a hospice service agency; or
 2. Requires intermittent nursing services if:
 - a. The resident's condition for which nursing services are required is a result of a short-term illness or injury, and
 - b. The requirements of subsection (B)(2) are met.
- E.** A manager shall ensure that a bell, intercom, or other mechanical means to alert employees to a resident's needs or emergencies is available and accessible in a bedroom or residential unit being used by a resident receiving personal care services.
- F.** In addition to the requirements in R9-10-808(A)(3), a manager shall ensure that the service plan for a resident receiving personal care services includes:
1. Skin maintenance to prevent and treat bruises, injuries, pressure sores, and infections;
 2. Offering sufficient fluids to maintain hydration;
 3. Incontinence care that ensures that a resident maintains the highest practicable level of independence when toileting; and
 4. If applicable, the determination in subsection (B)(2)(b)(iii).

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- G.** A manager shall ensure that an employee does not provide non-prescription medication to a resident receiving personal care services unless the resident has an order from the resident's primary care provider or another medical practitioner for the non-prescription medication.

Historical Note

New Section renumbered from R9-10-811 and amended by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-815. Directed Care Services

- A.** A manager shall ensure that a resident's representative is designated for a resident who is unable to direct self-care.
- B.** A manager of an assisted living facility authorized to provide directed care services shall not accept or retain a resident who, except as provided in R9-10-814(B)(2):
1. Is confined to a bed or chair because of an inability to ambulate even with assistance; or
 2. Has a stage 3 or stage 4 pressure sore, as determined by a registered nurse or medical practitioner.
- C.** In addition to the requirements in R9-10-808(A)(3), a manager shall ensure that the service plan for a resident receiving directed care services includes:
1. The requirements in R9-10-814(F)(1) through (3);
 2. If applicable, the determination in R9-10-814(B)(2)(b)(iii);
 3. Cognitive stimulation and activities to maximize functioning;
 4. Strategies to ensure a resident's personal safety;
 5. Encouragement to eat meals and snacks;
 6. Documentation:
 - a. Of the resident's weight, or
 - b. From a medical practitioner stating that weighing the resident is contraindicated; and
 7. Coordination of communications with the resident's representative, family members, and, if applicable, other individuals identified in the resident's service plan.
- D.** A manager shall ensure that an employee does not provide non-prescription medication to a resident receiving directed care services unless the resident has an order from a medical practitioner for the non-prescription medication.
- E.** A manager shall ensure that:
1. A bell, intercom, or other mechanical means to alert employees to a resident's needs or emergencies is available in a bedroom being used by a resident receiving directed care services; or
 2. An assisted living facility has implemented another means to alert a caregiver or assistant caregiver to a resident's needs or emergencies.
- F.** A manager of an assisted living facility authorized to provide directed care services shall ensure that:
1. Policies and procedures are established, documented, and implemented that ensure the safety of a resident who may wander;
 2. There is a means of exiting the facility for a resident who does not have a key, special knowledge for egress, or the ability to expend increased physical effort that meets one of the following:

- a. Provides access to an outside area that:
 - i. Allows the resident to be at least 30 feet away from the facility, and
 - ii. Controls or alerts employees of the egress of a resident from the facility;
 - b. Provides access to an outside area:
 - i. From which a resident may exit to a location at least 30 feet away from the facility, and
 - ii. Controls or alerts employees of the egress of a resident from the facility; or
 - c. Uses a mechanism that meets the Special Egress-Control Devices provisions in the International Building Code incorporated by reference in R9-10-104.01; and
- 3.** A caregiver or an assistant caregiver complies with the requirements for incidents in R9-10-804 when a resident who is unable to direct self-care wanders into an area not designated by the governing authority for use by the resident.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-816. Medication Services

- A.** A manager shall ensure that:
1. Policies and procedures for medication services include:
 - a. Procedures for preventing, responding to, and reporting a medication error;
 - b. Procedures for responding to and reporting an unexpected reaction to a medication;
 - c. Procedures to ensure that a resident's medication regimen and method of administration is reviewed by a medical practitioner to ensure the medication regimen meets the resident's needs;
 - d. Procedures for:
 - i. Documenting, as applicable, medication administration and assistance in the self-administration of medication; and
 - ii. Monitoring a resident who self-administers medication;
 - e. Procedures for assisting a resident in procuring medication; and
 - f. If applicable, procedures for providing medication administration or assistance in the self-administration of medication off the premises; and
 2. If a verbal order for a resident's medication is received from a medical practitioner by the assisted living facility:
 - a. The manager or a caregiver takes the verbal order from the medical practitioner,
 - b. The verbal order is documented in the resident's medical record, and
 - c. A written order verifying the verbal order is obtained from the medical practitioner within 14 calendar days after receiving the verbal order.
- B.** If an assisted living facility provides medication administration, a manager shall ensure that:

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1. Medication is stored by the assisted living facility;
2. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner, registered nurse, or pharmacist;
 - b. Include a process for documenting an individual, authorized, according to the definition of "administer" in A.R.S. § 32-1901, by a medical practitioner to administer medication under the direction of the medical practitioner;
 - c. Ensure that medication is administered to a resident only as prescribed; and
 - d. Cover the documentation of a resident's refusal to take prescribed medication in the resident's medical record; and
3. A medication administered to a resident:
 - a. Is administered by an individual under direction of a medical practitioner,
 - b. Is administered in compliance with a medication order, and
 - c. Is documented in the resident's medical record.
- C. If an assisted living facility provides assistance in the self-administration of medication, a manager shall ensure that:
 1. A resident's medication is stored by the assisted living facility;
 2. The following assistance is provided to a resident:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container or medication organizer for the resident;
 - c. Observing the resident while the resident removes the medication from the container or medication organizer;
 - d. Except when a resident uses a medication organizer, verifying that the medication is taken as ordered by the resident's medical practitioner by confirming that:
 - i. The resident taking the medication is the individual stated on the medication container label,
 - ii. The resident is taking the dosage of the medication stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label, and
 - iii. The resident is taking the medication at the time stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label;
 - e. For a resident using a medication organizer, verifying that the resident is taking the medication in the medication organizer according to the schedule specified on the medical practitioner's order; or
 - f. Observing the resident while the resident takes the medication;
 3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a medical practitioner or nurse; and
 4. Assistance in the self-administration of medication provided to a resident:
 - a. Is in compliance with an order, and
 - b. Is documented in the resident's medical record.
- D. A manager shall ensure that:
 1. A current drug reference guide is available for use by personnel members, and
 2. A current toxicology reference guide is available for use by personnel members.
- E. A manager shall ensure that a resident's medication organizer is only filled by:
 1. The resident;
 2. The resident's representative;
 3. A family member of the resident;
 4. A personnel member of a home health agency or hospice service agency; or
 5. The manager or a caregiver who has been designated and is under the direction of a medical practitioner, according to subsection (B)(2)(b).
- F. When medication is stored by an assisted living facility, a manager shall ensure that:
 1. Medication is stored in a separate locked room, closet, cabinet, or self-contained unit used only for medication storage;
 2. Medication is stored according to the instructions on the medication container; and
 3. Policies and procedures are established, documented, and implemented for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of residents who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.
- G. A manager shall ensure that a caregiver immediately reports a medication error or a resident's unexpected reaction to a medication to the medical practitioner who ordered the medication or, if the medical practitioner who ordered the medication is not available, another medical practitioner.
- H. If medication is stored by a resident in the resident's bedroom or residential unit, a manager shall ensure that:
 1. The medication is stored according to the resident's service plan; or
 2. If the medication is not being stored according to the resident's service plan, the resident's service plan is updated to include how the medication is being stored by the resident.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-817. Food Services

- A. A manager shall ensure that:
 1. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served each day,
 - c. Is conspicuously posted at least one calendar day before the first meal on the food menu is served,

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- d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;
 - 2. Meals and snacks provided by the assisted living facility are served according to posted menus;
 - 3. If the assisted living facility contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the assisted living facility, a copy of the food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the assisted living facility;
 - 4. The assisted living facility is able to store, refrigerate, and reheat food to meet the dietary needs of a resident;
 - 5. Meals and snacks for each day are planned using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2015>;
 - 6. A resident is provided a diet that meets the resident's nutritional needs as specified in the resident's service plan;
 - 7. Water is available and accessible to residents at all times, unless otherwise stated in a medical practitioner's order; and
 - 8. A resident requiring assistance to eat is provided with assistance that recognizes the resident's nutritional, physical, and social needs, including the provision of adaptive eating equipment or utensils, such as a plate guard, rocking fork, or assistive hand device, if not provided by the resident.
- B.** If the assisted living facility offers therapeutic diets, a manager shall ensure that:
- 1. A current therapeutic diet manual is available for use by employees, and
 - 2. The therapeutic diet is provided to a resident according to a written order from the resident's primary care provider or another medical practitioner.
- C.** A manager shall ensure that food is obtained, prepared, served, and stored as follows:
- 1. Food is free from spoilage, filth, or other contamination and is safe for human consumption;
 - 2. Food is protected from potential contamination;
 - 3. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a resident, such as cut, chopped, ground, pureed, or thickened;
 - 4. Potentially hazardous food is maintained as follows:
 - a. Foods requiring refrigeration are maintained at 41° F or below; and
 - b. Foods requiring cooking are cooked to heat all parts of the food to a temperature of at least 145° F for 15 seconds, except that:
 - i. Ground beef and ground meats are cooked to heat all parts of the food to at least 155° F;
 - ii. Poultry, poultry stuffing, stuffed meats, and stuffing that contains meat are cooked to heat all parts of the food to at least 165° F;
 - iii. Pork and any food containing pork are cooked to heat all parts of the food to at least 155° F;
 - iv. Raw shell eggs for immediate consumption are cooked to at least 145° F for 15 seconds and any food containing raw shell eggs is cooked to heat all parts of the food to at least 155° F;
 - v. Roast beef and beef steak are cooked to an internal temperature of at least 155° F; and
 - vi. Leftovers are reheated to a temperature of at least 165° F;
 - 5. A refrigerator used by an assisted living facility to store food or medication contains a thermometer, accurate to plus or minus 3° F, placed at the warmest part of the refrigerator;
 - 6. Frozen foods are stored at a temperature of 0° F or below; and
 - 7. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair.
- D.** A manager of an assisted living center shall ensure that:
- 1. The assisted living center has a license or permit as a food establishment under 9 A.A.C. 8, Article 1; and
 - 2. A copy of the assisted living center's food establishment license or permit is maintained.

Historical Note

New Section made by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-818. Emergency and Safety Standards**A.** A manager shall ensure that:

- 1. A disaster plan is developed, documented, maintained in a location accessible to caregivers and assistant caregivers, and, if necessary, implemented that includes:
 - a. When, how, and where residents will be relocated;
 - b. How a resident's medical record will be available to individuals providing services to the resident during a disaster;
 - c. A plan to ensure each resident's medication will be available to administer to the resident during a disaster; and
 - d. A plan for obtaining food and water for individuals present in the assisted living facility or the assisted living facility's relocation site during a disaster;
- 2. The disaster plan required in subsection (A)(1) is reviewed at least once every 12 months;
- 3. Documentation of the disaster plan review required in subsection (A)(2) includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each employee or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
- 4. A disaster drill for employees is conducted on each shift at least once every three months and documented;
- 5. An evacuation drill for employees and residents:
 - a. Is conducted at least once every six months; and
 - b. Includes all individuals on the premises except for:
 - i. A resident whose medical record contains documentation that evacuation from the assisted living facility would cause harm to the resident, and
 - ii. Sufficient caregivers to ensure the health and safety of residents not evacuated according to subsection (A)(5)(b)(i);

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6. Documentation of each evacuation drill is created, is maintained for at least 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for employees and residents to evacuate the assisted living facility;
 - c. If applicable:
 - i. An identification of residents needing assistance for evacuation, and
 - ii. An identification of residents who were not evacuated;
 - d. Any problems encountered in conducting the evacuation drill; and
 - e. Recommendations for improvement, if applicable; and
 7. An evacuation path is conspicuously posted in each hallway of each floor of the assisted living facility.
- B.** A manager shall ensure that:
1. A resident receives orientation to the exits from the assisted living facility and the route to be used when evacuating the assisted living facility within 24 hours after the resident's acceptance by the assisted living facility, and
 2. The resident's orientation is documented.
- C.** A manager shall ensure that a first-aid kit is maintained in the assisted living facility in a location accessible to caregivers and assistant caregivers.
- D.** When a resident has an accident, emergency, or injury that results in the resident needing medical services, a manager shall ensure that a caregiver or an assistant caregiver:
1. Immediately notifies the resident's emergency contact and primary care provider; and
 2. Documents the following:
 - a. The date and time of the accident, emergency, or injury;
 - b. A description of the accident, emergency, or injury;
 - c. The names of individuals who observed the accident, emergency, or injury;
 - d. The actions taken by the caregiver or assistant caregiver;
 - e. The individuals notified by the caregiver or assistant caregiver; and
 - f. Any action taken to prevent the accident, emergency, or injury from occurring in the future.
- E.** A manager of an assisted living center shall ensure that:
1. Unless the assisted living center has documentation of having received an exception from the Department before October 1, 2013, in the areas of the assisted living center providing personal care services or directed care services:
 - a. A fire alarm system is installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in R9-10-104.01, and is in working order; and
 - b. A sprinkler system is installed according to the National Fire Protection Association 13: Standard for the Installation of Sprinkler Systems, incorporated by reference in R9-10-104.01, and is in working order;
 2. For the areas of the assisted living center providing only supervisory care services:
 - a. A fire alarm system and a sprinkler system meeting the requirements in subsection (E)(1) are installed and in working order, or
 - b. The assisted living center complies with the requirements in subsection (F);
- F.** A manager of an assisted living home shall ensure that:
1. A fire extinguisher that is labeled as rated at least 2A-10-BC by the Underwriters Laboratories is mounted and maintained in the assisted living home;
 2. A disposable fire extinguisher is replaced when its indicator reaches the red zone;
 3. A rechargeable fire extinguisher:
 - a. Is serviced at least once every 12 months, and
 - b. Has a tag attached to the fire extinguisher that specifies the date of the last servicing and the identification of the person who serviced the fire extinguisher;
 4. Except as provided in subsection (G):
 - a. A smoke detector is:
 - i. Installed in each bedroom, hallway that adjoins a bedroom, storage room, laundry room, attached garage, and room or hallway adjacent to the kitchen, and other places recommended by the manufacturer;
 - ii. Either battery operated or, if hard-wired into the electrical system of the assisted living home, has a back-up battery;
 - iii. In working order; and
 - iv. Tested at least once a month; and
 - b. Documentation of the test required in subsection (F)(4)(a)(iv) is maintained for at least 12 months after the date of the test;
 5. An appliance, light, or other device with a frayed or spliced electrical cord is not used at the assisted living home; and
 6. An electrical cord, including an extension cord, is not run under a rug or carpeting, over a nail, or from one room to another at the assisted living home.
- G.** A manager of an assisted living home may use a fire alarm system and a sprinkler system to ensure the safety of residents if the fire alarm system and sprinkler system:
1. Are installed and in working order, and
 2. Meet the requirements in subsection (E)(1).

Historical Note

New Section made by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-819. Environmental Standards

- A.** A manager shall ensure that:
1. The premises and equipment used at the assisted living facility are:

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- a. Cleaned and, if applicable, disinfected according to policies and procedures designed to prevent, minimize, and control illness or infection; and
 - b. Free from a condition or situation that may cause a resident or other individual to suffer physical injury;
 2. A pest control program that complies with A.A.C. R3-8-201(C)(4) is implemented and documented;
 3. Garbage and refuse are:
 - a. Stored in covered containers lined with plastic bags, and
 - b. Removed from the premises at least once a week;
 4. Heating and cooling systems maintain the assisted living facility at a temperature between 70° F and 84° F at all times, unless individually controlled by a resident;
 5. Common areas:
 - a. Are lighted to ensure the safety of residents, and
 - b. Have lighting sufficient to allow caregivers and assistant caregivers to monitor resident activity;
 6. Hot water temperatures are maintained between 95° F and 120° F in areas of an assisted living facility used by residents;
 7. The supply of hot and cold water is sufficient to meet the personal hygiene needs of residents and the cleaning and sanitation requirements in this Article;
 8. A resident has access to a laundry service or a washing machine and dryer in the assisted living facility;
 9. Soiled linen and soiled clothing stored by the assisted living facility are maintained separate from clean linen and clothing and stored in closed containers away from food storage, kitchen, and dining areas;
 10. Oxygen containers are secured in an upright position;
 11. Poisonous or toxic materials stored by the assisted living facility are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to residents;
 12. Combustible or flammable liquids and hazardous materials stored by the assisted living facility are stored in the original labeled containers or safety containers in a locked area inaccessible to residents;
 13. Equipment used at the assisted living facility is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
 14. If pets or animals are allowed in the assisted living facility, pets or animals are:
 - a. Controlled to prevent endangering the residents and to maintain sanitation;
 - b. Licensed consistent with local ordinances; and
 - c. For a dog or cat, vaccinated against rabies;
 15. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
 - c. Documentation of testing is retained for at least 12 months after the date of the test; and
 16. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to applicable state laws and rules.
- B.** If a swimming pool is located on the premises, a manager shall ensure that:
1. On a day that a resident uses the swimming pool, an employee:
 - a. Tests the swimming pool's water quality at least once for compliance with one of the following chemical disinfection standards:
 - i. A free chlorine residual between 1.0 and 3.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test;
 - ii. A free bromine residual between 2.0 and 4.0 ppm as measured by the N, N-Diethyl-p-phenylenediamine test; or
 - iii. An oxidation-reduction potential equal to or greater than 650 millivolts; and
 - b. Records the results of the water quality tests in a log that includes the date tested and test result;
 2. Documentation of the water quality test is maintained for at least 12 months after the date of the test; and
 3. A swimming pool is not used by a resident if a water quality test shows that the swimming pool water does not comply with subsection (B)(1)(a).

Historical Note

New Section made by final rulemaking at 9 A.A.R. 319, effective March 14, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 25 A.A.R. 259, effective January 8, 2019 (Supp. 19-1).

R9-10-820. Physical Plant Standards

- A.** A manager shall ensure that an assisted living center complies with the applicable physical plant health and safety codes and standards, incorporated by reference in R9-10-104.01, that:
1. Are applicable to the level of services planned to be provided or being provided; and
 2. Were in effect on the date the assisted living facility submitted architectural plans and specifications to the Department for approval, according to R9-10-104.
- B.** A manager shall ensure that:
1. The premises and equipment are sufficient to accommodate:
 - a. The services stated in the assisted living facility's scope of services, and
 - b. An individual accepted as a resident by the assisted living facility;
 2. A common area for use by residents is provided that has sufficient space and furniture to accommodate the recreational and socialization needs of residents;
 3. A dining area has sufficient space and tables and chairs to accommodate the needs of the residents;
 4. At least one bathroom is accessible from a common area and:
 - a. May be used by residents and visitors;
 - b. Provides privacy when in use; and
 - c. Contains the following:
 - i. At least one working sink with running water,
 - ii. At least one working toilet that flushes and has a seat,

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- iii. Toilet tissue for each toilet,
 - iv. Soap in a dispenser accessible from each sink,
 - v. Paper towels in a dispenser or a mechanical air hand dryer,
 - vi. Lighting, and
 - vii. A window that opens or another means of ventilation;
 - 5. An outside activity space is provided and available that:
 - a. Is on the premises,
 - b. Has a hard-surfaced section for wheelchairs, and
 - c. Has an available shaded area;
 - 6. Exterior doors are equipped with ramps or other devices to allow use by a resident using a wheelchair or other assistive device; and
 - 7. The key to the door of a lockable bathroom, bedroom, or residential unit is available to a manager, caregiver, and assistant caregiver.
- C. A manager shall ensure that:**
- 1. For every eight residents there is at least one working toilet that flushes and has a seat and one sink with running water;
 - 2. For every eight residents there is at least one working bathtub or shower; and
 - 3. A resident bathroom provides privacy when in use and contains:
 - a. A mirror;
 - b. Toilet tissue for each toilet;
 - c. Soap accessible from each sink;
 - d. Paper towels in a dispenser or a mechanical air hand dryer for a bathroom that is not in a residential unit and used by more than one resident;
 - e. A window that opens or another means of ventilation;
 - f. Grab bars for the toilet and, if applicable, the bathtub or shower and other assistive devices, if required to provide for resident safety; and
 - g. Nonporous surfaces for shower enclosures and slip-resistant surfaces in tubs and showers.
- D. A manager shall ensure that:**
- 1. Each resident is provided with a sleeping area in a residential unit or a bedroom;
 - 2. For an assisted living home, a resident's sleeping area is on the ground floor of the assisted living home unless:
 - a. The resident is able to direct self-care;
 - b. The resident is ambulatory without assistance; and
 - c. There are at least two unobstructed, usable exits to the outside from the sleeping area that the resident is capable of using;
 - 3. Except as provided in subsection (E), no more than two individuals reside in a residential unit or bedroom;
 - 4. A resident's sleeping area:
 - a. Is not used as a common area;
 - b. Is not used as a passageway to a common area, another sleeping area, or common bathroom unless the resident's sleeping area:
 - i. Was used as a passageway to a common area, another sleeping area, or common bathroom before October 1, 2013; and
 - ii. Written consent is obtained from the resident or the resident's representative;
 - c. Is constructed and furnished to provide unimpeded access to the door;
 - d. Has floor-to-ceiling walls with at least one door;
 - e. Has access to natural light through a window or a glass door to the outside; and
 - f. Has a window or door that can be used for direct egress to outside the building;
 - 5. If a resident's sleeping area is in a bedroom, the bedroom has:
 - a. For a private bedroom, at least 80 square feet of floor space, not including a closet or bathroom;
 - b. For a shared bedroom, at least 60 square feet of floor space for each individual occupying the shared bedroom, not including a closet or bathroom; and
 - c. A door that opens into a hallway, common area, or outdoors;
 - 6. If a resident's sleeping area is in a residential unit, the residential unit has:
 - a. Except as provided in subsection (E)(2), at least 220 square feet of floor space, not including a closet or bathroom, for one individual residing in the residential unit and an additional 100 square feet of floor space, not including a closet or bathroom, for each additional individual residing in the residential unit;
 - b. An individually keyed entry door;
 - c. A bathroom that provides privacy when in use and contains:
 - i. A working toilet that flushes and has a seat;
 - ii. A working sink with running water;
 - iii. A working bathtub or shower;
 - iv. Lighting;
 - v. A mirror;
 - vi. A window that opens or another means of ventilation;
 - vii. Grab bars for the toilet and, if applicable, the bathtub or shower and other assistive devices, if required to provide for resident safety; and
 - viii. Nonporous surfaces for shower enclosures and slip-resistant surfaces in bathtubs and showers;
 - d. A resident-controlled thermostat for heating and cooling;
 - e. A kitchen area equipped with:
 - i. A working sink and refrigerator,
 - ii. A cooking appliance that can be removed or disconnected,
 - iii. Space for food preparation, and
 - iv. Storage for utensils and supplies; and
 - f. If not furnished by a resident:
 - i. An armchair, and
 - ii. A table where a resident may eat a meal; and
 - 7. If not furnished by a resident, each sleeping area has:
 - a. A bed, at least 36 inches in width and 72 inches in length, consisting of at least a frame and mattress that is clean and in good repair;
 - b. Clean linen, including a mattress pad, sheets large enough to tuck under the mattress, pillows, pillow cases, a bedspread, waterproof mattress covers as needed, and blankets to ensure warmth and comfort for the resident;
 - c. Sufficient light for reading;
 - d. Storage space for clothing;
 - e. Individual storage space for personal effects; and
 - f. Adjustable window covers that provide resident privacy.
- E. A manager may allow more than two individuals to reside in a residential unit or bedroom if:**

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1. There is at least 60 square feet for each individual living in the bedroom;
 2. There is at least 100 square feet for each individual living in the residential unit; and
 3. The manager has documentation that the assisted living facility has been operating since before November 1, 1998, with more than two individuals living in the residential unit or bedroom.
- F.** If there is a swimming pool on the premises of the assisted living facility, a manager shall ensure that:
1. Unless the assisted living facility has documentation of having received an exception from the Department before October 1, 2013, the swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;
 - b. Has no vertical openings greater than four inches across;
 - c. Has no horizontal openings, except as described in subsection (F)(1)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
 - f. Has a self-closing, self-latching gate that:
 - i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground, and
 - iii. Is locked when the swimming pool is not in use;
 2. A life preserver or shepherd's crook is available and accessible in the swimming pool area; and
 3. Pool safety requirements are conspicuously posted in the swimming pool area.
- G.** A manager shall ensure that a spa that is not enclosed by a wall or fence as described in subsection (F)(1) is covered and locked when not in use.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

ARTICLE 9. OUTPATIENT SURGICAL CENTERS**R9-10-901. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following apply in this Article, unless otherwise specified:

1. "Inpatient care" means postsurgical services provided in a hospital.
2. "Outpatient surgical services" means anesthesia and surgical services provided to a patient in an outpatient surgical center.
3. "Surgical suite" means an area of an outpatient surgical center that includes one or more operating rooms and one or more recovery rooms.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Amended by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Amended by final

rulemaking at 9 A.A.R. 3792, effective October 4, 2003 (Supp. 03-3). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-902. Administration

- A.** A governing authority shall:
1. Consist of one or more individuals responsible for the organization, operation, and administration of an outpatient surgical center;
 2. Establish, in writing:
 - a. An outpatient surgical center's scope of services, and
 - b. Qualifications for an administrator;
 3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
 4. Grant, deny, suspend, or revoke clinical privileges of a physician and other members of the medical staff and delineate, in writing, the clinical privileges of each medical staff member, according to the medical staff bylaws;
 5. Adopt a quality management plan according to R9-10-903;
 6. Review and evaluate the effectiveness of the quality management plan at least once every 12 months;
 7. Designate in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b) if the administrator is:
 - a. Expected not to be present on an outpatient surgical center's premises for more than 30 calendar days, or
 - b. Not present on an outpatient surgical center's premises for more than 30 calendar days; and
 8. Except as provided in subsection (A)(7), notify the Department according to A.R.S. § 36-425(I) when there is a change in the administrator and identify the name and qualifications of the new administrator.
- B.** An administrator:
1. Is directly accountable to the governing authority of an outpatient surgical center for the daily operation of the outpatient surgical center and for all services provided by or at the outpatient surgical center;
 2. Has the authority and responsibility to manage the outpatient surgical center; and
 3. Except as provided in subsection (A)(7), designates, in writing, an individual who is present on an outpatient surgical center's premises and accountable for the outpatient surgical center when the administrator is not present on the outpatient surgical center's premises.
- C.** An administrator shall ensure that:
1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to patient care;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;

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- e. Include a method to identify a patient to ensure that the patient receives services as ordered;
 - f. Cover patient rights, including assisting a patient who does not speak English or who has a disability to become aware of patient rights;
 - g. Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. The outpatient surgical center to respond to a patient complaint;
 - h. Cover health care directives;
 - i. Cover medical records, including electronic medical records;
 - j. Cover a quality management program, including incident reports and supporting documentation; and
 - k. Cover contracted services;
2. Policies and procedures for medical services and nursing services provided by an outpatient surgical center are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover patient screening, admission, transfer, and discharge;
 - b. Cover the provision of medical services, nursing services, and health-related services in the outpatient surgical center's scope of services;
 - c. Include when general consent and informed consent are required;
 - d. Cover dispensing, administering, and disposing of medications;
 - e. Cover prescribing a controlled substance to minimize substance abuse by a patient;
 - f. Cover how personnel members will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 - g. Cover infection control; and
 - h. Cover environmental services that affect patient care;
 3. Policies and procedures are:
 - a. Available to personnel members, employees, volunteers, and students of the outpatient surgical center; and
 - b. Reviewed at least once every three years and updated as needed;
 4. A pharmacy maintained by the outpatient surgical center is licensed according to A.R.S. Title 32, Chapter 18;
 5. Pathology services are provided by a laboratory that holds a certificate of accreditation, certificate of compliance, or certificate of waiver issued by the U.S. Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Act of 1967;
 6. If the outpatient surgical center meets the definition of "abortion clinic" in A.R.S. § 36-449.01, abortions and related services are provided in compliance with the requirements in Article 15 of this Chapter; and
 7. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of an outpatient surgical center, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the outpatient surgical center.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-903. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to patient care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to patient care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-904. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

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R9-10-905. Personnel**A.** An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving physical health services or behavioral health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;
2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures;
3. Sufficient personnel members are present on an outpatient surgical center's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the outpatient surgical center's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient;
4. A personnel member, or an employee, a volunteer, or a student who has or is expected to have more than eight hours of direct interaction per week with patients, provides evidence of freedom from infectious tuberculosis:
 - a. On or before the date the individual begins providing services at or on behalf of the outpatient surgical center, and
 - b. As specified in R9-10-113;
5. A plan to provide orientation, specific to the duties of a personnel member, an employee, a volunteer, and a student is developed, documented, and implemented;
6. A personnel member completes orientation before providing physical health services or behavioral health services;
7. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
8. A plan to provide in-service education specific to the job duties of a personnel member is developed, documented, and implemented; and

9. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the in-service education.

B. An administrator shall ensure that a personnel member:

1. Is 18 years of age or older; and
2. Is certified in cardiopulmonary resuscitation within the first month of employment or volunteer service, and maintains current certification in cardiopulmonary resuscitation.

C. An administrator shall ensure that a personnel record for each personnel member, employee, volunteer, or student includes:

1. The individual's name, date of birth, and contact telephone number;
2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
3. Documentation of:
 - a. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
 - c. The individual's completed orientation and in-service education as required by policies and procedures;
 - d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - e. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - f. Cardiopulmonary resuscitation training, if required for the individual according to subsection (B); and
 - g. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (A)(4).

D. An administrator shall ensure that personnel records are:

1. Maintained:
 - a. Throughout the individual's period of providing services in or for the outpatient surgical center, and
 - b. For at least 24 months after the last date the individual provided services in or for the outpatient surgical center; and
2. For a personnel member who has not provided physical health services or behavioral health services at or for the outpatient surgical center during the previous 12 months, provided to the Department within 72 hours after the Department's request.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 3792, effective October 4, 2003 (Supp. 03-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-906. Medical Staff

A governing authority shall ensure that:

1. The medical staff approve bylaws for the conduct of medical staff activities according to medical staff bylaws and governing authority requirements;

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2. The medical staff physicians conduct medical peer review according to A.R.S. Title 36, Chapter 4, Article 5 and submit recommendations to the governing authority for approval; and
3. The medical staff establish written policies and procedures that define the extent of emergency treatment to be performed in the outpatient surgical center.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-907. Admission

- A. A medical staff member shall only admit patients to the outpatient surgical center who:
 1. Do not require planned inpatient care, and
 2. Are discharged from the outpatient surgical center within 24 hours.
- B. Within 30 calendar days before a patient is admitted to an outpatient surgical center, a medical staff member shall complete a medical history and physical examination of the patient.
- C. The individual who is responsible for performing a patient's surgical procedure shall document the preoperative diagnosis and the surgical procedure to be performed in the patient's medical record.
- D. An administrator shall ensure that the following documents are in a patient's medical record before the patient's surgery:
 1. A medical history and the physical examination required in subsection (B),
 2. A preoperative diagnosis and the results of any laboratory tests or diagnostic procedures relative to the surgery and the condition of the patient,
 3. Evidence of informed consent by the patient or patient's representative for the surgical procedure and care of the patient,
 4. Health care directives, and
 5. Physician orders.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-908. Transfer

Except for a transfer of a patient due to an emergency, an administrator shall ensure that:

1. A personnel member coordinates the transfer and the services provided to the patient;
2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before the transfer;
 - b. Information in the patient's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and

- c. A personnel member explains risks and benefits of the transfer to the patient or the patient's representative; and
3. Documentation in the patient's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transfer.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Amended by final rulemaking at 9 A.A.R. 3792, effective October 4, 2003 (Supp. 03-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-909. Patient Rights

- A. An administrator shall ensure that:
 1. The requirements in subsection (B) and the patient rights in subsection (C) are conspicuously posted on the premises;
 2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C); and
 3. Policies and procedures include:
 - a. How and when a patient or the patient's representative is informed of patient rights in subsection (C), and
 - b. Where patient rights are posted as required in subsection (A)(1).
- B. An administrator shall ensure that:
 1. A patient is treated with dignity, respect, and consideration;
 2. A patient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by the outpatient surgical center's medical staff, personnel members, employees, volunteers, or students; and
 3. A patient or the patient's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of alternatives to a proposed psychotropic medication or surgical procedure and the associated risks and possible com-

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- plications of the proposed psychotropic medication or surgical procedure;
- d. Is informed of the following:
 - i. Policies and procedures on health care directives, and
 - ii. The patient complaint process;
- e. Consents to photographs of the patient before a patient is photographed, except that a patient may be photographed when admitted to an outpatient surgical center for identification and administrative purposes; and
- f. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records.

C. A patient has the following rights:

1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
2. To receive treatment that supports and respects the patient's individuality, choices, strengths, and abilities;
3. To receive privacy in treatment and care for personal needs;
4. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
5. To receive a referral to another health care institution if the outpatient surgical center is not authorized or not able to provide physical health services needed by the patient;
6. To participate, or have the patient's representative participate, in the development of or decisions concerning treatment;
7. To participate or refuse to participate in research or experimental treatment; and
8. To receive assistance from a family member, a patient's representative, or other individual in understanding, protecting, or exercising the patient's rights.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-910. Medical Records**A. An administrator shall ensure that:**

1. A medical record is established and maintained for a patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
2. An entry in a patient's medical record is:
 - a. Recorded only by an individual authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical staff member according to policies and procedures; and

- c. If the order is a verbal order, authenticated by the medical staff member issuing the order;
4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
5. A patient's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the patient or the patient's representative; or
 - c. As permitted by law; and
6. A patient's medical record is protected from loss, damage, or unauthorized use.

B. If an outpatient surgical center maintains patients' medical records electronically, an administrator shall ensure that:

1. Safeguards exist to prevent unauthorized access, and
2. The date and time of an entry in a patient's medical record is recorded by the computer's internal clock.

C. An administrator shall ensure that a patient's medical record contains:

1. Patient information that includes:
 - a. The patient's name;
 - b. The patient's address;
 - c. The patient's date of birth; and
 - d. Any known allergies, including medication allergies;
2. The admitting medical practitioner;
3. An admitting diagnosis;
4. Documentation of general consent and informed consent for treatment by the patient or the patient's representative, except in an emergency;
5. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
6. The date of admission and, if applicable, date of discharge;
7. Documentation of medical history and results of a physical examination;
8. A copy of patient's health care directive, if applicable;
9. Orders;
10. Progress notes;
11. If applicable, documentation of any actions taken to control the patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
12. Documentation of outpatient surgical center services provided to the patient;
13. A discharge summary, if applicable;
14. Documentation of receipt of written discharge instructions by the patient or patient's representative;
15. If applicable:

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- a. Laboratory reports,
- b. Radiologic report, and
- c. Diagnostic reports;
- 16. The anesthesia report, required in R9-10-911(C)(2);
- 17. The operative report of the surgical procedure, required in R9-10-911(C)(1); and
- 18. Documentation of a medication administered to the patient that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain:
 - i. An assessment of the patient's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication:
 - i. An assessment of the patient's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The identification, signature, and professional designation of the individual administering or observing the self-administration of the medication; and
 - f. Any adverse reaction a patient has to the medication.

Historical Note

Adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-911. Surgical Services

- A. An administrator shall ensure that:
 - 1. A current listing of surgical procedures offered by an outpatient surgical center is maintained on the outpatient surgical center's premises, and
 - 2. A chronological register of surgical procedures performed in the outpatient surgical center is maintained for at least 24 months after the date of the last entry.
- B. An administrator shall ensure that a roster of medical staff members who have clinical privileges at the outpatient surgical center is available to the medical staff, specifying the privileges and limitations of each medical staff member on the roster.
- C. An administrator shall ensure that the individual responsible for:
 - 1. Performing a surgical procedure completes an operative report of the surgical procedure and any necessary discharge instructions according to medical staff bylaws and policies and procedures, and
 - 2. Administering anesthesia during a surgical procedure completes an anesthesia report and any necessary discharge instructions according to medical staff bylaws and policies and procedures.
- D. An administrator shall ensure that a physician remains on the outpatient surgical center's premises until all patients are discharged from the recovery room.

Historical Note

Adopted effective October 20, 1982 (Supp. 82-5). Section repealed, new Section adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made

by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-912. Nursing Services

An administrator shall appoint a registered nurse as the director of nursing who:

- 1. Is responsible for the management of the outpatient surgical center's nursing services;
- 2. Ensures that policies and procedures are established, documented, and implemented for nursing services provided in the outpatient surgical center;
- 3. Ensures that the outpatient surgical center is staffed with sufficient nursing personnel, based on the number of patients, the health care needs of the patients, and the outpatient surgical center's scope of services;
- 4. Participates in quality management activities;
- 5. Designates a registered nurse, in writing, to manage an outpatient surgical center's nursing services when the director of nursing is not present on the outpatient surgical center's premises;
- 6. Ensures that a nurse who is not directly assisting the surgeon is responsible for the functioning of an operating room while a surgical procedure is being performed in the operating room;
- 7. Ensures that a registered nurse is present in the:
 - a. Recovery room when a patient is present in the recovery room, and
 - b. Outpatient surgical center until all patients are discharged; and
- 8. Ensures that a nurse documents in a patient's medical record that the patient or the patient's representative has received written discharge instructions.

Historical Note

Adopted effective October 20, 1982 (Supp. 82-5). Section repealed, new Section adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-913. Behavioral Health Services

If an outpatient surgical center is authorized to provide behavioral health services, an administrator shall ensure that:

- 1. Policies and procedures are established, documented, and implemented that cover when informed consent is required and by whom informed consent may be given; and
- 2. The behavioral health services:
 - a. Are provided under the direction of a behavioral health professional; and
 - b. Comply with the requirements:
 - i. For behavioral health paraprofessionals and behavioral health technicians, in R9-10-115; and
 - ii. For an assessment, in R9-10-1011(B).

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Historical Note

Adopted effective October 20, 1982 (Supp. 82-5). Section repealed, new Section adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-914. Medication Services**A.** An administrator shall ensure that policies and procedures for medication services:

1. Include:
 - a. A process for providing information to a patient about medication prescribed for the patient including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse reaction to a medication, or
 - iii. A medication overdose; and
 - c. Procedures to ensure that a patient's medication regimen is reviewed by a medical practitioner to ensure the medication regimen meets the patient's needs; and
2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.

B. An administrator shall ensure that:

1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a patient only as prescribed; and
 - d. Cover the documentation of a patient's refusal to take prescribed medication in the patient's medical record;
2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
3. A medication administered to a patient:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the patient's medical record.

C. An administrator shall ensure that:

1. A current drug reference guide is available for use by personnel members;
2. A current toxicology reference guide is available for use by personnel members; and
3. If pharmaceutical services are provided on the premises:
 - a. A committee, composed of at least one physician, one pharmacist, and other personnel members as determined by policies and procedures, is established to:

- i. Develop a drug formulary,
 - ii. Update the drug formulary at least once every 12 months,
 - iii. Develop medication usage and medication substitution policies and procedures, and
 - iv. Specify which medications and medication classifications are required to be stopped automatically after a specific time period unless the ordering medical staff member specifically orders otherwise;
- b. The pharmaceutical services are provided under the direction of a pharmacist;
 - c. The pharmaceutical services comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - d. A copy of the pharmacy license is provided to the Department upon request.

D. When medication is stored at an outpatient surgical center, an administrator shall ensure that:

1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
2. Medication is stored according to the instructions on the medication container; and
3. Policies and procedures are established, documented, and implemented for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication, including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of patients who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.

E. An administrator shall ensure that a personnel member immediately reports a medication error or a patient's adverse reaction to a medication to the medical practitioner who ordered the medication and, if applicable, the outpatient surgical center's director of nursing.**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5). Section repealed, new Section adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-915. Infection Control

An administrator shall ensure that:

1. An infection control program is established, under the direction of an individual qualified according to policies and procedures, to prevent the development and transmission of infections and communicable diseases including:
 - a. A method to identify and document infections occurring at the outpatient surgical center;
 - b. Analysis of the types, causes, and spread of infections and communicable diseases at the outpatient surgical center;

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- c. The development of corrective measures to minimize or prevent the spread of infections and communicable diseases at the outpatient surgical center; and
- d. Documenting infection control activities including:
 - i. The collection and analysis of infection control data,
 - ii. The actions taken related to infections and communicable diseases, and
 - iii. Reports of communicable diseases to the governing authority and state and county health departments;
- 2. Infection control documentation is maintained for at least 12 months after the date of the documentation;
- 3. Policies and procedures are established, documented, and implemented that cover:
 - a. Compliance with the requirements in 9 A.A.C. 6 for reporting and control measures for communicable diseases and infestations;
 - b. Handling and disposal of biohazardous medical waste;
 - c. Sterilization, disinfection, distribution, and storage of medical equipment and supplies;
 - d. Using personal protective equipment such as aprons, gloves, gowns, masks, or face protection when applicable;
 - e. Training personnel members, employees, and volunteers in infection control practices; and
 - f. Work restrictions for a personnel member with a communicable disease or infected skin lesion;
- 4. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
- 5. Soiled linen and clothing are:
 - a. Collected in a manner to minimize or prevent contamination,
 - b. Bagged at the site of use, and
 - c. Maintained separate from clean linen and clothing; and
- 6. A personnel member, employee, or volunteer washes hands or uses a hand disinfection product after patient contact and after handling soiled linen, soiled clothing, or potentially infectious material.
- 3. A requirement that a cart or a container is available for medical emergency treatment that contains medications, supplies, and equipment specified in policies and procedures;
- 4. A method to verify and document that the contents of the cart or container are available for medical emergency treatment; and
- 5. A method for ensuring a patient may be transferred to a hospital or other health care institution to receive treatment for a medical emergency that the outpatient surgical center is not authorized or not able to provide.
- B.** An administrator shall ensure that medical emergency treatment is provided to a patient admitted to the outpatient surgical center according to policies and procedures.
- C.** An administrator shall ensure that:
 - 1. A disaster plan is developed, documented, maintained in a location accessible to medical staff and employees, and, if necessary, implemented that includes:
 - a. Procedures to be followed in the event of a fire or threat to patient safety;
 - b. Assigned personnel responsibilities;
 - c. Instructions for the evacuation or transfer of patients;
 - d. Maintenance of patient medical records; and
 - e. A plan to provide any other services related to patient care to meet the patients' needs;
 - 2. The disaster plan required in subsection (C)(1) is reviewed at least once every 12 months;
 - 3. Documentation of a disaster plan review required in subsection (C)(2) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each personnel member, employee, medical staff member, or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
 - 4. A disaster drill for employees is conducted on each shift at least once every three months and documented;
 - 5. An evacuation drill for employees is conducted at least once every six months for employees on the premises;
 - 6. Documentation of an evacuation drill is created, is maintained for at least 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for employees to evacuate the outpatient surgical center;
 - c. Any problems encountered in conducting the evacuation drill; and
 - d. Recommendations for improvement, if applicable; and
 - 7. An evacuation path is conspicuously posted on each hallway of each floor of the outpatient surgical center and every room where patients may be present.
- D.** An administrator shall ensure that, if applicable, a sign is placed at the entrance to a room or area indicating that oxygen is in use.
- E.** An administrator shall:
 - 1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 - 2. Make any repairs or corrections stated on the fire inspection report, and

Historical Note

Adopted effective October 20, 1982 (Supp. 82-5). Section repealed, new Section adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-916. Emergency and Safety Standards

- A.** An administrator shall ensure that policies and procedures for providing medical emergency treatment to a patient are established, documented, and implemented and include:
 - 1. A list of the medications, supplies, and equipment required on the premises for the medical emergency treatment provided by the outpatient surgical center;
 - 2. A system to ensure medications, supplies, and equipment are available, have not been tampered with, and, if applicable, have not expired;

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3. Maintain documentation of a current fire inspection.

Historical Note

Adopted effective October 20, 1982 (Supp. 82-5). Section repealed, new Section adopted effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-917. Environmental Standards

- A.** An administrator shall ensure that:
 1. An outpatient surgical center's premises and equipment are:
 - a. Cleaned and disinfected according to policies and procedures or manufacturer's instructions to prevent, minimize, and control illness or infection; and
 - b. Free from a condition or situation that may cause a patient or an individual to suffer physical injury;
 2. A pest control program that complies with A.A.C. R3-8-201(C)(4) is implemented and documented;
 3. Equipment used at the outpatient surgical center to provide care to a patient is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
 4. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
 5. Garbage and refuse are:
 - a. Stored in covered containers lined with plastic bags, and
 - b. Removed from the premises at least once a week;
 6. Heating and cooling systems maintain the outpatient surgical center at a temperature between 70° F and 84° F at all times;
 7. Common areas:
 - a. Are lighted to assure the safety of patients, and
 - b. Have lighting sufficient to allow personnel members to monitor patient activity; and
 8. The supply of hot and cold water is sufficient to meet the personal hygiene needs of patients and the cleaning and sanitation requirements in this Article.
- B.** An administrator shall ensure that an outpatient surgical center has a functional emergency power source.

Historical Note

Adopted effective October 20, 1982 (Supp. 82-5). Repealed effective February 17, 1995 (Supp. 95-1). Section repealed; new Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 25 A.A.R. 259, effective January 8, 2019 (Supp. 19-1).

R9-10-918. Physical Plant Standards

- A.** An administrator shall ensure that the outpatient surgical center complies with the applicable physical plant health and safety codes and standards, incorporated by reference in R9-10-104.01, that were in effect on the date the outpatient surgical center submitted architectural plans and specifications to the Department for approval according to R9-10-104.
- B.** An administrator shall ensure that the premises and equipment are sufficient to accommodate:
 1. The services stated in the outpatient surgical center's scope of services, and
 2. An individual accepted as a patient by the outpatient surgical center.
- C.** An administrator shall ensure that:
 1. There are two recovery beds for each operating room, for up to four operating rooms, whenever general anesthesia is administered;
 2. One additional recovery bed is available for each additional operating room; and
 3. Recovery beds are located in a space that provides for a minimum of 70 square feet per bed, allowing three feet or more between beds and between the sides of a bed and the wall.
- D.** An administrator may provide chairs in the recovery room area that allow a patient to recline for patients who have not received general anesthesia.
- E.** An administrator shall ensure that the following are available in the surgical suite:
 1. Oxygen and the means of administration;
 2. Mechanical ventilator assistance equipment including airways, manual breathing bag, and suction apparatus;
 3. Cardiac monitor;
 4. Defibrillator; and
 5. Cardiopulmonary resuscitation drugs as determined by the policies and procedures.

Historical Note

Adopted effective October 20, 1982 (Supp. 82-5). Repealed effective February 17, 1995 (Supp. 95-1). New Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-919. Repealed**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5). Repealed effective February 17, 1995 (Supp. 95-1). New Section made by final rulemaking at 9 A.A.R. 338, effective March 16, 2003 (Supp. 03-1). Section repealed by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-920. Repealed**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5). Repealed effective February 17, 1995 (Supp. 95-1).

R9-10-921. Repealed

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Historical Note

Adopted effective October 20, 1982 (Supp. 82-5).
Repealed effective February 17, 1995 (Supp. 95-1).

R9-10-922. Repealed**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5).
Repealed effective February 17, 1995 (Supp. 95-1).

R9-10-923. Repealed**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5).
Repealed effective February 17, 1995 (Supp. 95-1).

R9-10-924. Repealed**Historical Note**

Adopted effective June 2, 1983 (Supp. 82-5). Former Section R9-10-924 repealed, new Section R9-10-924 adopted effective November 6, 1985 (Supp. 85-6).
Repealed effective February 17, 1995 (Supp. 95-1).

R9-10-925. Repealed**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5).
Repealed effective February 17, 1995 (Supp. 95-1).

Attachment 1. Repealed**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5).
Repealed effective February 17, 1995 (Supp. 95-1).

Attachment 2. Repealed**Historical Note**

Adopted effective October 20, 1982 (Supp. 82-5).
Repealed effective November 6, 1985 (Supp. 85-6).

Editor's Note: The proposed summary action repealing R9-10-1011 through R9-10-1030 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rules. Sections in effect before the proposed summary action have been restored (Supp. 97-1). Subsequently, those Sections were repealed by final rulemaking (Supp. 99-2).

ARTICLE 10. OUTPATIENT TREATMENT CENTERS**R9-10-1001. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following applies in this Article unless otherwise specified:

1. "Emergency room services" means medical services provided to a patient in an emergency.
2. "Pain management services" means medical services, nursing services, or health-related services provided to a patient to reduce or relieve the patient's chronic pain.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4).

R9-10-1002. Supplemental Application and Documentation**Submission Requirements**

- A. In addition to the license application requirements in A.R.S. § 36-422 and 9 A.A.C. 10, Article 1, a governing authority applying for a license as an outpatient treatment center shall submit, in a Department-provided format:
 1. The days and hours of clinical operation and, if different from the days and hours of clinical operation, the days and hours of administrative operation; and
 2. A request to provide one or more of the following services:
 - a. Behavioral health services and, if applicable;
 - i. Behavioral health observation/stabilization services,
 - ii. Children's behavioral health services,
 - iii. Court-ordered evaluation,
 - iv. Court-ordered treatment,
 - v. Counseling,
 - vi. Crisis services,
 - vii. Opioid treatment services,
 - viii. Pre-petition screening,
 - ix. Respite services,
 - x. Respite services for children on the premises,
 - xi. DUI education,
 - xii. DUI screening,
 - xiii. DUI treatment, or
 - xiv. Misdemeanor domestic violence offender treatment;
 - b. Diagnostic imaging services;
 - c. Clinical laboratory services;
 - d. Dialysis services;
 - e. Emergency room services;
 - f. Pain management services;
 - g. Physical health services;
 - h. Rehabilitation services;
 - i. Sleep disorder services; or
 - j. Urgent care services provided in a freestanding urgent care center setting.
- B. In addition to the license application requirements in A.R.S. § 36-422 and 9 A.A.C. 10, Article 1, a governing authority of an:
 1. Affiliated outpatient treatment center applying for a license for the affiliated outpatient treatment center shall submit, in a Department-provided format, the following information for each counseling facility for which the affiliated outpatient treatment center is providing administrative support:
 - a. Name, and
 - b. Either:
 - i. The license number assigned to the counseling facility by the Department; or
 - ii. If the counseling facility is not currently licensed, the:
 - (1) Counseling facility's street address, and
 - (2) Date the counseling facility submitted to the Department an application for a health care institution license; and
 2. Outpatient treatment center, applying for a license that includes a request for authorization to provide respite services for children on the premises, shall include the requested respite capacity.
- C. A licensee of an affiliated outpatient treatment center shall submit to the Department the information required in subsection (B)(1) with the relevant fees required in R9-10-106(C) or (D), as applicable.

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- D.** A licensee of an outpatient treatment center authorized to provide respite services for children on the premises shall submit to the Department with the relevant fees in R9-10-106(C) or (D), as applicable:
1. The respite capacity; and
 2. The specific 10 continuous hours per day during which the outpatient treatment center provides respite services on the premises.
- E.** A licensee of an outpatient treatment center authorized to operate as a collaborating outpatient treatment center shall submit to the Department with the relevant fees in R9-10-106(C) or (D), as applicable:
1. The information and documentation required in R9-10-1031(D)(1); and
 2. A floor plan that shows:
 - a. Each colocator's proposed treatment area; and
 - b. The areas of the collaborating outpatient treatment center shared by a colocator and collaborating outpatient treatment center.
- Historical Note**
- New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4). Amended by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).
- R9-10-1003. Administration**
- A.** If an outpatient treatment center is operating under a single group license issued to a hospital according to A.R.S. § 36-422(F) or (G), the hospital's governing authority is the governing authority for the outpatient treatment center.
- B.** A governing authority shall:
1. Consist of one or more individuals accountable for the organization, operation, and administration of an outpatient treatment center;
 2. Establish, in writing:
 - a. An outpatient treatment center's scope of services; and
 - b. Qualifications for an administrator;
 3. Designate, in writing, an administrator who has the qualifications established in subsection (B)(2)(b);
 4. Adopt a quality management program according to R9-10-1004;
 5. Review and evaluate the effectiveness of the quality management program in R9-10-1004 at least once every 12 months;
 6. Designate, in writing, an acting administrator who has the qualifications established in subsection (B)(2)(b) if the administrator is:
 - a. Expected not to be present on an outpatient treatment center's premises for more than 30 calendar days; or
 - b. Not present on an outpatient treatment center's premises for more than 30 calendar days; and
 7. Except as provided in subsection (B)(6), notify the Department according to A.R.S. § 36-425(I) when there is a change in an administrator and identify the name and qualifications of the new administrator.
- C.** An administrator:
1. Is directly accountable to the governing authority for the daily operation of the outpatient treatment center and all services provided by or at the outpatient treatment center;
 2. Has the authority and responsibility to manage the outpatient treatment center; and
 3. Except as provided in subsection (B)(6), designates, in writing, an individual who is present on the outpatient treatment center's premises and accountable for the outpatient treatment center when the administrator is not available.
- D.** An administrator shall ensure that:
1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to services provided to a patient;
 - d. Cover the requirements in Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training including:
 - i. The method and content of cardiopulmonary resuscitation training which includes a demonstration of the individual's ability to perform cardiopulmonary resuscitation;
 - ii. The qualifications for an individual to provide cardiopulmonary resuscitation training;
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training; and
 - iv. The documentation that verifies that an individual has received cardiopulmonary resuscitation training;
 - f. Cover first aid training;
 - g. Include a method to identify a patient to ensure the patient receives the services ordered for the patient;
 - h. Cover patient rights, including assisting a patient who does not speak English or who has a physical or other disability to become aware of patient rights;
 - i. Cover health care directives;
 - j. Cover medical records, including electronic medical records;
 - k. Cover quality management, including incident report and supporting documentation; and
 - l. Cover contracted services;
 2. Policies and procedures for services provided at or by an outpatient treatment center are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover patient screening, admission, assessment, transport, transfer, discharge plan, and discharge;
 - b. Cover the provision of medical services, nursing services, behavioral health services, health-related services, and ancillary services;
 - c. Include when general consent and informed consent are required;

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- d. Cover obtaining, administering, storing, and disposing of medications, including provisions for controlling inventory and preventing diversion of controlled substances;
- e. Cover prescribing a controlled substance to minimize substance abuse by a patient;
- f. Cover infection control;
- g. Cover telemedicine, if applicable;
- h. Cover environmental services that affect patient care;
- i. Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. An outpatient treatment center to respond to a complaint;
- j. Cover smoking tobacco products on an outpatient treatment center's premises; and
- k. Cover how personnel members will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
- 3. Outpatient treatment center policies and procedures are:
 - a. Reviewed at least once every three years and updated as needed, and
 - b. Available to personnel members and employees;
- 4. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of an outpatient treatment center, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the outpatient treatment center;
- 5. The following are conspicuously posted:
 - a. The current license for the outpatient treatment center issued by the Department;
 - b. The name, address, and telephone number of the Department;
 - c. A notice that a patient may file a complaint with the Department about the outpatient treatment center;
 - d. One of the following:
 - i. A schedule of rates according to A.R.S. § 36-436.01(C), or
 - ii. A notice that the schedule of rates required in A.R.S. § 36-436.01(C) is available for review upon request;
 - e. A list of patient rights;
 - f. A map for evacuating the facility; and
 - g. A notice identifying the location on the premises where current license inspection reports required in A.R.S. § 36-425(D), with patient information redacted, are available; and
- 6. Patient follow-up instructions are:
 - a. Provided, orally or in written form, to a patient or the patient's representative before the patient leaves the outpatient treatment center unless the patient leaves against a personnel member's advice; and
 - b. Documented in the patient's medical record.
- E. If abuse, neglect, or exploitation of a patient is alleged or suspected to have occurred before the patient was admitted or while the patient is not on the premises and not receiving services from an outpatient treatment center's employee or personnel member, an administrator shall report the alleged or suspected abuse, neglect, or exploitation of the patient as follows:
 - 1. For a patient 18 years of age or older, according to A.R.S. § 46-454; or
 - 2. For a patient under 18 years of age, according to A.R.S. § 13-3620.
- F. If an administrator has a reasonable basis, according to A.R.S. § 13-3620 or 46-454, to believe that abuse, neglect, or exploitation has occurred on the premises or while a patient is receiving services from an outpatient treatment center's employee or personnel member, an administrator shall:
 - 1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 - 2. Report the suspected abuse, neglect, or exploitation of the patient as follows:
 - a. For a patient 18 years of age or older, according to A.R.S. § 46-454; or
 - b. For a patient under 18 years of age, according to A.R.S. § 13-3620;
 - 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (F)(1); and
 - c. The report in subsection (F)(2);
 - 4. Maintain the documentation in subsection (F)(3) for at least 12 months after the date of the report in subsection (F)(2);
 - 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (F)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the patient related to the suspected abuse or neglect and any change to the patient's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 - 6. Maintain a copy of the documented information required in subsection (F)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- G. If an outpatient treatment center is an affiliated outpatient treatment center, an administrator shall ensure that the outpatient treatment center complies with the requirements for an affiliated outpatient treatment center in 9 A.A.C. 10, Article 19.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4). Amended by final rulemaking at 25 A.A.C. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-1004. Quality Management

An administrator shall ensure that:

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1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
 2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to patient care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to patient care; and
 3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.
- b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;
 2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures;
 3. Sufficient personnel members are present on an outpatient treatment center's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the outpatient treatment center's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient;
 4. A personnel member only provides physical health services or behavioral health services the personnel member is qualified to provide;
 5. A plan is developed, documented, and implemented to provide orientation specific to the duties of personnel members, employees, volunteers, and students;
 6. A personnel member completes orientation before providing medical services, nursing services or health-related services to a patient;
 7. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
 8. A plan is developed, documented, and implemented to provide in-service education specific to the duties of a personnel member;
 9. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the in-service education, and
 - c. The subject or topics covered in the in-service education;
 10. A personnel member who is a behavioral health technician or behavioral health paraprofessional complies with the applicable requirements in R9-10-115;
 11. A record for a personnel member, an employee, a volunteer, or a student is maintained that includes:
 - a. The individual's name, date of birth, and contact telephone number;
 - b. The individual's starting date of employment or volunteer service, and if applicable, the ending date;
 - c. Documentation of:

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1005. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1006. Personnel

An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving physical health services or behavioral health services from the personnel member according to the established job description; and

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- i. The individual's qualifications including skills and knowledge applicable to the individual's job duties;
 - ii. The individual's education and experience applicable to the individual's job duties;
 - iii. The individual's completed orientation and in-service education as required by policies and procedures;
 - iv. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - v. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - vi. The individual's compliance with the fingerprinting requirements in A.R.S. § 36-425.03, if applicable; and
 - vii. Cardiopulmonary resuscitation training, if the individual is required to have cardiopulmonary resuscitation training according to this Article or policies and procedures; and
12. The record in subsection (A)(11) is:
- a. Maintained while an individual provides services for or at the outpatient treatment center and for at least 24 months after the last date the employee or volunteer provided services for or at the outpatient treatment center; and
 - b. If the ending date of employment or volunteer service was 12 or more months before the date of the Department's request, provided to the Department within 72 hours after the Department's request.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1007. Transport; Transfer

- A.** Except as provided in subsection (B), an administrator shall ensure that:
1. A personnel member coordinates the transport and the services provided to the patient;
 2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before and after the transport,
 - b. Information from the patient's medical record is provided to a receiving health care institution,
 - c. A personnel member explains risks and benefits of the transport to the patient or the patient's representative; and
 - d. A personnel member communicates or documents why the personnel member did not communicate with an individual at a receiving health care institution;
 3. The patient's medical record includes documentation of:
 - a. Communication or lack of communication with an individual at a receiving health care institution;
 - b. The date and time of the transport;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transport.
- B.** Subsection (A) does not apply to:

1. Transportation to a location other than a licensed health care institution,
 2. Transportation provided for a patient by the patient or the patient's representative,
 3. Transportation provided by an outside entity that was arranged for a patient by the patient or the patient's representative, or
 4. A transport to another licensed health care institution in an emergency.
- C.** Except for a transfer of a patient due to an emergency, an administrator shall ensure that:
1. A personnel member coordinates the transfer and the services provided to the patient;
 2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before the transfer;
 - b. Information from the patient's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the patient or the patient's representative; and
 3. Documentation in the patient's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transfer.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1008. Patient Rights

- A.** An administrator shall ensure that:
1. The requirements in subsection (B) and the patient rights in subsection (C) are conspicuously posted on the premises;
 2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C); and
 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that include:
 - a. How and when a patient or the patient's representative is informed of patient rights in subsection (C); and
 - b. Where patient rights are posted as required in subsection (A)(1).
- B.** An administrator shall ensure that:
1. A patient is treated with dignity, respect, and consideration;
 2. A patient as not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;

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- e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Except as allowed in R9-10-1012(B), restraint or seclusion;
 - i. Retaliation for submitting a complaint to the Department or another entity; or
 - j. Misappropriation of personal and private property by an outpatient treatment center's personnel member, employee, volunteer, or student; and
3. A patient or the patient's representative:
- a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of alternatives to a proposed psychotropic medication or surgical procedure and associated risks and possible complications of a proposed psychotropic medication or surgical procedure;
 - d. Is informed of the following:
 - i. The outpatient treatment center's policy on health care directives, and
 - ii. The patient complaint process;
 - e. Consents to photographs of the patient before a patient is photographed, except that a patient may be photographed when admitted to an outpatient treatment center for identification and administrative purposes; and
 - f. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records.
- C. A patient has the following rights:
- 1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 - 2. To receive treatment that supports and respects the patient's individuality, choices, strengths, and abilities;
 - 3. To receive privacy in treatment and care for personal needs;
 - 4. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
 - 5. To receive a referral to another health care institution if the outpatient treatment center is not authorized or not able to provide physical health services or behavioral health services needed by the patient;
 - 6. To participate or have the patient's representative participate in the development of, or decisions concerning, treatment;
 - 7. To participate or refuse to participate in research or experimental treatment; and
 - 8. To receive assistance from a family member, the patient's representative, or other individual in understanding, protecting, or exercising the patient's rights.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1009. Medical Records

- A. An administrator shall ensure that:
- 1. A medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
 - 2. An entry in a patient's medical record is:
 - a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 - 3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
 - 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 - 5. A patient's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the patient or the patient's representative; or
 - c. As permitted by law;
 - 6. Policies and procedures include the maximum time-frame to retrieve a patient's medical record at the request of a medical practitioner, behavioral health professional, or authorized personnel member; and
 - 7. A patient's medical record is protected from loss, damage, or unauthorized use.
- B. If an outpatient treatment center maintains patients' medical records electronically, an administrator shall ensure that:
- 1. Safeguards exist to prevent unauthorized access, and
 - 2. The date and time of an entry in a medical record is recorded by the computer's internal clock.
- C. An administrator shall ensure that a patient's medical record contains:
- 1. Patient information that includes:
 - a. Except as specified in A.A.C. R9-6-1005, the patient's name and address;
 - b. The patient's date of birth; and
 - c. Any known allergies, including medication allergies;
 - 2. A diagnosis or reason for outpatient treatment center services;
 - 3. Documentation of general consent and, if applicable, informed consent for treatment by the patient or the patient's representative, except in an emergency;
 - 4. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care

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- power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
- ii. Is a legal guardian, a copy of the court order establishing guardianship;
5. Documentation of medical history and, if applicable, results of a physical examination;
 6. Orders;
 7. Assessment;
 8. Treatment plans;
 9. Interval notes;
 10. Progress notes;
 11. Documentation of outpatient treatment center services provided to the patient;
 12. The name of each individual providing treatment or a diagnostic procedure;
 13. Disposition of the patient upon discharge;
 14. Documentation of the patient's follow-up instructions provided to the patient;
 15. A discharge summary;
 16. If applicable:
 - a. Laboratory reports,
 - b. Radiologic reports,
 - c. Sleep disorder reports,
 - d. Diagnostic reports, and
 - e. Consultation reports;
 17. If applicable, documentation of any actions taken to control the patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual, other than actions taken while providing behavioral health observation/stabilization services; and
 18. Documentation of a medication administered to the patient that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain:
 - i. An assessment of the patient's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication:
 - i. An assessment of the patient's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The identification, signature, and professional designation of the individual administering or observing the self-administration of the medication;
 - f. Any adverse reaction a patient has to the medication; and
 - g. For prepacked or sample medication provided to the patient for self-administration, the name, strength, dosage, amount, route of administration, and expiration date.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1010. Medication Services

- A. If an outpatient treatment center provides medication administration or assistance in the self-administration of medication, an administrator shall ensure that policies and procedures for medication services:
 1. Include:
 - a. A process for providing information to a patient about medication prescribed for the patient including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse reaction to a medication, or
 - iii. A medication overdose;
 - c. Procedures to ensure that a patient's medication regimen is reviewed by a medical practitioner and meets the patient's needs;
 - d. Procedures for documenting medication administration and assistance in the self-administration of medication;
 - e. Procedures for assisting a patient in obtaining medication; and
 - f. If applicable, procedures for providing medication administration or assistance in the self-administration of medication off the premises; and
 2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B. If an outpatient treatment center provides medication administration, an administrator shall ensure that:
 1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a patient only as prescribed; and
 - d. Cover the documentation of a patient's refusal to take prescribed medication in the patient's medical record;
 2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
 3. A medication administered to a patient is:
 - a. Administered in compliance with an order, and
 - b. Documented in the patient's medical record.
- C. If an outpatient treatment center provides assistance in the self-administration of medication, an administrator shall ensure that:
 1. A patient's medication is stored by the outpatient treatment center;
 2. The following assistance is provided to a patient:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the patient;
 - c. Observing the patient while the patient removes the medication from the container;

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- d. Verifying that the medication is taken as ordered by the patient's medical practitioner by confirming that:
 - i. The patient taking the medication is the individual stated on the medication container label;
 - ii. The patient is taking the dosage of the medication stated on the medication container label, and
 - iii. The patient is taking the medication at the time stated on the medication container label; or
- e. Observing the patient while the patient takes the medication;
- 3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a medical practitioner or registered nurse;
- 4. Training for a personnel member, other than a medical practitioner or registered nurse, in assistance in the self-administration of medication:
 - a. Is provided by a medical practitioner or registered nurse or an individual trained by a medical practitioner or registered nurse; and
 - b. Includes:
 - i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. The process for notifying the appropriate entities when an emergency medical intervention is needed;
- 5. A personnel member, other than a medical practitioner or registered nurse, completes the training in subsection (C)(4) before the personnel member provides assistance in the self-administration of medication; and
- 6. Assistance in the self-administration of medication provided to a patient is:
 - a. In compliance with an order, and
 - b. Documented in the patient's medical record.
- D.** An administrator shall ensure that:
 - 1. A current drug reference guide is available for use by personnel members;
 - 2. A current toxicology reference guide is available for use by personnel members;
 - 3. If pharmaceutical services are provided:
 - a. The pharmaceutical services are provided under the direction of a pharmacist;
 - b. The pharmaceutical services comply with ARS Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - c. A copy of the pharmacy license is provided to the Department upon request.
- E.** When medication is stored at an outpatient treatment center, an administrator shall ensure that:
 - 1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 - 2. Medication is stored according to the instructions on the medication container; and
 - 3. Policies and procedures are established, documented, and implemented for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of patients who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.
- F.** An administrator shall ensure that a personnel member immediately reports a medication error or a patient's adverse reaction to a medication to the medical practitioner who ordered the medication and, if applicable, the outpatient treatment center's clinical director.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1011. Behavioral Health Services

- A.** An administrator of an outpatient treatment center that is authorized to provide behavioral health services shall ensure that:
 - 1. The outpatient treatment center does not provide a behavioral health service the outpatient treatment center is not authorized to provide;
 - 2. The behavioral health services provided by or at the outpatient treatment center:
 - a. Are provided under the direction of a behavioral health professional; and
 - b. Comply with the requirements:
 - i. For behavioral health paraprofessionals and behavioral health technicians in R9-10-115, and
 - ii. For an assessment, in subsection (B);
 - 3. A personnel member who provides behavioral health services is at least 18 years old; and
 - 4. If an outpatient treatment center provides behavioral health services to a patient who is less than 18 years of age, the owner and an employee or a volunteer comply with the fingerprint clearance card requirements in A.R.S. § 36-425.03.
- B.** An administrator of an outpatient treatment center that is authorized to provide behavioral health services shall ensure that:
 - 1. Except as provided in subsection (B)(2), a behavioral health assessment for a patient is completed before treatment for the patient is initiated;
 - 2. If a behavioral health assessment that complies with the requirements in this Section is received from a behavioral health provider other than the outpatient treatment center or the outpatient treatment center has a medical record for the patient that contains an assessment that was completed within 12 months before the date of the patient's current admission:
 - a. The patient's assessment information is reviewed and updated if additional information that affects the patient's assessment is identified, and
 - b. The review and update of the patient's assessment information is documented in the patient's medical record within 48 hours after the review is completed;
 - 3. If a behavioral health assessment is conducted by a:

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- a. Behavioral health technician or a registered nurse, within 72 hours a behavioral health professional certified or licensed to provide the behavioral health services needed by the patient reviews and signs the behavioral health assessment to ensure that the behavioral health assessment identifies the behavioral health services needed by the patient; or
 - b. Behavioral health paraprofessional, a behavioral health professional certified or licensed to provide the behavioral health services needed by the patient supervises the behavioral health paraprofessional during the completion of the behavioral health assessment and signs the behavioral health assessment to ensure that the assessment identifies the behavioral health services needed by the patient;
4. A behavioral health assessment:
 - a. Documents a patient's:
 - i. Presenting issue;
 - ii. Substance abuse history;
 - iii. Co-occurring disorder;
 - iv. Medical condition and history;
 - v. Legal history, including:
 - (1) Custody,
 - (2) Guardianship, and
 - (3) Pending litigation;
 - vi. Criminal justice record;
 - vii. Family history;
 - viii. Behavioral health treatment history; and
 - ix. Symptoms reported by the patient and referrals needed by the patient, if any;
 - b. Includes:
 - i. Recommendations for further assessment or examination of the patient's needs;
 - ii. The behavioral health services, physical health services, or ancillary services that will be provided to the patient; and
 - iii. The signature and date signed of the personnel member conducting the behavioral health assessment; and
 - c. Is documented in patient's medical record;
 5. A patient is referred to a medical practitioner if a determination is made that the patient requires immediate physical health services or the patient's behavioral health issue may be related to the patient's medical condition;
 6. A request for participation in a patient's behavioral health assessment is made to the patient or the patient's representative;
 7. An opportunity for participation in the patient's behavioral health assessment is provided to the patient or the patient's representative;
 8. Documentation of the request in subsection (B)(6) and the opportunity in subsection (B)(7) is in the patient's medical record;
 9. A patient's behavioral health assessment information is documented in the medical record within 48 hours after completing the assessment;
 10. If information in subsection (B)(4)(a) is obtained about a patient after the patient's behavioral health assessment is completed, an interval note, including the information, is documented in the patient's medical record within 48 hours after the information is obtained;
 11. Counseling is:
 - a. Offered as described in the outpatient treatment center's scope of services,
 - b. Provided according to the frequency and number of hours identified in the patient's assessment, and
 - c. Provided by a behavioral health professional or a behavioral health technician;
 12. A personnel member providing counseling that addresses a specific type of behavioral health issue has the skills and knowledge necessary to provide the counseling that addresses the specific type of behavioral health issue; and
 13. Each counseling session is documented in the patient's medical record to include:
 - a. The date of the counseling session;
 - b. The amount of time spent in the counseling session;
 - c. Whether the counseling was individual counseling, family counseling, or group counseling;
 - d. The treatment goals addressed in the counseling session; and
 - e. The signature of the personnel member who provided the counseling and the date signed.
- C. An administrator of an outpatient treatment center authorized to provide behavioral health services may request to provide any of the following to individuals required to attend by a referring court:
 1. DUI screening,
 2. DUI education,
 3. DUI treatment, or
 4. Misdemeanor domestic violence offender treatment.
 - D. An administrator of an outpatient treatment center authorized to provide the services in subsection (C):
 1. Shall comply with the requirements for the specific service in 9 A.A.C. 20, and
 2. May have a behavioral health technician who has the appropriate skills and knowledge established in policies and procedures provide the services.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1011 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1011 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 3041, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-10-1012. Behavioral Health Observation/Stabilization Services

- A. An administrator of an outpatient treatment center that is authorized to provide behavioral health observation/stabilization services shall ensure that:
 1. Behavioral health observation/stabilization services are available 24 hours a day, every calendar day;

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2. Behavioral health observation/stabilization services are provided in a designated area that:
 - a. Is used exclusively for behavioral health observation/stabilization services;
 - b. Has the space for a patient to receive privacy in treatment and care for personal needs; and
 - c. For every 15 observation chairs or less, has at least one bathroom that contains:
 - i. A working sink with running water,
 - ii. A working toilet that flushes and has a seat,
 - iii. Toilet tissue,
 - iv. Soap for hand washing,
 - v. Paper towels or a mechanical air hand dryer,
 - vi. Lighting, and
 - vii. A means of ventilation;
3. If the outpatient treatment center is authorized to provide behavioral health observation/stabilization services to individuals under 18 years of age:
 - a. There is a separate designated area for providing behavioral health observation/stabilization services to individuals under 18 years of age that:
 - i. Meets the requirements in subsection (B)(2), and
 - ii. Has floor to ceiling walls that separate the designated area from other areas of the outpatient treatment center;
 - b. A registered nurse is present in the separate designated area; and
 - c. A patient under 18 years of age does not share any space, participate in any activity or treatment, or have verbal or visual interaction with a patient 18 years of age or older;
4. A medical practitioner is available;
5. If the medical practitioner present at the outpatient treatment center is a registered nurse practitioner or a physician assistant, a physician is on-call;
6. A registered nurse is present and provides direction for behavioral health observation/stabilization services in the designated area;
7. A nurse monitors each patient at the intervals determined according to subsection (A)(12) and documents the monitoring in the patient's medical record;
8. An individual who arrives at the designated area for behavioral health observation/stabilization services in the outpatient treatment center is screened within 30 minutes after entering the designated area to determine whether the individual is in need of immediate physical health services;
9. If a screening indicates that an individual needs immediate physical health services that the outpatient treatment center is:
 - a. Able to provide according to the outpatient treatment center's scope of services, the individual is examined by a medical practitioner within 30 minutes after being screened; or
 - b. Not able to provide, the individual is transferred to a health care institution capable of meeting the individual's immediate physical health needs;
10. If a screening indicates that an individual needs behavioral health observation/stabilization services and the outpatient treatment center has the capabilities to provide the behavioral health observation/stabilization services, the individual is admitted to the designated area for behavioral health observation/stabilization services and may remain in the designated area and receive observation/stabilization services for up to 23 hours and 59 minutes;
11. Before a patient is discharged from the designated area for behavioral health observation/stabilization services, a medical practitioner determines whether the patient will be:
 - a. If the behavioral health observation/stabilization services are provided in a health care institution that also provides inpatient services and is capable of meeting the patient's needs, admitted to the health care institution as an inpatient;
 - b. Transferred to another health care institution capable of meeting the patient's needs;
 - c. Provided a referral to another entity capable of meeting the patient's needs; or
 - d. Discharged and provided patient follow-up instructions;
12. When a patient is admitted to a designated area for behavioral health observation/stabilization services, an assessment of the patient includes the interval for monitoring the patient based on the patient's medical condition, behavior, suspected drug or alcohol abuse, and medication status to ensure the health and safety of the patient;
13. If a patient is not being admitted as an inpatient to a health care institution, before discharging the patient from a designated area for behavioral health observation/stabilization services, a personnel member:
 - a. Identifies the specific needs of the patient after discharge necessary to assist the patient to function independently;
 - b. Identifies any resources, including family members, community social services, peer support services, and Regional Behavioral Health Agency staff, that may be available to assist the patient; and
 - c. Documents the information in subsection (A)(13)(a) and the resources in subsection (A)(13)(b) in the patient's medical record;
14. When a patient is discharged from a designated area for behavioral health observation/stabilization services, a personnel member:
 - a. Provides the patient with discharge information that includes:
 - i. The identified specific needs of the patient after discharge, and
 - ii. Resources that may be available for the patient; and
 - b. Contacts any resources identified as required in subsection (A)(13)(b);
15. Except as provided in subsection (A)(16), a patient is not re-admitted to the outpatient treatment center for behavioral health observation/stabilization services within two hours after the patient's discharge from a designated area for behavioral health observation/stabilization services;
16. A patient may be re-admitted to the outpatient treatment center for behavioral health observation/stabilization services within two hours after the patient's discharge if:
 - a. It is at least one hour since the time of the patient's discharge;
 - b. A law enforcement officer or the patient's case manager accompanies the patient to the outpatient treatment center;
 - c. Based on a screening of the patient, it is determined that re-admission for behavioral health observation/stabilization is necessary for the patient; and

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- d. The name of the law enforcement officer or the patient's case manager and the reasons for the determination in subsection (A)(16)(c) are documented in the patient's medical record;
17. A patient admitted for behavioral health observation/stabilization services is provided:
 - a. An observation chair; or
 - b. A separate piece of equipment for the patient to use to sit or recline that:
 - i. Is at least 12 inches from the floor; and
 - ii. Has sufficient space around the piece of equipment to allow a personnel member to provide behavioral health services and physical health services, including emergency services, to the patient;
18. If an individual is not admitted for behavioral health observation/stabilization services because there is not an observation chair available for the individual's use, a personnel member provides support to the individual to access the services or resources necessary for the individual's health and safety, which may include:
 - a. Admitting the individual to the outpatient treatment center to provide behavioral health services other than behavioral health observation/stabilization services;
 - b. Establishing a method to notify the individual when there is an observation chair available;
 - c. Referring or providing transportation to the individual to another health care institution;
 - d. Assisting the individual to contact the individual's support system; and
 - e. If the individual is enrolled with a Regional Behavioral Health Authority, contacting the appropriate person to request assistance for the individual;
19. Personnel members establish a log of individuals who were not admitted because there was not an observation chair available and document the individual's name, actions taken to provide support to the individual to access the services or resources necessary for the individual's health and safety, and date and time the actions were taken;
20. The log required in subsection (A)(19) is maintained for at least 12 months after the date of documentation in the log;
21. An observation chair or, as provided in subsection (A)(17)(b), a piece of equipment used by a patient to sit or recline is visible to a personnel member;
22. Except as provided in subsection (A)(23), a patient admitted to receive behavioral health observation/stabilization services is visible to a personnel member;
23. A patient admitted to receive behavioral health observation/stabilization services may use the bathroom and not be visible to a personnel member, if the personnel member:
 - a. Determines that the patient is capable of using the bathroom unsupervised,
 - b. Is aware of the patient's location, and
 - c. Is able to intervene in the patient's actions to ensure the patient's health and safety; and
24. An observation chair:
 - a. Effective until July 1, 2015, has space around the observation chair that allows a personnel member to provide behavioral health services and physical health services, including emergency services, to a patient in the observation chair; and
 - b. Effective on July 1, 2015, has at least three feet of clear floor space:
 - i. On at least two sides of the observation chair, and
 - ii. Between the observation chair and any other observation chair.
- B. An administrator of an outpatient treatment center that is authorized to provide behavioral health observation/stabilization services shall:
 1. Have a room used for seclusion that complies with requirements for seclusion rooms in R9-10-316, and
 2. Comply with the requirements for restraint and seclusion in R9-10-316.
- C. An administrator of an outpatient treatment center that is authorized to provide behavioral health observation/stabilization services shall ensure that:
 1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover the process for:
 - i. Evaluating a patient previously admitted to the designated area to determine whether the patient is ready for admission to an inpatient setting or discharge, including when to implement the process;
 - ii. Contacting other health care institutions that provide behavioral health observation/stabilization services to determine if the patient could be admitted for behavioral health observation/stabilization services in another health care institution, including when to implement the process; and
 - iii. Ensuring that sufficient personnel members, space, and equipment are available to provide behavioral health observation/stabilization services to patients admitted to receive behavioral health observation/stabilization services; and
 - b. Establish a maximum capacity of the number of patients for whom the outpatient treatment center is capable of providing behavioral health observation/stabilization services;
 2. The outpatient treatment center does not:
 - a. Exceed the maximum capacity established by the outpatient treatment center in subsection (C)(1)(b); or
 - b. Admit an individual if the outpatient treatment center does not have personnel members, space, and equipment available to provide behavioral health observation/stabilization services to the individual; and
 3. Effective on July 1, 2015:
 - a. If an admission of an individual causes the outpatient treatment center to exceed the outpatient treatment center's licensed occupancy, the individual is only admitted for behavioral health observation/stabilization services after:
 - (i.) A behavioral health professional reviews the individual's screening and determines the admission is an emergency; and
 - (ii.) Documents the determination in the individual's medical record; and

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- b. The outpatient treatment center's quality management program's plan, required in R9-10-1004(1), includes a method to identify and document each occurrence of exceeding licensed occupancy, to evaluate the occurrences of exceeding licensed occupancy, and to review the actions taken to reduce future occurrences of exceeding licensed occupancy.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1012 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1012 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1013. Court-ordered Evaluation

An administrator of an outpatient treatment center that is authorized to provide court-ordered evaluation shall comply with the requirements for court-ordered evaluation in A.R.S. Title 36, Chapter 5, Article 4.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1013 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1013 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-1014. Court-ordered Treatment

An administrator of an outpatient treatment center that is authorized to provide court-ordered treatment shall comply with the requirements for court-ordered treatment in A.R.S. Title 36, Chapter 5, Article 5.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days

(Supp. 83-6). Former Section R9-10-1014 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1014 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-1015. Clinical Laboratory Services

An administrator of an outpatient treatment center that is authorized to provide clinical laboratory services shall ensure that:

1. If clinical laboratory services are provided on the premises or at another location, the clinical laboratory services are provided by a laboratory that holds a certificate of accreditation, certificate of compliance, or certificate of waiver issued by the U.S. Department of Health and Human Services under the Clinical Laboratory Improvement Act of 1967, 42 U.S.C. 263a, as amended by Public Law 100-578, October 31, 1988; and
2. A clinical laboratory test result is documented in a patient's medical record including:
 - a. The name of the clinical laboratory test;
 - b. The patient's name;
 - c. The date of the clinical laboratory test;
 - d. The results of the clinical laboratory test; and
 - e. If applicable, any adverse reaction related to or as a result of the clinical laboratory test.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1015 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1015 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1016. Crisis Services

- A. An administrator of an outpatient treatment center that is authorized to provide crisis services shall comply with the requirements for behavioral health services in R9-10-1011.

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- B.** An administrator of an outpatient treatment center that is authorized to provide crisis services shall ensure that:
1. Crisis services are available during clinical hours of operation;
 2. A behavioral health technician, qualified to provide crisis services according to the outpatient treatment center's policies and procedures, is present in the outpatient treatment center during clinical hours of operation; and
 3. The following individuals, qualified to provide crisis services according to policies and procedures, are available during clinical hours of operation:
 - a. A behavioral health professional,
 - b. A medical practitioner, and
 - c. A registered nurse.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1016 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1016 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1017. Diagnostic Imaging Services

An administrator of an outpatient treatment center that is authorized to provide diagnostic imaging services shall:

1. Designate an individual to provide direction for diagnostic imaging services who is a:
 - a. Radiologic technologist, certified under A.R.S. Title 32, Chapter 28, Article 2, who has at least 12 months experience in an outpatient treatment center;
 - b. Physician; or
 - c. Radiologist; and
2. Ensure that:
 - a. Diagnostic imaging services are provided in compliance with A.R.S. Title 30, Chapter 4 and 9 A.A.C. 7;
 - b. A copy of a certificate documenting compliance with subsection (2)(a) is maintained;
 - c. Diagnostic imaging services are provided to a patient according to an order that includes:
 - i. The patient's name,
 - ii. The name of the ordering individual,
 - iii. The diagnostic imaging procedure ordered, and
 - iv. The reason for the diagnostic imaging procedure;
 - d. A physician or radiologist interprets the diagnostic image; and
 - e. A diagnostic imaging patient report is completed that includes:
 - i. The patient's name,
 - ii. The date of the procedure, and

- iii. A physician's or radiologist's interpretation of the diagnostic image.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1017 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1017 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by final rulemaking at 14 A.A.R. 294, effective March 8, 2008 (Supp. 08-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-1018. Dialysis Services

- A.** In addition to the definitions in A.R.S. § 36-401, R9-10-101, and R9-10-1001, the following definitions apply in this Section:

1. "Caregiver" means an individual designated by a patient or a patient's representative to perform self-dialysis in the patient's stead.
2. "Chief clinical officer" means a physician appointed to provide direction for dialysis services provided by an outpatient treatment center.
3. "Long-term care plan" means a written plan of action for a patient with kidney failure that is developed to achieve long-term optimum patient outcome.
4. "Modality" means a method of treatment for kidney failure, including transplant, hemodialysis, and peritoneal dialysis.
5. "Nutritional assessment" means an analysis of a patient's weight, height, lifestyle, medication, mobility, food and fluid intake, and diagnostic procedures to identify conditions and behaviors that indicate whether the patient's nutritional needs are being met.
6. "Patient care plan" means a written document for a patient receiving dialysis that identifies the patient's needs for medical services, nursing services, and health-related services and the process by which the medical services, nursing services, or health-related services will be provided to the patient.
7. "Peritoneal dialysis" means the process of using the peritoneal cavity for removing waste products by fluid exchange.
8. "Psychosocial evaluation" means an analysis of an individual's mental and social conditions to determine the individual's need for social work services.
9. "Reprocessing" means cleaning and sterilizing a dialyzer previously used by a patient so that the dialyzer can be reused by the same patient.
10. "Self-dialysis" means dialysis performed by a patient or a caregiver on the patient's body.

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11. "Social worker" means an individual licensed according to A.R.S. Title 32, Chapter 33 to engage in the "practice of social work" as defined in A.R.S. § 32-3251.
 12. "Stable means" that a patient's blood pressure, temperature, pulse, respirations, and diagnostic procedure results are within medically recognized acceptable ranges or consistent with the patient's usual medical condition so that medical intervention is not indicated.
 13. "Transplant surgeon" means a physician who:
 - a. Is board eligible or board certified in general surgery or urology by a professional credentialing board, and
 - b. Has at least 12 months of training or experience performing renal transplants and providing care for patients with renal transplants.
- B.** A governing authority of an outpatient treatment center that is authorized to provide dialysis services shall:
1. Ensure that the administrator appointed as required in R9-10-1003(B)(3) has at least 12 months of experience in an outpatient treatment center providing dialysis services; and
 2. Appoint a chief clinical officer to direct the dialysis services provided by or at the outpatient treatment center who is a physician who:
 - a. Is board eligible or board certified in internal medicine or pediatrics by a professional credentialing board, and
 - b. Has at least 12 months of experience or training in providing dialysis services.
- C.** An administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that:
1. In addition to the policies and procedures required in R9-10-1003(D), policies and procedures are established, documented, and implemented to protect the health and safety of a patient that cover:
 - a. Long-term care plans and patient care plans,
 - b. Assigning a patient an identification number,
 - c. Personnel members' response to a patient's adverse reaction during dialysis, and
 - d. Personnel members' response to an equipment malfunction during dialysis;
 2. A personnel member complies with the requirements in A.R.S. § 36-423 and R9-10-114 for hemodialysis technicians and hemodialysis technician trainees, if applicable;
 3. A personnel member completes basic cardiopulmonary resuscitation training specific to the age of the patients receiving dialysis from the outpatient treatment center:
 - a. Before providing dialysis services, and
 - b. At least once every 12 months after the initial date of employment or volunteer service;
 4. A personnel member wears a name badge that displays the individual's first name, job title, and professional license or certification; and
 5. At least one registered nurse or medical practitioner is on the premises while a patient receiving dialysis services is on the premises.
- D.** An administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that:
1. The premises of the outpatient treatment center where dialysis services are provided complies with the applicable physical plant health and safety codes and standards for outpatient treatment centers providing dialysis services, incorporated by reference in R9-10-104.01, that were in effect on the date listed on the building permit or zoning clearance submitted, as required by R9-10-104, as part of the application for approval of the architectural plans and specifications submitted before initial approval of the inclusion of dialysis services in the outpatient treatment center's scope of services;
 2. Before a modification of the premises of an outpatient treatment center where dialysis services are provided is made, an application for approval of the architectural plans and specifications of the outpatient treatment center required in R9-10-104(A):
 - a. Is submitted to the Department; and
 - b. Demonstrates compliance with the applicable physical plant health and safety codes and standards for outpatient treatment centers providing dialysis services, incorporated by reference in R9-10-104.01, in effect on the date:
 - i. Listed on the building permit or zoning clearance submitted as part of the application for approval of the architectural plans and specifications for the modification, or
 - ii. The application for approval of the architectural plans and specifications of the modification of the outpatient treatment center required in R9-10-104(A) is submitted to the Department; and
 3. A modification of the outpatient treatment center complies with applicable physical plant health and safety codes and standards for outpatient treatment centers providing dialysis services, incorporated by reference in R9-10-104.01 in effect on the date:
 - a. Listed on the building permit or zoning clearance submitted as part of the application for approval of the architectural plans and specifications for the modification, or
 - b. The application for approval of the architectural plans and specifications required in R9-10-104(A) is submitted to the Department.
- E.** An administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that for a patient receiving dialysis services:
1. The dialysis services provided to the patient meet the needs of the patient;
 2. A physician:
 - a. Performs a medical history and physical examination on the patient within 30 calendar days before admission or within 48 hours after admission, and
 - b. Documents the medical history and physical examination in the patient's medical record within 48 hours after admission;
 3. If the patient's medical history and physical examination required in subsection (E)(2) is not performed by the patient's nephrologist, the patient's nephrologist, within 30 calendar days after the date of the medical history and physical examination:
 - a. Reviews and authenticates the patient's medical history and physical examination, documents concurrence with the medical history and physical examination, and includes information specific to nephrology; or
 - b. Performs a medical history and physical examination that includes information specific to nephrology;
 4. The patient's nephrologist or the nephrologist's designee:

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- a. Performs a medical history and physical examination on the patient at least once every 12 months after the date of the patient's admission to the outpatient treatment center, and
- b. Documents monthly notes related to the patient's progress in the patient's medical record;
5. A registered nurse responsible for the nursing services provided to the patient receiving dialysis services:
 - a. Reviews with the patient the results of any diagnostic tests performed on the patient;
 - b. Assesses the patient's medical condition before the patient begins receiving hemodialysis and after the patient has received hemodialysis;
 - c. If the patient returns to another health care institution after receiving dialysis services at the outpatient treatment center, provides an oral or written notice of information related to the patient's medical condition to the registered nurse responsible for the nursing services provided to the patient at the health care institution or, if there is not a registered nurse responsible, the individual responsible for the medical services, nursing services, or health-related services provided to the patient at the health care institution;
 - d. Informs the patient's nephrologist of any changes in the patient's medical condition or needs; and
 - e. Documents in the patient's medical record:
 - i. Any notice provided as required in subsection (E)(5)(c), and
 - ii. Monthly notes related to the patient's progress;
6. If the patient is not stable, before dialysis is provided to the patient, a nephrologist is notified of the patient's medical condition and dialysis is not provided until the nephrologist provides direction;
7. The patient:
 - a. Is under the care of a nephrologist;
 - b. Is assigned a patient identification number according to the policy and procedure in subsection (C)(1)(b);
 - c. Is identified by a personnel member before beginning dialysis;
 - d. Receives the dialysis services ordered for the patient by a medical practitioner;
 - e. Is monitored by a personnel member while receiving dialysis at least once every 30 minutes; and
 - f. If the outpatient treatment center reprocesses and reuses dialyzers, is informed that the outpatient treatment center reprocesses and reuses dialyzers before beginning hemodialysis;
8. Equipment used for hemodialysis is inspected and tested according to the manufacturer's recommendations or the outpatient treatment center's policies and procedures before being used to provide hemodialysis to a patient;
9. The equipment inspection and testing required in subsection (E)(8) is documented in the patient's medical record;
10. Supplies and equipment used for dialysis services for the patient are used, stored, and discarded according to manufacturer's recommendations;
11. If hemodialysis is provided to the patient, a personnel member:
 - a. Inspects the dialyzer before use to ensure that the:
 - i. External surface of the dialyzer is clean;
 - ii. Dialyzer label is intact and legible;
 - iii. Dialyzer, blood port, and dialysate port are free from leaks and cracks or other structural damage; and
 - iv. Dialyzer is free of visible blood and other foreign material;
- b. Verifies the order for the dialyzer to ensure the correct dialyzer is used for the correct patient;
- c. Verifies the duration of dialyzer storage based on the type of germicide used or method of sterilization or disinfection used;
- d. If the dialyzer has been reprocessed and is being reused, verifies that the label on the dialyzer includes:
 - i. The patient's name and the patient's identification number,
 - ii. The number of times the dialyzer has been used in patient treatments,
 - iii. The date of the last use of the dialyzer by the patient, and
 - iv. The date of the last reprocessing of the dialyzer;
- e. If the patient's name is similar to the name of another patient receiving dialysis in the same outpatient treatment center, informs other personnel members, employees, and volunteers, of the similar names to ensure that the name or other identifying information on the label corresponds to the correct patient; and
- f. Ensures that a patient's vascular access is visible to a personnel member during dialysis;
12. A patient receiving dialysis is visible to a nurse at a location used by nurses to coordinate patients and treatment;
13. If the patient has an adverse reaction during dialysis, a personnel member responds by implementing the policy and procedure required in subsection (C)(1)(c);
14. If the equipment used during the patient's dialysis malfunctions, a personnel member responds by implementing the policy and procedure required in subsection (C)(1)(d); and
15. After a patient's discharge from an outpatient treatment center, the nephrologist responsible for the dialysis services provided to the patient documents the patient's discharge in the patient's medical record within 30 calendar days after the patient's discharge and includes:
 - a. A description of the patient's medical condition and the dialysis services provided to the patient, and
 - b. The signature of the nephrologist.
- F. If an outpatient treatment center provides support for self-dialysis services, an administrator shall ensure that:
 1. A patient or the patient's caregiver is:
 - a. Instructed to use the equipment to perform self-dialysis by a personnel member trained to provide the instruction, and
 - b. Monitored in the patient's home to assess the patient's or patient caregiver's ability to use the equipment to perform self-dialysis;
 2. Instruction provided to a patient as required in subsection (F)(1)(a) and monitoring in the patient's home as required in subsection (F)(1)(b) is documented in the patient's medical record;
 3. All supplies for self-dialysis necessary to meet the needs of the patient are provided to the patient;
 4. All equipment necessary to meet the needs of the patient's self-dialysis is provided for the patient and

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maintained by the outpatient treatment center according to the manufacturer's recommendations;

5. The water used for hemodialysis is tested and treated according to the requirements in subsection (N);
 6. Documentation of the self-dialysis maintained by the patient or the patient's caregiver is:
 - a. Reviewed to ensure that the patient is receiving continuity of care, and
 - b. Placed in the patient's medical record; and
 7. If a patient uses self-dialysis and self-administers medication:
 - a. The medical practitioner responsible for the dialysis services provided to the patient reviews the patient's diagnostic laboratory tests;
 - b. The patient and the patient's caregiver are informed of any potential:
 - i. Side effects of the medication; and
 - ii. Hazard to a child having access to the medication and, if applicable, a syringe used to inject the medication; and
 - c. The patient or the patient's caregiver is:
 - i. Taught the route and technique of administration and is able to administer the medication, including injecting the medication;
 - ii. Taught and able to perform sterile techniques if the patient or the patient's caregiver will be injecting the medication;
 - iii. Provided with instructions for the administration of the medication, including the specific route and technique the patient or the patient's caregiver has been taught to use;
 - iv. Able to read and understand the directions for using the medication;
 - v. Taught and able to self-monitor the patient's blood pressure; and
 - vi. Informed how to store the medication according to the manufacturer's instructions.
- G.** An administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that a social worker is employed by the outpatient treatment center to meet the needs of a patient receiving dialysis services including:
1. Conducting an initial psychosocial evaluation of the patient within 30 calendar days after the patient's admission to the outpatient treatment center;
 2. Participating in reviewing the patient's need for social work services;
 3. Recommending changes in treatment based on the patient's psychosocial evaluation;
 4. Assisting the patient and the patient's representative in obtaining and understanding information for making decisions about the medical services provided to the patient;
 5. Identifying community agencies and resources and assisting the patient and the patient's representative to utilize the community agencies and resources;
 6. Documenting monthly notes related to the patient's progress in the patient's medical record; and
 7. Conducting a follow-up psychosocial evaluation of the patient at least once every 12 months after the date of the patient's admission to the outpatient treatment center.
- H.** An administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that a registered dietitian is employed by the outpatient treatment center to assist a patient receiving dialysis services to meet the patient's nutritional and dietetic needs including:
1. Conducting an initial nutritional assessment of the patient within 30 calendar days after the patient's admission to the outpatient treatment center;
 2. Consulting with the patient's nephrologist and recommending a diet to meet the patient's nutritional needs;
 3. Providing advice to the patient and the patient's representative regarding a diet prescribed by the patient's nephrologist;
 4. Monitoring the patient's adherence and response to a prescribed diet;
 5. Reviewing with the patient any diagnostic test performed on the patient that is related to the patient's nutritional or dietetic needs;
 6. Documenting monthly notes related to the patient's progress in the patient's medical record; and
 7. Conducting a follow-up nutritional assessment of the patient at least once every 12 months after the date of the patient's admission to the outpatient treatment center.
- I.** An administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that a long-term care plan for each patient:
1. Is developed by a team that includes at least:
 - a. The chief clinical officer of the outpatient treatment center;
 - b. If the chief clinical officer is not a nephrologist, the patient's nephrologist;
 - c. A transplant surgeon or the transplant surgeon's designee;
 - d. A registered nurse responsible for nursing services provided to the patient;
 - e. A social worker;
 - f. A registered dietitian; and
 - g. The patient or patient's representative, if the patient or patient's representative chooses to participate in the development of the long-term care plan;
 2. Identifies the modality of treatment and dialysis services to be provided to the patient;
 3. Is reviewed and approved by the chief clinical officer;
 4. Is signed and dated by each personnel member participating in the development of the long-term care plan;
 5. Includes documentation signed by the patient or the patient's representative that the patient or the patient's representative was provided an opportunity to participate in the development of the long-term care plan;
 6. Is signed and dated by the patient or the patient's representative; and
 7. Is reviewed at least once every 12 months by the team in subsection (I)(1) and updated according to the patient's needs.
- J.** An administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that a patient care plan for each patient:
1. Is developed by a team that includes at least:
 - a. The patient's nephrologist;
 - b. A registered nurse responsible for nursing services provided to the patient;
 - c. A social worker;
 - d. A registered dietitian; and
 - e. The patient or the patient's representative, if the patient or patient's representative chooses to participate in the development of the patient care plan;

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2. Includes an assessment of the patient's need for dialysis services;
 3. Identifies treatment and treatment goals;
 4. Is signed and dated by each personnel member participating in the development of the patient care plan;
 5. Includes documentation signed by the patient or the patient's representative that the patient or the patient's representative was provided an opportunity to participate in the development of the patient care plan;
 6. Is signed and dated by the patient or the patient's representative;
 7. Is implemented;
 8. Is evaluated by:
 - a. The registered nurse responsible for the dialysis services provided to the patient,
 - b. The registered dietitian providing services to the patient related to the patient's nutritional or dietetic needs, and
 - c. The social worker providing services to the patient related to the patient's psychosocial needs;
 9. Includes documentation of interventions, resolutions, and outcomes related to treatment goals; and
 10. Is reviewed and updated according to the needs of the patient:
 - a. At least once every six months for a patient whose medical condition is stable, and
 - b. At least once every 30 calendar days for a patient whose medical condition is not stable.
- K.** In addition to the requirements in R9-10-1009(C), an administrator of an outpatient treatment center that is authorized to provide dialysis services shall ensure that a medical record for each patient contains:
1. An annual medical history;
 2. An annual physical examination;
 3. Monthly notes related to the patient's progress by a medical practitioner, registered dietitian, social worker, and registered nurse;
 4. If applicable, documentation of:
 - a. The equipment inspection and testing required in subsection (E)(9), and
 - b. The self-dialysis required in subsection (F)(2); and
 5. If applicable, documentation of the patient's discharge.
- L.** For a patient who received dialysis services, an administrator shall ensure that after the patient's discharge from an outpatient treatment center that is authorized to provide dialysis services, the nephrologist responsible for the dialysis services provided to the patient documents the patient's discharge in the patient's medical record within 30 calendar days after the patient's discharge and includes:
1. A description of the patient's medical condition and the dialysis services provided to the patient, and
 2. The signature of the nephrologist.
- M.** If an outpatient treatment center reuses dialyzers or other dialysis supplies, an administrator shall ensure that the outpatient treatment center complies with the guidelines adopted by the Association for the Advancement of Medical Instrumentation in Reprocessing of Hemodialyzers, ANSI/AAMI RD47:2008/(R)2013, incorporated by reference, available through <http://my.aami.org/store/>, on file with the Department, and including no future editions or amendments.
- N.** A chief clinical officer shall ensure that the quality of water used in dialysis conforms to the guidelines adopted by the Association for the Advancement of Medical Instrumentation in Dialysis Water and Dialysate Recommendations: A User

Guide, incorporated by reference, available through <http://my.aami.org/store/>, on file with the Department, and including no future editions or amendments.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1018 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1018 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-1019. Emergency Room Services

An administrator of an outpatient treatment center that is authorized to provide emergency room services shall ensure that:

1. Emergency room services are:
 - a. Available on the premises:
 - i. At all times, and
 - ii. To stabilize an individual's emergency medical condition; and
 - b. Provided:
 - i. In a designated area, and
 - ii. Under the direction of a physician;
2. Clinical laboratory services are available on the premises;
3. Diagnostic imaging services are available on the premises;
4. An area designated for emergency room services complies with the physical plant codes and standards for a freestanding emergency care facility in R9-10-104.01;
5. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that specify requirements for the use of a room used for seclusion that meets the requirements in R9-10-217(D);
6. A physician is present in an area designated for emergency room services;
7. A registered nurse is present in an area designated for emergency room services and provides direction for nursing services in the designated area;
8. The outpatient treatment center has a documented transfer agreement with a general hospital;
9. Emergency room services are provided to an individual, including a woman in active labor, requesting medical services in an emergency;
10. If emergency room services cannot be provided at the outpatient treatment center, measures and procedures are implemented to minimize the risk to the patient until the patient is transferred to the general hospital with which the outpatient treatment center has a transfer agreement as required in subsection (8);

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11. There is a chronological log of emergency room services provided to a patient that includes:
 - a. The patient's name;
 - b. The date, time, and mode of arrival; and
 - c. The disposition of the patient, including discharge or transfer; and
12. The chronological log required in subsection (11) is maintained:
 - a. In the designated area for emergency room services for at least 12 months after the date the emergency room services were provided; and
 - b. By the outpatient treatment center for a total of at least 24 months after the date the emergency room services were provided.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1019 adopted as an emergency now adopted as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1019 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-1020. Opioid Treatment Services

- A. A governing authority of an outpatient treatment center that is authorized to provide opioid treatment services shall:
 1. Ensure that the outpatient treatment center obtains certification by the Substance Abuse and Mental Health Services Administration before providing opioid treatment,
 2. Maintain a current Substance Abuse and Mental Health Services Administration certificate for the outpatient treatment center on the premises, and
 3. Ensure that the administrator appointed as required in R9-10-1003(B)(3) is named on the Substance Abuse and Mental Health Services Administration certificate as the individual responsible for the opioid treatment services provided by or at the outpatient treatment center.
- B. An administrator of an outpatient treatment center that is authorized to provide opioid treatment services shall ensure that:
 1. In addition to the policies and procedures required in R9-10-1003(D), policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Include the criteria for receiving opioid treatment services and address:
 - i. Comprehensive maintenance treatment consisting of dispensing or administering an opioid agonist treatment medication at stable dosage levels to a patient for a period in excess of 21 calendar days and providing medical and health-related services to the patient, and
 - ii. Detoxification treatment that occurs over a continuous period of more than 30 calendar days;
 2. A physician provides direction for the opioid treatment services provided at the outpatient treatment center;
 3. If a patient requires administration of an opioid agonist treatment medication as a result of chronic pain, the patient:
 - a. Receives consultation with or a referral for consultation with a physician or registered nurse practitioner who specializes in chronic pain management, and
 - b. Is not admitted for opioid treatment services:
 - i. Unless the patient is physically addicted to an opioid drug, as manifested by the symptoms of withdrawal in the absence of the opioid drug; and
 - ii. A medical practitioner at the outpatient treatment center coordinates with the physician or registered nurse practitioner who is providing chronic pain management to the patient; and
 4. In addition to the requirements in R9-10-1009(C), a medical record for each patient contains:
 - i. Criteria for the assessment of a patient's opioid agonist blood levels,
 - ii. Procedures for specimen collection and processing to reduce the risk of fraudulent results, and
 - iii. Procedures for conducting random drug testing of patients receiving an opioid agonist treatment medication;

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- a. If applicable, documentation of the dispensing of doses of an opioid agonist treatment medication to the patient for use off the premises; and
 - b. If applicable, documentation of the patient's discharge from receiving opioid treatment services.
- C. An administrator of an outpatient treatment center that is authorized to provide opioid treatment services shall ensure that for a patient receiving opioid treatment services:
 - 1. The opioid treatment services provided to the patient meet the needs of the patient;
 - 2. A physician or a medical practitioner under the direction of a physician:
 - a. Performs a medical history and physical examination on the patient within 30 calendar days before admission or within 48 hours after admission, and
 - b. Documents the medical history and physical examination in the patient's medical record within 48 hours after admission;
 - 3. Before receiving opioid treatment, the patient is informed of the following:
 - a. The progression of opioid addiction and the patient's apparent stage of opioid addiction;
 - b. The goal and benefits of opioid treatment;
 - c. The signs and symptoms of overdose and when to seek emergency assistance;
 - d. The characteristics of opioid agonist treatment medication, including common side-effects and potential interaction effects with other drugs;
 - e. The requirement for a staff member to report suspected or alleged abuse or neglect of a child or an incapacitated or vulnerable adult according to state law;
 - f. Confidentiality requirements;
 - g. Drug screening and urinalysis procedures;
 - h. Requirements for dispensing to a patient one or more doses of an opioid agonist treatment medication for use by the patient off the premises;
 - i. Testing and treatment available for HIV and other communicable diseases; and
 - j. The patient complaint process;
 - 4. Documentation of the provision of the information specified in subsection (C)(3) is included in the patient's medical record;
 - 5. The patient receives a dose of an opioid agonist treatment medication only on the order of a medical practitioner;
 - 6. The patient begins detoxification treatment only at the request of the patient or according to the outpatient treatment center's policy and procedure for discontinuing opioid treatment services required in subsection (B)(1)(b);
 - 7. If the patient has an adverse reaction during opioid treatment, a personnel member and, if appropriate, a medical practitioner responds by implementing the policy and procedure required in subsection (B)(1)(i);
 - 8. Before the patient's discharge from opioid treatment services, the patient is provided with patient follow-up instructions that:
 - a. Include information that may reduce the risk of relapse; and
 - b. May include a referral for counseling, support groups, or medication for depression or sleep disorders; and
 - 9. After the patient's discharge from opioid treatment services provided by or at the outpatient treatment center, the medical practitioner responsible for the opioid treatment services provided to the patient documents the patient's discharge in the patient's medical record within 30 calendar days after the patient's discharge and includes:
 - a. A description of the patient's medical condition and the opioid treatment services provided to the patient, and
 - b. The signature of the medical practitioner.
- D. An administrator of an outpatient treatment center that is authorized to provide opioid treatment services shall ensure that an assessment for each patient receiving opioid treatment services:
 - 1. Includes, in addition to the information in R9-10-1010(B):
 - a. An assessment of the patient's need for opioid treatment services,
 - b. An assessment of the patient's medical conditions that may be affected by opioid treatment,
 - c. An assessment of other medications being taken by the patient and conditions that may be affected by opioid treatment, and
 - d. A plan to prevent relapse;
 - 2. Identifies the treatment to be provided to the patient and treatment goals; and
 - 3. Specifies whether the patient may receive an opioid agonist treatment medication for use off the premises and, if so, the number of doses that may be dispensed.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1020 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1020 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1021. Pain Management Services

A medical director of an outpatient treatment center that is authorized to provide pain management services shall ensure that:

- 1. Pain management services are provided under the direction of:
 - a. A physician; or
 - b. A nurse practitioner licensed according to A.R.S. Title 32, Chapter 15 with advanced pain management certification from a nationally recognized accreditation or certification entity;
- 2. A personnel member certified in cardiopulmonary resuscitation is available on the outpatient treatment center's premise;
- 3. If a controlled substance is used to provide pain management services:
 - a. A medical practitioner discusses the risks and benefits of using a controlled substance with a patient;

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- b. If the controlled substance is an opioid, the outpatient treatment center complies with the requirements in R9-10-2006; and
- c. The following information is included in a patient's medical record:
 - i. The patient's history of substance use disorder,
 - ii. Documentation of the discussion in subsection (3)(a),
 - iii. The nature and intensity of the patient's pain, and
 - iv. The objectives used to determine whether the patient is being successfully treated; and
4. If an injection or a nerve block is used to provide pain management services:
 - a. Before the injection or nerve block is initially used on a patient, an evaluation of the patient is performed by a physician or nurse anesthetist;
 - b. An injection or nerve block is administered by a physician or nurse anesthetist; and
 - c. The following information is included in a patient's medical record:
 - i. The evaluation of the patient required in subsection (4)(a),
 - ii. A record of the administration of the injection or nerve block, and
 - iii. Any resuscitation measures taken; and
5. An outpatient treatment center that meets the definition of a pain management clinic in A.R.S. § 36-448.01 and complies with 9 Article 20 of this Chapter.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1021 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1021 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4).

R9-10-1022. Physical Health Services

An administrator of an outpatient treatment center that is authorized to provide physical health services shall ensure that:

1. Medical services provided at or by the outpatient treatment center are provided under the direction of a physician or a registered nurse practitioner,
2. Nursing services provided at or by the outpatient treatment center are provided under the direction of a registered nurse, and
3. A personnel member certified in cardiopulmonary resuscitation is available on the outpatient treatment center's premise.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1022 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1022 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1023. Pre-petition Screening

An administrator of an outpatient treatment center that is authorized to provide pre-petition screening shall comply with the requirements for pre-petition screening in A.R.S. Title 36, Chapter 5, Article 4.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1023 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1023 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1024. Rehabilitation Services

An administrator shall ensure that if an outpatient treatment center is authorized to provide:

1. Occupational therapy services, an occupational therapist provides direction for the occupational therapy services provided at or by the outpatient treatment center;
2. Physical therapy services, a physical therapist provides direction for the physical therapy services provided at or by the outpatient treatment center; or
3. Speech-language pathology services, a speech-language pathologist provides direction for the speech-language pathology services provided at or by the outpatient treatment center.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). New Section R9-10-1024 adopted as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1024 was remanded by the Governor's

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Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1025. Respite Services

A. In addition to the definitions in A.R.S. § 36-401, R9-10-101, and R9-10-1001, the following definitions apply in this Section:

1. "Emergency safety response" has the same meaning as in R9-10-701.
2. "Outing" means travel by a child, who is receiving respite services provided by an outpatient treatment center, to a location away from the outpatient treatment center premises or, if applicable, the child's residence for a specific activity.
3. "Parent" means a child's:
 - a. Mother or father, or
 - b. Legal guardian.

B. An administrator of an outpatient treatment center that is authorized to provide respite services shall ensure that:

1. Respite services are not provided in a personnel member's residence unless the personnel member's residence is licensed as a behavioral health respite home;
2. Except for an outpatient treatment center that is authorized to provide respite services for children on the premises, respite services are provided:
 - a. In a patient's residence; or
 - b. Up to 10 continuous hours in a 24-hour time period while the individual who is receiving the respite services is:
 - i. Supervised by a personnel member;
 - ii. Awake;
 - iii. Except as stated in subsection (B)(3), provided food;
 - iv. Allowed to rest;
 - v. Provided an opportunity to use the toilet and meet the individual's hygiene needs; and
 - vi. Participating in activities in the community but is not in a licensed health care institution or child care facility; and
3. If a child is provided respite services according to subsection (B)(2)(b), the child is provided the appropriate meals or snacks in subsection (J)(1) for the amount of time the child is receiving respite services from the outpatient treatment center.

C. If an outpatient treatment center that is authorized to provide respite services for children includes outings in the outpatient treatment center's scope of services, an administrator shall ensure that:

1. Before a personnel member takes a child receiving respite services on an outing, written permission is obtained from the child's parent that includes:
 - a. The child's name;
 - b. A description of the outing;
 - c. The name of the outing destination, if applicable;
 - d. The street address and, if available, the telephone number of the outing destination;
 - e. Either:
 - i. The date or dates of the outing; or

- ii. The time period, not to exceed 12 months, during which the permission is given;
 - f. The projected time of departure from the outpatient treatment center or, if applicable, the child's residence;
 - g. The projected time of arrival back at the outpatient treatment center or, if applicable, the child's residence; and
 - h. The dated signature of the child's parent;
2. Each motor vehicle used on an outing by a personnel member for a child receiving respite services from the outpatient treatment center:
- a. Is maintained in a mechanically safe condition;
 - b. Is free from hazards;
 - c. Has an operational heating system;
 - d. Has an operational air-conditioning system; and
 - e. Is equipped with:
 - i. A first-aid kit that meets the requirements in subsection (S)(1), and
 - ii. Two large, clean towels or blankets;
3. On an outing, a child does not ride in a truck bed, camper, or trailer attached to a motor vehicle;
4. The Department is notified within 24 hours after a motor vehicle accident that involves a child who is receiving respite services while riding in the motor vehicle on an outing; and
5. A personnel member who drives a motor vehicle with children receiving respite services from the outpatient treatment center in the motor vehicle:
- a. Requires that each door be locked before the motor vehicle is set in motion and keeps the doors locked while the motor vehicle is in motion;
 - b. Does not permit a child to be seated in front of a motor vehicle's air bag;
 - c. Requires that a child remain seated and entirely inside the motor vehicle while the motor vehicle is in motion;
 - d. Requires that a child is secured, as required in A.R.S. § 28-907 or A.R.S. § 28-909, before the motor vehicle is set in motion and while the motor vehicle is in motion;
 - e. Assists a child into or out of the motor vehicle away from moving traffic at curbside or in a driveway, parking lot, or other location designated for this purpose;
 - f. Carries drinking water in an amount sufficient to meet the needs of each child on the outing and a sufficient number of cups or other drinking receptacles so that each child can drink from a different cup or receptacle; and
 - g. Accounts for each child while on the outing.

D. An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that:

1. Respite services are only provided on the premises for up to 10 continuous hours per day between the hours of 6:00 a.m. and 10:00 p.m.;
2. The specific 10 continuous hours per day during which the outpatient treatment center provides respite services on the premises is stated in the outpatient treatment center's hours of operation that is submitted as part of the outpatient treatment center's license application and according to R9-10-1002(D);

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3. A personnel member, who is expected to provide respite services eight or more hours a week, complies with the requirements for tuberculosis screening in R9-10-113;
4. At least one personnel member who has current training in first aid and cardiopulmonary resuscitation is available on the premises when a child is receiving respite services on the premises;
5. At least one personnel member who has completed training in crisis intervention according to R9-10-716(F) is available on the premises when a child is receiving respite services on the premises;
6. A personnel member does not use or possess any of the following items when a child receiving respite services is on the premises:
 - a. A controlled substance as listed in A.R.S. Title 36, Chapter 27, Article 2, except where used as a prescription medication in the manner prescribed;
 - b. A dangerous drug as defined in A.R.S. § 13-3401, except where used as a prescription medication in the manner prescribed;
 - c. A prescription medication as defined in A.R.S. § 32-1901, except where used in the manner prescribed; or
 - d. A firearm as defined in A.R.S. § 13-105;
7. An unannounced fire and emergency evacuation drill is conducted at least once a month, and at different times of the day, and each personnel member providing respite services for children on the premises and each child receiving respite services on the premises participates in the fire and emergency evacuation drill;
8. Each fire and emergency evacuation drill is documented, and the documentation is maintained for at least 12 months after the date of the fire and emergency evacuation drill;
9. Before a child receives respite services on the premises of the outpatient treatment center, in addition to the requirements in R9-10-1009, the following information is obtained and maintained in the child's medical record:
 - a. The name, home address, city, state, zip code, and contact telephone number of each parent of the child;
 - b. The name and contact telephone number of at least two additional individuals authorized by the child's parent to collect the child from the outpatient treatment center;
 - c. The name and contact telephone number of the child's health care provider;
 - d. The written authorization for emergency medical care of the child when the parent cannot be contacted at the time of an emergency;
 - e. The name of the individual to be contacted in case of injury or sudden illness of the child;
 - f. If applicable, a description of any dietary restrictions or needs due to a medical condition or diagnosed food sensitivity or allergy;
 - g. A written record completed by the child's parent or health care provider noting the child's susceptibility to illness, physical conditions of which a personnel member should be aware, and any specific requirements for health maintenance; and
10. Documentation is obtained and maintained in the child's medical record each time the child receives respite services on the premises that includes:
 - a. The date and time of each admission to and discharge from receiving respite services; and
 - b. A signature, which contains at least a first initial of a first name and the last name of the child's parent or other individual designated by the child's parent, each time the child is admitted or discharged from receiving respite services on the premises;
11. Policies and procedures are developed, documented, and implemented to ensure that the identity of an individual is known to a personnel member or is verified with picture identification before the personnel member discharges a child to the individual;
12. A child is not discharged to an individual other than the child's parent or other individual designated according to subsection (D)(9)(b), except:
 - a. When the child's parent authorizes the administrator by telephone or electronic means to release the child to an individual not so designated, and
 - b. The administrator can verify the telephone or electronic authorization using a means of verification that has been agreed to by the administrator and the child's parent and documented in the child's medical record; and
13. The number of personnel members providing respite services for children on the premises is determined by the needs of the children present, with a minimum of at least:
 - a. One personnel member providing supervision for every five children receiving respite services on the premises; and
 - b. Two personnel members on the premises when a child is receiving respite services on the premises.
- E. If swimming activities are conducted at a swimming pool for a child receiving respite services on the premises of an outpatient treatment center, an administrator shall ensure that there is an individual at the swimming pool on the premises who has current lifeguard certification that includes a demonstration of the individual's ability to perform cardiopulmonary resuscitation. If the individual is a personnel member, the personnel member cannot be counted in the personnel member-to-children ratio required by subsection (D)(13).
- F. An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that in each area designated for providing respite services:
 1. Drinking water is provided sufficient for the needs of and accessible to each child in both indoor and outdoor areas;
 2. Indoor areas used by children are decorated with age-appropriate articles such as bulletin boards, pictures, and posters;
 3. Storage space is provided for indoor and outdoor toys, materials, and equipment in areas accessible to children;
 4. Clean clothing is available to a child when the child needs a change of clothing;
 5. At least one indoor area in the outpatient treatment center where respite services are provided for children is equipped with at least one cot or mat, a sheet, and a blanket, where a child can rest quietly away from the other children;
 6. Except as provided in subsection (AA)(2)(a), outdoor or large muscle development activities are scheduled to allow not less than 75 square feet for each child occupying the outdoor area or indoor area substituted for outdoor area at any time;

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7. The premises, including the buildings, are maintained free from hazards;
 8. Toys and play equipment, required in this Section, are maintained:
 - a. Free from hazards, and
 - b. In a condition that allows the toy or play equipment to be used for the original purpose of the toy or play equipment;
 9. Temperatures are maintained between 70° F and 84° F in each room or indoor area used by children;
 10. Except when a child is napping or sleeping or for a child who has a sensory issue documented in the child's behavioral health assessment, each room or area used by a child is maintained at a minimum of 30 foot candles of illumination;
 11. When a child is napping or sleeping in a room, the room is maintained at a minimum of five foot candles of illumination;
 12. Each child's toothbrush, comb, washcloth, and cloth towel that are provided for the child's use by the child's parent are maintained in a clean condition and stored in an identified space separate from those of other children;
 13. Except as provided in subsection (F)(14), the following are stored separate from food storage areas and are inaccessible to a child:
 - a. All materials and chemicals labeled as a toxic or flammable substance;
 - b. All substances that have a child warning label and may be a hazard to a child; and
 - c. Lawn mowers, ladders, toilet brushes, plungers, and other equipment that may be a hazard to a child;
 14. Hand sanitizers:
 - a. When being stored, are stored separate from food storage areas and are inaccessible to children; and
 - b. When being provided for use, are accessible to children; and
 15. Except when used as part of an activity, the following are stored in an area inaccessible to a child:
 - a. Garden tools, such as a rake, trowel, and shovel; and
 - b. Cleaning equipment and supplies, such as a mop and mop bucket.
- G.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that a personnel member:
1. Supervises each child at all times;
 2. Does not smoke or use tobacco:
 - a. In any area where respite services may be provided for a child, or
 - b. When transporting or transferring a child;
 3. Except for a child who can change the child's own clothing, changes a child's clothing when wet or soiled;
 4. Empties clothing soiled with feces into a toilet without rinsing;
 5. Places a child's soiled clothing in a plastic bag labeled with the child's name, stores the clothing in a container used for this purpose, and sends the clothing home with the child's parent;
 6. Prepares and posts in each indoor area, before the first child arrives to receive respite services that day, a current schedule of age-appropriate activities that meet the needs of the children receiving respite services that day, including the times the following are provided:
 - a. Meals and snacks,
 - b. Naps,
 - c. Indoor activities,
 - d. Outdoor or large muscle development activities,
 - e. Quiet and active activities,
 - f. Personnel member-directed activities,
 - g. Self-directed activities, and
 - h. Activities that develop small muscles;
7. Provides activities and opportunities, consistent with a child's behavioral health assessment, for each child to:
- a. Gain a positive self-concept;
 - b. Develop and practice social skills;
 - c. Acquire communication skills;
 - d. Participate in large muscle physical activity;
 - e. Develop habits that meet health, safety, and nutritional needs;
 - f. Express creativity;
 - g. Learn to respect cultural diversity of children and staff;
 - h. Learn self-help skills; and
 - i. Develop a sense of responsibility and independence;
8. Implements the schedule in subsection (G)(6);
9. If an activity on the schedule in subsection (G)(6) is not implemented, writes on the schedule the activity that was not implemented and what activity was substituted;
10. Ensures that each indoor area has a supply of age-appropriate toys, materials, and equipment, necessary to implement the schedule required in subsection (G)(6), in a quantity sufficient for the number of children receiving respite services at the outpatient treatment center that day, including:
- a. Art and crafts supplies;
 - b. Books;
 - c. Balls;
 - d. Puzzles, blocks, and toys to enhance manipulative skills;
 - e. Creative play toys;
 - f. Musical instruments; and
 - g. Indoor and outdoor equipment to enhance large muscle development;
11. Does the following when a parent permits or asks a personnel member to apply personal products, such as petroleum jelly, diaper rash ointments, sun screen or sun block preparations, toothpaste, and baby diapering preparations on the parent's child:
- a. Obtains the child's personal products and written approval for use of the personal products from the child's parent;
 - b. Labels the personal products with the child's name; and
 - c. Keeps the personal products inaccessible to children; and
12. Monitors a child for overheating or overexposure to the sun.
- H.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises and includes in the outpatient treatment center's scope of respite services for children wearing diapers shall ensure that there is a diaper changing space in the area designated for providing respite services for children that contains:
1. A nonabsorbent, sanitizable diaper changing surface that is:
 - a. Seamless and smooth, and
 - b. Kept clear of items not required for diaper changing;
 2. A hand-washing sink adjacent to the diaper changing surface, for a personnel member's use when changing dia-

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- pers and for washing a child during or after diapering, that provides:
- Running water,
 - Soap from a dispenser, and
 - Single-use paper hand towels from a dispenser;
- At least one waterproof, sanitizable container with a waterproof liner and a tight-fitting lid for soiled diapers; and
 - At least one waterproof, sanitizable container with a waterproof liner and a tight-fitting lid for soiled clothing.
- I.** In a diaper changing space, an administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that:
- A diaper changing procedure is established, documented, and implemented that states that a child's diaper is changed as soon as it is soiled and that a personnel member when diapering:
 - Washes and dries the child, using a separate wash cloth and towel only once for each child;
 - If applicable, applies the child's individual personal products labeled with the child's name;
 - Uses single-use non-porous gloves;
 - Washes the personnel member's own hands with soap and running water according to the requirements in R9-10-1028(5);
 - Washes each child's hands with soap and running water after each diaper change; and
 - Cleans, sanitizes, and dries the diaper changing surface following each diaper change; and
 - A personnel member:
 - Removes disposable diapers and disposable training pants from a diaper changing space as needed or at least twice every 24 hours to a waste receptacle outside the building; and
 - Does not:
 - Permit a bottle, formula, food, eating utensil, or food preparation in a diaper changing space;
 - Draw water for human consumption from the hand-washing sink adjacent to a diaper changing surface, required in subsection (H)(2); or
 - If responsible for food preparation, change diapers until food preparation duties have been completed for the day.
- J.** Except as provided in subsection (K)(3), an administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall:
- Serve the following meals or snacks to a child receiving respite services on the premises:
 - For the following periods of time:
 - Two to four hours, one or more snacks;
 - Four to eight hours, one or more snacks and one or more meals; and
 - More than eight hours, two snacks and one or more meals;
 - Make breakfast available to a child receiving respite services on the premises before 8:00 a.m.;
 - Serve lunch to a child who is receiving respite services on the premises between 11:00 a.m. through 1:00 p.m.; and
 - Serve dinner to a child who is receiving respite services on the premises from 5:00 p.m. through 7:00 p.m. and who will remain on the premises after 7:00 p.m.;
 - Ensure that a meal or snack provided by the outpatient treatment center meets the meal pattern requirements in Table 10.1; and
 - If the outpatient treatment center provides a meal or snack to a child:
 - Make a second serving of a food component of a provided snack or meal available to a child who requests a second serving, and
 - Substitute a food that is equivalent to a specific food component if a requested second serving of a specific food component is not available.
- K.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises:
- May serve food provided for a child by the child's parent;
 - If a child's parent does not provide a sufficient number of meals or snacks to meet the requirements in subsection (J)(1), shall supplement, according to the requirements in Table 10.1, the meals or snacks provided by the child's parent; and
 - If applicable, shall serve food to a child at the times and in quantities consistent with the information documented according to subsection (D)(9)(f) for the child and the child's behavioral health assessment, to meet the child's dietary and nutritional needs.
- L.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises that has a respite capacity of more than 10 shall obtain a food establishment license or permit according to the requirements in 9 A.A.C. 8, Article 1, and, if applicable, maintain documentation of the current food establishment license or permit.
- M.** If an administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises serves food to a child receiving respite services on the premises that is not prepared by the outpatient treatment center or provided by the child's parent, the administrator shall ensure that the food was prepared by a food establishment, as defined according to A.A.C. R9-8-101.
- N.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that:
- Children, except infants and children who cannot wash their own hands, wash their hands with soap and running water before and after handling or eating food;
 - A personnel member:
 - Washes the hands of an infant or a child who cannot wash the child's own hands before and after the infant or child handles or eats food, using:
 - A washcloth,
 - A single-use paper towel, or
 - Soap and running water; and
 - If using a washcloth, uses each washcloth on only one child and only one time before it is laundered or discarded;
 - Non-single-use utensils and equipment used in preparing, eating, or drinking food are:
 - After each use:
 - Washed in an automatic dishwasher and air dried or heat dried; or
 - Washed in hot soapy water, rinsed in clean water, sanitized, and air dried or heat dried; and
 - Stored in a clean area protected from contamination;

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4. Single-use utensils and equipment are disposed of after being used;
 5. Perishable foods are covered and stored in a refrigerator at a temperature of 41° F or less;
 6. A refrigerator at the outpatient treatment center maintains a temperature of 41° F or less, as shown by a thermometer kept in the refrigerator at all times;
 7. A freezer at the outpatient treatment center maintains a temperature of 0° F or less, as shown by a thermometer kept in the freezer at all times; and
 8. Foods are prepared as close as possible to serving time and, if prepared in advance, are either:
 - a. Cold held at a temperature of 45° F or less or hot held at a temperature of 130° F or more until served, or
 - b. Cold held at a temperature of 45° F or less and then reheated to a temperature of at least 165° F before being served.
- O.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises:
1. May allow a personnel member to separate a child who is receiving respite services on the premises from other children for unacceptable behavior for no longer than three minutes after the child has regained self-control, but not more than 10 minutes without the personnel member interacting with the child, consistent with the child's behavioral health assessment;
 2. Shall ensure that:
 - a. A personnel member, consistent with the child's behavioral health assessment:
 - i. Defines and maintains consistent and reasonable guidelines and limitations for a child's behavior;
 - ii. Teaches, models, and encourages orderly conduct, personal control, and age-appropriate behavior; and
 - iii. Explains to a child why a particular behavior is not allowed, suggests an alternative, and assists the child to become engaged in an alternative activity;
 - b. An emergency safety response is:
 - i. Only used:
 - (1) By a personnel member trained according to R9-10-716(F)(1) to use an emergency safety response,
 - (2) For the management of a child's violent or self-destructive behavior, and
 - (3) When less restrictive interventions have been determined to be ineffective; and
 - ii. Discontinued at the earliest possible time, but no longer than five minutes after the emergency safety response is initiated;
 - c. If an emergency safety response was used for a child, a personnel member, when the child is discharged to the child's parent:
 - i. Notifies the child's parent of the use of the emergency safety response for the child and the behavior, event, or environmental factor that caused the need for the emergency safety response; and
 - ii. Documents in the child's medical record that the child's parent was notified of the use of the emergency safety response;
- d.** Within 24 hours after an emergency safety response is used for a child receiving respite services on the premises, the following information is entered into the child's medical record:
- i. The date and time the emergency safety response was used;
 - ii. The name of each personnel member who used an emergency safety response;
 - iii. The specific emergency safety response used;
 - iv. The behavior, event, or environmental factor that caused the need for the emergency safety response; and
 - v. Any injury that resulted from the use of the emergency safety response;
- e.** Within 10 working days after an emergency safety response is used for a child receiving respite services on the premises, a behavioral health professional reviews the information in subsection (O)(2)(d) and documents the review in the child's medical record;
- f.** After the review required in subsection (O)(2)(e), the following information is entered into the child's medical record:
- i. Actions taken or planned to prevent the need for a subsequent use of an emergency safety response for the child,
 - ii. A determination of whether the child is appropriately placed at the outpatient treatment center providing respite services for children on the premises, and
 - iii. Whether the child's treatment plan was reviewed or needs to be reviewed and amended to ensure that the child's treatment plan is meeting the child's treatment needs;
- g.** Emergency safety response training is documented according to the requirements in R9-10-716(F)(2); and
- h.** Materials used for emergency safety response training are maintained according to the requirements in R9-10-716(F)(3); and
- 3.** A personnel member does not use or permit:
- a. A method of discipline that could cause harm to the health, safety, or welfare of a child;
 - b. Corporal punishment;
 - c. Abusive language;
 - d. Discipline associated with:
 - i. Eating, napping, sleeping, or toileting;
 - ii. Medication; or
 - iii. Mechanical restraint; or
 - e. Discipline administered to any child by another child.
- P.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall:
1. Provide each child who naps or sleeps on the premises with a separate cot or mat and ensure that:
 - a. A cot or mat used by the child accommodates the child's height and weight;
 - b. A personnel member covers each cot or mat with a clean sheet that is laundered when soiled, or at least once every seven days and before use by a different child;
 - c. A clean blanket or sheet is available for each child;
 - d. A rug, carpet, blanket, or towel is not used as a mat; and

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- e. Each cot or mat is maintained in a clean and repaired condition;
 - 2. Not use bunk beds or waterbed mattresses for a child receiving respite services;
 - 3. Provide an unobstructed passageway at least 18 inches wide between each row of cots or mats to allow a personnel member access to each child;
 - 4. Ensure that if a child naps or sleeps while receiving respite services at the outpatient treatment center, the administrator:
 - a. Does not permit the child to lie in direct contact with the floor while napping or sleeping;
 - b. Prohibits the operation of a television in a room where the child is napping or sleeping; and
 - c. Requires that a personnel member remain awake while supervising the napping or sleeping child; and
 - 5. Ensure that storage space is provided on the premises for cots, mats, sheets, and blankets, that is:
 - a. Accessible to an area used for napping or sleeping; and
 - b. Separate from food service and preparation areas, toilet rooms, and laundry rooms.
- Q.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall, in the area of the premises where the respite services are provided:
- 1. Maintain the premises and furnishings:
 - a. Free of insects and vermin,
 - b. In a clean condition, and
 - c. Free from odor; and
 - 2. Ensure that:
 - a. Floor coverings are:
 - i. Clean; and
 - ii. Free from:
 - (1) Dampness,
 - (2) Odors, and
 - (3) Hazards;
 - b. Toilet bowls, lavatory fixtures, and floors in toilet rooms and kitchens are cleaned and sanitized as often as necessary to maintain them in a clean and sanitized condition or at least once every 24 hours;
 - c. Each toilet room used by children receiving respite services on the premises contains, within easy reach of children:
 - i. Mounted toilet tissue;
 - ii. A sink with running water;
 - iii. Soap contained in a dispenser; and
 - iv. Disposable, single-use paper towels, in a mounted dispenser, or a mechanical hand dryer;
 - d. Personnel members wash their hands with soap and running water after toileting;
 - e. A child's hands are washed with soap and running water after toileting;
 - f. Except for a cup or receptacle used only for water, food waste is stored in a covered container and the container is clean and lined with a plastic bag;
 - g. Food waste and other refuse is removed from the area of the premises where respite services are provided for children at least once every 24 hours or more often as necessary to maintain a clean condition and avoid odors;
 - h. A personnel member or a child does not draw water for human consumption from a toilet room hand-washing sink;
 - i. Toys, materials, and equipment are maintained in a clean condition;
 - j. Plumbing fixtures are maintained in a clean and working condition; and
 - k. Chipped or cracked sinks and toilets are replaced or repaired.
- R.** If laundry belonging to an outpatient treatment center providing respite services for children on the premises is done on the premises, an administrator shall:
- 1. Not use a kitchen or food storage area for sorting, handling, washing, or drying laundry;
 - 2. Locate the laundry equipment in an area that is separate from areas used by children and inaccessible to children;
 - 3. Not permit a child to be in a laundry room or use a laundry area as a passageway for children; and
 - 4. Ensure that laundry soiled by vomitus, urine, feces, blood, or other body fluid is stored, cleaned, and sanitized separately from other laundry.
- S.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that there is a first aid kit in the designated area of the outpatient treatment center where respite services are provided that:
- 1. Contains first aid supplies in a quantity sufficient to meet the needs of the children receiving respite services, including the following:
 - a. Sterile bandages including:
 - i. Self-adhering bandages of assorted sizes,
 - ii. Sterile gauze pads, and
 - iii. Sterile gauze rolls;
 - b. Antiseptic solution or sealed antiseptic wipes;
 - c. A pair of scissors;
 - d. Self-adhering tape;
 - e. Single-use, non-porous gloves; and
 - f. Reclosable plastic bags of at least one-gallon size; and
 - 2. Is accessible to personnel members but inaccessible to children receiving respite services on the premises.
- T.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall:
- 1. Prepare and date a written fire and emergency plan that contains:
 - a. The location of the first aid kit;
 - b. The names of personnel members who have first aid training;
 - c. The names of personnel members who have cardiopulmonary resuscitation training;
 - d. The directions for:
 - i. Initiating notification of a child's parent by telephone or other equally expeditious means within 60 minutes after a fire or emergency; and
 - ii. Providing written notification to the child's parent within 24 hours after a fire or emergency; and
 - e. The outpatient treatment center's street address and the emergency telephone numbers for the local fire department, police department, ambulance service, and poison control center;
 - 2. Maintain the plan required in subsection (T)(1) in the area designated for providing respite services;
 - 3. Post the plan required in subsection (T)(1) in any indoor area where respite services are provided that does not

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- have an operable telephone service or two-way voice communication system that connects the indoor area where respite services are provided with an individual who has direct access to an in-and-out operable telephone services; and
4. Update the plan in subsection (T)(1) at least once every 12 months after the date of initial preparation of the plan or when any information changes.
- U. An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall in the area designated for providing respite services:
1. Post, near a room's designated exit, a building evacuation plan that details the designated exits from the room and the facility where the outpatient treatment center is located; and
 2. Maintain and use a communication system that contains:
 - a. A direct-access, in-and-out, operating telephone service in the area where respite services are provided; or
 - b. A two-way voice communication system that connects the area where respite services are provided with an individual who has direct access to an in-and-out, operating telephone service.
- V. If, while receiving respite services at an outpatient treatment center authorized to provide respite services for children on the premises, a child has an accident, injury, or emergency that, based on an evaluation by a personnel member, requires medical treatment by a health care provider, an administrator shall ensure that a personnel member:
1. Notifies the child's parent immediately after the accident, injury, or emergency;
 2. Documents:
 - a. A description of the accident, injury, or emergency, including the date, time, and location of the accident, injury, or emergency;
 - b. The method used to notify the child's parent; and
 - c. The time the child's parent was notified; and
 3. Maintains the documentation required in subsection (V)(2) for at least 12 months after the date the child last received respite services on the outpatient treatment center's premises.
- W. If a parent of a child who received respite services at an outpatient treatment center authorized to provide respite services for children on the premises informs a personnel member that the child's parent obtained medical treatment for the child from a health care provider for an accident, injury, or emergency the child had while on the premises, an administrator shall ensure that a personnel member:
1. Documents any information about the child's accident, injury, or emergency received from the child's parent; and
 2. Maintains the documentation required in subsection (W)(1) for at least 12 months after the date the child last received respite services on the outpatient treatment center's premises.
- X. If a child exhibits signs of illness or infestation at an outpatient treatment center authorized to provide respite services for children on the premises, an administrator shall ensure that a personnel member:
1. Immediately separates the child from other children,
 2. Immediately notifies the child's parent by telephone or other expeditious means to arrange for the child's discharge from the outpatient treatment center,
 3. Documents the notification required in subsection (X)(2), and
4. Maintains documentation of the notification required in subsection (X)(3) for at least 12 months after the date of the notification.
- Y. An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall comply with the following physical plant requirements:
1. Toilets and hand-washing sinks are available to children in the area designated for providing respite services or on the premises as follows:
 - a. At least one flush toilet and one hand-washing sink for 10 or fewer children;
 - b. At least two flush toilets and two hand-washing sinks for 11 to 25 children; and
 - c. At least one flush toilet and one hand-washing sink for each additional 20 children;
 2. A hand-washing sink provides running water with a drain connected to a sanitary sewer as defined in A.R.S. § 45-101;
 3. A glass mirror, window, or other glass surface that is located within 36 inches of the floor is made of safety glass that has been manufactured, fabricated, or treated to prevent the glass from shattering or flying when struck or broken, or is shielded by a barrier to prevent impact by or physical injury to a child; and
 4. There is at least 30 square feet of unobstructed indoor space for each child who may be receiving respite services on the premises, which excludes floor space occupied by:
 - a. The interior walls;
 - b. A kitchen, a bathroom, a closet, a hallway, a stair, an entryway, an office, an area designated for isolating a child from other children, a storage room, or a room or floor space designated for the sole use of personnel members;
 - c. Room space occupied by desks, file cabinets, storage cabinets, or hand-washing sinks for a personnel member's use; or
 - d. Indoor area that is substituted for required outdoor area.
- Z. An administrator of an outpatient treatment center authorized to provide respite services for children on the premises shall ensure that, in addition to the policies and procedures required in this Article, policies and procedures are established, documented, and implemented for the children's use of a toilet and hand-washing sink that ensure the children's health and safety and include:
1. Supervision requirements for children using the toilet, based on a child's age, gender, and behavioral health issue; and
 2. If the outpatient treatment center does not have a toilet and hand-washing sink available for the exclusive use of children receiving respite services, a method to ensure that an individual, other than a child receiving respite services or a personnel member providing respite services, is not present in the toilet and hand-washing sink area when a child receiving respite services is present in the toilet and hand-washing sink area.
- AA. To provide activities that develop large muscles and an opportunity to participate in structured large muscle physical activities, an administrator of an outpatient treatment center authorized to provide respite services for children on the premises shall:

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1. Provide at least 75 square feet of outdoor area per child for at least 50% of the outpatient treatment center's respite capacity; or
 2. Comply with one of the following:
 - a. If no child receives respite services on the premises for more than four hours per day, provide at least 50 square feet of indoor area for each child, based on the outpatient treatment center's respite capacity;
 - b. If a child receives respite services on the premises for more than four hours but less than six hours per day, provide at least 75 square feet of indoor area per child for at least 50% of the outpatient treatment center's respite capacity, in addition to the indoor area required in subsection (Y)(4); or
 - c. Provide at least 37.5 square feet of outdoor area and 37.5 square feet of indoor area per child for at least 50% of the outpatient treatment center's respite capacity, in addition to the activity area required in subsection (Y)(4).
- BB.** If an administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises is substituting indoor area for outdoor area, the administrator shall:
1. Designate, on the site plan and the floor plan submitted with the license application or a request for an intended change or modification, the indoor area that is being substituted for an outdoor area; and
 2. In the indoor area substituted for outdoor area, install and maintain a mat or pad designed to provide impact protection in the fall zone of indoor swings and climbing equipment.
- CC.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that:
1. An outdoor area used by children receiving respite services:
 - a. Is enclosed by a fence:
 - i. A minimum of 4.0 feet high,
 - ii. Secured to the ground, and
 - iii. With either vertical or horizontal open spaces on the fence or gate that do not exceed 4.0 inches;
 - b. Is maintained free from hazards, such as exposed concrete footings and broken toys; and
 - c. Has gates that are kept closed while a child is in the outdoor area;
 2. The following is provided and maintained within the fall zones of swings and climbing equipment in an outdoor area:
 - a. A shock-absorbing unitary surfacing material manufactured for such use in outdoor activity areas; or
 - b. A minimum depth of 6.0 inches of a nonhazardous, resilient material such as fine loose sand or wood chips;
 3. Hard surfacing material such as asphalt or concrete is not installed or used under swings or climbing equipment unless used as a base for shock-absorbing unitary surfacing material;
 4. A swing or climbing equipment is not located in the fall zone of another swing or climbing equipment; and
 5. A shaded area for each child occupying an outdoor area at any time of the day is provided.
- DD.** An administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall install and maintain a portable, pressurized fire extinguisher that meets, at a minimum, a 2A-10-BC rating of the Underwriters Laboratories in an outpatient treatment center's kitchen and any other location required for Existing Health Care Occupancies in National Fire Protection Association 101, Life Safety Code, incorporated by reference in R9-10-104.01.
- EE.** In addition to the requirements in R9-10-1029(F), an administrator of an outpatient treatment center that is authorized to provide respite services for children on the premises shall ensure that:
1. Combustible material, such as paper, boxes, or rags, is not permitted to accumulate inside or outside the premises;
 2. An unvented or open-flame space heater or portable heater is not used on the premises;
 3. A gas valve on an unused gas outlet is removed and capped where it emerges from the wall or floor;
 4. Heating and cooling equipment is inaccessible to a child;
 5. Fans are mounted and inaccessible to a child;
 6. Toilet rooms are ventilated to the outside of the building, either by a screened window open to the outside air or by an exhaust fan and duct system that is operated when the toilet room is in use;
 7. A toilet room with a door that opens to the exterior of a building is equipped with a self-closing device that keeps the door closed except when an individual is entering or exiting; and
 8. A toilet room door does not open into a kitchen or laundry.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1025 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1025 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2). Sequential numbering corrections made under subsection R9-10-1025(G) at the request of the Department of Health Services on June 27, 2016; file number M16-185 (Supp. 16-3). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

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Table 10.1 Meal Pattern Requirements for Children**Meal Pattern Requirements for Children**

Food Components	Ages 1 through 2 years	Ages 3 through 5 years	Ages 6 and older
Breakfast: 1. Milk, fluid 2. Vegetable, fruit, or full-strength juice 3. Bread and bread alternates (whole grain or enriched): Bread or cornbread, rolls, muffins, or biscuits or cold dry cereal (volume or weight, whichever is less) or cooked cereal, pasta, noodle products, or cereal grains	1/2 cup 1/4 cup 1/2 slice 1/2 serving 1/4 cup 1/4 cup	3/4 cup 1/2 cup 1/2 slice 1/2 serving 1/3 cup 1/4 cup	1 cup 1/2 cup 1 slice 1 serving 3/4 cup 1/2 cup
Lunch or Supper: 1. Milk, fluid 2. Vegetable and/or fruit (2 or more kinds) 3. Bread and bread alternates (whole grain or enriched): Bread or cornbread, rolls, muffins, or biscuits or cold dry cereal (volume or weight, whichever is less) or cooked cereal, pasta, noodle products, or cereal grains 4. Meat or meat alternates: Lean meat, fish, or poultry (edible portion as served) or cheese or egg or cooked dry beans or peas* or peanut butter, soy nut butter, or other nut or seed butters or peanuts, soy nuts, tree nuts, or seeds or an equivalent quantity of any combination of the above meat/meat alternates or yogurt	1/2 cup 1/4 cup total 1/2 slice 1/2 serving 1/4 cup 1/4 cup 1 oz. 1 oz. 1/2 egg 1/4 cup 2 tbsp.** 1/2 oz.** 4 oz.	3/4 cup 1/2 cup total 1/2 slice 1/2 serving 1/3 cup 1/4 cup 1 1/2 oz. 1 1/2 oz. 3/4 egg 3/8 cup 3 tbsp.** 3/4 oz.** 6 oz.	1 cup 3/4 cup total 1 slice 1 serving 3/4 cup 1/2 cup 2 oz. 2 oz. 1 egg 1/2 cup 4 tbsp.** 1 oz.** 8 oz.
Lunch or Supper: 1. Milk, fluid 2. Vegetable and/or fruit (2 or more kinds) 3. Bread and bread alternates (whole grain or enriched): Bread or cornbread, rolls, muffins, or biscuits or cold dry cereal (volume or weight, whichever is less) or cooked cereal, pasta, noodle products, or cereal grains 4. Meat or meat alternates: Lean meat, fish, or poultry (edible portion as served) or cheese or egg or cooked dry beans or peas* or peanut butter, soy nut butter, or other nut or seed butters or peanuts, soy nuts, tree nuts, or seeds or an equivalent quantity of any combination of the above meat/meat alternates or yogurt	1/2 cup 1/2 cup 1/2 slice 1/2 serving 1/4 cup 1/4 cup 1/2 oz. 1/2 oz. 1/2 egg 1/8 cup 1 tbsp. 1/2 oz. 2 oz.	1/2 cup 1/2 cup 1/2 slice 1/2 serving 1/3 cup 1/4 cup 1/2 oz. 1/2 oz. 1/2 egg 1/8 cup 1 tbsp. 1/2 oz. 2 oz.	1 cup 3/4 cup 1 slice 1 serving 3/4 cup 1/2 cup 1 oz. 1 oz. 1/2 egg 1/4 cup 2 tbsp. 1 oz. 4 oz.
<p>* In the same meal service, dried beans or dried peas may be used as a meat alternate or as a vegetable; however, such use does not satisfy the requirement for both components.</p> <p>** At lunch and supper, no more than 50% of the requirement shall be met with nuts, seeds, or nut butters. Nuts, seeds, or nut butters shall be combined with another meat or meat alternative to fulfill the requirement. Two tablespoons of nut butter or one ounce of nuts or seeds equals one ounce of meat.</p> <p>*** Juice may not be served when milk is served as the only other component.</p>			

Historical Note

Table 10.1 made by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2).

R9-10-1026. Sleep Disorder Services

An administrator of an outpatient treatment center that is authorized to provide sleep disorder services shall ensure that:

1. A physician provides direction for the sleep disorder services provided by the outpatient treatment center;
2. At least one of the following is present on the premise of the outpatient treatment center:

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- a. A polysomnographic technician certified by the Board of Registered Polysomnographic Technologists (BRPT),
- b. A polysomnographic technician accepted by the BRPT to sit for the BRPT certification examination, or
- c. A respiratory therapist;
3. There is at least one patient testing room having a minimum of 140 square feet and no dimension less than 10 feet;
4. There is a bathroom available for use by a patient that contains:
 - a. A working sink with running water,
 - b. A working toilet that flushes and has a seat,
 - c. Toilet tissue,
 - d. Soap for hand washing,
 - e. Paper towels or a mechanical air hand dryer,
 - f. Lighting, and
 - g. A means of ventilation;
5. A personnel member certified in cardiopulmonary resuscitation is available on the outpatient treatment center's premise; and
6. Equipment for the delivery of continuous positive airway pressure and bi-level positive airway pressure, including remote control of the airway pressure, is available on the premises of the outpatient treatment center.
3. If a physician is not on the premises during hours of operation, a notice stating this fact is conspicuously posted in the waiting room according to A.R.S. § 36-432;
4. If a patient's death occurs at the outpatient treatment center, a written report is submitted to the Department as required in A.R.S. § 36-445.04;
5. A medical practitioner completes basic life support training and pediatric basic life support training:
 - a. Before providing medical services, nursing services, or health-related services at the outpatient treatment center, and
 - b. At least once every 24 months after the initial date of employment;
6. Except as provided in subsection (5), a personnel member completes basic adult and pediatric cardiopulmonary resuscitation training:
 - a. Before providing medical services, nursing services, or health-related services at the outpatient treatment center; and
 - b. At least once every 24 months after the initial date of employment or volunteer service; and
7. In addition to the requirements in R9-10-1006(11), a medical practitioner's record includes documentation of completion of basic life support training and pediatric basic life support training.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1026 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1026 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1027. Urgent Care Services Provided in a Freestanding Urgent Care Setting

An administrator of an outpatient treatment center that is authorized to provide urgent care services in a freestanding urgent care setting shall ensure that:

1. In addition to the policies and procedures required in R9-10-1003(D)(1), policies and procedures are established, documented, and implemented to protect the health and safety of a patient that cover basic life support training and pediatric basic life support training including:
 - a. Method and content of training,
 - b. Qualifications of individuals providing the training, and
 - c. Documentation that verifies a medical practitioner has received the training;
2. A medical practitioner is on the premises during hours of clinical operation to provide the medical services, nursing services, and health-related services included in the outpatient treatment center's scope of services;

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1027 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1027 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1028. Infection Control

An administrator shall ensure that:

1. An infection control program is established, under the direction of an individual qualified according to the outpatient treatment center's policies and procedures, to prevent the development and transmission of infections and communicable diseases including:
 - a. A method to identify and document infections occurring at the outpatient treatment center;
 - b. Analysis of the types, causes, and spread of infections and communicable diseases at the outpatient treatment center;
 - c. The development of corrective measures to minimize or prevent the spread of infections and communicable diseases at the outpatient treatment center; and
 - d. Documentation of infection control activities including:
 - i. The collection and analysis of infection control data,

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- ii. The actions taken related to infections and communicable diseases, and
 - iii. Reports of communicable diseases to the governing authority and state and county health departments;
- 2. Infection control documentation is maintained for at least 12 months after the date of the documentation;
- 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that cover:
 - a. If applicable:
 - i. Handling and disposal of biohazardous medical waste;
 - ii. Isolation of a patient;
 - iii. Sterilization and disinfection of medical equipment and supplies;
 - iv. Use of personal protective equipment such as aprons, gloves, gowns, masks, or face protection when applicable; and
 - v. Collection, storage, and cleaning of soiled linens and clothing;
 - b. Cleaning an individual's hands when the individual's hands are visibly soiled;
 - c. Training of personnel members, employees, and volunteers in infection control practices; and
 - d. Work restrictions for a personnel member, employee, or volunteer with a communicable disease or infected skin lesion;
- 4. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures; and
- 5. A personnel member, employee, or volunteer washes his or her hands with soap and water or uses a hand disinfection product before and after each patient contact and after handling soiled linen, soiled clothing, or a potentially infectious material.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1028 adopted as an emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1028 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1029. Emergency and Safety Standards

- A. An administrator shall ensure that policies and procedures for providing emergency treatment are established, documented, and implemented that protect the health and safety of patients and include:
 - 1. A list of the medications, supplies, and equipment required on the premises for the emergency treatment provided by the outpatient treatment center;

- 2. A system to ensure medications, supplies, and equipment are available, have not been tampered with, and, if applicable, have not expired;
 - 3. A requirement that a cart or a container is available for emergency treatment that contains the medication, supplies, and equipment specified in the outpatient treatment center's policies and procedures; and
 - 4. A method to verify and document that the contents of the cart or container are available for emergency treatment.
- B. An administrator shall ensure that emergency treatment is provided to a patient admitted to the outpatient treatment center according to the outpatient treatment center's policies and procedures.
- C. An administrator shall ensure that:
 - 1. A disaster plan is developed, documented, maintained in a location accessible to personnel members, and, if necessary, implemented that includes:
 - a. Procedures for protecting the health and safety of patients and other individuals on the premises;
 - b. Assigned responsibilities for each personnel member, employee, or volunteer;
 - c. Instructions for the evacuation of patients and other individuals on the premises; and
 - d. Arrangements to provide medical services, nursing services, and health-related services to meet patients' needs;
 - 2. The disaster plan required in subsection (C)(1) is reviewed at least once every 12 months;
 - 3. An evacuation drill is conducted on each shift at least once every 12 months;
 - 4. A disaster plan review required in subsection (C)(2) or an evacuation drill required in subsection (C)(3) is documented as follows:
 - a. The date and time of the evacuation drill or disaster plan review;
 - b. The name of each personnel member, employee, or volunteer participating in the evacuation drill or disaster plan review;
 - c. A critique of the evacuation drill or disaster plan review; and
 - d. If applicable, recommendations for improvement;
 - 5. Documentation required in subsection (C)(4) is maintained for at least 12 months after the date of the evacuation drill or disaster plan review; and
 - 6. An evacuation path is conspicuously posted on each hallway of each floor of the outpatient treatment center.
- D. An administrator shall ensure that an outpatient treatment center has either:
 - 1. Both of the following that are tested and serviced at least once every 12 months:
 - a. A fire alarm system installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in R9-10-104.01, that is in working order; and
 - b. A sprinkler system installed according to the National Fire Protection Association 13 Standard for the Installation of Sprinkler Systems, incorporated by reference in R9-10-104.01, that is in working order; or
 - 2. The following:
 - a. A smoke detector installed in each hallway of the outpatient treatment center that is:
 - i. Maintained in an operable condition;

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- ii. Either battery operated or, if hard-wired into the electrical system of the outpatient treatment center, has a back-up battery; and
 - iii. Tested monthly; and
- b. A portable, operable fire extinguisher, labeled as rated at least 2A-10-BC by the Underwriters Laboratories, that:
 - i. Is available at the outpatient treatment center;
 - ii. Is mounted in a fire extinguisher cabinet or placed on wall brackets so that the top handle of the fire extinguisher is not over five feet from the floor and the bottom of the fire extinguisher is at least four inches from the floor;
 - iii. If a disposable fire extinguisher, is replaced when its indicator reaches the red zone; and
 - iv. If a rechargeable fire extinguisher, is serviced at least once every 12 months and has a tag attached to the fire extinguisher that specifies the date of the last servicing and the name of the servicing person.
- E. An administrator shall ensure that documentation of a test required in subsection (D) is maintained for at least 12 months after the date of the test.
- F. An administrator shall ensure that:
 - 1. Exit signs are illuminated, if the local fire jurisdiction requires illuminated exit signs;
 - 2. Except as provided in subsection (G), a corridor in the outpatient treatment center is at least 44 inches wide;
 - 3. Corridors and exits are kept clear of any obstructions;
 - 4. A patient can exit through any exit during hours of operation;
 - 5. An extension cord is not used instead of permanent electrical wiring;
 - 6. Each electrical outlet and electrical switch has a cover plate that is in good repair;
 - 7. If applicable, a sign is placed at the entrance of a room or an area indicating that oxygen is in use; and
 - 8. Oxygen and medical gas containers:
 - a. Are maintained in a secured, upright position; and
 - b. Are stored in a room with a door:
 - i. In a building with sprinklers, at least five feet from any combustible materials; or
 - ii. In a building without sprinklers, at least 20 feet from any combustible materials.
- G. If an outpatient treatment center licensed before October 1, 2013 has a corridor less than 44 inches wide, an administrator shall ensure that:
 - 1. The corridor is wide enough to allow for:
 - a. Unobstructed movement of patients within the outpatient treatment center, and
 - b. The safe evacuation of patients from the outpatient treatment center; and
 - 2. The corridor is used only as a passageway.
- H. An administrator shall:
 - 1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 - 2. Make any repairs or corrections stated on the fire inspection report, and
 - 3. Maintain documentation of a current fire inspection.

Historical Note

Adopted as an emergency effective November 17, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-6). Former Section R9-10-1029 adopted as an

emergency now adopted and amended as a permanent rule effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1029 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-1030. Physical Plant, Environmental Services, and Equipment Standards

- A. An administrator shall ensure that:
 - 1. An outpatient treatment center's premises are:
 - a. Sufficient to provide the outpatient treatment center's scope of services;
 - b. Cleaned and disinfected according to the outpatient treatment center's policies and procedures to prevent, minimize, and control illness and infection; and
 - c. Free from a condition or situation that may cause an individual to suffer physical injury;
 - 2. If an outpatient treatment center collects urine or stool specimens from a patient, except as provided in subsection (B), or is authorized to provide respite services for children on the premises, the outpatient treatment center has at least one bathroom on the premises that:
 - a. Contains:
 - i. A working sink with running water,
 - ii. A working toilet that flushes and has a seat,
 - iii. Toilet tissue,
 - iv. Soap for hand washing,
 - v. Paper towels or a mechanical air hand dryer,
 - vi. Lighting, and
 - vii. A means of ventilation; and
 - b. Is for the exclusive use of the outpatient treatment center;
 - 3. A pest control program that complies with A.A.C. R3-8-201(C)(4) is implemented and documented;
 - 4. A tobacco smoke-free environment is maintained on the premises;
 - 5. A refrigerator used to store a medication is:
 - a. Maintained in working order, and
 - b. Only used to store medications;
 - 6. Equipment at the outpatient treatment center is:
 - a. Sufficient to provide the outpatient treatment center's scope of services;
 - b. Maintained in working condition;
 - c. Used according to the manufacturer's recommendations; and
 - d. If applicable, tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - 7. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of testing, calibration, or repair.

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- B.** An outpatient treatment center may have a bathroom used for the collection of a patient's urine or stool that is not for the exclusive use of the outpatient treatment center if:
1. The bathroom is located in the same contiguous building as the outpatient treatment center's premises,
 2. The bathroom is of a sufficient size to support the outpatient treatment center's scope of services, and
 3. There is a documented agreement between the licensee and the owner of the building stating that the bathroom complies with the requirements in this Section and allowing the Department access to the bathroom to verify compliance.
- C.** If an outpatient treatment center has a bathroom that is not for the exclusive use of the outpatient treatment center as allowed in subsection (B), an administrator shall ensure that:
1. Policies and procedures are established, documented, and implemented to:
 - a. Protect the health and safety of an individual using the bathroom; and
 - b. Ensure that the bathroom is cleaned and sanitized to prevent, minimize, and control illness and infection;
 2. Documented instructions are provided to a patient that cover:
 - a. Infection control measures when a patient uses the bathroom, and
 - b. The safe return of a urine or stool specimen to the outpatient treatment center;
 3. The bathroom complies with the requirements in subsection (A)(2)(a); and
 4. The bathroom is free from a condition or situation that may cause an individual using the bathroom to suffer a physical injury.
- Historical Note**
- Adopted effective February 15, 1984 (Supp. 84-1). Repealed by summary action, interim effective date July 21, 1995 (Supp. 95-3). The proposed summary action repealing R9-10-1030 was remanded by the Governor's Regulatory Review Council which revoked the interim effectiveness of the summary rule. The Section in effect before the proposed summary action has been restored (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 1222, effective April 5, 1999 (Supp. 99-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2). Amended by final expedited rulemaking at 25 A.A.R. 259, effective January 8, 2019 (Supp. 19-1).
- R9-10-1031. Colocation Requirements**
- A.** In addition to the definitions in A.R.S. §§ 36-401 and 36-439 and R9-10-101 and R9-10-1001, the following definition applies in this Section:
- "Patient" means an individual who enters the premises of a collaborating outpatient treatment center to obtain physical health services or behavioral health services from the collaborating outpatient treatment center or a colocator that shares areas of the collaborating outpatient treatment center's premises.
- B.** Only one outpatient treatment center in a facility may be designated as a collaborating outpatient treatment center for the facility.
- C.** The following health care institutions are not permitted to be a collaborating outpatient treatment center or a colocator in a collaborating outpatient treatment center:
1. An affiliated counseling facility;
 2. An outpatient treatment center authorized by the Department to provide dialysis services according to R9-10-1018;
 3. An outpatient treatment center authorized by the Department to provide emergency room services according to R9-10-1019; or
 4. An outpatient treatment center operating under a single group license according to A.R.S. § 36-422(F) or (G).
- D.** In addition to the requirements for a license application in R9-10-105, a governing authority of an outpatient treatment center requesting authorization to operate or continue to operate as a collaborating outpatient treatment center shall submit, in a Department-provided format:
1. The following information for each proposed colocator that may share an area of the collaborating outpatient treatment center's premises and nontreatment personnel at the collaborating outpatient treatment center:
 - a. For each proposed associated licensed provider:
 - i. Name,
 - ii. The associated licensed provider's license number or the date the associated licensed provider submitted to the Department a license application for an outpatient treatment center or a counseling facility license,
 - iii. Proposed scope of services, and
 - iv. A copy of the written agreement with the collaborating outpatient treatment center required in subsection (E); and
 - b. For each exempt health care provider:
 - i. Name,
 - ii. Current health care professional license number,
 - iii. Proposed scope of services, and
 - iv. A copy of the written agreement required in subsection (F) with the collaborating outpatient treatment center; and
 2. In addition to the requirements in R9-10-105(A)(5)(b)(vi), a floor plan that shows:
 - a. Each colocator's proposed treatment area, and
 - b. The areas of the collaborating outpatient treatment center's premises shared with a colocator.
- E.** An administrator of a collaborating outpatient treatment center shall have a written agreement with each associated licensed provider that includes:
1. In a Department-provided format:
 - a. The associated licensed provider's name;
 - b. The name of the associated licensed provider's governing authority;
 - c. Whether the associated licensed provider plans to share medical records with the collaborating outpatient treatment center;
 - d. If the associated licensed provider plans to share medical records with the collaborating outpatient treatment center, specific information about which party will obtain a patient's:
 - i. General consent or informed consent, as applicable;
 - ii. Consent to allow a colocator access to the patient's medical record; and
 - iii. Advance directives;

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- e. How the associated licensed provider will transport or transfer a patient to another colocator within the collaborating outpatient treatment center;
 - f. How the associated licensed provider will ensure controlled substances stored in the associated licensed provider's licensed premises are not diverted;
 - g. How the associated licensed provider will ensure environmental services in the associated licensed provider's licensed premises will not affect patient care in the collaborating outpatient treatment center;
 - h. How the associated licensed provider's personnel members will respond to a patient's sudden, intense, or out-of-control behavior, in the associated licensed provider's treatment area, to prevent harm to the patient or another individual in the collaborating outpatient treatment center;
 - i. A statement that, if any of the colocators include children's behavioral health services in the colocator's scope of services, the associated licensed provider will ensure that all employees and personnel members of the associated licensed provider comply with the fingerprint clearance card requirements in A.R.S. § 36-425.03;
 - j. A statement that the associated licensed provider will:
 - i. Document the following each time another colocator provides emergency health care services in the associated licensed provider's treatment area:
 - (1) The name of the colocator;
 - (2) If different from the name of the colocator, the name of the physician, physician assistant, registered nurse practitioner, or behavioral health professional providing the emergency health care services;
 - (3) A description of the emergency health care services provided; and
 - (4) The date and time the emergency health care services were provided;
 - ii. Maintain the documentation in subsection (E)(1)(j)(i) for at least 12 months after the emergency health care services were provided; and
 - iii. Submit a copy of the documentation to the collaborating outpatient treatment center within 48 hours after the provision of the emergency health care services;
 - k. A statement that the associated licensed provider will:
 - i. Document the following each time the associated licensed provider provides emergency health care services in another colocator's treatment area:
 - (1) If different from the name of the associated licensed provider, the name of the physician, physician assistant, registered nurse practitioner, or behavioral health professional providing the emergency health care services;
 - (2) The name of the colocator;
 - (3) A description of the emergency health care services provided; and
 - (4) The date and time the emergency health care services were provided;
 - ii. Maintain the documentation in subsection (E)(1)(k)(i) for at least 12 months after the emergency health care services were provided; and
 - iii. Submit a copy of the documentation to the collaborating outpatient treatment center within 48 hours after the provision of the emergency health care services;
 - l. An attestation that the associated licensed provider will comply with the written agreement;
 - m. The signature of the associated licensed provider's governing authority according to A.R.S. § 36-422(B) and the date signed; and
 - n. The signature of the collaborating outpatient treatment center's governing authority according to A.R.S. § 36-422(B) and the date signed; and
2. A copy of the associated licensed provider's scope of services, including whether the associated licensed provider plans to provide behavioral health services for children.
- F. An administrator of a collaborating outpatient treatment center shall have a written agreement with each exempt health care provider that includes:
- 1. In a Department-provided format:
 - a. The exempt health care provider's name;
 - b. The exempt health care provider license type and license number;
 - c. Whether the exempt health care provider plans to share medical records with the collaborating outpatient treatment center;
 - d. If the exempt health care provider plans to share medical records with the collaborating outpatient treatment center, specific information about which party will obtain a patient's:
 - i. General consent or informed consent, as applicable;
 - ii. Consent to allow a colocator access to the patient's medical record; and
 - iii. Advance directives;
 - e. How the exempt health care provider will transport or transfer a patient to another colocator within the collaborating outpatient treatment center;
 - f. How the exempt health care provider will ensure controlled substances stored in the exempt health care provider's designated premises are not diverted;
 - g. How the exempt health care provider will ensure environmental services in the exempt health care provider's licensed premises will not affect patient care in the collaborating outpatient treatment center;
 - h. How the exempt health care provider and any staff of the exempt health care provider will respond to a patient's sudden, intense, or out-of-control behavior, in the exempt health care provider's treatment area, to prevent harm to the patient or another individual in the collaborating outpatient treatment center;
 - i. A statement that, if any of the colocators include children's behavioral health services in the colocator's statement of services, the exempt health care provider will ensure that all employees and staff of the exempt health care provider comply with the fingerprint clearance card requirements A.R.S. § 36-425.03;
 - j. A statement that the exempt health care provider will:

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- i. Document the following each time another colocator provides emergency health care services in the exempt health care provider's treatment area:
 - (1) The name of the colocator;
 - (2) If different from the name of the colocator, the name of the physician, physician assistant, registered nurse practitioner, or behavioral health professional providing the emergency health care services;
 - (3) A description of the emergency health care services provided; and
 - (4) The date and time the emergency health care services were provided;
 - ii. Maintain the documentation in subsection (F)(1)(j)(i) for at least 12 months after the emergency health care services were provided; and
 - iii. Submit a copy of the documentation to the collaborating outpatient treatment center within 48 hours after the provision of the emergency health care services;
 - k. A statement that the exempt health care provider will:
 - i. Document the following each time the exempt health care provider provides emergency health care services in another colocator's treatment area:
 - (1) If different from the name of the exempt health care provider, the name of the physician, physician assistant, registered nurse practitioner, or behavioral health professional providing the emergency health care services;
 - (2) The name of the colocator;
 - (3) A description of the emergency health care services provided; and
 - (4) The date and time the emergency health care services were provided;
 - ii. Maintain the documentation in subsection (F)(1)(k)(i) for at least 12 months after the emergency health care services were provided; and
 - iii. Submit a copy of the documentation to the collaborating outpatient treatment center within 48 hours after the provision of the emergency health care services;
 - l. An attestation that the exempt health care provider will comply with the written agreement;
 - m. The signature of the exempt health care provider and the date signed; and
 - n. The signature of the collaborating outpatient treatment center's governing authority according to A.R.S. § 36-422(B) and the date signed; and
 - 2. A copy of the exempt health care provider's scope of services, including whether the exempt health care provider plans to provide behavioral health services for children.
- G. As part of the policies and procedures required in this Article, an administrator of a collaborating outpatient treatment center shall ensure that policies and procedures are established, documented, and implemented to protect the health and safety of a patient based on the scopes of services of all colocators that:
 - 1. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for nontreatment personnel who may provide services in the areas of the collaborating outpatient treatment center's premises shared with a colocator;
 - 2. Cover orientation and in-service education for nontreatment personnel who may provide services in the areas of the collaborating outpatient treatment center's premises shared with a colocator;
 - 3. Cover cardiopulmonary resuscitation training, including:
 - a. The method and content of cardiopulmonary resuscitation training, which includes a demonstration of the individual's ability to perform cardiopulmonary resuscitation;
 - b. The qualifications for an individual to provide cardiopulmonary resuscitation training;
 - c. The time-frame for renewal of cardiopulmonary resuscitation training; and
 - d. The documentation that verifies that an individual has received cardiopulmonary resuscitation training;
 - 4. Cover first aid training;
 - 5. Cover patient screening, including a method to ensure that, if a patient identifies a specific colocator, the patient is directed to the identified colocator;
 - 6. Cover the provision of emergency treatment to protect the health and safety of a patient or individual present in an area of the collaborating outpatient treatment center's premises shared with a colocator according to the requirements for emergency treatment policies and procedures in R9-10-1029(A);
 - 7. If medication is stored in an area of the collaborating outpatient treatment center's premises shared with a colocator, cover obtaining, storing, accessing, and disposing of medications, including provisions for controlling inventory and preventing diversion of controlled substances;
 - 8. Cover biohazardous wastes, if applicable;
 - 9. Cover environmental services in an area of the collaborating outpatient treatment center's premises shared with a colocator that affect patient care; and
 - 10. Cover how personnel members and nontreatment personnel will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual in an area of the collaborating outpatient treatment center's premises shared with a colocator.
- H. An administrator of a collaborating outpatient treatment center shall ensure that:
 - 1. Areas of the collaborating outpatient treatment center's premises shared with a colocator are:
 - a. Sufficient to accommodate the outpatient treatment center's and any colocators' scopes of services;
 - b. Cleaned and disinfected according to the outpatient treatment center's policies and procedures to prevent, minimize, and control illness and infection; and
 - c. Free from a condition or situation that may cause an individual to suffer physical injury;
 - 2. A written log is maintained that documents the date, time, and circumstances each time a colocator provides emergency health care services in another colocator's designated treatment area; and
 - 3. The documentation in the written log required in subsection (H)(2) is maintained for at least 12 months after the date the colocator provides emergency health care services in another colocator's designated treatment area.
- I. If any colocator at a collaborating outpatient treatment center includes children's behavioral health services as part of the

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collocator's scope of services, an administrator of the collaborating outpatient treatment center shall ensure that the governing authority, employees, personnel members, nontreatment personnel, and volunteers of the collaborating outpatient treatment center comply with the fingerprint clearance card requirements in A.R.S. § 36-425.03.

Historical Note

New Section made by exempt rulemaking at 22 A.A.R. 1035, pursuant to Laws 2015, Ch. 158, § 3; effective May 1, 2016 (Supp. 16-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

ARTICLE 11. ADULT DAY HEALTH CARE FACILITIES**R9-10-1101. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following applies in this Article, unless otherwise specified:

"Care plan" means a written program of action for a participant's care based upon an assessment of the participant's physical, nutritional, psychosocial, economic, and environmental strengths and needs and implemented according to established short- and long-term goals.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1102. Supplemental Application Requirements

In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for a license as an adult day health care facility shall include on the application the number of participants for whom the applicant is requesting authorization to provide adult day health services.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1102 renumbered to Section R9-10-1103; new Section R9-10-1102 made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-1103. Administration**A. A governing authority shall:**

1. Consist of one or more individuals responsible for the organization, operation, and administration of an adult day health care facility;
2. Establish, in writing:
 - a. An adult day health care facility's scope of services, and
 - b. Qualifications for an administrator;
3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
4. Adopt a quality management program according to R9-10-1104;
5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
6. Designate in writing, an acting administrator, who has the qualifications established in subsection (A)(2)(b) if the administrator is:

- a. Expected not to be present on an adult day health care facility's premises for more than 30 calendar days, or
 - b. Not present on an adult day health care facility's premises for more than 30 calendar days; and
7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425(I), when there is a change in an administrator and identify the name and qualifications of the new administrator.

B. An administrator:

1. Is 21 years of age or older;
2. Is directly accountable to the governing authority of an adult day health care facility for the daily operation of the adult day health care facility and all services provided by or at the adult day health care facility;
3. Has the authority and responsibility to manage the adult day health care facility; and
4. Except as provided in subsection (A)(6), designates, in writing, an individual who is 21 years of age or older and present on the adult day health care facility's premises and accountable for the adult day health care facility when the administrator is not present on the adult day health care facility premises and participants are present on the adult day health care facility's premises.

C. An administrator shall ensure that:

1. Policies and procedures are established, documented, and implemented to protect the health and safety of a participant that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Cover certification in cardiopulmonary resuscitation and first aid training;
 - d. Include how a personnel member may submit a complaint relating to services provided to a participant;
 - e. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - f. Include a method to identify a participant to ensure that the participant receives the appropriate services;
 - g. Cover participant rights, including assisting a participant who does not speak English or who has a disability to become aware of participant rights;
 - h. Cover specific steps for:
 - i. A participant to file a complaint, and
 - ii. The adult day health care facility to respond to a participant complaint;
 - i. Cover medical records, including electronic medical records; and
 - j. Cover a quality management program, including incident reports and supporting documentation;
2. Policies and procedures for services provided by an adult day health care facility are established, documented, and implemented to protect the health and safety of a participant that:
 - a. Cover screening, enrollment, and discharge;
 - b. Cover the provision of the services in the adult day health care facility's scope of services;
 - c. Cover dispensing, administering, and disposing of medications, including provisions for inventory con-

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- trol and preventing diversion of controlled substances;
- d. Cover how personnel members will respond to a participant's sudden, intense, or out-of-control behavior to prevent harm to the participant or another individual;
- e. Cover food services;
- f. Cover environmental services;
- g. Cover infection control;
- h. Cover contracted services;
- i. Cover emergency treatment provided at the adult day health care facility; and
- j. Designate which employees or personnel members are required to have current certification in cardiopulmonary resuscitation and first aid training;
- 3. Policies and procedures are:
 - a. Available to personnel members, employees, volunteers, and students; and
 - b. Reviewed at least once every three years and updated as needed; and
- 4. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of an adult day health care facility, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the adult day health care facility.
- D. An administrator shall:
 - 1. Maintain, and make available to individuals upon request, a schedule of rates and charges;
 - 2. Ensure that a monthly calendar of planned activities is:
 - a. Posted before the beginning of a month, and
 - b. Maintained on the premises for at least 90 calendar days after the end of the month;
 - 3. Ensure that materials, supplies, and equipment are provided for the planned activities; and
 - 4. Assist in the formation of a participants' council according to R9-10-1112.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1103 renumbered to Section R9-10-1104; new Section R9-10-1103 renumbered from Section R9-10-1102 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1104. Quality Management

An administrator shall ensure that:

- 1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to participants;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to participant care;

- d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to participant care; and
- e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
- 2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to participant care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to participant care; and
- 3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1104 renumbered to Section R9-10-1105; new Section R9-10-1104 renumbered from Section R9-10-1103 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1105. Contracted Services

An administrator shall ensure that:

- 1. Contracted services are provided according to the requirements in this Article, and
- 2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1105 renumbered to Section R9-10-1106; new Section R9-10-1105 renumbered from Section R9-10-1104 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1106. Personnel

A. An administrator shall ensure that:

- 1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the participants receiving physical health services or behavioral health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired

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- the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
- iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;
2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures;
 3. Sufficient personnel members are present on an adult day health care facility's premises when participants are present and have the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the adult day health care facility's scope of services,
 - b. Meet the needs of a participant, and
 - c. Ensure the health and safety of a participant; and
 4. A personnel member, or an employee or a volunteer who has or is expected to have direct interaction with a participant for more than eight hours a week, provides evidence of freedom from infectious tuberculosis:
 - a. On or before the date the individual begins providing services at or on behalf of the adult day health care facility, and
 - b. As specified in R9-10-113.
- B.** An administrator shall ensure that a personnel member:
1. Is 18 years of age or older, and
 2. Is not a participant of the adult day health care facility.
- C.** An administrator shall ensure that a personnel record for each personnel member, employee, volunteer, or student:
1. Includes:
 - a. The individual's name, date of birth, and contact telephone number;
 - b. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 - c. Documentation of:
 - i. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - ii. The individual's education and experience applicable to the individual's job duties;
 - iii. The individual's completed orientation and in-service education as required by policies and procedures;
 - iv. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - v. Cardiopulmonary resuscitation training, if required for the individual according to this Article and policies and procedures;
 - vi. First aid training, if required for the individual according to this Article and policies and procedures; and
 - vii. Evidence of freedom from infectious tuberculosis, if required for the individual according to this Article or policies and procedures;
 2. Is maintained:
 - a. Throughout the individual's period of providing services in or for the adult day health care facility, and
 - b. For at least 24 months after the last date the individual provided service in or for the adult day health care facility; and
3. For a personnel member who has not provided physical health services or behavioral health services at or for the adult day health care facility during the previous 12 months, is provided to the Department within 72 hours after the Department's request.
- D.** An administrator shall ensure that:
1. At least two personnel members are present on the premises whenever two or more participants are in the adult day health care facility;
 2. At least one personnel member with cardiopulmonary resuscitation and first-aid certification is on the premises at all times;
 3. A registered nurse manages the nursing services and provides direction for health-related services provided by the adult day health care facility; and
 4. A nurse is on the premises daily to:
 - a. Administer medications and treatments, and
 - b. Monitor a participant's health status.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1106 renumbered to Section R9-10-1107; new Section R9-10-1106 renumbered from Section R9-10-1105 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1107. Enrollment

- A.** An administrator shall ensure that a participant provides evidence of freedom from infectious tuberculosis:
1. Before or within seven calendar days after the participant's enrollment, and
 2. As specified in R9-10-113.
- B.** Before or at the time of enrollment, an administrator shall ensure that a participant or the participant's representative signs a written agreement with the adult day health care facility that includes:
1. The participant's name and date of birth,
 2. Enrollment requirements,
 3. A list of the customary services that the adult day health care facility provides,
 4. A list of services that are available at an additional cost,
 5. A list of fees and charges,
 6. Procedures for termination of the agreement,
 7. The requirements of the adult day health care facility,
 8. The names and telephone numbers of individuals designated by the participant to be notified in the event of an emergency, and
 9. A copy of the adult day health care facility's procedure on health care directives.
- C.** An administrator shall give a copy of the agreement in subsection (B) to the participant or the participant's representative and keep the original in the participant's medical record.
- D.** An administrator shall ensure that a participant has a signed written medical assessment that:
1. Was completed by the participant's medical practitioner within 60 calendar days before enrollment; and
 2. Includes:

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- a. Information that addresses the participant's:
 - i. Physical health;
 - ii. Cognitive awareness of self, location, and time; and
 - iii. Deficits in cognitive awareness;
 - b. Physical, mental, and emotional problems experienced by the participant;
 - c. A schedule of the participant's medications;
 - d. A list of treatments the participant is receiving;
 - e. The participant's special dietary needs; and
 - f. The participant's known allergies.
- E.** At the time of enrollment, an administrator shall ensure that the participant or participant's representative:
- 1. Documents whether the participant may sign in and out of the adult day health care facility; and
 - 2. Provides the following:
 - a. The name and telephone number of the:
 - i. Participant's representative;
 - ii. Family member to be contacted in an emergency;
 - iii. Participant's medical practitioner; and
 - iv. Adult who provides the participant with supervision and assistance in the preparation of meals, housework, and personal grooming, if applicable; and
 - b. If applicable, a copy of the participant's health care directive.
- F.** An administrator shall ensure that a comprehensive assessment of the participant:
- 1. Is completed by a registered nurse before the participant's tenth visit or within 30 calendar days after enrollment, whichever comes first;
 - 2. Documents the participant's:
 - a. Physical health,
 - b. Mental and emotional status, and
 - c. Social history; and
 - 3. Includes:
 - a. Medical practitioner orders,
 - b. Adult day health care services recommended for the participant's care plan, and
 - c. The signature of the registered nurse conducting the comprehensive assessment and date signed.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1107 renumbered to Section R9-10-1108; new Section R9-10-1107 renumbered from Section R9-10-1106 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1108. Care Plan

- An administrator shall ensure that a care plan for a participant:
- 1. Is developed within seven calendar days after the completion of the participant's comprehensive assessment;
 - 2. Has input from:
 - a. The participant or participant's representative,
 - b. The registered nurse who performed the comprehensive assessment, and
 - c. Personnel who have provided services to the participant;
 - 3. Is based on the participant's comprehensive assessment;
 - 4. Includes:

- a. A summary of the participant's medical or health problems, including physical, mental, and emotional disabilities or impairments;
 - b. Adult day health services to be provided;
 - c. Goals and objectives of care that are time-limited and measurable;
 - d. Interventions required to achieve objectives, including recommendations for therapy and referrals to other service providers; and
 - e. Discharge instructions according to R9-10-1109(B); and
5. Is reviewed and updated at least once every six months and whenever there is a significant change in the participant's condition.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1108 renumbered to Section R9-10-1109; new Section R9-10-1108 renumbered from Section R9-10-1107 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1109. Discharge

- A.** An administrator may discharge a participant from an adult day health care facility by terminating the agreement in R9-10-1107(B):
- 1. After giving the participant or participant's representative five working days written notice; and
 - 2. For any of the following reasons:
 - a. Evidence of repeated failure to comply with the requirements of the adult day health care facility,
 - b. Documented proof of failure to pay,
 - c. Behavior that is dangerous to self or that interferes with the physical or psychological well-being of other participants, or
 - d. The participant requires services not in the adult day health care facility's scope of services.
- B.** An administrator shall ensure that discharge instructions for a participant are:
- 1. Developed that:
 - a. Identify any specific needs of the participant after discharge,
 - b. Are completed before discharge occurs,
 - c. Include a description of the level of care that may meet the participant's assessed and anticipated needs after discharge, and
 - d. Are documented in the participant's medical record within 48 hours after the discharge instructions are completed; and
 - 2. Provided to the participant or the participant's representative before the discharge occurs.

Historical Note

Adopted effective July 22, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1109 renumbered to Section R9-10-1110; new Section R9-10-1109 renumbered from Section R9-10-1108 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1110. Participant Rights

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- A.** An administrator shall ensure that:
1. The requirements in subsection (B) and the participant rights in subsection (C) are conspicuously posted on the premises;
 2. At the time of enrollment, a participant or the participant's representative receives a written copy of the requirements in subsection (B) and the participant rights in subsection (C); and
 3. Policies and procedures include:
 - a. How and when a participant or the participant's representative is informed of participant rights in subsection (C), and
 - b. Where participant rights are posted as required in subsection (A)(1).
- B.** An administrator shall ensure that:
1. A participant is treated with dignity, respect, and consideration;
 2. A participant is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by the adult day health care facility's personnel members, employees, volunteers, or students; and
 3. A participant or the participant's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of proposed alternatives to the treatment, associated risks, and possible complications;
 - d. Is informed of the following:
 - i. The policy on health care directives,
 - ii. The participant complaint process,
 - iii. Rates and charges for participating at the adult day health care facility, and
 - iv. The process for contacting the local office of Adult Protective Services;
 - e. Consents to photographs of the participant before the participant is photographed, except that a participant may be photographed when enrolled at an adult day health care facility for identification and administrative purposes; and
 - f. Except as otherwise permitted by law, provides written consent to the release of information in the participant's:
 - i. Medical record, or
 - ii. Financial records.
- C.** A participant has the following rights:
1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 2. To receive treatment that supports and respects the participant's individuality, choices, strengths, and abilities;
 3. To communicate, associate, and meet privately with individuals of the participant's choice;
 4. To have access to a telephone, to make and receive calls, and to send and receive correspondence without interception or interference by the adult day health care facility;
 5. To arrive and depart from the adult day health care facility, consistent with the participant's care plan and personal safety;
 6. To receive privacy in treatment and care for personal needs;
 7. To review, upon written request, the participant's own records;
 8. To receive a referral to another health care institution if the adult day health care facility is not authorized or not able to provide physical health services or behavioral health services needed by the participant;
 9. To participate or have the participant's representative participate in the development of a care plan or decisions concerning treatment;
 10. To participate or refuse to participate in research or experimental treatment; and
 11. To receive assistance from a family member, the participant's representative, or other individual in understanding, protecting, or exercising the participant's rights.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1110 renumbered to Section R9-10-1111; new Section R9-10-1110 renumbered from Section R9-10-1109 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1111. Medical Records

- A.** An administrator shall ensure that:
1. A medical record is established and maintained for a participant according to A.R.S. Title 12, Chapter 13, Article 7.1;
 2. An entry in a participant's medical record is:
 - a. Recorded only by an individual authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 3. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 4. A participant's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the participant's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the participant or the participant's representative; or
 - c. As permitted by law; and
 5. A participant's medical record is protected from loss, damage, or unauthorized use.
- B.** If an adult day health care facility maintains participant's medical records electronically, an administrator shall ensure that:
1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a participant's medical record is recorded by the computer's internal clock.

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- C. An administrator shall ensure that a participant's medical record contains:
1. Participant information that includes:
 - a. The participant's name;
 - b. The participant's address;
 - c. The participant's date of birth; and
 - d. Any known allergies, including medication allergies;
 2. The name of the participant's medical practitioner or other individuals involved in the care of the participant;
 3. An enrollment agreement and date of the participant's first visit;
 4. If applicable, documented general consent and informed consent by the participant or the participant's representative;
 5. If applicable, the name and contact information of the participant's representative and:
 - a. The document signed by the participant consenting for the participant's representative to act on the participant's behalf; or
 - b. If the participant's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
 6. Documentation of medical history;
 7. A copy of the participant's health care directive, if applicable;
 8. Orders;
 9. The medical assessment required in R9-10-1107(D);
 10. A care plan;
 11. The comprehensive assessment required in R9-10-1107(F);
 12. Progress notes;
 13. If applicable, documentation of any actions taken to control the participant's sudden, intense, or out-of-control behavior to prevent harm to the participant or another individual;
 14. Documentation of adult day health services provided to the participant;
 15. The disposition of the participant upon discharge;
 16. The discharge date, if applicable;
 17. Documentation of a medication administered to the participant that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. The identification and signature of the individual administering, providing assistance in the self-administration of medication, or observing the participant's self-administration of the medication;
 - d. If medication for pain is administered on a PRN basis to a participant:
 - i. An identification of the participant's pain before administering the medication, and
 - ii. The effect of the medication administered; and
 - e. Any adverse reaction a participant has to the medication;
 18. If applicable, documentation of:
 - a. A significant change in the participant's condition,
 - b. An injury or accident that occurred at the adult day health care facility and required medical services, and
 - c. Notification provided to the participant's medical practitioner or the participant's representative of the significant change in subsection (C)(18)(a) or the injury or accident in subsection (C)(18)(b);
 19. Documentation of whether the participant may sign in or out of the adult day health care facility;
 20. Documentation of freedom from infectious tuberculosis required in R9-10-1107(A); and
 21. Names and telephone numbers of individuals to be notified in the event of an emergency.

Historical Note

Amended effective September 2, 1977 (Supp. 77-5).
 Repealed effective July 22, 1994 (Supp. 94-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1111 renumbered to Section R9-10-1112; new Section R9-10-1111 renumbered from Section R9-10-1110 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1112. Participant's Council

- A. A participants' council:
1. Is composed of participants, who are willing to serve on the council and take part in scheduled meetings;
 2. May develop guidelines that govern the council's activities;
 3. May meet quarterly;
 4. May record minutes of the meetings; and
 5. May provide written input on planned activities and policies of the adult day health care facility.
- B. A participants' council may invite personnel or the administrator to attend their meetings.
- C. An administrator shall act as a liaison between the participants' council and personnel members, employees, and volunteers.

Historical Note

Amended effective September 2, 1977 (Supp. 77-5).
 Repealed effective July 22, 1994 (Supp. 94-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1112 renumbered to Section R9-10-1113; new Section R9-10-1112 renumbered from Section R9-10-1111 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1113. Adult Day Health Services

- A. An administrator shall ensure that a personnel member provides supervision for a participant, except during periods of the day when the participant signs out or is signed out according to policies and procedures.
- B. An administrator shall ensure that a personnel member provides assistance with activities of daily living and supervision of personal hygiene according to the participant's care plan and policies and procedures.
- C. An administrator shall ensure that a personnel member provides a participant with planned therapeutic individual and group activities:
1. According to the:
 - a. Participant's care plan,

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- b. Policies and procedures, and
 - c. Monthly calendar of planned activities required in R9-10-1103(D)(2); and
- 2. That include:
 - a. Physical activities,
 - b. Group discussion,
 - c. Techniques a participant may use to maintain or improve the participant's independence in performing activities of daily living,
 - d. Assessment of deficits in cognitive awareness and reinforcement of remaining cognitive awareness,
 - e. Activities of daily living,
 - f. Participants' council meetings, and
 - g. Leisure time.
- D. An administrator shall ensure that a nurse monitors the health status of a participant according to the participant's care plan and policies and procedures by:
 - 1. Observing the participant's mental and physical condition, including monthly monitoring of the participant's vital signs and nutritional status;
 - 2. Documenting changes in the participant's mental and physical condition in the participant's medical record; and
 - 3. Reporting any changes to the participant's representative or medical practitioner.
- E. If an adult day health care facility administers medication or provides assistance in the self-administration of medication, an administrator shall ensure that policies and procedures for medication administration or assistance in the self-administration of medication:
 - 1. Include:
 - a. A process for providing information to a participant about medication prescribed for the participant including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse response to a medication, or
 - iii. A medication overdose; and
 - c. Procedures for documenting medication services and assistance in the self-administration of medication; and
 - 2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- F. An administrator shall ensure that:
 - 1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a pharmacist, medical practitioner, or registered nurse; and
 - b. Ensure that medication is administered to a participant only as prescribed;
 - 2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
 - 3. A medication administered to a participant:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the participant's medical record.
- G. If an adult day health care facility provides assistance in the self-administration of medication, an administrator shall ensure that:
 - 1. A participant's medication is stored by the adult day health care facility;
 - 2. The following assistance is provided to a participant:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the participant;
 - c. Observing the participant while the participant removes the medication from the container;
 - d. Verifying that the medication is taken as ordered by the participant's medical practitioner by confirming that:
 - i. The participant taking the medication is the individual stated on the medication container label,
 - ii. The participant is taking the dosage of the medication stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label, and
 - iii. The participant is taking the medication at the time stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label; or
 - e. Observing the participant while the participant takes the medication;
 - 3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a pharmacist, medical practitioner, or registered nurse;
 - 4. Training for a personnel member, other than a medical practitioner or registered nurse, in assistance in the self-administration of medication:
 - a. Is provided by a medical practitioner or registered nurse or an individual trained by a medical practitioner or registered nurse; and
 - b. Includes:
 - i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. The process for notifying the appropriate entities when an emergency medical intervention is needed;
 - 5. A personnel member, other than a medical practitioner or registered nurse, completes the training in subsection (G)(4) before the personnel member provides assistance in the self-administration of medication; and
 - 6. Assistance in the self-administration of medication provided to a participant:
 - a. Is in compliance with an order, and
 - b. Is documented in the participant's medical record.
- H. An administrator shall ensure that:
 - 1. A current drug reference guide is available for use by personnel members, and
 - 2. A current toxicology reference guide is available for use by personnel members.
- I. When medication is stored at an adult day health care facility, an administrator shall ensure that:

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1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 2. Medication is stored according to the instructions on the medication container; and
 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a participant for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication, including expired medication; and
 - b. Storing, inventorying, and dispensing controlled substances.
- J.** A medication error or a participant's refusal to take a medication is:
1. Reported to the participant's representative within 12 hours, and
 2. Documented in the participant's medical record within 24 hours.
- K.** An adverse reaction is:
1. Reported to the participant's representative and medical practitioner within 12 hours, and
 2. Documented in the participant's medical record within 24 hours.
- L.** An administrator shall:
1. Immediately notify a participant's representative and medical practitioner of an injury that may require medical services;
 2. Report an injury to Adult Protective Services according to A.R.S. § 46-454, when applicable;
 3. Prepare a written report on the day of occurrence or when any injury of unknown origin is detected that includes the:
 - a. Name of the participant;
 - b. Type of injury;
 - c. Names of witnesses, if applicable; and
 - d. Action taken;
 4. Investigate the injury within 24 hours and documenting any corrective action in the report; and
 5. Retain the report for at least 12 months after the date of the injury.
- M.** For a participant whose care plan includes counseling on an individual or group basis, an administrator shall ensure that:
1. If the counseling needed by the participant is within the adult day health care facility's scope of services, a personnel member provides the counseling to the participant according to policies and procedures; or
 2. If the counseling needed by the participant is not within the adult day health care facility's scope of services, a personnel member assists the participant or the participant's representative to obtain counseling for the participant according to policies and procedures.
- Historical Note**
- Amended effective September 2, 1977 (Supp. 77-5). Repealed effective July 22, 1994 (Supp. 94-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1113 renumbered to Section R9-10-1114; new Section R9-10-1113 renumbered from Section R9-10-1112 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).
- R9-10-1114. Food Services**
- A.** An administrator shall:
1. Designate a food service supervisor who is responsible for food service in an adult day health care facility; and
 2. If an adult day health care facility provides a therapeutic diet to participants, ensure that:
 - a. The therapeutic diet is prescribed in writing by:
 - i. The participant's medical practitioner, or
 - ii. A registered dietitian; and
 - b. A current therapeutic diet reference manual is available to the food service supervisor.
- B.** A food service supervisor shall ensure that:
1. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served each day,
 - c. Is conspicuously posted at least one calendar day before the first meal on the food menu will be served,
 - d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;
 2. Meals and snacks provided by the adult day health care facility are served according to posted menus;
 3. Meals and snacks for each day are planned using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp>;
 4. A participant is provided a diet that meets the participant's nutritional needs as specified in the participant's comprehensive assessment, under R9-10-1107(F), or the participant's care plan;
 5. Water is available and accessible to participants at all times, unless otherwise stated by the participant's medical practitioner; and
 6. A participant requiring assistance to eat is provided with assistance that recognizes the participant's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils, such as a plate guard, rocking fork, or assistive hand device, if not provided by the participant.
- C.** An administrator shall ensure that food is obtained, prepared, served, and stored as follows:
1. Food is free from spoilage, filth, or other contamination and is safe for human consumption;
 2. Food is protected from potential contamination;
 3. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a participant, such as cut, chopped, ground, pureed, or thickened;
 4. Potentially hazardous food is maintained as follows:
 - a. Foods requiring refrigeration are maintained at 41° F or below;
 - b. Foods requiring cooking are cooked to heat all parts of the food to a temperature of at least 145° F for 15 seconds, except that:
 - i. Ground beef and ground meats are cooked to heat all parts of the food to at least 155° F;
 - ii. Poultry, poultry stuffing, stuffed meats, and stuffing that contains meat are cooked to heat all parts of the food to at least 165° F;
 - iii. Pork and any food containing pork are cooked to heat all parts of the food to at least 155° F;
 - iv. Raw shell eggs for immediate consumption are cooked to at least 145° F for 15 seconds and

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- any food containing raw shell eggs is cooked to heat all parts of the food to at least 155 °F;
- v. Roast beef and beef steak are cooked to an internal temperature of at least 155° F; and
- vi. Leftovers are reheated to a temperature of at least 165° F;

- 5. A refrigerator contains a thermometer, accurate to plus or minus 3° F, at the warmest part of the refrigerator;
- 6. Frozen foods are stored at a temperature of 0° F or below; and
- 7. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair.

D. An administrator shall ensure that:

- 1. If an adult day health care facility is licensed to provide adult day health services to more than 15 participants, the adult day health care facility:
 - a. Has a license or permit as a food establishment under 9 A.A.C. 8, Article 1; and
 - b. Maintains a copy of the adult day health care facility's food establishment license or permit;
- 2. If the adult day health care facility contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the adult day health care facility, a copy of the contracted food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the adult day health care facility; and
- 3. The adult day health care facility is able to store, refrigerate, and reheat food to meet the dietary needs of a participant.

Historical Note

Amended effective September 2, 1977 (Supp. 77-5). Repealed effective July 22, 1994 (Supp. 94-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1114 renumbered to Section R9-10-1115; new Section R9-10-1114 renumbered from Section R9-10-1113 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1115. Emergency and Safety Standards**A. An administrator shall ensure that:**

- 1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and employees, and, if necessary, implemented that includes:
 - a. Procedures for protecting the health and safety of participants and other individuals on the premises;
 - b. Assigned responsibilities for each personnel member and employee;
 - c. Instructions for the evacuation of participants, including:
 - i. When, how, and where participants will be relocated; and
 - ii. A plan for notifying the emergency contact for each participant;
 - d. A plan to ensure each participant's medications will be available to administer to the participant during a disaster; and
 - e. A plan for providing water, food, and needed services to participants present in the adult day health care facility or the adult day health care facility's relocation site during a disaster;
- 2. The disaster plan required in subsection (A)(1) is reviewed at least once every 12 months;

- 3. Documentation of a disaster plan review required in subsection (A)(2) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each personnel member, employee, or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement; and
- 4. A disaster drill for assigned personnel is conducted on each shift at least once every three months and documented.

B. An administrator shall ensure that:

- 1. A participant receives orientation to the exits from the adult day health care facility and the route to be used when evacuating participants within two visits after the participant's enrollment, and
- 2. A participant's orientation is documented in the participant's medical record.

C. An administrator shall ensure that:

- 1. An evacuation drill for employees and participants is conducted at least once every six months;
- 2. Documentation of an evacuation drill is created, is maintained for at least 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for all employees and participants to evacuate to a designated area;
 - d. Any problems encountered in conducting the evacuation drill; and
 - e. Recommendations for improvement, if applicable; and
- 3. An evacuation path is conspicuously posted on each hallway of each floor of the adult day health care facility.

Historical Note

Adopted effective September 2, 1977 (Supp. 77-5). Repealed effective July 22, 1994 (Supp. 94-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1115 renumbered to Section R9-10-1116; new Section R9-10-1115 renumbered from Section R9-10-1114 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1116. Environmental Standards**A. An administrator shall ensure that:**

- 1. The adult day health care facility's premises are:
 - a. Cleaned and disinfected according to policies and procedures to prevent, minimize, and control illness and infection; and
 - b. Free from a condition or situation that may cause a participant or an individual to suffer physical injury;
- 2. A pest control program that complies with A.A.C. R3-8-201(C)(4) is implemented and documented;
- 3. Windows and doors opening to the outside are screened if they are kept open at any time for ventilation or other purposes;
- 4. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
- 5. Equipment used at the adult day health care facility is:

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- a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
6. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
 7. Garbage and refuse are:
 - a. Stored in covered containers lined with plastic bags, and
 - b. Removed from the premises at least once a week;
 8. Heating and cooling systems maintain the adult day health care facility at a temperature between 70° F and 84° F;
 9. The supply of hot and cold water is sufficient to meet the personal hygiene needs of participants and the cleaning and sanitation requirements in this Article;
 10. Soiled linen and soiled clothing stored by the adult day health care facility are maintained separate from clean linen and clothing and stored in closed containers away from food storage, kitchen, and dining areas;
 11. Oxygen containers are secured in an upright position;
 12. Poisonous or toxic materials stored by the adult day health care facility are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to participants;
 13. Combustible or flammable liquids and hazardous materials stored by the adult day health care facility are stored in the original labeled containers or safety containers in a locked area inaccessible to participants; and
 14. Pets or animals are:
 - a. Controlled to prevent endangering the participants and to maintain sanitation;
 - b. Not allowed in treatment, food storage, food preparation, or dining areas;
 - c. Licensed consistent with local ordinances; and
 - d. For a dog or cat, vaccinated against rabies.
- B.** If a swimming pool is located on the premises, an administrator shall ensure that:
1. On a day that a participant uses the swimming pool, an employee:
 - a. Tests the swimming pool's water quality at least once for compliance with one of the following chemical disinfection standards:
 - i. A free chlorine residual between 1.0 and 3.0 ppm as measured by the N, N-Diethyl-phenylenediamine test;
 - ii. A free bromine residual between 2.0 and 4.0 ppm as measured by the N, N-Diethyl-phenylenediamine test; or
 - iii. An oxidation-reduction potential equal to or greater than 650 millivolts; and
 - b. Records the results of the water quality tests in a log that includes the date tested and test result;
 2. Documentation of the water quality test is maintained for at least 12 months after the date of the test;
 3. A swimming pool is not used by a participant if a water quality test shows that the swimming pool water does not comply with subsection (B)(1)(a);
 4. At least one personnel member with cardiopulmonary resuscitation training, required in R9-10-1106(D), is present in the pool area when a participant is in the pool area; and
 5. At least two personnel members are present in the pool area if two or more participants are in the pool area.

Historical Note

Adopted effective September 2, 1977 (Supp. 77-5). Repealed effective July 22, 1994 (Supp. 94-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1116 renumbered to Section R9-10-1117; new Section R9-10-1116 renumbered from Section R9-10-1115 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 25 A.A.R. 259, effective January 8, 2019 (Supp. 19-1).

R9-10-1117. Physical Plant Standards

- A.** An administrator shall ensure that an adult day health care facility complies with the physical plant health and safety codes and standards incorporated by reference in R9-10-104.01, in effect on the date the adult day health care facility submitted architectural plans and specifications to the Department for approval, according to R9-10-104.
- B.** An administrator shall ensure that the premises and equipment are sufficient to accommodate:
1. The services stated in the adult day health care facility's scope of services, and
 2. An individual accepted as a participant by the adult day health care facility.
- C.** An administrator shall ensure that an adult day health care facility has at least 40 square feet of indoor activity space for each participant, excluding bathrooms, halls, storage areas, kitchens, wall thicknesses, and rooms designated for use by individuals who are not participants.
- D.** An administrator shall ensure that an outside activity space is provided and available that:
1. Is on the premises,
 2. Has a hard-surfaced section for wheelchairs,
 3. Has an available shaded area, and
 4. Has a means of egress without entering the adult day health care facility.
- E.** An administrator shall ensure that:
1. There is at least one working toilet that flushes and has a seat and one sink with running water for each ten participants;
 2. A bathroom for use by participants provides privacy when in use and contains in a location accessible to participants:
 - a. A mirror;
 - b. Toilet paper for each toilet;
 - c. Soap accessible from each sink;
 - d. Paper towels in a dispenser or an air hand dryer; and
 - e. Grab bars for the toilet and other assistive devices, if required, to provide for participant safety;
 3. A bathroom has a window that opens or another means of ventilation;
 4. If a bathing facility is provided:
 - a. The bathing facility provides privacy when in use,
 - b. Shower enclosures have nonporous surfaces,
 - c. Showers and tubs have grab bars for participant safety, and
 - d. Tub and shower floors have slip-resistant surfaces;

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5. Dining areas are furnished with dining tables and chairs and large enough to accommodate participants;
6. There is a wall or other means of physical separation between dining facilities and food preparation areas;
7. If the adult day health care facility serves food, areas are designated for food preparation, storage, and handling and are not used as a passageway by participants; and
8. All flooring is slip-resistant.

F. If the adult day health care facility has a swimming pool on the premises, an administrator shall ensure that:

1. The swimming pool is equipped with the following:
 - a. An operational water circulation system that clarifies and disinfects the swimming pool water continuously and that includes at least:
 - i. A removable strainer,
 - ii. Two swimming pool inlets located on opposite sides of the swimming pool, and
 - iii. A drain located at the swimming pool's lowest point and covered by a grating that cannot be removed without using tools; and
 - b. An operational vacuum cleaning system;
2. The swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;
 - b. Has no vertical openings greater than four inches across;
 - c. Has no horizontal openings, except as described in subsection (C)(2)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
 - f. Has a self-closing, self-latching gate that:
 - i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground; and
 - iii. Is locked when the swimming pool is not in use;
3. A life preserver or shepherd's crook is available and accessible in the pool area; and
4. If the swimming pool is used by participants, pool safety requirements are conspicuously posted in the pool area.

Historical Note

Adopted effective September 2, 1977 (Supp. 77-5).
Repealed effective July 22, 1994 (Supp. 94-3). New Section R9-10-1117 renumbered from Section R9-10-1116 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-1118. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1119. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1120. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1121. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1122. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1123. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1124. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1125. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1126. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
Repealed effective July 22, 1994 (Supp. 94-3).

R9-10-1127. Repealed**Historical Note**

Adopted effective September 2, 1977 (Supp. 77-5).
Repealed effective July 22, 1994 (Supp. 94-3).

ARTICLE 12. HOME HEALTH AGENCIES**R9-10-1201. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following apply in this Article, unless otherwise specified:

1. "Branch office" means a location other than a home health agency's main administrative office that:
 - a. Operates under the license of the home health agency, and
 - b. Is under the control of the home health agency's administrator.
2. "Home health services director" means an individual who provides direction for the home health services provided by or through a home health agency.
3. "Medical social services" means activities that assist a patient to cope with concerns about the patient's illness or injury, and may include helping to find resources to address the patient's concerns.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1202. Supplemental Application Requirements

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In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for a license as a home health agency shall:

1. Include on the application:
 - a. The name and address of each proposed branch office, if applicable; and
 - b. The geographic region to be served by:
 - i. The proposed home health agency's administrative office, and
 - ii. Each proposed branch office; and
2. Submit to the Department a copy of a valid fingerprint clearance card issued according to A.R.S. Title 41, Chapter 12, Article 3.1 for:
 - a. The applicant, if the applicant is an individual; or
 - b. Each individual with a 10% or greater ownership of the business organization, if the applicant is a business organization.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1203. Administration**A. A governing authority shall:**

1. Consist of one or more individuals responsible for the organization, operation, and administration of the home health agency;
2. Establish, in writing:
 - a. A home health agency's scope of services, and
 - b. Qualifications for an administrator;
3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
4. Adopt a quality management program according to R9-10-1204;
5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
6. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b) if the administrator is:
 - a. Expected not to be present in a home health agency's administrative office for more than 30 calendar days, or
 - b. Not present in a home health agency's administrative office for more than 30 calendar days;
7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425(I) when there is a change in the administrator and identify the name and qualifications of the new administrator;
8. Appoint, according to A.R.S. § 36-151(5)(b), an advisory group that consists of four or more members that include:
 - a. A physician;
 - b. A registered nurse who has at least one year of experience as a registered nurse providing home health services; and
 - c. Two or more individuals who represent a medical, nursing, or health-related profession; and
9. Ensure that the advisory group appointed according to subsection (A)(8):
 - a. Meets at least once every 12 months,
 - b. Documents meetings, and
 - c. Assists in establishing and evaluating policies and procedures for the home health agency.

B. An administrator:

1. Is directly accountable to the governing authority of a home health agency for all services provided by the home health agency;
 2. Has the authority and responsibility to manage the home health agency;
 3. Except as provided in subsection (A)(6), designates, in writing, an individual who is present at the home health agency's administrative office and accountable for services provided by the home health agency when the administrator is not present at the home health agency's administrative office; and
 4. Ensures compliance with A.R.S. § 36-411.
- C. An administrator shall:**
1. Ensure that policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, and volunteers;
 - b. Cover orientation and in-service education for personnel members, employees, and volunteers;
 - c. Cover how a personnel member may submit a complaint relating to patient care;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Include a method to identify a patient to ensure the patient receives the appropriate services;
 - f. Cover patient rights, including assisting a patient who does not speak English or who has a disability to become aware of patient rights;
 - g. Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. The home health agency to respond to a patient complaint;
 - h. Cover health care directives;
 - i. Cover medical records, including electronic medical records;
 - j. Cover a quality management program, including incident reports and supporting documentation;
 - k. Cover contracted services; and
 - l. Cover and designate which personnel members or employees are required to have current certification in cardiopulmonary resuscitation and first aid training;
 2. Ensure that policies and procedures for services provided by a home health agency are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover patient admission, discharge planning, and discharge;
 - b. Cover the provision of home health services and, if applicable, specific types of supportive services and medical social services;
 - c. Include when general consent and informed consent are required;
 - d. Cover how personnel members will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 - e. Cover medication procurement, if applicable, and administration; and
 - f. Cover infection control;
 3. Ensure that policies and procedures are:

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- a. Available to personnel members, employees, and volunteers, and
- b. Reviewed at least once every three years and updated as needed;
4. Ensure that records of advisory group meetings are maintained for at least 24 months after the date of the meeting;
5. Designate, in writing, a home health services director who is:
 - a. A physician with at least 24 months of experience working for or with a home health agency; or
 - b. A registered nurse with at least three years of nursing experience, including at least 24 months of experience as a registered nurse providing home health services;
6. Ensure that:
 - a. Speech therapy or speech-language pathology services are provided by a speech-language pathologist according to A.R.S. § 36-1940.01 or speech-language pathologist assistant licensed according to A.R.S. § 36-1940.04;
 - b. Nutritional services are provided by a registered dietitian;
 - c. Occupational therapy services are provided by an occupational therapist or occupational therapy assistant;
 - d. Physical therapy services are provided by a physical therapist or a physical therapist assistant;
 - e. Respiratory care services are provided by a respiratory therapist, respiratory therapy technician licensed according to A.R.S. Title 32, Chapter 35, or a practical nurse or registered nurse licensed according to A.R.S. Title 32, Chapter 15;
 - f. Pharmacy services are provided by a pharmacist; and
 - g. Medical social services are provided:
 - i. By a personnel member qualified according to policies and procedures that coordinates medical social services; and
 - ii. For medical social services, related to the practice of social work in A.R.S. § 32-3251, by a personnel member licensed under A.R.S. Title 32, Chapter 33, Article 5;
7. Ensure that the services specified in subsection (C)(6) are provided to a patient only under an order by the patient's physician, registered nurse practitioner, or podiatrist, as applicable; and
8. Unless otherwise stated, ensure that:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a home health agency, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the home health agency.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking, at 25 A.A.R. 3391 with an immediate effective date of November 6, 2019 (Supp. 19-4).

R9-10-1204. Quality Management

An administrator shall ensure that:

1. A plan for a quality management program for the home health agency is established, documented, and implemented that includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate the provision of services, including oversight of personnel members;
 - c. A method to evaluate the data collected to identify a concern about the provision of services;
 - d. A method to make changes or take action as a result of the identification of a concern about the provision of services;
 - e. A method to determine whether actions taken improved the provision of services; and
 - f. The frequency of submitting the documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. Each identified concern about the delivery of services related to patient care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to patient care; and
3. The report in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1205. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1206. Personnel

A. An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected services listed in the established job description,

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- ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected services listed in the established job description;
- 2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services, and
 - b. According to policies and procedures;
- 3. Sufficient personnel members are available with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the home health agency's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient; and
- 4. A personnel member, an employee, a volunteer, or a student who has or is expected to have direct interaction with a patient, provides evidence of freedom from infectious tuberculosis:
 - a. On or before the date the individual begins providing services at or on behalf of the home health agency, and
 - b. As specified in R9-10-113.
- B.** An administrator shall ensure that a personnel record for each personnel member, employee, or volunteer:
 - 1. Includes:
 - a. The individual's name, date of birth, and contact telephone number;
 - b. The individual's starting date of employment or volunteer service, and if applicable, ending date; and
 - c. Documentation of:
 - i. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - ii. The individual's education and experience applicable to the individual's job duties;
 - iii. The individual's completed orientation and in-service education as required by policies and procedures;
 - iv. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - v. The individual's compliance with the requirements in A.R.S. § 36-411;
 - vi. Cardiopulmonary resuscitation training, if required for the individual according to this Article and policies and procedures;
 - vii. First aid training, if required for the individual according to this Article and policies and procedures; and
 - viii. Evidence of freedom from infectious tuberculosis, if required according to subsection (A)(4);
 - 2. Is maintained:
 - a. Throughout the individual's period of providing services in or for the home health agency; and
 - b. For at least 24 months after the last date the individual provided services in or for the home health agency; and
- 3. For a personnel member who has not provided services for the home health agency during the previous 12 months, provided to the Department within 72 hours after the Department's request.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking, at 25 A.A.R. 3391 with an immediate effective date of November 6, 2019 (Supp. 19-4). Amended by final expedited rulemaking, at 25 A.A.R. 3391 with an immediate effective date of November 6, 2019 (Supp. 19-4).

R9-10-1207. Care Plan

- A.** An administrator shall ensure that a care plan is developed for each patient:
 - 1. Based on an assessment of the patient as required in R9-10-1210(D)(1) or (F)(2)(e)(i);
 - 2. With participation from:
 - a. The patient's physician, registered nurse practitioner, or podiatrist, as applicable; and
 - b. A registered nurse; and
 - 3. That includes:
 - a. The patient's diagnosis;
 - b. Surgery dates relevant to home health services, if applicable;
 - c. The patient's cognitive awareness of self, location, and time;
 - d. Functional abilities and limitations;
 - e. Goals for functional rehabilitation, if applicable;
 - f. The type, duration, and frequency of each service to be provided;
 - g. Treatments the patient is receiving from a source other than the home health agency;
 - h. Medications and herbal supplements reported by the patient or the patient's representative as being used by the patient, and the dose, route of administration, and schedule for administration of each medication or herbal supplement;
 - i. Any known drug allergies;
 - j. Nutritional requirements and preferences;
 - k. Specific measures to improve the patient's safety and protect the patient against injury; and
 - l. A discharge plan for the patient including, if applicable, a plan for assessing the accomplishment of treatment or therapy goals for the patient.
- B.** An administrator shall ensure that:
 - 1. Home health services are provided to a patient by the home health agency according to the patient's care plan;
 - 2. The patient's care plan is reviewed and updated:
 - a. Whenever there is a change in the patient's condition that indicates a need for a change in the type, duration, or frequency of the services being provided;
 - b. If the patient's physician, registered nurse practitioner, or podiatrist, as applicable, orders a change in the care plan; and
 - c. At least every 60 calendar days; and
 - 3. The patient's physician, registered nurse practitioner, or podiatrist, as applicable, authenticates the care plan with

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a signature within 30 calendar days after the care plan is initially developed and whenever the care plan is reviewed or updated.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1208. Patient Rights

- A.** An administrator shall ensure that:
1. The requirements in subsection (B) and the patient rights in subsection (C) are conspicuously posted at the home health agency's administrative office;
 2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C); and
 3. Policies and procedures include:
 - a. How and when a patient or the patient's representative is informed of patient rights in subsection (C); and
 - b. Where patient rights are posted as required in subsection (A)(1).
- B.** An administrator shall ensure that:
1. A patient is treated with dignity, respect, and consideration;
 2. A patient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by a home health agency's personnel members, employees, or volunteers; and
 3. A patient or the patient's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of proposed alternatives to a psychotropic medication and the associated risks and possible complications of a psychotropic medication;
 - d. Is informed of the following:
 - i. The home health agency's policy on health care directives;
 - ii. The patient complaint process;
 - iii. Home health services provided by or through the home health agency; and
 - iv. The rates and charges for services before the services are initiated and before a change in rates, charges, or services;
 - e. Consents to photographs of the patient before the patient is photographed, except that a patient may be photographed when admitted to a home health

agency for identification and administrative purposes; and

- f. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:

- i. Medical record, or
- ii. Financial records.

C. A patient has the following rights:

1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
2. To receive treatment that supports and respects the patient's individuality, choices, strengths, and abilities;
3. To receive privacy in treatment and care for personal needs;
4. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
5. To receive a referral to another health care institution if the home health agency is not authorized or not able to provide physical health services needed by the patient;
6. To participate or have the patient's representative participate in the development of a care plan or decisions concerning treatment;
7. To participate or refuse to participate in research or experimental treatment; and
8. To receive assistance from a family member, the patient's representative, or other individual in understanding, protecting, or exercising the patient's rights.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1209. Medical Records

- A.** An administrator shall ensure that:
1. A medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
 2. An entry in a patient's medical record is:
 - a. Recorded only by an individual authorized by a policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a physician, registered nurse practitioner, or podiatrist according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the physician, registered nurse practitioner, or podiatrist issuing the order;
 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 5. A patient's medical record is available to personnel members, physicians, registered nurse practitioners, or podiatrists authorized by policies and procedures to access the patient's medical record;

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6. Information in a patient's medical record is disclosed to an individual not authorized under subsection (A)(5) only with the written consent of a patient or the patient's representative or as permitted by law; and
7. A patient's medical record is protected from loss, damage, or unauthorized use.
- B.** If a home health agency maintains patients' medical records electronically, an administrator shall ensure that:
 1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a patient's medical record is recorded by the computer's internal clock.
- C.** An administrator shall ensure that a patient's medical record contains:
 1. Patient information that includes:
 - a. The patient's name;
 - b. The patient's address and telephone number;
 - c. The patient's date of birth; and
 - d. Any known allergies, including medication allergies;
 2. The date the patient began receiving services from the home health agency and, if applicable, the date the patient stopped receiving services from the home health agency;
 3. The name and telephone of the patient's physician or registered nurse practitioner;
 4. The name and telephone number of patient's podiatrist, if applicable;
 5. Documentation of general consent and, if applicable, informed consent;
 6. Documentation of medical history and current diagnoses;
 7. A copy of patient's health care directive, if applicable;
 8. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:
 - i. Is a legal guardian, a copy of the court order establishing guardianship; or
 - ii. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney;
 9. Orders;
 10. Assessments;
 11. Care plan;
 12. Progress notes;
 13. If applicable, documentation of any actions taken to control the patient's sudden, intense or out-of-control behavior to prevent harm to the patient or another individual;
 14. Documentation of meetings with the patient to assess the home health services and supportive services provided to the patient;
 15. The disposition of the patient upon discharge;
 16. The discharge plan;
 17. Discharge instructions and discharge summary, if applicable;
 18. If applicable:
 - a. Laboratory reports,
 - b. Radiologic reports,
 - c. Diagnostic reports, and
 - d. Consultation reports;
 19. Documentation of a medication administered to the patient that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain:
 - i. An assessment of the patient's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication:
 - i. An assessment of the patient's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The identification, signature, and professional designation of the individual administering or observing the self-administration of the medication; and
 - f. Any adverse reaction a patient has to the medication;
 20. Documentation of tasks assigned to a home health aide or other personnel member;
 21. Documentation of coordination of patient care;
 22. Copies of patient summary reports sent to the patient's physician, registered nurse practitioner, or podiatrist, as applicable; and
 23. Documentation of contacts with the patient's physician, registered nurse practitioner, or podiatrist, as applicable, by a personnel member or the patient.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1210. Home Health Services

- A.** An administrator shall ensure that an individual admitted to the home health agency has an order from a physician, registered nurse practitioner, or podiatrist for home health services.
- B.** An administrator shall ensure that the home health services director provides direction for home health services provided by or through the home health agency.
- C.** A home health services director shall ensure that nursing services are provided by a registered nurse or practical nurse, according to policies and procedures.
- D.** A home health services director shall ensure that a registered nurse:
 1. Unless a patient's physician or registered nurse practitioner orders only speech therapy, occupational therapy, or physical therapy for the patient, within 48 hours after the patient begins receiving home health services provided by or through the home health agency, conducts an initial assessment of the patient to determine:
 - a. The needs of the patient;
 - b. Resources available to address the patient's needs;
 - c. The patient's home and family environment;
 - d. Goals for patient care;
 - e. Medications used by the patient, including non-compliance, drug interactions, side effects, and contraindications; and
 - f. Medical supplies or equipment needed by the patient;
 2. Reviews a patient's health care directives at the time of the initial assessment;
 3. Implements a patient's care plan, developed as specified in R9-10-1207;

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4. Coordinates patient care with other individuals providing home health services or other services to the patient;
 5. Immediately informs the patient's physician or registered nurse practitioner of a change in a patient's condition that requires medical services; and
 6. At least every 60 calendar days until a patient is discharged:
 - a. Reassesses the patient based on the patient's care plan, needs, and medical condition; and
 - b. Summarizes the patient's condition and needs for the patient's physician, registered nurse practitioner, or podiatrist, as applicable.
- E.** A home health services director shall ensure that:
1. A patient's condition and the services provided to the patient are documented in the patient's medical record after each patient contact; and
 2. Verbal orders from a patient's physician, registered nurse practitioner, or podiatrist, as applicable, are:
 - a. Except as specified in subsection (F)(2)(d), received by a registered nurse and documented by the registered nurse in the patient's medical record; and
 - b. Authenticated by the patient's physician, registered nurse practitioner, or podiatrist, as applicable, with a signature, within 30 calendar days.
- F.** A home health services director shall ensure that:
1. A registered nurse:
 - a. Except as specified in subsection (F)(2)(b)(i) and (ii):
 - i. Assigns tasks in writing to a home health aide who is providing home health services to a patient; and
 - ii. Verifies the competency of the home health aide in performing assigned tasks;
 - b. Except as specified in subsection (F)(2)(b)(iii), provides direction for the home health aide services provided to a patient; and
 - c. Except as specified in subsection (F)(2)(e)(ii), meets with a patient who is receiving home health aide services to assess the home health services provided by the home health aide:
 - i. At least every two weeks when the patient is also receiving nursing services or therapy services; and
 - ii. At least every 60 calendar days when the patient is only receiving home health aide services;
 2. When a patient's physician or registered nurse practitioner orders speech therapy, occupational therapy, or physical therapy for the patient, an individual specified in R9-10-1203(C)(6)(a), (c), or (d), as applicable:
 - a. Provides the applicable therapy service to the patient according to the patient's care plan;
 - b. If a home health aide is assigned to assist the patient in performing activities related to the therapy service:
 - i. Assigns tasks in writing to the home health aide who is assisting the patient;
 - ii. Verifies the competency of the home health aide in performing assigned tasks; and
 - iii. Provides direction to the home health aide in performing the assigned tasks related to the therapy service;
 - c. Coordinates the provision of the therapy service to the patient with the registered nurse providing direction for other home health services for the patient;
 - d. Documents in the patient's medical record any orders by the patient's physician or registered nurse practitioner received concerning the therapy service; and
 - e. If the only home health services ordered for the patient are speech therapy, occupational therapy, or physical therapy:
 - i. Within 48 hours after the patient begins receiving home health services provided by or through the home health agency, conducts an initial assessment of the patient as specified in subsections (D)(1)(a) through (f); and
 - ii. Meets with a patient who is receiving home health services from a home health aide every two weeks to assess the home health services provided by the home health aide; and
 3. A home health aide:
 - a. Is only assigned to provide services the home health aide can competently perform; and
 - b. Only performs tasks assigned to the home health aide in writing by a registered nurse or as specified in subsection (F)(2)(b)(i).

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1211. Supportive Services

- A.** A governing authority may include supportive services, including personal care services, in the scope of services for a home health agency.
- B.** An administrator:
1. May allow:
 - a. Supportive services to be provided to a patient without an order from a physician, registered nurse practitioner, or podiatrist; and
 - b. A personnel member who is not a home health aide to perform personal care services; and
 2. Shall ensure that:
 - a. Supportive services are provided to a patient according to policies and procedures;
 - b. A registered nurse:
 - i. Assesses a patient's need for supportive services,
 - ii. Assigns specific tasks in writing to a home health aide providing supportive services other than personal care services,
 - iii. Assigns specific tasks in writing to a personnel member providing personal care services,
 - iv. Provides direction for supportive services, and
 - v. Includes supportive services in the reassessment of a patient required in R9-10-1210(D)(6); and
 - c. Supportive services are documented in a patient's medical record.

Historical Note

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October

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1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1212. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1213. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1214. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1215. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1216. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1217. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1218. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1219. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1220. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1221. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1222. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1223. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1224. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1225. Reserved**R9-10-1226. Repealed****Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1227. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1228. Repealed**Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

R9-10-1229. Reserved**R9-10-1230. Repealed****Historical Note**

Adopted effective February 4, 1981 (Supp. 81-1). Section repealed by final rulemaking at 8 A.A.R. 3721, effective August 9, 2002 (Supp. 02-3).

ARTICLE 13. BEHAVIORAL HEALTH SPECIALIZED TRANSITIONAL FACILITY**R9-10-1301. Definitions**

Definitions in A.R.S. § 36-401 and R9-10-101 apply in this Article unless otherwise specified.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Reference in paragraph (24) corrected (Supp. 94-2). Section R9-10-1301 repealed effective

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November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-1302. Administration**A.** The governing authority for a behavioral health specialized transitional facility:

1. Is the superintendent of the state hospital; and
2. Shall:
 - a. Establish, in writing:
 - i. A behavioral health specialized transitional facility's scope of services, and
 - ii. Qualifications for an administrator;
 - b. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(a)(ii);
 - c. Adopt a quality management program according to R9-10-1303;
 - d. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
 - e. Designate an acting administrator, in writing, who has the qualifications established in subsection (A)(2)(a)(ii), if the administrator is:
 - i. Expected not to be present on the behavioral health specialized transitional facility's premises for more than 30 calendar days, or
 - ii. Not present on the behavioral health specialized transitional facility's premises for more than 30 calendar days; and
 - f. Except as provided in subsection (A)(2)(e), notify the Department according to A.R.S. § 36-425(I) when there is a change in the administrator and identify the name and qualifications of the new administrator.

B. An administrator:

1. Is directly accountable to the superintendent of the state hospital for the daily operation of the behavioral health specialized transitional facility and for all services provided by or at the behavioral health specialized transitional facility;
2. Has the authority and responsibility to manage the behavioral health specialized transitional facility; and
3. Except as provided in subsection (A)(2)(e), designates, in writing, an individual who is present on the behavioral health specialized transitional facility's premises and accountable for the behavioral health specialized transitional facility when the administrator is not present on the behavioral health specialized transitional facility's premises.

C. An administrator shall ensure that:

1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Cover patient admission, assessment, treatment plan, transfer, discharge planning, and recordkeeping;

- d. Cover discharge, including the amount of medication provided to a patient at discharge, based on an assessment of the patient's medical condition;
 - e. Cover patient rights, including assisting a patient who does not speak English or who has a physical or other disability to become aware of patient rights;
 - f. Cover the requirements in A.R.S. §§ 36-3708, 36-3709, and 36-3714;
 - g. Establish the process for warning an identified or identifiable individual, as described in A.R.S. § 36-517.02 (B) through (C), if a patient communicates to a personnel member a threat of imminent serious physical harm or death to the identified or identifiable individual and the patient has the apparent intent and ability to carry out the threat;
 - h. Cover when informed consent is required and how informed consent is obtained;
 - i. Cover the criteria and process for conducting research using patients or patients' medical records;
 - j. Include the establishment of, disbursing from, and recordkeeping for a patient personal funds account;
 - k. Include a method of patient identification to ensure a patient receives the services ordered for the patient;
 - l. Cover contracted services;
 - m. Cover health care directives;
 - n. Cover medical records, including electronic medical records;
 - o. Cover medication procurement, storage, inventory monitoring and control, and disposal;
 - p. Cover infection control;
 - q. Cover and designate which personnel members or employees are required to have current certification in cardiopulmonary resuscitation and first aid training;
 - r. Cover environmental services that affect patient care;
 - s. Cover reporting suspected or alleged abuse, neglect, exploitation, or other criminal activity;
 - t. Cover quality management, including incident reports and supporting documentation;
 - u. Cover emergency treatment and disaster plan;
 - v. Cover how personnel members will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 - w. Include security of the facility, patients and their possessions, personnel members, and visitors at the behavioral health specialized transitional facility;
 - x. Include preventing unauthorized patient absences;
 - y. Cover transportation of patients, including the criteria for using a locking mechanism to restrict a patient's movement during transportation;
 - z. Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. The behavioral health specialized transitional facility to respond to a patient's complaint;
 - aa. Cover visitation, telephone usage, sending or receiving mail, computer usage, and other recreational activities; and
 - bb. Include equipment inspection and maintenance;
2. Policies and procedures are available to each personnel member;
 3. Laboratory services are provided by a laboratory that holds a certificate of accreditation or certificate of compliance issued by the U.S. Department of Health and

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Human Services under the 1988 amendments to the Clinical Laboratories Improvement Act of 1967;

4. Food services are provided as specified in R9-10-1314;
 5. The following individuals have access to a patient:
 - a. The patient's representative,
 - b. An individual assigned by a court of law to provide services to the patient, and
 - c. An attorney hired by the patient or patient's family;
 6. Labor performed by a patient for the behavioral health specialized transitional facility is consistent with A.R.S. § 36-510 and applicable state and federal law; and
 7. The following information is posted in an area easily viewed by a patient or an individual entering or leaving the behavioral health specialized transitional facility:
 - a. Patient rights,
 - b. Telephone number for the Department and the Office of Human Rights,
 - c. Location of inspection reports,
 - d. Complaint procedures, and
 - e. Visitation hours and procedures.
- D.** An administrator shall:
1. Provide written notification to the Department of a patient's:
 - a. Death, if the patient's death is required to be reported according to A.R.S. § 11-593, within one working day after the patient's death;
 - b. Self-injury, within two working days after the patient inflicts a self-injury that requires immediate intervention by an emergency medical service provider; and
 - c. Absence, within one working day after an unauthorized patient absence from the behavioral health specialized transitional facility is discovered;
 2. Maintain the documentation required in subsection (D)(1) for at least 12 months after the date of the notification; and
 3. Ensure that sufficient personnel are present at the behavioral health specialized transitional facility at all times to maintain safe and secure conditions.
- E.** If an administrator has a reasonable basis, according to A.R.S. § 46-454, to believe abuse, neglect, or exploitation has occurred on the premises or while the patient is receiving services from an employee or personnel member of the behavioral health specialized transitional facility, the administrator shall:
1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Report the suspected abuse, neglect, or exploitation of the patient according to A.R.S. § 46-454;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation of the patient;
 - b. Any action taken according to subsection (E)(1); and
 - c. The report in subsection (E)(2);
 4. Maintain the documentation required in subsection (E)(3) for at least 12 months after the date of the report;
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (E)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the patient related to the abuse or neglect and any change to the patient's physical, cognitive, functional, or emotional condition;
- F.** An administrator shall:
1. Unless otherwise stated, ensure that:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a behavioral health specialized transitional facility, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the behavioral health specialized transitional facility;
 2. Appoint a medical director, to direct the medical and nursing services provided by or at the behavioral health specialized transitional facility, who:
 - a. Is a medical staff member, and
 - b. Has at least two years of experience providing services in an organized psychiatric services unit of a hospital or in a behavioral health facility; and
 3. Appoint a clinical director, to provide direction for the behavioral health services provided by or at the behavioral health specialized transitional facility, who:
 - a. Is a psychiatrist or a psychologist;
 - b. Has at least two years of experience providing services in an organized psychiatric services unit of a hospital or in a behavioral health facility; and
 - c. May, if qualified, also serve as the medical director.
- G.** A medical director:
1. Is responsible for the medical services, nursing services, and physical health-related services provided to patients consistent with the patients behavioral treatment plan; and
 2. Shall ensure that policies and procedures are established, documented, and implemented to protect the health and safety of a patient that cover:
 - a. Restraint and seclusion, according to R9-10-225;
 - b. The process for patient assessments, including the identification of and criteria for the on-going monitoring of a patient's physical health conditions;
 - c. Dispensing and administration of medications, including the process and criteria for determining whether a patient is capable of and eligible to self-administer medication;
 - d. The process by which emergency medical treatment will be provided to a patient; and
 - e. The requirements for completion of medication records and recording of adverse events.
- H.** A clinical director:
1. Is responsible for the behavioral health services provided to patients;
 2. Shall ensure that policies and procedures are established, documented, and implemented to protect the health and safety of a patient that cover:

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- a. Assessing the competency and proficiency of a behavioral health personnel member for each type of service the personnel member provides and each type of patient to which the personnel member is assigned;
 - b. Providing:
 - i. Supervision to behavioral health paraprofessionals, according to R9-10-115(1); and
 - ii. Clinical oversight to behavioral health technicians, according to R9-10-115(2);
 - c. The qualifications for personnel members who provide clinical oversight;
 - d. The process for patient assessments, including the identification of and criteria for the on-going monitoring of a patient's behavioral health issues;
 - e. The process for developing and implementing a patient's treatment plan;
 - f. The frequency of and process for reviewing and modifying a patient's treatment plan, based on the ongoing monitoring of the patient's response to treatment; and
 - g. The process for determining whether a patient is eligible for discharge or conditional release to a less restrictive alternative;
3. Shall ensure that patient services are provided by personnel competent and proficient in providing the services; and
 4. Shall ensure that clinical oversight of personnel members is provided according to the policies and procedures.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1302 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 24 A.A.R. 2764, effective September 11, 2018 (Supp. 18-3).

R9-10-1303. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;

- d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to patient care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to patient care; and
 3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1303 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1304. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted without change effective November 25, 1992 (Supp. 92-4). Section R9-10-1304 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

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R9-10-1305. Personnel Requirements and Records

- A.** An administrator shall ensure that a personnel member:
1. Is at least 18 years old; and
 2. Either:
 - a. Holds a valid fingerprint clearance card issued under A.R.S. Title 41, Chapter 12, Article 3.1; or
 - b. Submits to the administrator a copy of a fingerprint clearance card application showing that the personnel member submitted the application to the fingerprint division of the Department of Public Safety under A.R.S. § 41-1758.02 within seven working days after becoming a personnel member.
- B.** An administrator shall ensure that each personnel member submits to the administrator a copy of the individual's valid fingerprint clearance card:
1. Except as provided in subsection (A)(2)(b), before the personnel member's starting date of employment; and
 2. Each time the fingerprint clearance card is issued or renewed.
- C.** If a personnel member holds a fingerprint clearance card that was issued before the individual became a personnel member, an administrator shall:
1. Contact the Department of Public Safety within seven working days after the individual becomes a personnel member to determine whether the fingerprint clearance card is valid; and
 2. Make a record of this determination, including the name of the personnel member, the date of the contact with the Department of Public Safety, and whether the fingerprint clearance card is valid.
- D.** An administrator shall ensure:
1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving physical health services or behavioral health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;
 2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures; and
- 3.** Personnel members are present on a behavioral health specialized transitional facility's premises with the qualifications, skills, and knowledge necessary to:
- a. Provide the services in the behavioral health specialized transitional facility's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient.
- E.** An administrator shall comply with the requirements for behavioral health technicians and behavioral health paraprofessionals in R9-10-115.
- F.** An administrator shall ensure that a personnel member or an employee or volunteer who has or is expected to have direct interaction with a patient for more than eight hours a week, provides evidence of freedom from infectious tuberculosis:
1. On or before the date the individual begins providing service at or on behalf of the behavioral health specialized transition facility, and
 2. As specified in R9-10-113.
- G.** An administrator shall ensure that a personnel record is maintained for each personnel member, employee, volunteer, or student that includes:
1. The individual's name, date of birth, and contact telephone number;
 2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 3. Documentation of:
 - a. The individual's qualifications including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
 - c. The individual's completed orientation and in-service education as required by policies and procedures;
 - d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - e. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - f. Cardiopulmonary resuscitation training, if required for the individual according to this Article or policies and procedures;
 - g. First aid training, if required for the individual according to this Article or policies and procedures; and
 - h. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (F).
- H.** An administrator shall ensure that personnel records are maintained:
1. Throughout an individual's period of providing services in or for the behavioral health specialized transitional facility; and
 2. For at least 24 months after the last date the individual provided services in or for the behavioral health specialized transitional facility.
- I.** An administrator shall ensure that:
1. A plan to provide orientation specific to the duties of a personnel member, an employee, a volunteer, and a student is developed, documented, and implemented
 2. A personnel member completes orientation before providing behavioral health services or physical health services;
 3. An individual's orientation is documented, to include:

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- a. The individual's name,
- b. The date of the orientation, and
- c. The subject or topics covered in the orientation;
- 4. A plan to provide in-service education specific to the duties of a personnel member is developed, documented and implemented; and
- 5. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1305 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 3041, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-10-1306. Admission Requirements

- A. An administrator shall ensure that, before a patient is admitted to the behavioral health specialized transitional facility, a court of competent jurisdiction has ordered the patient to be:
 - 1. Detained under A.R.S. § 36-3705(B) or § 36-3713(B); or
 - 2. Committed under A.R.S. § 36-3707.
- B. An administrator shall ensure that, at the time a patient is admitted to the behavioral health specialized transitional facility:
 - 1. The administrator receives a copy of the court order for the patient to be detained at or committed to the behavioral health specialized transitional facility,
 - 2. The patient's possessions are taken to the bedroom to which the patient has been assigned, and
 - 3. The patient is provided with a written list and verbal explanation of the patient's rights and responsibilities.
- C. Within seven calendar days after a patient is admitted to the behavioral health specialized transitional facility, a medical director shall ensure that:
 - 1. A medical history is taken from and a physical examination performed on the patient;
 - 2. Except as specified in subsection (C)(3), a patient provides evidence of freedom from infectious tuberculosis as required in R9-10-113;
 - 3. A patient is not required to be rescreened for tuberculosis as specified in R9-10-113 if:
 - a. Fewer than 12 months have passed since the patient was screened for tuberculosis, and

- b. The documentation of freedom from infectious tuberculosis required in subsection (C)(2) accompanies the patient at the time of the patient's admission to the behavioral health specialized transitional facility; and
- 4. An assessment for the patient is completed:
 - a. According to the behavioral health specialized transitional facility's policies and procedures;
 - b. That includes the patient's:
 - i. Legal history, including criminal justice record;
 - ii. Behavioral health treatment history;
 - iii. Medical conditions and history; and
 - iv. Symptoms reported by the patient and referrals needed by the patient, if any; and
 - c. That includes:
 - i. Recommendations for further assessment or examination of the patient's needs,
 - ii. The physical health services or ancillary services that will be provided to the patient until the patient's treatment plan is completed; and
 - iii. The signature of the personnel member conducting the assessment and the date signed.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1306 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 28 A.A.R. 1113 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R9-10-1307. Discharge or Conditional Release to a Less Restrictive Alternative

- A. An administrator shall ensure that annual written notice is given to a patient of the patient's right to petition for:
 - 1. Conditional release to a less restrictive alternative under A.R.S. § 36-3709, or
 - 2. Discharge under A.R.S. § 36-3714.
- B. An administrator shall ensure that a patient who is detained at or committed to the behavioral health specialized transitional facility is transported to a hearing to determine the patient's continued detention at or commitment to the behavioral health specialized transitional facility.
- C. An administrator shall ensure that a patient is not discharged or conditionally released to a less restrictive alternative before the behavioral health specialized transitional facility receives documentation from a court of competent jurisdiction of the patient's:
 - 1. Conditional release to a less restrictive alternative, or

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2. Discharge including the disposition of the patient upon discharge.
- D. A clinical director shall ensure that before a patient is discharged or conditionally released to a less restrictive alternative:
 1. The clinical director or the clinical director's designee, as specified in the behavioral health specialized transitional facility's discharge policies and procedures, receives the name of the health care provider or behavioral health professional to whom a copy of the patient's discharge summary will be sent; and
 2. The patient receives:
 - a. Written follow-up instructions including as applicable to the patient:
 - i. On-going behavioral health issues and physical health conditions;
 - ii. A list of the patient's medications and, for each medication, directions for taking the medication, possible side-effects, and possible results of not taking the medication; and
 - iii. Counseling goals; and
 - b. A supply of medications determined according to the policies and procedures specified in R9-10-1302(C)(1)(d).

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1307 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by final expedited rulemaking at 24 A.A.R. 2764, effective September 11, 2018 (Supp. 18-3).

R9-10-1308. Transportation

An administrator of a behavioral health specialized transitional facility that uses a vehicle owned or leased by the behavioral health specialized transitional facility to provide transportation to a patient shall ensure that:

1. The vehicle:
 - a. Is safe and in good repair,
 - b. Contains a locked first aid kit,
 - c. Contains a working heating and air conditioning system, and
 - d. Contains drinking water sufficient to meet the needs of each patient present in the vehicle;
2. Documentation of current vehicle insurance and a record of maintenance performed or a repair of the vehicle is maintained;
3. A driver of the vehicle:
 - a. Is 21 years of age or older,
 - b. Has a valid driver license,

- c. Operates the vehicle in a manner that does not endanger a patient in the vehicle,
- d. Does not leave a patient in the vehicle unattended, and
- e. Ensures the safe and hazard-free loading and unloading of patients; and
4. Transportation safety is maintained as follows:
 - a. Each individual in the vehicle is sitting in a seat and wearing a working seat belt while the vehicle is in motion, and
 - b. Each seat in the vehicle is securely fastened to the vehicle and provides sufficient space for a patient's body.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1308 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1309. Patient Rights

An administrator shall ensure that:

1. A patient:
 - a. Has privacy in treatment and personal care needs;
 - b. Has the opportunity for and privacy in correspondence, communications, and visitation unless:
 - i. Restricted by court order; or
 - ii. Contraindicated on the basis of clinical judgment, as documented in the patient's medical record;
 - c. Is given the opportunity to seek, speak to, and be assisted by legal counsel:
 - i. Whom the court assigns to the patient, or
 - ii. Whom the patient obtains at the patient's own expense; and
 - d. Is not subjected to:
 - i. Abuse;
 - ii. Neglect;
 - iii. Exploitation;
 - iv. Coercion;
 - v. Manipulation;
 - vi. Seclusion, if not necessary to prevent imminent harm to self or others;
 - vii. Restraint, if not necessary to prevent imminent harm to self or others;
 - viii. Sexual abuse according to A.R.S. § 13-1404; or
 - ix. Sexual assault according to A.R.S. § 13-1406; and
2. A patient or the patient's representative:

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- a. Is provided with the opportunity to participate in the development of the patient's treatment plan and in treatment decisions before the treatment is initiated, except in a medical emergency;
- b. Is provided with information about proposed treatments, alternatives to treatments, associated risks, and possible complications;
- c. Is allowed to control the patient's finances and have access to the patient's personal funds account according to the behavioral health specialized transitional facility's policies and procedures specified in R9-10-1302(C)(1)(j);
- d. Has an opportunity to review the medical record for the patient according to the behavioral health specialized transitional facility's policies and procedures; and
- e. Receives information about the behavioral health specialized transitional facility's policies and procedures for:
 - i. Health care directives;
 - ii. Filing complaints, including the telephone number of an individual at the behavioral health specialized transitional facility to contact about a complaint and the Department's telephone number; and
 - iii. Petitioning a court for a patient's discharge or conditional release to a less restrictive alternative.
- i. The physical health services, behavioral health services, and ancillary services to be provided to the patient until completion of the treatment plan;
- ii. The type, frequency, and duration of counseling or other treatment ordered for the patient;
- iii. The name of each individual who ordered medication, counseling, or other treatment for the patient;
- iv. The signature of the patient or the patient's representative and dated signed, or documentation of the refusal to sign;
- v. The date when the patient's treatment plan will be reviewed;
- vi. If a discharge date has been determined, the treatment needed after discharge; and
- vii. The signature of the personnel member who developed the treatment plan and the date signed; and

- 2. A patient's treatment plan is reviewed and updated:
 - a. According to the review date specified in the treatment plan,
 - b. When a treatment goal is accomplished or changes,
 - c. When additional information that affects the patient's assessment is identified, and
 - d. When a patient has a significant change in condition or experiences an event that affects treatment.

- B. A clinical director shall ensure that treatment is:
 - 1. Offered to a patient according to the patient's treatment plan;
 - 2. Except for a patient obtaining treatment under A.R.S. § 36-512, only provided after obtaining informed consent to the treatment from the patient; and
 - 3. Documented in the patient's medical record as specified in R9-10-1312.
- C. The clinical director shall ensure that restraint and seclusion are used, performed, and documented according to the behavioral health specialized transitional facility's policies and procedures.
- D. A clinical director shall ensure that:
 - 1. A patient receives the annual examination required by A.R.S. § 36-3708, and
 - 2. A report of the patient's annual examination is prepared according to the behavioral health specialized transitional facility's policies and procedures.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1309 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 24 A.A.R. 2764, effective September 11, 2018 (Supp. 18-3).

R9-10-1310. Behavioral Health Services

- A. A clinical director shall ensure that:
 - 1. A treatment plan is developed and implemented for the patient:
 - a. According to the behavioral health specialized transitional facility's policies and procedures;
 - b. Based on the assessment conducted under R9-10-1306(C)(4) and on-going changes to the assessment of the patient's behavioral health issues, mental disorders, and physical health conditions, as applicable; and
 - c. Including:

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1310 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws

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2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).
Amended by final expedited rulemaking at 24 A.A.R.
2764, effective September 11, 2018 (Supp. 18-3).

R9-10-1311. Physical Health Services

- A.** A medical director shall ensure that:
1. A patient's physical health is assessed during the physical examination specified in R9-10-1306(C)(1), and
 2. Any physical health conditions identified through the assessment are addressed in the patient's treatment plan.
- B.** A medical director shall ensure that on-going assessment or treatment of a patient's physical health condition is:
1. Offered to a patient according to the patient's treatment plan;
 2. Except for a patient obtaining treatment under A.R.S. § 36-512, only provided after obtaining informed consent to the assessment or treatment from the patient; and
 3. Documented in the patient's medical record as specified in R9-10-1312.
- C.** An administrator shall ensure that, if a patient requires assessment or treatment not available at the behavioral health specialized transitional facility, the patient is provided with transportation to the location where assessment or treatment may be provided to the patient.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1311 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1312. Medical Records

- A.** An administrator shall ensure that:
1. A medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
 2. An entry in a patient's medical record is:
 - a. Recorded only by an individual authorized by facility policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to facility policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or the electronic signature;
 5. A patient's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the patient or the patient's representative; or
 - c. As permitted by law;
 6. A patient's medical record is available to the patient or patient's representative upon request at a time agreed upon by the patient or patient's representative and the administrator; and
 7. A patient's medical record is protected from loss, damage, or unauthorized use.
- B.** If a behavioral health specialized transitional facility maintains patient's medical records electronically, an administrator shall ensure that:
1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a patient's medical record is recorded by the computer's internal clock.
- C.** An administrator shall ensure that a patient's medical record contains:
1. A copy of the court order requiring the patient to be detained at or committed to the behavioral health specialized transitional facility;
 2. The date the patient was detained at or committed to the behavioral health specialized transitional facility;
 3. Patient information that includes:
 - a. The patient's name;
 - b. The patient's address;
 - c. The patient's date of birth; and
 - d. Any known allergies, including medication allergies;
 4. Documentation of the patient's freedom from infectious tuberculosis as required in R9-10-1306(C)(2);
 5. Documentation of general consent and, if applicable, informed consent for treatment by the patient or the patient's representative, except in an emergency;
 6. If applicable, the name and contact information of the patient's representative and:
 - a. The document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative;
 - i. Is a legal guardian, a copy of the court order establishing guardianship; or
 - ii. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney;
 7. Documentation of medical history and physical examination of the patient;
 8. A copy of patient's health care directives, if applicable;
 9. Orders;
 10. The patient's assessment including updates;
 11. The patient's treatment plan including updates;
 12. Progress notes;
 13. Documentation of transportation provided to the patient;

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14. Documentation of behavioral health services and physical health services provided to the patient;
15. Documentation of patient's annual examination and report required by A.R.S. § 36-3708;
16. Documentation of the annual written notice of the patient of the patient's right to petition for:
 - a. Conditional release to a less restrictive alternative as required by A.R.S. § 36-3709, or
 - b. Discharged as required by A.R.S. § 36-3714;
17. A copy of any petition for discharge or conditional release to a less restrictive alternative filed by the patient and provided to the behavioral health specialized transitional facility and the outcome of the petition;
18. Documentation of the patient's, if applicable;
 - a. Conditional release to a less restrictive alternative; or
 - b. Discharge, including the disposition of the patient upon discharge;
19. If a patient has been discharged, a discharge summary that includes:
 - a. A summary of the treatment provided to the patient;
 - b. The patient's progress in meeting treatment goals, including treatment goals that were and were not achieved;
 - c. The name, dosage, and frequency of each medication for the patient ordered at the time of the patient's discharge from the behavioral health specialized transitional facility;
 - d. A description of the disposition of the patient's possessions, funds, or medications; and
 - e. The date the patient was discharged from the behavioral health specialized transitional facility;
20. If applicable:
 - a. Laboratory reports,
 - b. Radiologic reports,
 - c. Diagnostic reports,
 - d. Documentation of restraint or seclusion,
 - e. Patient follow-up instructions, and
 - f. Consultation reports; and
21. Documentation of a medication administered to the patient that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain:
 - i. An assessment of the patient's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication:
 - i. An assessment of the patient's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The identification, signature, and professional designation of the individual administering or observing the self-administration of the medication;
 - f. Any adverse reaction a patient has to the medication; and
 - g. If applicable, a patient's refusal to take medication ordered for the patient.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective

February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1312 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 24 A.A.R. 2764, effective September 11, 2018 (Supp. 18-3).

R9-10-1313. Medication Services

- A. An administrator shall ensure that policies and procedures for medication services:
 1. Include:
 - a. A process for providing information to a patient about medication prescribed for the patient, including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse response to a medication, or
 - iii. A medication overdose;
 - c. Procedures for documenting medication services and assistance in the self-administration of medication; and
 - d. If applicable, procedures for providing medication administration or assistance in the self-administration of medication off the premises; and
 2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B. A medical director shall ensure that:
 1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication; and
 - c. Ensure that medication is administered to a patient only as prescribed;
 2. A patient's refusal to take prescribed medication is documented in the patient's medical record;
 3. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law;
 4. A medication administered to a patient:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the patient's medical record; and

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5. If pain medication is administered to a patient on a PRN basis, documentation in the patient's medical record includes:
 - a. An identification of the patient's pain before administering the medication, and
 - b. The effect of the pain medication administered.
- C. If a behavioral health specialized transitional facility provides assistance in the self-administration of medication, a medical director shall ensure that:
 1. A patient's medication is stored by the behavioral health specialized transitional facility;
 2. The following assistance is provided to a patient:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the patient;
 - c. Observing the patient while the patient removes the medication from the container;
 - d. Verifying that the medication is taken as ordered by the patient's medical practitioner by confirming that:
 - i. The patient taking the medication is the individual stated on the medication container label,
 - ii. The dosage of the medication is the same as stated on the medication container label, and
 - iii. The medication is being taken by the patient at the time stated on the medication container label; or
 - e. Observing the patient while the patient takes the medication;
 3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a medical practitioner or registered nurse;
 4. Training for a personnel member, other than a medical practitioner or nurse, in assistance in the self-administration of medication:
 - a. Is provided by a medical practitioner or registered nurse or an individual trained by a medical practitioner or registered nurse; and
 - b. Includes:
 - i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. Process for notifying the appropriate entities when an emergency medical intervention is needed;
 5. A personnel member, other than a medical practitioner or nurse, completes the training in subsection (C)(4) before the personnel member provides assistance in the self-administration of medication; and
 6. Assistance in the self-administration of medication provided to a patient:
 - a. Is in compliance with an order, and
 - b. Is documented in the patient's medical record.
- D. An administrator shall ensure that:
 1. A current drug reference guide is available for use by personnel members;
 2. A current toxicology reference guide is available for use by personnel members; and
 3. If pharmaceutical services are provided:
 - a. The pharmaceutical services are provided under the direction of a pharmacist;
 - b. The pharmaceutical services comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - c. A copy of the pharmacy license is provided to the Department upon request.
- E. When medication is stored at a behavioral health specialized transitional facility, an administrator shall ensure that:
 1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication;
 2. Medication is stored according to the instructions on the medication container; and
 3. Policies and procedures are established, documented, and implemented for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of patients who received recalled medication;
 - d. Storing, inventorying, and dispensing controlled substances; and
 - e. Documenting the maintenance of a medication requiring refrigeration.
- F. An administrator shall ensure that a personnel member immediately reports a medication error or a patient's adverse reaction to a medication to the medical practitioner who ordered the medication and, if applicable, the behavioral health specialized transitional facility's medical director.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1313 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1314. Food Services

- A. An administrator shall ensure that:
 1. The behavioral health specialized transitional facility has a license or permit as a food establishment under 9 A.A.C. 8, Article 1;
 2. A copy of the behavioral health specialized transitional facility's food establishment license is maintained;
 3. If a behavioral health specialized transitional facility contracts with a food establishment, as defined in 9 A.A.C. 8, Article 1, to prepare and deliver food to the behavioral health specialized transitional facility:
 - a. A copy of the food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the

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- behavioral health specialized transitional facility; and
- b. The behavioral health specialized transitional facility is able to store, refrigerate, and reheat food to meet the dietary needs of a patient;
- 4. A registered dietitian is employed full-time, part-time, or as a consultant; and
- 5. If a registered dietitian is not employed full-time, an individual is designated as a director of food services who consults with a registered dietitian as often as necessary to meet the nutritional needs of the patients.
- B.** A registered dietitian or director of food services shall ensure that:
 - 1. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served each day,
 - c. Is conspicuously posted at least one day before the first meal on the food menu will be served,
 - d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;
 - 2. Meals and snacks provided by the behavioral health specialized transitional facility are served according to posted menus;
 - 3. Meals for each day are planned using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp>;
 - 4. A patient is provided:
 - a. A diet that meets the patient's nutritional needs as specified in the patient's assessment plan;
 - b. Three meals a day with not more than 14 hours between the evening meal and breakfast except as provided in subsection (B)(4)(d);
 - c. The option to have a daily evening snack identified in subsection (B)(4)(d)(ii) or other snack; and
 - d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:
 - i. A patient group agrees; and
 - ii. The patient is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;
 - 5. A patient requiring assistance to eat is provided with assistance that recognizes the patient's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils; and
 - 6. Water is available and accessible to a patient at all times, unless otherwise specified in the patient's treatment plan.
- C.** An administrator shall ensure that food is obtained, prepared, served, and stored as follows:
 - 1. Food is free from spoilage, filth, or other contamination and is safe for human consumption;
 - 2. Food is protected from potential contamination;
 - 3. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a patient such as cut, chopped, ground, pureed, or thickened;
 - 4. Potentially hazardous food is maintained as follows:
 - a. Foods requiring refrigeration are maintained at 41° F or below; and
 - b. Foods requiring cooking are cooked to heat all parts of the food to a temperature of at least 145° F for 15 seconds, except that:
 - i. Ground beef and ground meats are cooked to heat all parts of the food to at least 155° F;
 - ii. Poultry, poultry stuffing, stuffed meats, and stuffing that contains meat are cooked to heat all parts of the food to at least 165° F;
 - iii. Pork and any food containing pork are cooked to heat all parts of the food to at least 155° F;
 - iv. Raw shell eggs for immediate consumption are cooked to at least 145° F for 15 seconds and any food containing raw shell eggs is cooked to heat all parts of the food to at least 155° F;
 - v. Roast beef and beef steak are cooked to an internal temperature of at least 155° F; and
 - vi. Leftovers are reheated to a temperature of at least 165° F;
 - 5. A refrigerator contains a thermometer, accurate to plus or minus 3° F, placed at the warmest part of the refrigerator;
 - 6. Frozen foods are stored at a temperature of 0° F or below; and
 - 7. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair.

Historical Note

Emergency rule adopted effective November 29, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again effective February 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency rule adopted again effective May 28, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Emergency rule adopted again effective August 27, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-3). Adopted with changes effective November 25, 1992 (Supp. 92-4). Section R9-10-1314 repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). New Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1315. Emergency and Safety Standards

- A.** A medical director shall ensure that policies and procedures for providing medical emergency treatment to a patient are established, documented, and implemented and include:
 - 1. The medications, supplies, and equipment required on the premises for the medical emergency treatment provided by the behavioral health specialized transitional facility;
 - 2. A system to ensure all medications, supplies, and equipment are available, have not been tampered with, and, if applicable, have not expired;
 - 3. A requirement that a cart or container is available for medical emergency treatment that contains all of the medication, supplies, and equipment specified in the behavioral health specialized transitional facility's policies and procedures;

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4. A method to verify and document that the contents of the cart or container in subsection (A)(3) are available for medical emergency treatment; and
5. A method for ensuring a patient may be transported to a hospital or other health care institution to receive treatment for a medical emergency that the behavioral health specialized transitional facility is not able or not authorized to provide.
- B.** An administrator shall ensure that medical emergency treatment is provided to a patient admitted to the behavioral health specialized transitional facility according to the behavioral health specialized transitional facility's policies and procedures.
- C.** An administrator shall ensure that the behavioral health specialized transitional facility has:
 1. A fire alarm system installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in R9-10-104.01, that is in working order; and a sprinkler system installed according to the National Fire Protection Association 13 Standard for the Installation of Sprinkler Systems, incorporated by reference in R9-10-104.01, that is in working order; or
 2. An alternative method to ensure a patient's safety, documented and approved by the local jurisdiction.
- D.** An administrator shall ensure that:
 1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and other employees, and, if necessary, implemented that includes:
 - a. Procedures for protecting the health and safety of patients and other individuals at the behavioral health specialized transitional facility;
 - b. When, how, and where patients will be relocated;
 - c. How each patient's medical record will be available to personnel providing services to the patient during a disaster;
 - d. A plan to ensure each patient's medication will be available to administer to the patient during a disaster; and
 - e. A plan for obtaining food and water for individuals present in the behavioral health specialized transitional facility or the behavioral health specialized transitional facility's relocation site during a disaster;
 2. The disaster plan required in subsection (D)(1) is reviewed at least once every 12 months;
 3. A disaster drill is performed on each shift at least once every 12 months;
 4. Documentation of a disaster plan review required in subsection (D)(2) and a disaster drill required in subsection (D)(3) is created, is maintained for at least 12 months after the date of the disaster plan review or disaster drill, and includes:
 - a. The date and time of the disaster plan review or disaster drill;
 - b. The name of each personnel member, employee, or volunteer participating in the disaster plan review or disaster drill;
 - c. A critique of the disaster plan review or disaster drill; and
 - d. If applicable, recommendations for improvement;
 5. An evacuation drill is conducted on each shift at least once every three months;
 6. Documentation of an evacuation drill is created, is maintained for at least 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for all employees and patients to evacuate the behavioral health specialized transitional facility;
 - c. If applicable, an identification of patients needing assistance for evacuation;
 - d. Any problems encountered in conducting the evacuation drill; and
 - e. Recommendations for improvement, if applicable; and
 7. An evacuation path is conspicuously posted on each hallway of each floor of the behavioral health specialized transitional facility.
- E.** An administrator shall:
 1. Obtain a fire inspection conducted according to the timeframe established by the local fire department or the State Fire Marshal,
 2. Make any repairs or corrections stated on the fire inspection report, and
 3. Maintain documentation of a current fire inspection.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-1316. Environmental Standards

- A.** An administrator shall ensure that:
 1. The premises and equipment are:
 - a. Cleaned and, if applicable, disinfected according to policies and procedures designed to prevent, minimize, and control illness or infection; and
 - b. Free from a condition or situation that may cause a patient or other individual to suffer physical injury;
 2. A pest control program that complies with A.A.C. R3-8-201(C)(4) is implemented and documented;
 3. Biohazardous medical wastes are identified, stored, and disposed of according to 18 A.A.C. 13, Article 14;
 4. Equipment used at the behavioral health specialized transitional facility is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
 5. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
 6. Garbage and refuse are:
 - a. Stored in covered containers, and
 - b. Removed from the premises at least once a week;
 7. Heating and cooling systems maintain the behavioral health specialized transitional facility at a temperature between 70° F and 84° F;
 8. Common areas:
 - a. Are lighted to assure the safety of patients, and

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- b. Have lighting sufficient to allow personnel members to monitor patient activity;
 - 9. Hot water temperatures are maintained between 95° F and 120° F in the areas of a behavioral health specialized transitional facility used by patients;
 - 10. The supply of hot and cold water is sufficient to meet the personal hygiene needs of patients and the cleaning and sanitation requirements in this Article;
 - 11. Soiled linen and soiled clothing stored by the behavioral health specialized transitional facility are maintained separate from clean linen and clothing and stored in closed containers away from food storage, kitchen, and dining areas; and
 - 12. Pets and animals, except for service animals, are prohibited on the premises.
- B.** An administrator shall ensure that smoking or tobacco products are not permitted within or on the premises of the facility.
- C.** An administrator shall ensure that:
- 1. Poisonous or toxic materials stored by the behavioral health specialized transitional facility are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to patients;
 - 2. Combustible or flammable liquids and hazardous materials stored by a behavioral health specialized transitional facility are stored in the original labeled containers or safety containers in an area inaccessible to patients; and
 - 3. Poisonous, toxic, combustible, or flammable medical supplies in use for a patient are stored in a locked area according to the behavioral health specialized transitional facility's policies and procedures.
- D.** An administrator shall ensure that:
- 1. A patient's bedroom is provided with:
 - a. An individual storage space, such as a dresser or chest;
 - b. A bed that:
 - i. Consists of at least a mattress and frame, and
 - ii. Is at least 36 inches wide and 72 inches long; and
 - c. A pillow and linens that include:
 - i. A mattress pad;
 - ii. A top sheet and a bottom sheet are large enough to tuck under the mattress;
 - iii. A pillow case;
 - iv. A waterproof mattress cover, if needed; and
 - v. A blanket or bedspread sufficient to ensure the patient's warmth;
 - 2. Clean linens and bath towels are provided to a patient as needed and at least once every seven calendar days; and
 - 3. A patient's clothing may be cleaned according to policies and procedures.
- Historical Note**
- Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 25 A.A.R. 259, effective January 8, 2019 (Supp. 19-1).
- R9-10-1317. Physical Plant Standards**
- A.** An administrator shall ensure that a behavioral health specialized transitional facility complies with the applicable physical plant health and safety codes and standards for secure residential facilities, incorporated by reference in R9-10-104.01, in effect on the date the behavioral health specialized transitional facility submitted architectural plans and specifications to the Department for approval according to R9-10-104.
- B.** An administrator shall ensure that the premises and equipment are sufficient to accommodate:
- 1. The services stated in the behavioral health specialized transitional facility's scope of services, and
 - 2. An individual accepted as a patient by the behavioral health specialized transitional facility.
- C.** An administrator shall ensure that:
- 1. A behavioral health specialized transitional facility has:
 - a. An area in which a patient may meet with a visitor,
 - b. Areas where patients may receive individual treatment,
 - c. Areas where patients may receive group counseling or other group treatment,
 - d. An area for community dining; and
 - e. Sufficient space in one or more common areas for individual and group activities.
- D.** An administrator shall ensure that the behavioral health specialized transitional facility has:
- 1. A bathroom adjacent to a common area for use by patients and visitors that:
 - a. Provides privacy to the user; and
 - b. Contains:
 - i. A working sink with running water,
 - ii. A working toilet that flushes and has a seat,
 - iii. Toilet tissue dispenser,
 - iv. Dispensed soap for hand washing,
 - v. Single use paper towels or a mechanical air hand dryer,
 - vi. Lighting, and
 - vii. A means of ventilation;
 - 2. An indoor common area that is not used as a sleeping area and that has:
 - a. A working telephone that allows a patient to make a private telephone call;
 - b. A distortion-free mirror;
 - c. A current calendar and an accurate clock;
 - d. A variety of books, current magazines and newspapers, and arts and crafts supplies appropriate to the age, educational, cultural, and recreational needs of patients; and
 - e. A working television and access to a radio;
 - 3. A dining room or dining area that:
 - a. Is lighted and ventilated,
 - b. Contains tables and seats, and
 - c. Is not used as a sleeping area;
 - 4. An outdoor area that:
 - a. Is accessible to patients,
 - b. Has sufficient space to accommodate the social and recreational needs of patients, and
 - c. Has shaded and unshaded areas;
 - 5. For every ten patients, at least one working toilet that flushes and has a seat and dispensed toilet tissue;
 - 6. For every 12 patients, at least one sink with running water, dispensed soap for hand washing, and single use paper towels or a mechanical air hand dryer;
 - 7. For every 12 patients, at least one working bathtub or shower with a slip resistant surface; and
 - 8. For each patient, a private bedroom that:
 - a. Contains at least 60 square feet of floor space, not including the closet;
 - b. Has walls from floor to ceiling;

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- c. Has a door that opens into a hallway or common area;
- d. Is constructed and furnished to provide unimpeded access to the door;
- e. Is not used as a passageway to another bedroom or a bathroom, unless the bathroom is for the exclusive use of a the patient occupying the bedroom; and
- f. Has sufficient lighting for a patient to read.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

ARTICLE 14. SUBSTANCE ABUSE TRANSITIONAL FACILITIES**R9-10-1401. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following applies in this Article unless otherwise specified:

“Emergency medical care technician” has the same meaning as in A.R.S. § 36-2201.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1402. Administration**A. A governing authority shall:**

- 1. Consist of one or more individuals accountable for the organization, operation, and administration of a substance abuse transitional facility;
- 2. Establish, in writing:
 - a. A substance abuse transitional facility’s scope of services, and
 - b. Qualifications for an administrator;
- 3. Designate, in writing, an administrator who meets the qualifications established in subsection (A)(2)(b);
- 4. Adopt a quality management program according to R9-10-1403;
- 5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
- 6. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b) if the administrator is:
 - a. Expected not to be present on a substance abuse transitional facility’s premises for more than 30 calendar days, or
 - b. Not present on a substance abuse transitional facility’s premises for more than 30 calendar days; and
- 7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425(I) when there is a change in the administrator and identify the name and qualifications of the new administrator.

B. An administrator:

- 1. Is directly accountable to the governing authority for the daily operation of the substance abuse transitional facility and all services provided by or at the substance abuse transitional facility;

- 2. Has the authority and responsibility to manage the substance abuse transitional facility; and
- 3. Except as provided in subsection (A)(6), designates, in writing, an individual who is present on a substance abuse transitional facility’s premises and accountable for the substance abuse transitional facility when the administrator is not present on the substance abuse transitional facility’s premises.

C. An administrator shall ensure that:

- 1. Policies and procedures are established, documented, and implemented to protect the health and safety of a participant that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to services provided to a participant;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training, including:
 - i. The method and content of cardiopulmonary resuscitation training, which includes a demonstration of the individual’s ability to perform cardiopulmonary resuscitation;
 - ii. The qualifications for an individual to provide cardiopulmonary resuscitation training;
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training; and
 - iv. The documentation that verifies that the individual has received cardiopulmonary resuscitation training;
 - f. Include a method to identify a participant to ensure the participant receives physical health services and behavioral health services as ordered;
 - g. Cover first aid training;
 - h. Cover participant rights, including assisting a participant who does not speak English or who has a physical or other disability to become aware of participant rights;
 - i. Cover specific steps for:
 - i. A participant to file a complaint, and
 - ii. The substance abuse transitional facility to respond to a participant’s complaint;
 - j. Cover medical records, including electronic medical records;
 - k. Cover quality management, including incident reports and supporting documentation;
 - l. Cover contracted services; and
 - m. Cover when an individual may visit a participant in the substance abuse transitional facility;
- 2. Policies and procedures for services are established, documented, and implemented to protect the health and safety of a participant that:
 - a. Cover participant screening, admission, assessment, transfer, discharge planning, and discharge;
 - b. Include when general consent and informed consent are required;

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- c. Cover the provision of behavioral health services and physical health services;
 - d. Cover medication administration, assistance in the self-administration of medication, and disposing of medication, including provisions for inventory control and preventing diversion of controlled substances;
 - e. Cover infection control;
 - f. Cover environmental services that affect participant care;
 - g. Cover the process for receiving a fee from and refunding a fee to a participant or the participant's representative;
 - h. Cover the security of a participant's possessions that are allowed on the premises;
 - i. Cover smoking tobacco products on the premises;
 - j. Cover how the facility will respond to a participant's sudden, intense, or out-of-control behavior to prevent harm to the participant or another individual; and
 - k. Cover how often periodic monitoring occurs based on a participant's condition;
3. Policies and procedures are reviewed at least once every three years and updated as needed;
 4. Policies and procedures are available to employees; and
 5. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a substance abuse transitional facility, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the substance abuse transitional facility.
- D.** An administrator shall provide written notification to the Department of a participant's:
1. Death, if the participant's death is required to be reported according to A.R.S. § 11-593, within one working day after the participant's death; and
 2. Self-injury, within two working days after the participant inflicts a self-injury that requires immediate intervention by an emergency medical services provider.
- E.** If abuse, neglect, or exploitation of a participant is alleged or suspected to have occurred before the participant was admitted or while the participant is not on the premises and not receiving services from a substance abuse transitional facility's employee or personnel member, an administrator shall immediately report the alleged or suspected abuse, neglect, or exploitation of the participant according to A.R.S. § 46-454.
- F.** If an administrator has a reasonable basis, according to A.R.S. § 46-454, to believe that abuse, neglect, or exploitation has occurred on the premises or while a participant is receiving services from a substance abuse transitional facility's employee or personnel member, the administrator shall:
1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Report the suspected abuse, neglect, or exploitation of the participant according to A.R.S. § 46-454;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (F)(1); and
 - c. The report in subsection (F)(2);
 4. Maintain the documentation in subsection (F)(3) for at least 12 months after the date of the report in subsection (F)(2);
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (F)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the participant and any change to the participant's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 6. Maintain a copy of the documented information required in subsection (F)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- G.** An administrator shall establish, document, and implement a process for responding to a participant's need for immediate and unscheduled behavioral health services or physical health services.
- H.** An administrator shall ensure that the following information or documents are conspicuously posted on the premises and are available upon request to a personnel member, an employee, a participant, or a participant's representative:
1. The participant rights listed in R9-10-1409,
 2. The facility's current license,
 3. The location at which inspection reports are available for review or can be made available for review, and
 4. The days and times when a participant may accept visitors and make telephone calls.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1402 repealed; new Section R9-10-1402 renumbered from Section R9-10-1403 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1403. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to participants;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to participant care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to participant care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:

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- a. An identification of each concern about the delivery of services related to participant care, and
- b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to participant care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).
Section R9-10-1403 renumbered to R9-10-1402; new Section R9-10-1403 renumbered from R9-10-1404 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1404. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).
Section R9-10-1404 renumbered to R9-10-1403; new Section R9-10-1404 renumbered from R9-10-1405 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1405. Personnel

A. An administrator shall ensure that:

1. A personnel member is:
 - a. At least 21 years old, or
 - b. If providing behavioral health services, at least 18 years old;
2. An employee is at least 18 years old;
3. A student is at least 18 years old; and
4. A volunteer is at least 21 years old.

B. An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of behavioral health services or physical health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of participants receiving behavioral health services or physical health services from the personnel member according to the established job description;
 - b. Include:
 - i. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected behavioral health services or physical health services listed in the established job description;

- ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected behavioral health services or physical health services listed in the established job description, and
- iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected behavioral health services or physical health services listed in the established job description;

2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides behavioral health services or physical health services, and
 - b. According to policies and procedures;
3. An emergency medical care technician complies with the requirements in 9 A.A.C. 25 for certification and medical direction;
4. A substance abuse transitional facility has sufficient personnel members with the qualifications, education, experience, skills, and knowledge necessary to:
 - a. Provide the behavioral health services and physical health services in the substance abuse transitional facility's scope of services,
 - b. Meet the needs of a participant, and
 - c. Ensure the health and safety of a participant;
5. A written plan is developed and implemented to provide orientation specific to the duties of a personnel member;
6. A personnel member's orientation is documented, to include:
 - a. The personnel member's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
7. In addition to the training required in subsections (B)(1) and (B)(5), a written plan is developed and implemented to provide a personnel member with in-service education specific to the duties of the personnel member;
8. A personnel member's skills and knowledge are verified and documented:
 - a. Before providing services related to participant care, and
 - b. At least once every 12 months after the date the personnel member begins providing services related to participant care; and
9. An individual's in-service education and, if applicable, training in how to respond to a participant's sudden, intense, or out-of-control behavior is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training.
- C. An administrator shall ensure that an individual who is licensed under A.R.S. Title 32, Chapter 33 as a baccalaureate social worker, master social worker, associate marriage and family therapist, associate counselor, or associate substance abuse counselor receives direct supervision as defined in A.A.C. R4-6-101.
- D. An administrator shall ensure that a personnel member, or an employee, a volunteer, or a student who has or is expected to have direct interaction with a participant for more than eight hours in a week, provides evidence of freedom from infectious tuberculosis:

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1. On or before the date the individual begins providing services at or on behalf of the substance abuse transitional facility, and
2. As specified in R9-10-113.
- E. An administrator shall comply with the requirements for behavioral health technicians and behavioral health paraprofessionals in R9-10-115.
- F. An administrator shall ensure that a personnel record is maintained for a personnel member, employee, volunteer, or student that contains:
 1. The individual's name, date of birth, and contact telephone number;
 2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 3. Documentation of:
 - a. The individual's qualifications including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
 - c. The individual's completed orientation and in-service education as required by policies and procedures;
 - d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - e. The individual's completion of the training required in subsection (B)(8), if applicable;
 - f. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - g. Cardiopulmonary resuscitation training, if required for the individual according to subsection (H) or policies and procedures;
 - h. First aid training, if required for the individual according to subsection (H) or policies and procedures; and
 - i. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (D).
- G. An administrator shall ensure that personnel records are:
 1. Maintained:
 - a. Throughout an individual's period of providing services at or for a substance abuse transitional facility, and
 - b. For at least 24 months after the last date the individual provided services at or for a substance abuse transitional facility; and
 2. For a personnel member who has not provided physical health services or behavioral health services at or for the substance abuse transitional facility during the previous 12 months, provided to the Department within 72 hours after the Department's request.
- H. An administrator shall ensure at least one personnel member who is present at the substance abuse transitional facility during hours of facility operation has first-aid and cardiopulmonary resuscitation training certification specific to the populations served by the facility.
- I. An administrator shall ensure that:
 1. At least one personnel member is present and awake at a substance abuse transitional facility at all times when a participant is on the premises;
 2. In addition to the personnel member in subsection (I)(1), at least one personnel member is on-call and available to come to the substance abuse transitional facility if needed;
 3. A substance abuse transitional facility has sufficient personnel members to provide general participant supervision and treatment and sufficient personnel members or employees to provide ancillary services to meet the scheduled and unscheduled needs of each participant;
 4. There is a daily staffing schedule that:
 - a. Indicates the date, scheduled work hours, and name of each individual assigned to work, including on-call individuals;
 - b. Includes documentation of the employees who work each day and the hours worked by each employee; and
 - c. Is maintained for at least 12 months after the last date on the documentation;
 5. A behavioral health professional is present on the substance abuse transitional facility's premises or on-call; and
 6. A registered nurse is present on the substance abuse transitional facility's premises or on-call.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1405 renumbered to R9-10-1404; new Section R9-10-1405 renumbered from R9-10-1406 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 3041, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-10-1406. Admission; Assessment

An administrator shall ensure that:

1. A participant is admitted based upon the participant's presenting behavioral health issue and treatment needs and the substance abuse transitional facility's ability and authority to provide behavioral health services or physical health services consistent with the participant's needs;
2. General consent is obtained from a participant or the participant's representative before or at the time of admission;
3. The general consent obtained in subsection (2) is documented in the participant's medical record;
4. An assessment of a participant is completed or updated by an emergency medical care technician or a registered nurse;
5. If an assessment is completed or updated by an emergency medical care technician, a registered nurse reviews the assessment within 24 hours after the completion of the assessment to ensure that the assessment identifies the behavioral health services and physical health services needed by the participant;
6. If an assessment that complies with the requirements in this Section is received from a behavioral health provider other than the substance abuse transitional facility or the substance abuse transitional facility has a medical record for the participant that contains an assessment that was completed within 12 months before the date of the participant's current admission:
 - a. The participant's assessment information is reviewed and updated if additional information that affects the participant's assessment is identified, and
 - b. The review and update of the participant's assessment information is documented in the participant's

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- medical record within 48 hours after the review is completed;
7. An assessment:
 - a. Documents a participant's:
 - i. Presenting issue;
 - ii. Substance abuse history;
 - iii. Co-occurring disorder;
 - iv. Medical condition and history;
 - v. Behavioral health treatment history;
 - vi. Symptoms reported by the participant; and
 - vii. Referrals needed by the participant, if any;
 - b. Includes:
 - i. Recommendations for further assessment or examination of the participant's needs,
 - ii. The behavioral health services and physical health services that will be provided to the participant, and
 - iii. The signature and date signed of the personnel member conducting the assessment; and
 - c. Is documented in participant's medical record;
 8. A participant is referred to a medical practitioner if a determination is made that the participant requires immediate physical health services or the participant's behavioral health issue may be related to the participant's medical condition;
 9. If a participant requires behavioral health services that the substance abuse transitional facility is not authorized or not able to provide, a personnel member arranges for the participant to be provided transportation to transfer to another health care institution where the behavioral health services can be provided;
 10. A request for participation in a participant's assessment is made to the participant or the participant's representative;
 11. An opportunity for participation in the participant's assessment is provided to the participant or the participant's representative;
 12. Documentation of the request in subsection (10) and the opportunity in subsection (11) is in the participant's medical record; and
 13. A participant's assessment information is:
 - a. Documented in the medical record within 48 hours after completing the assessment, and
 - b. Reviewed and updated when additional information that affects the participant's assessment is identified.
- and Regional Behavioral Health Agency staff, that may be available to assist the participant; and
- c. Documents the information in subsection (A)(1)(a) and the resources in subsection (A)(1)(b) in the participant's medical record; and
2. When an individual is discharged, a personnel member:
 - a. Provides the participant with discharge information that includes:
 - i. The identified specific needs of the participant after discharge, and
 - ii. Resources that may be available for the participant; and
 - b. Contacts any resources identified as required in subsection (A)(1)(b).
- B.** An administrator shall ensure that there is a documented discharge order by a medical practitioner before a participant is discharged unless the participant leaves the facility against a medical practitioner's advice.
- C.** An administrator shall ensure that, at the time of discharge, a participant receives a referral for behavioral health services that the participant may need after discharge, if applicable.
- D.** An administrator shall ensure that a discharge summary:
1. Is entered into the participant's medical record within 10 working days after a participant's discharge; and
 2. Includes the following information completed by an individual authorized by policies and procedures:
 - a. The participant's presenting issue and other behavioral health and physical health issues identified in the participant's assessment;
 - b. A summary of the behavioral health services and physical health services provided to the participant;
 - c. The name, dosage, and frequency of each medication for the participant ordered at the time of the participant's discharge by a medical practitioner at the facility; and
 - d. A description of the disposition of the participant's possessions, funds, or medications brought to the facility by the participant.
- E.** An administrator shall ensure that a participant who is dependent upon a prescribed medication is offered a written referral to detoxification services or opioid treatment before the participant is discharged.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1406 renumbered to R9-10-1405; new Section R9-10-1406 renumbered from R9-10-1407 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1407. Discharge**A.** An administrator shall ensure that:

1. If a participant is not being transferred to another health care institution, before discharging the participant from a substance abuse transitional facility, a personnel member:
 - a. Identifies the specific needs of the participant after discharge necessary to assist the participant to address the participant's substance abuse issues;
 - b. Identifies any resources, including family members, community social services, peer support services,

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1407 renumbered to R9-10-1406; new Section R9-10-1407 renumbered from R9-10-1408 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1408. Transfer

Except for a transfer of a participant due to an emergency, an administrator shall ensure that:

1. A personnel member coordinates the transfer and the services provided to the participant;
2. According to policies and procedures:
 - a. An evaluation of the participant is conducted before the transfer;
 - b. Information in the participant's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and

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- c. A personnel member explains risks and benefits of the transfer to the participant or the participant's representative; and
- 3. Documentation in the participant's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the participant during a transfer.
- b. May refuse or withdraw consent for treatment before treatment is initiated;
- c. Except in an emergency, is informed of alternatives to a proposed psychotropic medication, associated risks, and possible complications;
- d. Is informed of the participant complaint process; and
- e. Except as otherwise permitted by law, provides written consent to the release of information in the participant's:
 - i. Medical record, or
 - ii. Financial records.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1408 renumbered to R9-10-1407; new Section R9-10-1408 renumbered from R9-10-1409 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1409. Participant Rights

- A. An administrator shall ensure that:
 - 1. The requirements in subsection (B) and the participant rights in subsection (C) are conspicuously posted on the premises;
 - 2. At the time of admission, a participant or the participant's representative receives a written copy of the requirements in subsection (B) and the participant rights in subsection (C); and
 - 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a participant that include:
 - a. How and when a participant or the participant's representative is informed of participant rights in subsection (C), and
 - b. Where participant rights are posted as required in subsection (A)(1).
- B. An administrator shall ensure that:
 - 1. A participant is treated with dignity, respect, and consideration;
 - 2. A participant is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity;
 - k. Misappropriation of personal and private property by the substance abuse transitional facility's personnel members, employees, volunteers, or students; or
 - l. Discharge or transfer, or threat of discharge or transfer, for reasons unrelated to the participant's treatment needs, except as established in a fee agreement signed by the participant or the participant's representative; and
 - 3. A participant or the participant's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of alternatives to a proposed psychotropic medication, associated risks, and possible complications;
 - d. Is informed of the participant complaint process; and
 - e. Except as otherwise permitted by law, provides written consent to the release of information in the participant's:
 - i. Medical record, or
 - ii. Financial records.
- C. A participant has the following rights:
 - 1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 - 2. To receive treatment that:
 - a. Supports and respects the participant's individuality, choices, strengths, and abilities;
 - b. Supports the participant's personal liberty and only restricts the participant's personal liberty according to a court order, by the participant's or the participant's representative's general consent, or as permitted in this Chapter; and
 - c. Is provided in the least restrictive environment that meets the participant's treatment needs;
 - 3. To receive privacy in treatment and care for personal needs, including the right not to be fingerprinted, photographed, or recorded without consent, except:
 - a. A participant may be photographed when admitted to a substance abuse transitional facility for identification and administrative purposes;
 - b. For a participant receiving treatment according to A.R.S. Title 36, Chapter 37; or
 - c. For video recordings used for security purposes that are maintained only on a temporary basis;
 - 4. To review, upon written request, the participant's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
 - 5. To receive a referral to another health care institution if the substance abuse transitional facility is not authorized or not able to provide behavioral health services or physical health services needed by the participant;
 - 6. To participate or have the participant's representative participate in the development of or decisions concerning treatment;
 - 7. To receive assistance from a family member, the participant's representative, or other individual in understanding, protecting, or exercising the participant's rights;
 - 8. To be provided locked storage space for the participant's belongings while the participant receives services; and
 - 9. To be informed of the requirements necessary for the participant's discharge.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1409 renumbered to R9-10-1408; new Section R9-10-1409 renumbered from R9-10-1410 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1410. Medical Records

- A. An administrator shall ensure that:

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1. A medical record is established and maintained for each participant according to A.R.S. Title 12, Chapter 13, Article 7.1;
 2. An entry in a participant's medical record is:
 - a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 3. An order is:
 - a. Dated when the order is entered in the participant's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 5. A participant's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the participant's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the participant or the participant's representative; or
 - c. As permitted by law; and
 6. A participant's medical record is protected from loss, damage, or unauthorized use.
- B.** If a substance abuse transitional agency maintains participants' medical records electronically, an administrator shall ensure that:
1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a medical record is recorded by the computer's internal clock.
- C.** An administrator shall ensure that a participant's medical record contains:
1. Participant information that includes:
 - a. The participant's name;
 - b. The participant's address;
 - c. The participant's date of birth; and
 - d. Any known allergies, including medication allergies;
 2. A participant's presenting behavioral health issue;
 3. Documentation of general consent and, if applicable, informed consent for treatment by the participant or the participant's representative, except in an emergency;
 4. If applicable, the name and contact information of the participant's representative and:
 - a. The document signed by the participant consenting for the participant's representative to act on the participant's behalf; or
 - b. If the participant's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
 5. Documentation of medical history and results of a physical examination;
 6. The date of admission and, if applicable, date of discharge;
 7. Orders;
 8. Assessment;
 9. Progress notes;
 10. Documentation of substance abuse transitional agency services provided to the participant;
 11. If applicable, documentation of any actions taken to control the participant's sudden, intense, or out-of-control behavior to prevent harm to the participant or another individual;
 12. The disposition of the participant upon discharge;
 13. The discharge plan;
 14. A discharge summary, if applicable; and
 15. Documentation of a medication administered to a participant that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain:
 - i. An evaluation of the participant's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication:
 - i. An evaluation of the participant's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The signature of the individual administering the medication; and
 - f. Any adverse reaction a participant has to the medication.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1410 renumbered to R9-10-1409; new Section R9-10-1410 renumbered from R9-10-1411 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1411. Behavioral Health Services

- A.** An administrator shall ensure that counseling is:
1. Offered as described in the substance abuse transitional facility's scope of services,
 2. Provided according to the frequency and number of hours identified in the participant's assessment, and
 3. Provided by a behavioral health professional.
- B.** An administrator shall ensure that:
1. A behavioral health professional providing counseling that addresses a specific type of behavioral health issue has the skills and knowledge necessary to provide the counseling that addresses the specific type of behavioral health issue; and
 2. Each counseling session is documented in a participant's medical record to include:
 - a. The date of the counseling session;
 - b. The amount of time spent in the counseling session;
 - c. Whether the counseling was individual counseling, family counseling, or group counseling;

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- d. The treatment goals addressed in the counseling session; and
- e. The signature of the personnel member who provided the counseling and the date signed.

Historical Note

Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1411 renumbered to R9-10-1410; new Section R9-10-1411 renumbered from R9-10-1412 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1412. Medication Services

- A.** If a facility provides medication administration or assistance in the self-administration of medication, an administrator shall ensure that policies and procedures for medication services:
 - 1. Include:
 - a. A process for providing information to a participant about medication prescribed for the participant including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse reaction to a medication, or
 - iii. A medication overdose;
 - c. Procedures to ensure that a participant's medication regimen is reviewed by a medical practitioner to ensure the medication regimen meets the participant's needs;
 - d. Procedures for documenting medication administration and assistance in the self-administration of medication;
 - e. Procedures for assisting a participant in obtaining medication; and
 - f. If applicable, procedures for providing medication administration or assistance in the self-administration of medication off the premises; and
 - 2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B.** If a substance abuse transitional facility provides medication administration, an administrator shall ensure that:
 - 1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a participant only as prescribed;
 - d. Cover the documentation of a participant's refusal to take prescribed medication in the participant's medical record;
 - 2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
 - 3. A medication administered to a participant:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the participant's medical record.
- C.** If a substance abuse transitional facility provides assistance in the self-administration of medication, an administrator shall ensure that:
 - 1. A participant's medication is stored by the substance abuse transitional facility;
 - 2. The following assistance is provided to a participant:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the participant;
 - c. Observing the participant while the participant removes the medication from the container;
 - d. Verifying that the medication is taken as ordered by the participant's medical practitioner by confirming that:
 - i. The participant taking the medication is the individual stated on the medication container label,
 - ii. The participant is taking the dosage of the medication stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label, and
 - iii. The participant is taking the medication at the time stated on the medication container label or according to an order from a medical practitioner dated later than the date on the medication container label; or
 - e. Observing the participant while the participant takes the medication;
 - 3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a medical practitioner or registered nurse;
 - 4. Training for a personnel member, other than a medical practitioner or registered nurse, in assistance in the self-administration of medication:
 - a. Is provided by a medical practitioner or registered nurse or an individual trained by a medical practitioner or registered nurse;
 - b. Includes:
 - i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. The process for notifying the appropriate entities when an emergency medical intervention is needed;
 - 5. A personnel member, other than a medical practitioner or registered nurse, completes the training in subsection (C)(4) before the personnel member provides assistance in the self-administration of medication; and
 - 6. Assistance in the self-administration of medication provided to a participant:
 - a. Is in compliance with an order, and
 - b. Is documented in the participant's medical record.
- D.** An administrator shall ensure that:

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1. A current drug reference guide is available for use by personnel members, and
 2. A current toxicology reference guide is available for use by personnel members.
- E.** When medication is stored at the substance abuse transitional facility, an administrator shall ensure that:
1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 2. Medication is stored according to the instructions of the medication container; and
 3. Policies and procedures are established, documented, and implemented for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication, including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of participants who received recalled medication;
 - d. Storing, inventorying, and dispensing controlled substances; and
 - e. Documenting the maintenance of a medication requiring refrigeration.
- F.** An administrator shall ensure that a personnel member immediately reports a medication error or a participant's adverse reaction to a medication to the medical practitioner who ordered the medication and the registered nurse required in R9-10-1405(I)(6).
- Historical Note**
- Adopted effective February 1, 1994 (Supp. 94-1). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1412 renumbered to R9-10-1411; new Section R9-10-1412 renumbered from R9-10-1413 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).
- R9-10-1413. Food Services**
- A.** An administrator shall ensure that:
1. If a substance abuse transitional facility has a licensed capacity of more than 10 participants:
 - a. Food services are provided in compliance with 9 A.A.C. 8, Article 1; and
 - b. A copy of the substance abuse transitional facility's food establishment license or permit required according to subsection (A)(1) is maintained;
 2. If a substance abuse transitional facility contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the facility:
 - a. A copy of the contracted food establishment's license or permit is maintained by the substance abuse transitional facility; and
 - b. The substance abuse transitional facility is able to store, refrigerate, and reheat food to meet the dietary needs of a participant;
 3. A registered dietitian is employed full-time, part-time, or as a consultant; and
 4. If a registered dietitian is not employed full-time, an individual is designated as a director of food services who consults with a registered dietitian as often as necessary to meet the nutritional needs of the participants.
- B.** A registered dietitian or director of food services shall ensure that:
1. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a participant such as cut, chopped, ground, pureed, or thickened;
 2. A food menu is:
 - a. Prepared at least one week in advance,
 - b. Conspicuously posted, and
 - c. Maintained for at least 60 calendar days after the last day included in the food menu;
 3. If there is a change to a posted food menu, the change is noted on the posted menu no later than the morning of the day the change occurs;
 4. Meals and snacks provided by the substance abuse transitional facility are served according to posted menus;
 5. Meals and snacks for each day are planned using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp>;
 6. A participant is provided:
 - a. A diet that meets the participant's nutritional needs as specified in the participant's assessment;
 - b. Three meals a day with not more than 14 hours between the evening meal and breakfast, except as provided in subsection (B)(6)(d);
 - c. The option to have a daily evening snack identified in subsection (B)(6)(d)(ii) or other snack; and
 - d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:
 - i. The participant agrees; and
 - ii. The participant is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;
 7. A participant requiring assistance to eat is provided with assistance that recognizes the participant's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils; and
 8. Water is available and accessible to participants at all times, unless otherwise stated in a participant's assessment.
- C.** An administrator shall ensure that food is obtained, prepared, served, and stored as follows:
1. Food is free from spoilage, filth, or other contamination and is safe for human consumption;
 2. Food is protected from potential contamination;
 3. Potentially hazardous food is maintained as follows:
 - a. Foods requiring refrigeration are maintained at 41° F or below; and
 - b. Foods requiring cooking are cooked to heat all parts of the food to a temperature of at least 145° F for 15 seconds, except that:
 - i. Ground beef and any food containing ground beef are cooked to heat all parts of the food to at least 155° F;
 - ii. Poultry, poultry stuffing, stuffed meats, and stuffing that contains meat are cooked to heat all parts of the food to at least 165° F;
 - iii. Pork and any food containing pork are cooked to heat all parts of the food to at least 155° F;

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- iv. Raw shell eggs for immediate consumption are cooked to at least 145° F for 15 seconds and any food containing raw shell eggs is cooked to heat all parts of the food to at least 155° F;
 - v. If the facility serves a population that is not a highly susceptible population, rare roast beef may be served cooked to an internal temperature of at least 145° F for at least three minutes and a whole muscle intact beef steak may be served cooked on both top and bottom to a surface temperature of at least 145° F; and
 - vi. Leftovers are reheated to a temperature of at least 165° F;
- 4. A refrigerator contains a thermometer, accurate to plus or minus 3° F, placed at the warmest part of the refrigerator;
 - 5. Frozen foods are stored at a temperature of 0° F or below; and
 - 6. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1413 renumbered to R9-10-1412; new Section R9-10-1413 renumbered from R9-10-1414 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1414. Emergency and Safety Standards

- A.** An administrator shall ensure that:
- 1. An evacuation drill for employees and participants on the premises is conducted at least once every six months on each shift;
 - 2. Documentation of each evacuation drill is created, is maintained for at least 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the drill;
 - b. The amount of time taken for all employees and participants to evacuate the substance abuse transitional facility;
 - c. Any problems encountered in conducting the drill; and
 - d. Recommendations for improvement, if applicable;
 - 3. An evacuation path is conspicuously posted on each hallway of each floor of the facility;
 - 4. A disaster plan is developed, documented, maintained in a location accessible to personnel members, and, if necessary, implemented that includes:
 - a. When, how, and where participants will be relocated;
 - b. How a participant's medical record will be available to individuals providing services to the participant during a disaster;
 - c. A plan to ensure a participant's medication will be available to administer to the participant during a disaster; and
 - d. A plan for obtaining food and water for individuals present in the substance abuse transitional facility or the substance abuse transitional facility's relocation site during a disaster;
 - 5. The disaster plan required in subsection (A)(4) is reviewed at least once every 12 months;
 - 6. Documentation of a disaster plan review required in subsection (A)(5) is created, is maintained for at least 12

months after the date of the disaster plan review, and includes:

- a. The date and time of the disaster plan review;
 - b. The name of each employee or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement; and
- 7. A disaster drill for employees is conducted on each shift at least once every three months and documented.
- B.** An administrator shall ensure that:
- 1. A fire inspection is conducted by a local fire department or the State Fire Marshal before licensing and according to the time-frame established by the local fire department or the State Fire Marshal,
 - 2. Any repairs or corrections stated on the fire inspection report are made, and
 - 3. Documentation of a current fire inspection is maintained.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1414 renumbered to R9-10-1413; new Section R9-10-1414 renumbered from R9-10-1415 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-1415. Environmental Standards

- A.** An administrator shall ensure that:
- 1. The premises and equipment are sufficient to accommodate the activities, treatment, and ancillary services stated in the substance abuse transitional facility's scope of services;
 - 2. The premises and equipment are:
 - a. Maintained in a condition that allows the premises and equipment to be used for the original purpose of the premises and equipment,
 - b. Clean, and
 - c. Free from a condition or situation that may cause a participant or other individual to suffer physical injury or illness;
 - 3. A pest control program that complies with A.A.C. R3-8-201(C)(4) is implemented and documented;
 - 4. Biohazardous waste and hazardous waste are identified, stored, used, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
 - 5. Equipment used at the substance abuse transitional facility is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
 - 6. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
 - 7. Garbage and refuse are:
 - a. Stored in plastic bags in covered containers, and
 - b. Removed from the premises at least once a week;
 - 8. Heating and cooling systems maintain the facility at a temperature between 70° F and 84° F at all times;

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9. A space heater is not used;
10. Common areas:
 - a. Are lighted to assure the safety of participants, and
 - b. Have lighting sufficient to allow personnel members to monitor participant activity;
11. Hot water temperatures are maintained between 95° F and 120° F in the areas of the substance abuse transitional facility used by participants;
12. The supply of hot and cold water is sufficient to meet the personal hygiene needs of participants and the cleaning and sanitation requirements in this Article;
13. Soiled linen and soiled clothing stored by the substance abuse transitional facility are maintained separate from clean linen and clothing and stored in closed containers away from food storage, kitchen, and dining areas;
14. Oxygen containers are secured in an upright position;
15. Poisonous or toxic materials stored by the substance abuse transitional facility are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to participants;
16. Combustible or flammable liquids and hazardous materials stored by the substance abuse transitional facility are stored in the original labeled containers or safety containers in a locked area inaccessible to participants;
17. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
 - c. Documentation of testing is retained for at least 12 months after the date of the test; and
18. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to all applicable state laws and rules.

B. An administrator shall ensure that:

1. Smoking tobacco products is not permitted within a substance abuse transitional facility; and
2. Smoking tobacco products may be permitted on the premises outside a substance abuse transitional facility if:
 - a. Signs designating smoking areas are conspicuously posted, and
 - b. Smoking is prohibited in areas where combustible materials are stored or in use.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1415 renumbered to R9-10-1414; new Section R9-10-1415 renumbered from R9-10-1416 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 25 A.A.R. 259, effective January 8, 2019 (Supp. 19-1).

R9-10-1416. Physical Plant Standards

- A.** An administrator shall ensure that a substance abuse transitional facility has:
 1. A fire alarm system installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in R9-10-104.01, that is in working order; and a sprinkler system

installed according to the National Fire Protection Association 13 Standard for the Installation of Sprinkler Systems, incorporated by reference in R9-10-104.01, that is in working order; or

2. An alternative method to ensure participant safety that is documented and approved by the local jurisdiction.

B. An administrator shall ensure that:

1. If a participant has a mobility, sensory, or other physical impairment, modifications are made to the premises to ensure that the premises are accessible to and usable by the participant; and
2. A substance abuse transitional facility has:
 - a. A room that provides privacy for a participant to receive treatment or visitors; and
 - b. A common area and a dining area that:
 - i. Are not converted, partitioned, or otherwise used as a sleeping area; and
 - ii. Contain furniture and materials to accommodate the recreational and socialization needs of the participants and other individuals in the facility.

C. An administrator shall ensure that:

1. For every six participants, there is at least one working toilet that flushes and one sink with running water;
2. For every eight participants, there is at least one working bathtub or shower;
3. A participant bathroom provides privacy when in use and contains:
 - a. A shatter-proof mirror;
 - b. Toilet tissue for each toilet;
 - c. Soap accessible from each sink;
 - d. Paper towels in a dispenser or a mechanical air hand dryer for a bathroom that is used by more than one participant;
 - e. A window that opens or another means of ventilation; and
 - f. Nonporous surfaces for shower enclosures, clean usable shower curtains, and slip-resistant surfaces in tubs and showers;
4. Each participant is provided a bedroom for sleeping; and
5. A participant bedroom complies with the following:
 - a. Is not used as a common area;
 - b. Except as provided in subsection (D):
 - i. Contains a door that opens into a hallway, common area, or outdoors; and
 - ii. In addition to the door in subsection (C)(5)(b)(i), contains another means of egress;
 - c. Is constructed and furnished to provide unimpeded access to the door;
 - d. Has window or door covers that provide participant privacy;
 - e. Except as provided in subsection (D), is not used as a passageway to another bedroom or bathroom unless the bathroom is for the exclusive use of an individual occupying the bedroom;
 - f. Has floor to ceiling walls;
 - g. Is a:
 - i. Private bedroom that contains at least 60 square feet of floor space, not including the closet; or
 - ii. Shared bedroom that, except as provided in subsection (D):
 - (1) Is shared by no more than eight participants;
 - (2) Contains at least 60 square feet of floor

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space, not including a closet, for each individual occupying the bedroom; and

- (3) Provides at least three feet of floor space between beds or bunk beds;
- h. Except as provided in subsection (D), contains for each participant occupying the bedroom:
 - i. A bed that is at least 36 inches wide and at least 72 inches long, and consists of at least a frame and mattress and linens; and
 - ii. Individual storage space for personnel effects and clothing such as a dresser or chest; and
 - i. Has sufficient lighting for participant occupying the bedroom to read.
- D. An administrator of a substance abuse transitional facility that uses a building that was licensed as a rural substance abuse transitional center before October 1, 2013 shall ensure that:
 1. A bedroom has a door that allows egress from the bedroom,
 2. A shared bedroom contains enough space to allow each participant occupying the bedroom to freely move about the bedroom,
 3. A bed is of a sufficient size to accommodate a participant using the bed and provide space for all parts of the participant's body on the bed's mattress, and
 4. A participant is provided storage space on a substance abuse transitional facility's premises that is accessible to the participant.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1416 renumbered to R9-10-1415; new Section R9-10-1416 renumbered from R9-10-1417 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

R9-10-1417. Renumbered**Historical Note**

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1417 renumbered to R9-10-1416 by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

ARTICLE 15. ABORTION CLINICS**R9-10-1501. Definitions**

In addition to the definitions in A.R.S. §§ 36-401, 36-449.01, 36-449.03, 36-2151, 36-2158, and 36-2301.01 and R9-10-101, the following definitions apply in this Article, unless otherwise specified:

1. "Admitting privileges" means permission extended by a hospital to a physician to allow admission of an individual as an inpatient, as defined in R9-10-201:
 - a. By the patient's own physician, or
 - b. Through a written agreement between the patient's physician and another physician that states that the other physician has permission to personally admit the patient to a hospital in this state and agrees to do so.
2. "Course" means training or education, including hands-on practice under the supervision of a physician.

3. "Employee" means an individual who receives compensation from a licensee, but does not provide medical services, nursing services, or health-related services.
4. "First trimester" means 1 through 14 weeks as measured from the first day of the last menstrual period or 1 through 12 weeks as measured from the date of fertilization.
5. "Incident" means an abortion-related patient death or serious injury to a patient or fetus delivered alive.
6. "Local" means under the jurisdiction of a city or county in Arizona.
7. "Medical director" means a physician who is responsible for the direction of the medical services, nursing services, and health-related services provided to patients at an abortion clinic.
8. "Medical evaluation" means obtaining a patient's medical history, performing a physical examination of a patient's body, and conducting laboratory tests as provided in R9-10-1509.
9. "Monitor" means to observe and document, continuously or intermittently, the values of certain physiologic variables on a patient such as pulse, blood pressure, oxygen saturation, respiration, and blood loss.
10. "Neonatal resuscitation" means procedures to assist in maintaining the life of a fetus delivered alive, as described in A.R.S. § 36-2301(D)(3).
11. "Patient" means a female receiving medical services, nursing services, or health-related services related to an abortion.
12. "Patient care staff member" means a physician, registered nurse practitioner, nurse, physician assistant, or surgical assistant who provides medical services, nursing services, or health-related services to a patient.
13. "Patient transfer" means relocating a patient requiring medical services from an abortion clinic to another health care institution.
14. "Personally identifiable patient information" means:
 - a. The name, address, telephone number, e-mail address, Social Security number, and birth date of:
 - i. The patient,
 - ii. The patient's representative,
 - iii. The patient's emergency contact,
 - iv. The patient's children,
 - v. The patient's spouse,
 - vi. The patient's sexual partner, and
 - vii. Any other individual identified in the patient's medical record other than patient care staff;
 - b. The patient's place of employment;
 - c. The patient's referring physician;
 - d. The patient's insurance carrier or account;
 - e. Any "individually identifiable health information" as proscribed in 45 CFR 164-514; and
 - f. Any other information in the patient's medical record that could reasonably lead to the identification of the patient.
15. "Personnel" means patient care staff members, employees, and volunteers.
16. "Serious injury" means a life-threatening physical condition related to an abortion procedure.
17. "Surgical assistant" means an individual who is not licensed as a physician, physician assistant, registered nurse practitioner, or nurse who performs duties as directed by a physician, physician assistant, registered nurse practitioner, or nurse.

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18. "Volunteer" means an individual who, without compensation, performs duties as directed by a patient care staff member at an abortion clinic.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Amended by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4).

R9-10-1502. Application Requirements and Documentation Submission

- A. An applicant shall submit an application for licensure that meets the requirements in A.R.S. § 36-422 and 9 A.A.C. 10, Article 1.
- B. A licensee shall submit to the Department the documentation required according to A.R.S. § 36-449.02(B) with the applicable fees required in R9-10-106(C).

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Amended by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4).

Exhibit A. Repealed**Historical Note**

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4).

R9-10-1503. Administration

- A. A licensee is responsible for the organization and management of an abortion clinic.
- B. A licensee shall:
1. Adopt policies and procedures for the administration and operation of an abortion clinic;
 2. Designate a medical director who:
 - a. Is licensed according to A.R.S. Title 32, Chapter 13, 17, or 29; and
 - b. May be the same individual as the licensee;
 3. Ensure the following documents are conspicuously posted on the premises:
 - a. Current abortion clinic license issued by the Department,
 - b. Current telephone number and address of the unit in the Department responsible for licensing the abortion clinic,
 - c. Evacuation map, and
 - d. Signs that comply with A.R.S. § 36-2153(H); and
 4. Except as specified in R9-10-1512(D)(4), ensure that documentation required by this Article is provided to the Department within two hours after a Department request.
- C. A medical director shall ensure written policies and procedures are established, documented, and implemented to protect the health and safety of a patient including:
1. Personnel qualifications, duties, and responsibilities;
 2. Individuals qualified to provide counseling in the abortion clinic and the amount and type of training required for an individual to provide counseling;
 3. If the abortion clinic performs an abortion procedure at or after 20 weeks gestational age:
 - a. Individuals qualified in neonatal resuscitation and the amount and type of training required for an individual to provide neonatal resuscitation, and
 - b. Designation of an individual to arrange the transfer to a hospital of a fetus delivered alive;
 4. Verification of the competency of the physician performing an abortion according to R9-10-1506;
 5. The storage, administration, accessibility, disposal, and documentation of a medication or controlled substance;
 6. Accessibility and security of medical records;
 7. Abortion procedures including:
 - a. Recovery and follow-up care;
 - b. The minimum length of time a patient remains in the recovery room or area based on:
 - i. The type of abortion performed,
 - ii. The estimated gestational age of the fetus,
 - iii. The type and amount of medication administered, and
 - iv. The physiologic signs including vital signs and blood loss; and
 - c. If the abortion clinic performs an abortion procedure at or after 20 weeks gestational age, the requirements in A.R.S. § 36-2301(D);
 8. Infection control including methods of sterilizing equipment and supplies;
 9. Medical emergencies; and
 10. Patient discharge and patient transfer.
- D. For an abortion clinic that is not in substantial compliance or that is in substantial compliance but refuses to carry out a plan of correction acceptable to the Department, the Department may take enforcement action as specified in R9-10-111.

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Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Amended by exempt rulemaking at 20 A.A.R. 2078, effective July 24, 2014 (Supp. 14-3). Amended by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4).

R9-10-1504. Quality Management

A medical director shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the licensee;
2. A documented report is submitted to the licensee that includes:
 - a. An identification of each concern about the delivery of services related to patient care, and
 - b. Any changes made or actions taken as a result of the identification of a concern about the delivery of services related to patient care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the licensee.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemp-

tion from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Section R9-10-1504 renumbered to R9-10-1505; new Section R9-10-1504 made by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4).

R9-10-1505. Incident Reporting

- A. A licensee shall ensure that the Department is notified of an incident as follows:
 1. For the death of a patient, verbal notification the next working day;
 2. For a fetus delivered alive, verbal notification the next working day; and
 3. For a serious injury of a patient or viable fetus, written notification within 10 calendar days after the date of the serious injury.
- B. A medical director shall conduct an investigation of an incident and document an incident report that includes:
 1. The date and time of the incident;
 2. The name of the patient;
 3. A description of the incident, including, if applicable, information required in A.R.S. § 36-2161(A)(15);
 4. Names of individuals who observed the incident;
 5. Action taken by patient care staff members and employees during the incident and immediately following the incident; and
 6. Action taken by the patient care staff members and employees to prevent the incident from occurring in the future.
- C. A medical director shall ensure that the incident report is:
 1. Submitted to the Department and, if the incident involved a licensed individual, the applicable professional licensing board within 10 calendar days after the date of the notification in subsection (A); and
 2. Maintained on the premises for at least two years after the date of the incident.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Section R9-10-1505 renumbered to R9-10-1506; new Section R9-10-1505 renumbered from R9-10-1504 and amended by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4). Amended by final expedited rulemaking at 25 A.A.R. 1893, effective July 2, 2019 (Supp. 19-3).

R9-10-1506. Personnel Qualifications and Records

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A licensee shall ensure that:

1. A physician who performs an abortion demonstrates to the medical director that the physician is competent to perform an abortion by:
 - a. The submission of documentation of education and experience, and
 - b. Observation by or interaction with the medical director;
2. Surgical assistants and volunteers who provide counseling and patient advocacy receive training in these specific responsibilities and any other responsibilities assigned and that documentation of the training received is maintained in the individual's personnel file;
3. An individual who performs an ultrasound provides documentation that the individual is:
 - a. A physician;
 - b. A physician assistant, registered nurse practitioner, or nurse who completed a course in performing ultrasounds under the supervision of a physician; or
 - c. An individual who:
 - i. Completed a course in performing ultrasounds under the supervision of a physician, and
 - ii. Is not otherwise precluded by law from performing an ultrasound;
4. An individual has completed a course for the type of ultrasound the individual performs;
5. If the abortion clinic performs an abortion procedure at or after 20 weeks gestational age, an individual who is available to perform neonatal resuscitation provides documentation that the individual:
 - a. Is a:
 - i. Physician,
 - ii. Physician assistant,
 - iii. Registered nurse practitioner, or
 - iv. Nurse; and
 - b. Has completed a course in performing neonatal resuscitation that is consistent with training provided by the American Academy of Pediatrics Neonatal Resuscitation Program and includes:
 - i. Instruction in the use of resuscitation devices for positive-pressure ventilation, tracheal intubation, medications that may be necessary for neonatal resuscitation and their administration, and resuscitation of pre-term newborns; and
 - ii. Assessment of the individual's skill in applying the information provided through the instruction in subsection (5)(b)(i);
6. A personnel file for each patient care staff member and each volunteer is maintained either electronically or in writing and includes:
 - a. The individual's name and position title;
 - b. The first and, if applicable, the last date of employment or volunteer service;
 - c. Verification of qualifications, training, or licensure, as applicable;
 - d. Documentation of cardiopulmonary resuscitation certification, as applicable;
 - e. Documentation of verification of competency, as required in subsection (1), and signed and dated by the medical director;
 - f. Documentation of training for surgical assistants and volunteers;

- g. Documentation of completion of a course as required in subsection (3), for an individual performing ultrasounds; and
 - h. Documentation of competency to perform neonatal resuscitation, as required in subsection (5), if applicable; and
7. Personnel files are maintained on the premises for at least two years after the ending date of employment or volunteer service.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Section R9-10-1506 renumbered to R9-10-1507; new Section R9-10-1506 renumbered from R9-10-1505 and amended by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4).

R9-10-1507. Staffing Requirements

- A.** A licensee shall ensure that there is a sufficient number of patient care staff members and employees to:
 1. Meet the requirements of this Article,
 2. Ensure the health and safety of a patient, and
 3. Meet the needs of a patient based on the patient's medical evaluation.
- B.** A licensee shall ensure that:
 1. A patient care staff member other than a surgical assistant, who is current in cardiopulmonary resuscitation certification, is on the premises until all patients are discharged;
 2. A physician, with admitting privileges at a health care institution that is classified by the director as a hospital according to A.R.S. § 36-405(B), remains on the premises of the abortion clinic until all patients who received a medication abortion are stable and ready to leave;
 3. A physician, with admitting privileges at a health care institution that is classified by the director as a hospital according to A.R.S. § 36-405(B) and that is within 30 miles of the abortion clinic by road, as defined in A.R.S. § 17-451, remains on the abortion clinic's premises until all patients who received a surgical abortion are stable and discharged from the recovery room;
 4. A patient care staff member is on the premises to comply with R9-10-1509(H); and
 5. If the abortion clinic performs an abortion procedure at or after 20 weeks gestational age, a patient care staff member qualified according to policies and procedures to per-

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form neonatal resuscitation is available for the abortion procedure.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Section R9-10-1507 renumbered to R9-10-1508; new Section R9-10-1507 renumbered from R9-10-1506 and amended by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4).

R9-10-1508. Patient Rights

A licensee shall ensure that a patient is afforded the following rights, and is informed of these rights:

1. To refuse treatment, or withdraw consent for treatment;
2. To have medical records kept confidential; and
3. To be informed of:
 - a. Billing procedures and financial liability before abortion services are provided;
 - b. Proposed medical or surgical procedures, associated risks, possible complications, and alternatives;
 - c. Counseling services that are provided on the premises;
 - d. The right to review the ultrasound results with a physician, a physician assistant, a registered nurse practitioner, or a registered nurse before the abortion procedure; and
 - e. The right to receive a print of the ultrasound image.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, § 3(B). Amended effective May 2, 1997, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1996, Ch. 329, § 5 (Supp. 97-2). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1,

2014 (Supp. 14-1). Section R9-10-1508 renumbered to R9-10-1509; new Section R9-10-1508 renumbered from R9-10-1507 and amended by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4).

R9-10-1509. Abortion Procedures

- A. A medical director shall ensure that a medical evaluation of a patient is conducted before the patient's abortion is performed that includes:
 1. A medical history including:
 - a. Allergies to medications, antiseptic solutions, or latex;
 - b. Obstetrical and gynecological history;
 - c. Past surgeries;
 - d. Medication the patient is currently taking; and
 - e. Other medical conditions;
 2. A physical examination, performed by a physician that includes a bimanual examination to estimate uterine size and palpation of adnexa;
 3. The following laboratory tests:
 - a. A urine or blood test to determine pregnancy;
 - b. Rh typing, unless the patient provides written documentation of blood type acceptable to the physician;
 - c. Anemia screening; and
 - d. Other laboratory tests recommended by the physician or medical director on the basis of the physical examination; and
 4. An ultrasound imaging study of the fetus, performed as required in A.R.S. §§ 36-2156 and 36-2301.02(A).
- B. If the medical evaluation indicates a patient is Rh negative, a medical director shall ensure that:
 1. The patient receives information from a physician on this condition;
 2. The patient is offered RhO(d) immune globulin within 72 hours after the abortion procedure;
 3. If a patient refuses RhO(d) immune globulin, the patient signs and dates a form acknowledging the patient's condition and refusing the RhO(d) immune globulin;
 4. The form in subsection (B)(3) is maintained in the patient's medical record; and
 5. If a patient refuses RhO(d) immune globulin or if a patient refuses to sign and date an acknowledgment and refusal form, the physician documents the patient's refusal in the patient's medical record.
- C. A physician shall estimate the gestational age of the fetus, based on one of the following criteria, and record the estimated gestational age in the patient's medical record:
 1. Ultrasound measurements of the biparietal diameter, length of femur, abdominal circumference, visible pregnancy sac, or crown-rump length or a combination of these; or
 2. The date of the last menstrual period or the date of fertilization and a bimanual examination of the patient.
- D. A medical director shall ensure that:
 1. The ultrasound of a patient required in subsection (A)(4) is performed by an individual who meets the requirements in R9-10-1506(3);
 2. An ultrasound estimate of gestational age of a fetus is performed using methods and tables or charts in a publication distributed nationally that contains peer-reviewed medical information, such as medical information derived from a publication describing research in obstetrics and gynecology or in diagnostic imaging;
 3. An original patient ultrasound image is:
 - a. Interpreted by a physician, and

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- b. Maintained in the patient's medical record in either electronic or paper form; and
 - 4. If requested by the patient, the ultrasound image is reviewed with the patient by a physician, physician assistant, registered nurse practitioner, or registered nurse.
- E. A medical director shall ensure that before an abortion is performed on a patient:
 - 1. Written consent, that meets the requirements in A.R.S. § 36-2152 or 36-2153, as applicable, and A.R.S. § 36-2158 is signed and dated by the patient or the patient's representative;
 - 2. Information is provided to the patient on the abortion procedure, including alternatives, risks, and potential complications;
 - 3. Information specified in A.R.S. § 36-2161(A)(12) is requested from the patient; and
 - 4. If applicable, information required in A.R.S. § 36-2161(C) is provided to the patient.
- F. A medical director shall ensure that an abortion is performed according to the abortion clinic's policies and procedures and this Article.
- G. A medical director shall ensure that:
 - 1. A patient care staff member monitors a patient's vital signs throughout an abortion procedure to ensure the patient's health and safety;
 - 2. Intravenous access is established and maintained on a patient undergoing an abortion after the first trimester unless the physician determines that establishing intravenous access is not appropriate for the particular patient and documents that fact in the patient's medical record;
 - 3. If an abortion procedure is performed at or after 20 weeks gestational age, a patient care staff member qualified in neonatal resuscitation, other than the physician performing the abortion procedure, is in the room in which the abortion procedure takes place before the delivery of the fetus; and
 - 4. If a fetus is delivered alive:
 - a. Resuscitative measures, including the following, are used to support life:
 - i. Warming and drying of the fetus,
 - ii. Clearing secretions from and positioning the airway of the fetus,
 - iii. Administering oxygen as needed to the fetus, and
 - iv. Assessing and monitoring the cardiopulmonary status of the fetus;
 - b. A determination is made of whether the fetus is a viable fetus;
 - c. A viable fetus is provided treatment to support life;
 - d. A viable fetus is transferred as required in R9-10-1510; and
 - e. Resuscitative measures and the transfer, as applicable, are documented.
- H. To ensure a patient's health and safety, a medical director shall ensure that following the abortion procedure:
 - 1. A patient's vital signs and bleeding are monitored by:
 - a. A physician;
 - b. A physician assistant;
 - c. A registered nurse practitioner;
 - d. A nurse; or
 - e. If a physician is able to provide direct supervision, as defined in A.R.S. § 32-1401 or A.R.S. § 32-1800, as applicable, to a medical assistant, as defined in A.R.S. § 32-1401 or A.R.S. § 32-1800, a medical assistant under the direct supervision of the physician; and
 - 2. A patient remains in the recovery room or recovery area until a physician, physician assistant, registered nurse practitioner, or nurse examines the patient and determines that the patient's medical condition is stable and the patient is ready to leave the recovery room or recovery area.
- I. A medical director shall ensure that follow-up care:
 - 1. For a surgical abortion is offered to a patient that includes:
 - a. With a patient's consent, a telephone call made to the patient to assess the patient's recovery:
 - i. By a patient care staff member other than a surgical assistant; and
 - ii. Within 24 hours after the patient's discharge following a surgical abortion; and
 - b. A follow-up visit scheduled, if requested, no more than 21 calendar days after the abortion that includes:
 - i. A physical examination,
 - ii. A review of all laboratory tests as required in subsection (A)(3), and
 - iii. A urine pregnancy test;
 - 2. For a medication abortion includes a follow-up visit, scheduled between seven and 21 calendar days after the initial dose of a substance used to induce an abortion, that includes:
 - a. A urine pregnancy test, and
 - b. An assessment of the degree of bleeding; and
 - 3. Is documented in the patient's medical record, including:
 - a. A patient's acceptance or refusal of a follow-up visit following a surgical abortion;
 - b. If applicable, the results of the follow-up visit; and
 - c. If applicable, whether the patient consented to a telephone call and, if so, whether the patient care staff member making the telephone call to the patient:
 - i. Spoke with the patient about the patient's recovery, or
 - ii. Was unable to speak with the patient.
- J. If a continuing pregnancy is suspected as a result of the follow-up visit in subsection (I)(1)(b) or (I)(2), a physician who performs abortions shall be consulted.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Section R9-10-1509 renumbered to R9-10-1510; new Section R9-10-1509 renumbered from R9-10-1508 and amended by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4). Amended by final expedited rulemaking at 25 A.A.R. 1893, effective July 2, 2019 (Supp. 19-3).

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R9-10-1510. Patient Transfer and Discharge

A. A medical director shall ensure that:

1. For a patient:
 - a. A patient is transferred to a hospital for an emergency involving the patient;
 - b. A patient transfer is documented in the patient's medical record; and
 - c. Documentation of a medical evaluation, treatment provided, and laboratory and diagnostic information is transferred with a patient; and
2. For a viable fetus:
 - a. A viable fetus requiring emergency care is transferred to a hospital,
 - b. The transfer of a viable fetus is documented in the viable fetus's medical record, and
 - c. Documentation of an assessment of cardiopulmonary function and treatment provided to a viable fetus is transferred with the viable fetus.

B. A medical director shall ensure that before a patient is discharged:

1. A physician signs the patient's discharge order; and
2. A patient receives follow-up instructions at discharge that include:
 - a. Signs of possible complications,
 - b. When to access medical services in response to complications,
 - c. A telephone number of an individual or entity to contact for medical emergencies,
 - d. Information and precautions for resuming vaginal intercourse after the abortion, and
 - e. Information specific to the patient's abortion or condition.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4).

Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Section R9-10-1510 renumbered to R9-10-1511; new Section R9-10-1510 renumbered from R9-10-1509 and amended by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4).

R9-10-1511. Medications and Controlled Substances

A medical director shall ensure that:

1. The abortion clinic complies with the requirements for medications and controlled substances in A.R.S. Title 32, Chapter 18, and A.R.S. Title 36, Chapter 27;
2. A medication is administered in compliance with an order from a physician, physician assistant, registered nurse practitioner, or as otherwise provided by law;
3. A medication is administered to a patient or to a viable fetus by a physician or as otherwise provided by law;

4. Medications and controlled substances are maintained in a locked area on the premises;
5. Only personnel designated by policies and procedures have access to the locked area containing medications and controlled substances;
6. Expired, mislabeled, or unusable medications and controlled substances are disposed of according to policies and procedures;
7. A medication error or an adverse reaction, including any actions taken in response to the medication error or adverse reaction, is immediately reported to the medical director and licensee, and recorded in the patient's medical record;
8. Medication information for a patient is maintained in the patient's medical record and contains:
 - a. The patient's name, age, and weight;
 - b. The medications the patient is currently taking;
 - c. Allergies or sensitivities to medications, antiseptic solutions, or latex; and
 - d. If medication is administered to the patient:
 - i. The date and time of administration;
 - ii. The name, strength, dosage form, amount of medication, and route of administration; and
 - iii. The identification and signature of the individual administering the medication; and
9. If administered to a fetus delivered alive, the following are documented in the fetus's medical record:
 - a. The date and time of oxygen administration;
 - b. The amount and flow rate of the oxygen;
 - c. The identification and signature of the individual administering the oxygen; and
 - d. For a viable fetus:
 - i. The date and time of medication administration;
 - ii. The name, strength, dosage form, amount of medication, and route of administration; and
 - iii. The identification and signature of the individual administering the medication.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4).

Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Amended by exempt rulemaking at 20 A.A.R. 2078, effective July 24, 2014 (Supp. 14-3). Section R9-10-1511 renumbered to R9-10-1512; new Section R9-10-1511 renumbered from R9-10-1510 and amended by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4).

R9-10-1512. Medical Records

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- A.** A licensee shall ensure that a medical record is established and maintained for a patient that contains:
1. Patient identification including:
 - a. The patient's name, address, and date of birth;
 - b. The designated patient's representative, if applicable; and
 - c. The name and telephone number of an individual to contact in an emergency;
 2. The patient's medical history required in R9-10-1509(A)(1);
 3. The patient's physical examination required in R9-10-1509(A)(2);
 4. The laboratory test results required in R9-10-1509(A)(3);
 5. The ultrasound results, including the original print, required in R9-10-1509(A)(4);
 6. The physician's estimated gestational age of the fetus required in R9-10-1509(C);
 7. Each consent form signed by the patient or the patient's representative;
 8. Orders issued by a physician, physician assistant, or registered nurse practitioner;
 9. A record of medical services, nursing services, and health-related services provided to the patient;
 10. The patient's medication information;
 11. Documentation related to follow-up care specified in R9-10-1509(I); and
 12. If the abortion procedure was performed at or after 20 weeks gestational age and the fetus was not delivered alive, documentation from the physician and other patient care staff member present certifying that the fetus was not delivered alive.
- B.** A licensee shall ensure that a medical record is established and maintained for a fetus delivered alive that contains:
1. An identification of the fetus, including:
 - a. The name of the patient from whom the fetus was delivered alive, and
 - b. The date the fetus was delivered alive;
 2. Orders issued by a physician, physician assistant, or registered nurse practitioner;
 3. A record of medical services, nursing services, and health-related services provided to the fetus delivered alive;
 4. If applicable, information about medication administered to the fetus delivered alive; and
 5. If the abortion procedure was performed at or after 20 weeks gestational age:
 - a. Documentation of the requirements in R9-10-1509(G)(4); and
 - b. If the fetus had a lethal fetal condition, the results of the confirmation of the lethal fetal condition.
- C.** A licensee shall ensure that:
1. A medical record is accessible only to the Department or personnel authorized by policies and procedures;
 2. Medical record information is confidential and released only with the written informed consent of a patient or the patient's representative or as otherwise permitted by law;
 3. A medical record is protected from loss, damage, or unauthorized use and is maintained and accessible for at least seven years after the date of an adult patient's discharge or if the patient is a child, either for at least three years after the child's 18th birthday or for at least seven years after the patient's discharge, whichever date occurs last;
 4. A medical record is maintained at the abortion clinic for at least six months after the date of the patient's discharge; and
 5. Vital records and vital statistics are retained according to A.R.S. § 36-343.
- D.** If the Department requests patient medical records for review, the licensee:
1. Is not required to produce any patient medical records created or prepared by a referring physician's office;
 2. May provide patient medical records to the Department either in paper or in an electronic format that is acceptable to the Department;
 3. Shall provide the Department with the following patient medical records related to medical services associated with an abortion, including any follow-up visits to the abortion clinic in connection with the abortion:
 - a. The patient's medical history required in R9-10-1509(A)(1);
 - b. The patient's physical examination required in R9-10-1509(A)(2);
 - c. The laboratory test results required in R9-10-1509(A)(3);
 - d. The physician's estimate of gestational age of the fetus required in R9-10-1509(C);
 - e. The ultrasound results required in R9-10-1509(D)(2);
 - f. Each consent form signed by the patient or the patient's representative;
 - g. Orders issued by a physician, physician assistant, or registered nurse practitioner;
 - h. A record of medical services, nursing services, and health-related services provided to the patient; and
 - i. The patient's medication information;
 4. If the Department's request is in connection with a licensing or compliance inspection:
 - a. Is not required to produce any patient medical records associated with an abortion that occurred before the licensing inspection or a previous compliance inspection of the abortion clinic; and
 - b. Shall:
 - i. Redact only personally identifiable patient information from the patient medical records before the licensee discloses the patient medical records to the Department;
 - ii. Upon request by the Department, code the requested patient medical records by a means that allows the Department to track all patient medical records related to a specific patient without the personally identifiable patient information; and
 - iii. Unless the Department and the licensee agree otherwise, provide redacted copies of patient medical records to the Department:
 - (1) For one to ten patients, within two working days after the request, and
 - (2) For every additional five patients, within an additional two working days; and
 5. If the Department's request is in connection with a complaint investigation, shall:
 - a. Not redact patient information from the patient medical records before the licensee discloses the patient medical records to the Department; and
 - b. Ensure the patient medical records include:
 - i. The patient's name, address, and date of birth;

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- ii. The patient's representative, if applicable; and
 - iii. The name and telephone number of an individual to contact in an emergency.
- E. A medical director shall ensure that only personnel authorized by policies and procedures, records or signs an entry in a medical record and:
 - 1. An entry in a medical record is dated and legible;
 - 2. An entry is authenticated by:
 - a. A signature; or
 - b. An individual's initials if the individual's signature already appears in the medical record;
 - 3. An entry is not changed after it has been recorded, but additional information related to an entry may be recorded in the medical record;
 - 4. When a verbal or telephone order is entered in the medical record, the entry is authenticated within 21 calendar days by the individual who issued the order;
 - 5. If a rubber-stamp signature or an electronic signature is used:
 - a. An individual's rubber stamp or electronic signature is not used by another individual;
 - b. The individual who uses a rubber stamp or electronic signature signs a statement that the individual is responsible for the use of the rubber stamp or the electronic signature; and
 - c. The signed statement is included in the individual's personnel record; and
 - 6. If an abortion clinic maintains medical records electronically, the medical director shall ensure the date and time of an entry is recorded by the computer's internal clock.
- F. As required by A.R.S. § 36-449.03(J), the Department shall not release any personally identifiable patient or physician information.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Section R9-10-1512 renumbered to R9-10-1513; new Section R9-10-1512 renumbered from R9-10-1511 and amended by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4).

R9-10-1513. Environmental and Safety Standards

A licensee shall ensure that:

- 1. The premises:
 - a. Provide lighting and ventilation to ensure the health and safety of a patient,
 - b. Are maintained in a clean condition,
 - c. Are free from a condition or situation that may cause a patient to suffer physical injury,
 - d. Are maintained free from insects and vermin, and
 - e. Are smoke-free;

- 2. A warning notice is placed at the entrance to a room or area where oxygen is in use;
- 3. Soiled linen and clothing are kept:
 - a. In a covered container, and
 - b. Separate from clean linen and clothing;
- 4. Personnel wash hands after each direct patient contact and after handling soiled linen, soiled clothing, or biohazardous medical waste;
- 5. A written emergency plan is established, documented, and implemented that includes procedures for protecting the health and safety of patients and other individuals in a fire, natural disaster, loss of electrical power, or threat or incidence of violence;
- 6. An evacuation drill is conducted at least once every six months that includes all personnel on the premises on the day of the evacuation drill; and
- 7. Documentation of the evacuation drill is maintained on the premises for at least one year after the date of the evacuation drill and includes:
 - a. The date and time of the evacuation drill, and
 - b. The names of personnel participating in the evacuation drill.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Section R9-10-1513 renumbered to R9-10-1514; new Section R9-10-1513 renumbered from R9-10-1512 and amended by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4).

R9-10-1514. Equipment Standards

A licensee shall ensure that:

- 1. Equipment and supplies are maintained in a:
 - a. Clean condition, and
 - b. Quantity sufficient to meet the needs of patients present in the abortion clinic;
- 2. Equipment to monitor vital signs is in each room in which an abortion is performed;
- 3. A surgical or gynecologic examination table is used for an abortion;
- 4. The following equipment and supplies are available in the abortion clinic:
 - a. Equipment to measure blood pressure;
 - b. A stethoscope;
 - c. A scale for weighing a patient;
 - d. Supplies for obtaining specimens and cultures and for laboratory tests; and
 - e. Equipment and supplies for use in a medical emergency including:
 - i. Ventilatory assistance equipment,
 - ii. Oxygen source,
 - iii. Suction apparatus, and

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- iv. Intravenous fluid equipment and supplies; and
- f. Ultrasound equipment;
- 5. In addition to the requirements in subsection (4), the following equipment is available for an abortion procedure performed after the first trimester:
 - a. Drugs to support cardiopulmonary function of a patient, and
 - b. Equipment to monitor the cardiopulmonary status of a patient;
- 6. In addition to the requirements in subsections (4) and (5), if the abortion clinic performs an abortion procedure at or after 20 weeks gestational age, the following equipment is available for the abortion procedure:
 - a. Equipment to provide warmth and drying of a fetus delivered alive,
 - b. Equipment necessary to clear secretions from and position the airway of a fetus delivered alive,
 - c. Equipment necessary to administer oxygen to a fetus delivered alive,
 - d. Equipment to assess and monitor the cardiopulmonary status of a fetus delivered alive, and
 - e. Drugs to support cardiopulmonary function in a viable fetus;
- 7. Equipment and supplies are clean and, if applicable, sterile before each use;
- 8. Equipment required in this Section is maintained in working order, tested and calibrated at least once every 12 months or according to the manufacturer's recommendations, and used according to the manufacturer's recommendations; and
- 9. Documentation of each equipment test, calibration, and repair is maintained on the premises for at least 12 months after the date of the testing, calibration, or repair and provided to the Department for review within two hours after the Department requests the documentation.

Historical Note

Adopted effective August 6, 1993, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1993, Ch. 163, Section 3(B). Repealed effective November 1, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to Laws 1998, Ch. 178, § 17; filed with the Office of the Secretary of State October 2, 1998 (Supp. 98-4). New Section adopted effective April 1, 2000, under an exemption from the provisions of the Arizona Administrative Procedure Act pursuant to Laws 1999, Chapter 311; filed with the Office of the Secretary of State December 23, 1999 at 6 A.A.R. 351 (Supp. 99-4). Amended by exempt rulemaking at 6 A.A.R. 3755, effective January 1, 2001 (Supp. 00-3). Amended by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Section R9-10-1514 renumbered to R9-10-1515; new Section R9-10-1514 renumbered from R9-10-1513 and amended by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4).

R9-10-1515. Physical Plant Standards

- A. A licensee shall ensure that an abortion clinic complies with all local building codes, ordinances, fire codes, and zoning requirements. If there are no local building codes, ordinances, fire codes, or zoning requirements, the abortion clinic shall comply with the applicable codes and standards incorporated by reference in A.A.C. R9-1-412 that were in effect on the date

the abortion clinic's architectural plans and specifications were submitted to the Department for approval.

- B. A licensee shall ensure that an abortion clinic provides areas or rooms:
 - 1. That provide privacy for:
 - a. A patient's interview, medical evaluation, and counseling;
 - b. A patient to dress; and
 - c. Performing an abortion procedure;
 - 2. For personnel to dress;
 - 3. With a sink and a flushable toilet in working order;
 - 4. For cleaning and sterilizing equipment and supplies;
 - 5. For storing medical records;
 - 6. For storing equipment and supplies;
 - 7. For hand washing before the abortion procedure; and
 - 8. For a patient recovering after an abortion.
- C. A licensee shall ensure that an abortion clinic has an emergency exit to accommodate a stretcher or gurney.

Historical Note

New Section R9-10-1515 made by exempt rulemaking at 20 A.A.R. 448, effective April 1, 2014 (Supp. 14-1). Section repealed; new Section renumbered from R9-10-1514 and amended by final rulemaking at 24 A.A.R. 3043, effective October 2, 2018 (Supp. 18-4).

ARTICLE 16. BEHAVIORAL HEALTH RESPITE HOMES**R9-10-1601. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following apply in this Article unless otherwise specified:

- 1. "Acceptance" means, after a referral from a collaborating health care institution, an individual receives services from a provider in a behavioral health respite home.
- 2. "Provider" means an individual who lives in a behavioral health respite home and ensures that a recipient receives the behavioral health services and ancillary services in the recipient's treatment plan.
- 3. "Recipient" means an individual referred by a collaborating health care institution to and accepted by a behavioral health respite home.
- 4. "Release" means a documented termination of services by a provider to a recipient that is authorized by a collaborating health care institution.
- 5. "Sibling" means one of two or more individuals having one or both parents in common.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1602. Supplemental Application Requirements

In addition to the license application requirements in A.R.S. § 36-422 and 9 A.A.C. 10, Article 1, an applicant shall include, in a format provided by the Department, the following information for the behavioral health respite home's collaborating health care institution:

- 1. Name,
- 2. Address,
- 3. Class or subclass,
- 4. License number, and
- 5. Name and contact information for an individual assigned by the collaborating health care institution to monitor the behavioral health respite home.

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Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1602 renumbered to R9-10-1603; new Section R9-10-1602 made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1603. Administration

- A.** A governing authority of a behavioral health respite home:
1. Consists of no more than two providers, who live in the behavioral health respite home;
 2. Has the authority and responsibility to manage the behavioral health respite home;
 3. Has a documented agreement with a collaborating health care institution that establishes the responsibilities of the behavioral health respite home and the collaborating health care institution, consistent with the requirements in this Chapter;
 4. Shall establish, in writing, the behavioral health respite home's scope of services, which are approved by the collaborating health care institution; and
 5. Shall ensure that:
 - a. Except as provided in R9-10-1612(A), no more than three recipients are accepted by the behavioral health respite home;
 - b. A provider is on the premises whenever a recipient is present in the behavioral health respite home;
 - c. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - d. When documentation or information is required by this Chapter to be submitted on behalf of the behavioral health respite home, the documentation or information is provided to the unit in the Department that is responsible for licensing the behavioral health respite home.
- B.** A provider:
1. Is at least 21 years of age;
 2. Holds current certification in cardiopulmonary resuscitation and first aid training applicable to the ages of recipients;
 3. Has the skills and knowledge established by the collaborating health care institution as specified in R9-10-118;
 4. Has documentation of completion of training in assistance in the self-administration of medication as specified in R9-10-118; and
 5. Has documentation of evidence of freedom from infectious tuberculosis:
 - a. On or before the date the provider begins providing services at or on behalf of the behavioral health respite home, and
 - b. As specified in R9-10-113.
- C.** A provider shall ensure that policies and procedures are:
1. Established, documented, and implemented to protect the health and safety of a recipient that cover:
 - a. Recordkeeping;
 - b. Recipient acceptance and release;
 - c. The release of a recipient under 18 years of age to an individual other than the recipient's parent or guardian;
 - d. Recipient rights;
 - e. The provision of respite care services, including coordinating the provision of behavioral health services;
 - f. Recipients' medical records, including electronic medical records;
 - g. Assistance in the self-administration of medication;
 - h. Infection control; and
 - i. How a provider will respond to a recipient's sudden, intense, or out-of-control behavior to prevent harm to the recipient or another individual;
 2. Approved, in writing, by the behavioral health respite home's collaborating health care institution before implementation and when the policies and procedures are reviewed or updated; and
 3. Reviewed by the provider and the behavioral health respite home's collaborating health care institution at least once every three years and updated as needed.
- D.** A provider shall provide written notification to the Department and the collaborating health care institution of a recipient's:
1. Death, if the recipient's death is required to be reported according to A.R.S. § 11-593, within one working day after the recipient's death; and
 2. Self-injury, within two working days after the recipient inflicts a self-injury that requires immediate intervention by an emergency medical services provider.
- E.** If abuse, neglect, or exploitation of a recipient is alleged or suspected to have occurred before the recipient was accepted or while the recipient is not at a behavioral health respite home and not receiving services from the behavioral health respite home, a provider shall report the alleged or suspected abuse, neglect, or exploitation of the recipient as follows:
1. For a recipient 18 years of age or older, according to A.R.S. § 46-454; or
 2. For a recipient under 18 years of age, according to A.R.S. § 13-3620.
- F.** If a provider has a reasonable basis, according to A.R.S. § 13-3620 or 46-454, to believe that abuse, neglect, or exploitation has occurred on the premises or while a recipient is receiving behavioral health respite home services, the provider shall:
1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Report the suspected abuse, neglect, or exploitation of the recipient as follows:
 - a. To the behavioral health respite home's collaborating health care institution; and
 - b. For a:
 - i. Recipient 18 years of age or older, according to A.R.S. § 46-454; and
 - ii. Recipient under 18 years of age, according to A.R.S. § 13-3620;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (F)(1); and
 - c. The report in subsection (F)(2);
 4. Maintain the documentation in subsection (F)(3) for at least 12 months after the date of the report in subsection (F)(2);
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (F)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the recipient related to the suspected abuse or neglect and any change to the recipient's physical, cognitive, functional, or emotional condition;

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- c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The action taken by the provider to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
- 6. Maintain a copy of the documented information required in subsection (F)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- G.** A provider shall ensure that a recipient under 18 years of age is only released to an individual who, according to policies and procedures:
 - 1. Is designated by the recipient's parent or guardian to release the recipient, and
 - 2. Presents documentation at the time of the recipient's release that verifies the individual's identity.
- H.** A provider shall maintain a record for each provider that includes:
 - 1. The provider's:
 - a. Name,
 - b. Date of birth, and
 - c. Contact telephone number; and
 - 2. Documentation of:
 - a. Verification of skills and knowledge, completed by the behavioral health respite home's collaborating health care institution;
 - b. Certification in cardiopulmonary resuscitation and first aid training;
 - c. Completion of training in assistance in the self-administration of medication, provided by the behavioral health respite home's collaborating health care institution; and
 - d. Evidence of freedom from infectious tuberculosis.
- b. Consents to photographs of the recipient before the recipient is photographed, except that a recipient may be photographed when accepted by a behavioral health respite home for identification and administrative purposes; and
 - c. Except as otherwise permitted by law, provides written consent to the release of information in the recipient's medical record.
- B.** A recipient has the following rights:
 - 1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 - 2. To receive services that support and respect the recipient's individuality, choices, strengths, and abilities;
 - 3. To receive privacy in care for personal needs;
 - 4. To review, upon written request, the recipient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
 - 5. To receive a referral to another health care institution if the provider is not authorized or not able to provide physical health services or behavioral health services needed by the recipient; and
 - 6. To receive assistance from a family member, recipient's representative, or other individual in understanding, protecting, or exercising the recipient's rights.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1604 renumbered to R9-10-1605; new Section R9-10-1604 renumbered from R9-10-1603 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1605. Providing Services

- A.** A provider shall ensure that behavioral health services and ancillary services are provided to a recipient according to the recipient's treatment plan obtained from the behavioral health respite home's collaborating health care institution.
- B.** A provider shall submit to the behavioral health respite home's collaborating health care institution and, if applicable, the recipient's case manager:
 - 1. Documentation of any significant change in a recipient's behavior or physical, cognitive, or functional condition and the action taken by a provider to address the recipient's changing needs; and
 - 2. Notification of a recipient's unexpected self-release.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1605 renumbered to R9-10-1606; new Section R9-10-1605 renumbered from R9-10-1604 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1606. Assistance in the Self-Administration of Medication

- A.** If a provider provides assistance in the self-administration of medication, the provider shall ensure that:
 - 1. If a recipient is receiving assistance in the self-administration of medication, the recipient's medication is stored by the provider;
 - 2. The following assistance is provided to a recipient:
 - a. A reminder when it is time to take the medication;

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1603 renumbered to R9-10-1604; new Section R9-10-1603 renumbered from R9-10-1602 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1604. Recipient Rights

- A.** A provider shall ensure that:
 - 1. A recipient is treated with dignity, respect, and consideration;
 - 2. A recipient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by:
 - i. A behavioral health respite home's provider, or
 - ii. An individual other than a recipient residing in the behavioral health respite home; and
 - 3. A recipient or the recipient's representative:
 - a. Is informed of the recipient complaint process;

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- b. Opening the medication container or medication organizer for the recipient;
 - c. Observing the recipient while the recipient removes the medication from the medication container or medication organizer;
 - d. Verifying that the medication is taken as ordered by the recipient's medical practitioner by confirming that:
 - i. The recipient taking the medication is the individual stated on the medication container label,
 - ii. The recipient is taking the dosage of the medication as stated on the medication container label, and
 - iii. The recipient is taking the medication at the time stated on the medication container label; or
 - e. Observing the recipient while the recipient takes the medication; and
 - 3. Assistance in the self-administration of medication provided to a recipient is documented in the recipient's medical record.
- B.** When medication is stored by a provider, the provider shall ensure that:
- 1. A locked cabinet, closet, or self-contained unit is used for medication storage;
 - 2. Medication is stored according to the instructions on the medication container; and
 - 3. Medication, including expired medication, that is no longer being used is discarded.
- C.** A provider shall immediately report a medication error or a recipient's adverse reaction to a medication to the:
- 1. Medical practitioner who ordered the medication, or
 - 2. Contact individual at the behavioral health respite home's collaborating health care institution.
- Historical Note**
- Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1606 renumbered to R9-10-1607; new Section R9-10-1606 renumbered from R9-10-1605 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).
- R9-10-1607. Medical Records**
- A.** A provider shall ensure that:
- 1. A medical record is established and maintained for each recipient according to A.R.S. Title 12, Chapter 13, Article 7.1;
 - 2. An entry in a recipient's medical record is:
 - a. Only recorded by the provider or an individual designated by the provider to record an entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 - 3. A recipient's medical record is available to an individual:
 - a. Authorized by policies and procedures to access the recipient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the recipient or the recipient's representative; or
 - c. As permitted by law; and
 - 4. A recipient's medical record is protected from loss, damage, or unauthorized use.
- B.** If a provider maintains recipients' medical records electronically, the provider shall ensure that safeguards exist to prevent unauthorized access.
- C.** A provider shall ensure that a recipient's medical record contains:
- 1. Recipient information that includes:
 - a. The recipient's name,
 - b. The recipient's date of birth,
 - c. Any known allergies, and
 - d. Medication information for the recipient;
 - 2. The names, addresses, and telephone numbers of:
 - a. The recipient's medical practitioner;
 - b. The recipient's case manager, if applicable;
 - c. The behavioral health professional assigned to the recipient by the behavioral health respite home's collaborating health care institution; and
 - d. An individual to be contacted in the event of an emergency;
 - 3. The date and time of the recipient's acceptance by the behavioral health respite home and, if applicable, the date and time of the recipient's release from the behavioral health respite home;
 - 4. If applicable, the name and contact information of the recipient's representative and:
 - a. If the recipient is 18 years of age or older or an emancipated minor, the document signed by the recipient consenting for the recipient's representative to act on the recipient's behalf; or
 - b. If the recipient's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
 - 5. A copy of the recipient's treatment plan and any updates to the recipient's treatment plan obtained from the behavioral health respite home's collaborating health care institution;
 - 6. For a recipient receiving assistance in the self-administration of medication, documentation that includes for each medication:
 - a. The date and time of assistance;
 - b. The name, strength, dosage, and route of administration;
 - c. The provider's signature or first and last initials; and
 - d. Any adverse reaction the recipient has to the medication;
 - 7. Documentation of the recipient's refusal of a medication, if applicable;
 - 8. Documentation of any significant change in the recipient's behavior or physical, cognitive, or functional condition and the action taken by a provider to address the recipient's changing needs;
 - 9. If applicable, documentation of any actions taken to control the recipient's sudden, intense, or out-of-control behavior to prevent harm to the recipient or another individual;
 - 10. If applicable, documentation of a notification to the behavioral health respite home's collaborating health care institution of an unexpected self-release of the recipient; and
 - 11. A written notice of release from the behavioral health respite home, if applicable.

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Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1607 renumbered to R9-10-1608; new Section R9-10-1607 renumbered from R9-10-1606 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1608. Food Services

A provider shall ensure that:

1. Food is obtained, handled, and stored to prevent contamination, spoilage, or a threat to the health of a recipient;
2. Three nutritionally balanced meals are served each day;
3. Nutritious snacks are available between meals;
4. Food served meets any special dietary needs of a recipient as prescribed by the recipient's physician or registered dietitian; and
5. Chemicals and detergents are not stored with food.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1608 renumbered to R9-10-1609; new Section R9-10-1608 renumbered from R9-10-1607 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1609. Emergency and Safety Standards

A provider shall ensure that:

1. A first aid kit is available at a behavioral health respite home sufficient to meet the needs of recipients;
2. If a firearm or ammunition for a firearm is stored at a behavioral health respite home:
 - a. The firearm is stored separate from the ammunition for the firearm; and
 - b. The firearm and the ammunition for the firearm are:
 - i. Stored in a locked closet, cabinet, or container; and
 - ii. Inaccessible to a recipient;
3. A smoke detector is installed in:
 - a. A bedroom used by a recipient,
 - b. A hallway in a behavioral health respite home, and
 - c. A behavioral health respite home's kitchen;
4. A smoke detector required in subsection (3):
 - a. Is maintained in operable condition; and
 - b. Is battery operated or, if hard-wired into the electrical system of a behavioral health respite home, has a back-up battery;
5. A behavioral health respite home has a portable fire extinguisher that is labeled 1A-10-BC by the Underwriters Laboratory and available in the behavioral health respite home's kitchen;
6. A portable fire extinguisher required in subsection (5) is:
 - a. If a disposable fire extinguisher, replaced when the fire extinguisher's indicator reaches the red zone; or
 - b. Serviced at least once every 12 months and has a tag attached to the fire extinguisher that includes the date of service;
7. A written evacuation plan is maintained and available for use by the provider and any recipient in a behavioral health respite home;
8. An evacuation drill is conducted at least once every six months; and
9. A record of an evacuation drill required in subsection (8) is maintained for at least 12 months after the date of the evacuation drill.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1609 renumbered to R9-10-1610; new Section R9-10-1609 renumbered from R9-10-1608 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1610. Environmental Standards

A. A provider shall ensure that a behavioral health respite home:

1. Is in a building that:
 - a. Is arranged, designed, and used for the living, sleeping, and housekeeping activities for one family on a permanent basis; and
 - b. Is free of any plumbing, electrical, ventilation, mechanical, chemical, or structural hazard that may jeopardize the health or safety of a recipient;
 2. Has a living room accessible at all times to a recipient;
 3. Has a dining area furnished for group meals that is accessible to the provider, recipients, and any other individuals present in the behavioral health respite home;
 4. For each six individuals residing in the behavioral health respite home, including recipients, has at least one bathroom equipped with:
 - a. A working toilet that flushes and has a seat; and
 - b. A sink with running water accessible for use by a recipient;
 5. Has equipment and supplies to maintain a recipient's personal hygiene accessible to the recipient;
 6. Is clean and free from accumulations of dirt, garbage, and rubbish; and
 7. Implements a pest control program that complies with A.A.C. R3-8-201(C)(4) to minimize the presence of insects and vermin at the behavioral health respite home.
- B. A provider shall ensure that any pets or other animals allowed on the premises are:
1. Controlled to prevent endangering a recipient and to maintain sanitation;
 2. Licensed consistent with local ordinances; and
 3. For a dog or cat, vaccinated against rabies.

C. If a swimming pool is located on the premises, a provider shall ensure that:

1. The swimming pool is equipped with the following:
 - a. An operational water circulation system that clarifies and disinfects the swimming pool water continuously and that includes at least:
 - i. A removable strainer,
 - ii. Two swimming pool inlets located on opposite sides of the swimming pool, and
 - iii. A drain located at the swimming pool's lowest point and covered by a grating that cannot be removed without using tools; and
 - b. An operational cleaning system;
2. The swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;
 - b. Has no vertical openings greater than four inches across;
 - c. Has no horizontal openings, except as described in subsection (C)(2)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
 - f. Has a self-closing, self-latching gate that:

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- i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground, and
 - iii. Is locked when the swimming pool is not in use; and
- 3. A life preserver or shepherd's crook is available and accessible in the pool area.
- D.** A provider shall ensure that a spa that is not enclosed by a wall or fence as described in subsection (C)(2) is covered and locked when not in use.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1610 renumbered to R9-10-1611; new Section R9-10-1610 renumbered from R9-10-1609 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 25 A.A.R. 259, effective January 8, 2019 (Supp. 19-1).

R9-10-1611. Adult Behavioral Health Respite Services

A provider shall ensure that:

- 1. A bedroom for use by a recipient:
 - a. Is separated from a hall, corridors, or other habitable room by floor to ceiling walls containing no interior openings except doors and is not used as a passageway to another bedroom or habitable room;
 - b. Provides sufficient space for an individual in the bedroom to have unobstructed access to the bedroom door;
 - c. Contains for each recipient using the bedroom:
 - i. A separate, adult-sized, single bed or larger bed with a clean mattress in good repair;
 - ii. Clean bedding appropriate for the season; and
 - iii. Storage space for personal effects and clothing such as shelves, a dresser, or chest of drawers; and
 - d. If used for:
 - i. Single occupancy, contains at least 60 square feet of floor space; or
 - ii. Double occupancy, contains at least 100 square feet of floor space;
- 2. A mirror is available to a recipient for grooming;
- 3. A recipient does not share a bedroom with an individual who is not a recipient;
- 4. No more than two recipients share a bedroom;
- 5. If two recipients share a bedroom, each recipient agrees, in writing, to share the bedroom; and
- 6. A recipient's bedroom is not used to store anything that may be a hazard to the recipient or another individual.

Historical Note

Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Section R9-10-1611 renumbered to R9-10-1612; new Section R9-10-1611 renumbered from R9-10-1610 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1612. Children's Behavioral Health Respite Services

- A.** A provider may provide children's behavioral health respite services for up to four recipients if at least two of the recipients are siblings.
- B.** For a behavioral health respite home that provides children's behavioral health respite services, a provider shall:

- 1. Have a valid fingerprint clearance card according to A.R.S. § 36-425.03; and
- 2. Ensure that:
 - a. If an adult other than a provider is present in the behavioral health respite home, the provider supervises the adult when and where a recipient is present;
 - b. A recipient does not share a bedroom with:
 - i. An individual that, based on the other individual's developmental levels, social skills, verbal skills, and personal history, may present a threat to the recipient;
 - ii. Except as provided in subsection (C), an adult; or
 - iii. Except as provided in subsection (B)(2)(c), an individual that is not the same gender;
 - c. A recipient may share a bedroom with an individual that is not the same gender if the individual is the recipient's sibling;
 - d. A bedroom used by a recipient:
 - i. If the bedroom is a private bedroom, contains at least 60 square feet of floor space, not including the closet; or
 - ii. If the bedroom is a shared bedroom:
 - (1) Contains at least 100 square feet of floor space, not including a closet, for two individuals occupying the bedroom or contains at least 140 square feet of floor space, not including a closet, for three individuals occupying the bedroom;
 - (2) If there are four siblings occupying the bedroom, contains at least 140 square feet of floor space, not including a closet;
 - (3) Provides space between beds or bunk beds; and
 - (4) Provides sufficient space for an individual in the bedroom to have unobstructed access to the bedroom door;
 - iii. For a recipient under three years of age, may contain a crib;
 - iv. Except for a recipient under three years of age who has a crib, contains a bed for the recipient that is at least 36 inches wide and at least 72 inches long, and consists of at least a frame and mattress and clean linens; and
 - v. Contains individual storage space for personal effects and clothing such as shelves, a dresser, or chest of drawers;
 - e. Clean linens for a bed include a mattress pad, sheets large enough to tuck under the mattress, pillows, pillow cases, waterproof mattress covers as needed, and blankets to ensure warmth and comfort of a recipient;
 - f. A recipient older than three years of age does not sleep in a crib;
 - g. Clean and non-hazardous toys, educational materials, and physical activity equipment are available and accessible to recipients in a quantity sufficient to meet each recipient's needs and are appropriate to each recipient's age and developmental level; and
 - h. The following are stored in a labeled container separate from food storage areas and inaccessible to a recipient:

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- i. Materials and chemicals labeled as a toxic substance, and
 - ii. Substances that have a child warning label and may be a hazard to a recipient.
- C. If a recipient is younger than 2 years of age and sleeps in a crib, the recipient may sleep in a crib placed in a provider's bedroom.

Historical Note

New Section R9-10-1612 renumbered from R9-10-1611 and amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

ARTICLE 17. UNCLASSIFIED HEALTH CARE INSTITUTIONS**R9-10-1701. Definitions**

Definitions in A.R.S. § 36-401 and R9-10-101 apply in this Article unless otherwise specified.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-1702. Administration

- A. A governing authority for a health care institution not otherwise classified or subclassified in A.R.S. Title 36, Chapter 4 or 9 A.A.C. 10 shall:
 - 1. Consist of one or more individuals responsible for the organization, operation, and administration of the health care institution;
 - 2. Establish, in writing:
 - a. A health care institution's scope of services, and
 - b. Qualifications for an administrator;
 - 3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
 - 4. Adopt a quality management program according to R9-10-1703;
 - 5. Review and evaluate the effectiveness of the quality management program in R9-10-1703 at least once every 12 months;
 - 6. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b) if the administrator is:
 - a. Expected not to be present on a health care institution's premises for more than 30 calendar days, or
 - b. Not present on a health care institution's premises for more than 30 calendar days; and
 - 7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425 when there is a change in an administrator and identify the name and qualifications of the new administrator.
- B. An administrator:
 - 1. Is directly accountable to the governing authority of a health care institution for the daily operation of the health care institution and all services provided by or at the health care institution;
 - 2. Has the authority and responsibility to manage the health care institution; and
 - 3. Except as provided in subsection (A)(6), designates, in writing, an individual who is present on the health care institution's premises and accountable for the health care institution when the administrator is not present on the health care institution's premises.
- C. An administrator shall ensure that:
 - 1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers and students;
 - c. Include how a personnel member may submit a complaint relating to services provided to a patient;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training, including:
 - i. The method and content of cardiopulmonary resuscitation training,
 - ii. The qualifications for an individual providing cardiopulmonary resuscitation training,
 - iii. The time-frame for renewal of cardiopulmonary resuscitation training, and
 - iv. The documentation that verifies that the individual has received cardiopulmonary resuscitation training;
 - f. Include a method to identify a patient to ensure the patient receives services as ordered;
 - g. Cover first aid training;
 - h. Cover patient rights, including assisting a patient who does not speak English or who has a physical or other disability to become aware of patient rights;
 - i. Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. The health care institution to respond to and resolve a patient complaint;
 - j. Cover medical records, including electronic medical records;
 - k. Cover a quality management program, including incident report and supporting documentation;
 - l. Cover contracted services;
 - m. Cover health care directives; and
 - n. Cover when an individual may visit a patient in a health care institution;
 - 2. Policies and procedures for health care institution services are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover patient screening, admission, assessment, treatment plan, transport, transfer, and discharge, if applicable;
 - b. Cover patient outings, if applicable;
 - c. Include when general consent and informed consent are required;
 - d. Cover the provision of services listed in the health care institution's scope of services;
 - e. Cover administering medication, assistance in the self-administration of medication, and disposing of medication, including provisions for inventory control and preventing diversion of controlled substances, if applicable;
 - f. Cover infection control;
 - g. Cover telemedicine, if applicable;
 - h. Cover environmental services that affect patient care;

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- i. Cover smoking and the use of tobacco products on the health care institution's premises;
- j. Cover how the health care institution will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
- k. Cover how incidents are reported and investigated; and
- l. Designate which employees or personnel members are required to have current certification in cardiopulmonary resuscitation and first aid training;
- 3. Policies and procedures are reviewed at least once every three years and updated as needed;
- 4. Policies and procedures are available to personnel members, employees, volunteers, and students; and
- 5. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after the Department's request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a health care institution, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the health care institution.
- D.** If applicable, an administrator shall designate a clinical director who:
 - 1. Provides direction for behavioral health services provided at the health care institution, and
 - 2. Is a behavioral health professional.
- E.** An administrator shall provide written notification to the Department of a patient's:
 - 1. Death, if the patient's death is required to be reported according to A.R.S. § 11-593, within one working day after the patient's death; and
 - 2. Self-injury, within two working days after the patient inflicts a self-injury that requires immediate intervention by an emergency medical services provider.
- F.** If abuse, neglect, or exploitation of a patient is alleged or suspected to have occurred before the patient was admitted or while the patient is not on the premises and not receiving services from a health care institution's employee or personnel member, an administrator shall report the alleged or suspected abuse, neglect, or exploitation of the patient as follows:
 - 1. For a patient 18 years of age or older, according to A.R.S. § 46-454; or
 - 2. For a patient under 18 years of age, according to A.R.S. § 13-3620.
- G.** If an administrator has a reasonable basis, according to A.R.S. § 13-3620 or 46-454, to believe abuse, neglect, or exploitation has occurred on the premises or while the patient is receiving unclassified healthcare services, the administrator shall:
 - 1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 - 2. Report the suspected abuse, neglect, or exploitation of the patient:
 - a. For a patient 18 years of age or older, according to A.R.S. § 46-454; or
 - b. For a patient under 18 years of age, according to A.R.S. § 13-3620;
 - 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (G)(1); and
- c. The report in subsection (G)(2);
- 4. Maintain the documentation in subsection (G)(3) for at least 12 months after the date of the report in subsection (G)(2);
- 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in (G)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the patient related to the suspected abuse or neglect and any change to the patient's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The action taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
- 6. Maintain a copy of the documented information required in subsection (G)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- H.** An administrator shall ensure that the following information or documents are conspicuously posted on the premises and are available upon request to a personnel member, an employee, a patient, or a patient's representative:
 - 1. The health care institution's current license,
 - 2. The evacuation plan listed in R9-10-1711, and
 - 3. The location at which inspection reports required in R9-10-1711(B) are available for review or can be made available for review.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Amended by final rulemaking at 16 A.A.R. 688, effective November 1, 2010 (Supp. 10-2). Section amended by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Subsection reference for inspection reports corrected at R9-10-1702(H)(3), file number R20-03 at the request of the Department (Supp. 19-3).

R9-10-1703. Quality Management

An administrator shall ensure that:

- 1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
- 2. A documented report is submitted to the governing authority that includes:

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- a. An identification of each concern about the delivery of services related to patient care, and
- b. Any changes made or actions taken as a result of the identification of a concern about the delivery of services related to patient care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1704. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article,
2. Documented of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1705. Personnel

A. An administrator shall ensure that:

1. A personnel member is:
 - a. At least 21 years old, or
 - b. If providing behavioral health services, at least 18 years old;
2. An employee is at least 18 years old;
3. A student is at least 18 years old; and
4. A volunteer is at least 21 years old.

B. An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of behavioral health services or physical health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of participants receiving behavioral health services or physical health services from the personnel member according to the established job description;
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
- iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;

2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures;
3. Sufficient personnel members are present on a health care institution's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the health care institution's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient.

C. An administrator shall ensure that:

1. A plan to provide orientation specific to the duties of a personnel member, employee, volunteer, and student is developed, documented, and implemented;
2. A personnel member completes orientation before providing behavioral health services or physical health services;
3. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
4. A plan to provide in-service education specific to the duties of a personnel member is developed;
5. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training; and
6. A work schedule of each personnel member is developed and maintained at the health care institution for at least 12 months after the date of the work schedule.

D. An administrator shall ensure that a personnel member, or an employee, a volunteer, or a student who has or is expected to have direct interaction with a patient, provides evidence of freedom from infectious tuberculosis:

- a. On or before the date the individual begins providing services at or on behalf of the unclassified healthcare institution, and
- b. As specified in R9-10-113.

E. An administrator shall ensure that a personnel record is maintained for each personnel member, employee, volunteer, or student that includes:

1. The individual's name, date of birth, and contact telephone number;
2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
3. Documentation of:
 - a. The individual's qualifications including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
 - c. The individual's completed orientation and in-service education as required by policies and procedures;

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- d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - e. If the health care institution provides services to children, the individual's compliance with the fingerprinting requirements in A.R.S. § 36-425.03;
 - f. Cardiopulmonary resuscitation training, if required for the individual according to R9-10-1702(C)(2)(1);
 - g. First aid training, if required for the individual according to this Article or policies and procedures; and
 - h. Evidence of freedom from infectious tuberculosis, if the individual is required to provide evidence of freedom according to subsection (D).
- F.** An administrator shall ensure that personnel records are:
- 1. Maintained:
 - a. Throughout an individual's period of providing services in or for the health care institution, and
 - b. For at least 24 months after the last date the individual provided services in or for the health care institution; and
 - 2. For a personnel member who has not provided physical health services or behavioral health services at or for the health care institution during the previous 12 months, provided to the Department within 72 hours after the Department's request.
- G.** An administrator shall ensure that at least one personnel member who is present at the health care institution during the hours of the health care institution operation has first-aid training and cardiopulmonary resuscitation certification specific to the populations served by the health care institution.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 26 A.A.R. 3041, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-10-1706. Transport; Transfer

- A.** Except as provided in subsection (B), an administrator shall ensure that:
- 1. A personnel member coordinates the transport and the services provided to the patient;
 - 2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before and after the transport,
 - b. Information in the patient's medical record is provided to a receiving health care institution, and
 - c. A personnel member explains risks and benefits of the transport to the patient or the patient's representative; and
 - 3. Documentation in the patient's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transport;
 - c. The mode of transportation; and
 - d. If applicable, the personnel member accompanying the patient during a transport.
- B.** Subsection (A) does not apply to:
- 1. Transportation to a location other than a licensed health care institution,

- 2. Transportation provided for a patient by the patient or the patient's representative,
 - 3. Transportation provided by an outside entity that was arranged for a patient by the patient or the patient's representative, or
 - 4. A transport to another licensed health care institution in an emergency.
- C.** Except for a transfer of a patient due to an emergency, an administrator shall ensure that:
- 1. A personnel member coordinates the transfer and the services provided to the patient;
 - 2. According to policies and procedures:
 - a. An evaluation of the patient is conducted before the transfer;
 - b. Information in the patient's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the patient or the patient's representative; and
 - 3. Documentation in the patient's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transfer.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1707. Patient Rights

- A.** An administrator shall ensure that:
- 1. The requirements in subsection (B) and the patient rights in subsection (C) are conspicuously posted on the premises;
 - 2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C); and
 - 3. Policies and procedures include:
 - a. How and when a patient or the patient's representative is informed of patient rights in subsection (C), and
 - b. Where patient rights are posted as required in subsection (A)(1).
- B.** An administrator shall ensure that:
- 1. A patient is treated with dignity, respect, and consideration;
 - 2. A patient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;

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- j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by the unclassified health care institution's personnel members, employees, volunteers, or students; and
 - 3. A patient or the patient's representative:
 - a. Is informed of the patient complaint process;
 - b. Consents to photographs of the patient before the patient is photographed, except that a patient may be photographed when admitted to a health care institution for identification and administrative purposes; and
 - c. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records.
 - C. A patient has the following rights:
 - 1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 - 2. To receive services that support and respect the patient's individuality, choices, strengths, and abilities;
 - 3. To receive privacy in care for personal needs;
 - 4. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
 - 5. To receive a referral to another health care institution if the provider is not authorized or not able to provide physical health services or behavioral health services needed by the patient; and
 - 6. To receive assistance from a family member, representative, or other individual in understanding, protecting, or exercising the patient's rights.
- Historical Note**
- Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).
- R9-10-1708. Medical Records**
- A. An administrator shall ensure that:
 - 1. A medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
 - 2. An entry in a patient's medical record is:
 - a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the entry illegible;
 - 3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
 - 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 - 5. A patient's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the patient or the patient's representative; or
 - c. As permitted by law;
 - 6. Policies and procedures include the maximum time-frame to retrieve a patient's medical record at the request of a medical practitioner, behavioral health professional, or authorized personnel member; and
 - 7. A patient's medical record is protected from loss, damage, or unauthorized use.
 - B. If a health care institution maintains a patient's medical records electronically, an administrator shall ensure that:
 - 1. Safeguards exist to prevent unauthorized access, and
 - 2. The date and time of an entry in a patient's medical record is recorded by the computer's internal clock.
 - C. An administrator shall ensure that a patient's medical record contains:
 - 1. Patient information that includes:
 - a. The patient's name;
 - b. The patient's address;
 - c. The patient's date of birth; and
 - d. Any known allergies, including medication allergies;
 - 2. The name of the admitting medical practitioner or behavioral health professional;
 - 3. The date of admission and, if applicable, the date of discharge;
 - 4. An admitting diagnosis;
 - 5. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:
 - i. Is a legal guardian, a copy of the court order establishing guardianship; or
 - ii. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney;
 - 6. If applicable, documented general consent and informed consent by the patient or the patient's representative;
 - 7. Documentation of medical history and results of a physical examination;
 - 8. A copy of the patient's health care directive, if applicable;
 - 9. Orders;
 - 10. Assessment;
 - 11. Treatment plans;
 - 12. Interval note;
 - 13. Progress notes;
 - 14. Documentation of health care institution services provided to the patient;
 - 15. Disposition of the patient after discharge;
 - 16. If applicable, documentation of any actions taken to control the patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;

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17. Discharge plan;
18. A discharge summary, if applicable;
19. If applicable:
 - a. Laboratory reports,
 - b. Radiologic reports,
 - c. Diagnostic reports, and
 - d. Consultation reports; and
20. Documentation of a medication administered to the patient that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain, when initially administered or PRN:
 - i. An assessment of the patient's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication, when initially administered or PRN:
 - i. An assessment of the patient's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The identification, signature, and professional designation of the individual administering or observing the self-administration of the medication; and
 - f. Any adverse reaction a patient has to the medication.
- g. If applicable, procedures for providing medication administration or assistance in the self-administration of medication off the premises; and
2. A process is specified for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B.** If a health care institution provides medication administration, an administrator shall ensure that:
 1. Medication is stored by the health care institution;
 2. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a patient only as prescribed; and
 - d. Cover the documentation of a patient's refusal to take prescribed medication in the patient's medical record;
 3. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law; and
 4. A medication administered to a patient:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the patient's medical record.
- C.** If a health care institution provides assistance in the self-administration of medication, an administrator shall ensure that:
 1. A patient's medication is stored by the health care institution;
 2. The following assistance is provided to a patient:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the patient;
 - c. Observing the patient while the patient removes the medication from the container;
 - d. Verifying that the medication is taken as ordered by the patient's medical practitioner by confirming that:
 - i. The patient taking the medication is the individual stated on the medication container label,
 - ii. The patient is taking the dosage of the medication as stated on the medication container label, and
 - iii. The patient is taking the medication at the time stated on the medication container label; or
 - e. Observing the patient while the patient takes the medication;
 3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by a medical practitioner or registered nurse;
 4. Training for a personnel member, other than a medical practitioner or registered nurse, in assistance in the self-administration of medication:
 - a. Is provided by a medical practitioner or registered nurse or an individual trained by a medical practitioner or registered nurse; and
 - b. Includes:
 - i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1709. Medication Services**A.** An administrator shall ensure that:

1. Policies and procedures for medication services include:
 - a. A process for providing information to a patient about medication prescribed for the patient including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting a medication error;
 - c. Procedures for responding to and reporting an unexpected reaction to a medication;
 - d. Procedures to ensure that a patient's medication regimen and method of administration is reviewed by a medical practitioner and to ensure the medication regimen meets the patient's needs;
 - e. Procedures for:
 - i. Documenting, as applicable, medication administration and assistance in the self-administration of medication; and
 - ii. Monitoring a patient who self-administers medication;
 - f. Procedures for assisting a patient in obtaining medication; and

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- iii. Process for notifying the appropriate entities when an emergency medical intervention is needed;
 - 5. A personnel member, other than a medical practitioner or registered nurse, completes the training in subsection (C)(4) before the personnel member provides assistance in the self-administration of medication; and
 - 6. Assistance in the self-administration of medication provided to a patient:
 - a. Is in compliance with an order, and
 - b. Is documented in the patient's medical record.
- D. An administrator shall ensure that:
 - 1. A current drug reference guide is available for use by personnel members;
 - 2. A current toxicology reference guide is available for use by personnel members; and
 - 3. If pharmaceutical services are provided on the premises:
 - a. A committee, composed of at least one physician, one pharmacist, and other personnel members as determined by policies and procedures, is established to:
 - i. Develop a drug formulary,
 - ii. Update the drug formulary at least once every 12 months,
 - iii. Develop medication usage and medication substitution policies and procedures, and
 - iv. Specify which medications and medication classifications are required to be automatically stopped after a specific time period unless the ordering medical practitioner specifically orders otherwise;
 - b. The pharmaceutical services are provided under the direction of a pharmacist;
 - c. The pharmaceutical services comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - d. A copy of the pharmacy license is provided to the Department upon request.
- E. When medication is stored at a health care institution, an administrator shall ensure that:
 - 1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 - 2. Medication is stored according to the instructions on the medication container; and
 - 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of patients who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.
- F. An administrator shall ensure that a personnel member immediately reports a medication error or a patient's adverse reaction to a medication to the medical practitioner who ordered the medication and, if applicable, the health care institution's clinical director.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1710. Food Services

If food services are provided, an administrator shall ensure:

- 1. Food is obtained, handled, and stored to prevent contamination, spoilage, or a threat to the health of a patient;
- 2. Three nutritionally balanced meals are served each day;
- 3. Nutritious snacks are available between meals;
- 4. Food served meets any special dietary needs of a patient as prescribed by the patient's physician or dietitian; and
- 5. Chemicals and detergents are not stored with food.

Historical Note

Adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-1711. Emergency and Safety Standards

A. An administrator shall ensure that:

- 1. A first aid kit is available at a health care institution;
- 2. If a firearm or ammunition for a firearm are stored at a health care institution:
 - a. The firearm is stored separate from the ammunition for the firearm; and
 - b. The firearm and the ammunition for the firearm are:
 - i. Stored in a locked closet, cabinet, or container; and
 - ii. Inaccessible to a patient;
- 3. If applicable, there is a smoke detector installed in:
 - a. A bedroom used by a patient,
 - b. A hallway in a health care institution, and
 - c. A health care institution's kitchen;
- 4. A smoke detector required in subsection (A)(3):
 - a. Is maintained in operable condition; and
 - b. Is battery operated or, if hard-wired into the electrical system of a health care institution, has a back-up battery;
- 5. A health care institution has a portable fire extinguisher that is labeled 1A-10-BC by the Underwriters Laboratory and is available to a personnel member;
- 6. A portable fire extinguisher required in subsection (A)(5) is:
 - a. If a disposable fire extinguisher, replaced when the fire extinguisher's indicator reaches the red zone; or
 - b. Serviced at least once every 12 months and has a tag attached to the fire extinguisher that includes the date of service;
- 7. A written evacuation plan is maintained and available for use by personnel members and any patient in a health care institution;
- 8. An evacuation drill is conducted at least once every six months; and
- 9. A record of an evacuation drill required in subsection (A)(8) is maintained for at least 12 months after the date of the evacuation drill.

B. An administrator shall:

- 1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,

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2. Make any repairs or corrections stated on the fire inspection report, and
3. Maintain documentation of a current fire inspection.

Historical Note

Adopted effective July 24, 1978 (Supp. 78-4). Section repealed; new Section adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1712. Physical Plant, Environmental Services, and Equipment Standards

- A.** If applicable, an administrator shall ensure that a health care institution:
1. Is in a building that:
 - a. Has a certificate of occupancy from the local jurisdiction; and
 - b. Is free of any plumbing, electrical, ventilation, mechanical, or structural hazard that may jeopardize the health or safety of a patient;
 2. Has a living room accessible at all times to a patient;
 3. Has a dining area furnished for group meals that is accessible to the provider, patients, and any other individuals present in the health care institution;
 4. Has:
 - a. At least one bathroom for each six individuals residing in the health care institution, including patients; and
 - b. A bathroom accessible for use by a patient that contains:
 - i. A working sink with running water, and
 - ii. A working toilet that flushes and has a seat; and
 5. Has equipment and supplies to maintain a patient's personal hygiene that are accessible to the patient.
- B.** An administrator shall ensure that:
1. A health care institution's premises are:
 - a. Sufficient to provide the health care institution's scope of services;
 - b. Cleaned and disinfected according to the health care institution's policies and procedures to prevent, minimize, and control illness and infection;
 - c. Clean and free from accumulations of dirt, garbage, and rubbish; and
 - d. Free from a condition or situation that may cause an individual to suffer physical injury;
 2. If a health care institution collects urine or stool specimens from a patient, the health care institution has at least one bathroom that:
 - a. Contains:
 - i. A working sink with running water,
 - ii. A working toilet that flushes and has a seat,
 - iii. Toilet tissue,
 - iv. Soap for hand washing,
 - v. Paper towels or a mechanical air hand dryer,
 - vi. Lighting, and
 - vii. A means of ventilation; and
 - b. Is for the exclusive use of the health care institution;
 3. A pest control program that complies with A.A.C. R3-8-201(C)(4) is implemented and documented;
 4. If pets or animals are allowed in the health care institution, pets or animals are:

- a. Controlled to prevent endangering the patients and to maintain sanitation;
- b. Licensed consistent with local ordinances; and
- c. For a dog or a cat, vaccinated against rabies;
5. A smoke-free environment is maintained on the premises;
6. A refrigerator used to store a medication is:
 - a. Maintained in working order, and
 - b. Only used to store medications;
7. Equipment at the health care institution is:
 - a. Sufficient to provide the health care institution's scope of service;
 - b. Maintained in working condition;
 - c. Used according to the manufacturer's recommendations; and
 - d. If applicable, tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures;
8. Documentation of an equipment test, calibration, and repair is maintained for at least 12 months after the date of testing, calibration, or repair; and
9. Combustible or flammable liquids and hazardous materials stored by the health care institution are stored in the original labeled containers or safety containers in a storage area that is locked and inaccessible to patients.

Historical Note

Adopted effective July 24, 1978 (Supp. 78-4). Section repealed, new Section adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section adopted effective July 6, 1994 (Supp. 94-3). Section repealed; new Section made by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2). Amended by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 25 A.A.R. 259, effective January 8, 2019 (Supp. 19-1).

R9-10-1713. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Section repealed, new Section adopted effective July 6, 1994 (Supp. 94-3). Section repealed by exempt rulemaking at 19 A.A.R. 2015, effective October 1, 2013 (Supp. 13-2).

R9-10-1714. Reserved**R9-10-1715. Repealed****Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1716. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1717. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1718. Repealed

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Historical Note

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1719. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1720. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1721. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1722. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1723. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1724. Reserved**R9-10-1725. Reserved****R9-10-1726. Reserved****R9-10-1727. Reserved****R9-10-1728. Reserved****R9-10-1729. Reserved****R9-10-1730. Reserved****R9-10-1731. Repealed****Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1732. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1733. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Corrections: R9-10-1733(B)(2), correction in spelling, "architectural"; R9-10-1733(C)(1)(d), 100 square feet, corrected to read "1000" square feet, as certified effective July 24, 1978 (Supp. 87-2). Repealed effective July 6, 1994 (Supp. 94-3).

R9-10-1734. Repealed**Historical Note**

Adopted effective July 24, 1978 (Supp. 78-4). Repealed effective July 6, 1994 (Supp. 94-3).

ARTICLE 18. ADULT BEHAVIORAL HEALTH THERAPEUTIC HOMES**R9-10-1801. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following definitions apply in this Article unless otherwise specified:

1. "Acceptance" means, after a referral from a collaborating health care institution, an individual begins to live in and receive services from a provider in an adult behavioral health therapeutic home.
2. "Backup provider" means an individual designated by a provider to be present in an adult behavioral health therapeutic home, when a provider is not present, who ensures that a resident receives the behavioral health services and ancillary services in the resident's treatment plan.
3. "Provider" means an individual who lives in an adult behavioral health therapeutic home and ensures that a resident receives the behavioral health services and ancillary services in the resident's treatment plan.
4. "Release" means a documented termination of services to a resident by a provider that is authorized by a collaborating health care institution.
5. "Resident" means an individual referred by a collaborating health care institution to and accepted by an adult behavioral health therapeutic home.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1802. Supplemental Application Requirements; Exemption

- A. In addition to the license application requirements in A.R.S. § 36-422 and 9 A.A.C. 10, Article 1, an applicant shall include, in a format provided by the Department:
1. The name of the backup provider; and
 2. For the adult behavioral health therapeutic home's collaborating health care institution:
 - a. Name,
 - b. Address,
 - c. Class or subclass,
 - d. License number, and
 - e. Name and contact information for an individual assigned by the collaborating health care institution to monitor the adult behavioral health therapeutic home.
- B. An adult behavioral health therapeutic home is exempt from complying with building codes or zoning standards required in 9 A.A.C. 10, Article 1 specified in A.R.S. § 36-421.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 28 A.A.R. 871 (April 29, 2022), with an immediate effective date of April 8, 2022 (Supp. 22-2).

R9-10-1803. Administration

- A. A governing authority of an adult behavioral health therapeutic home:
1. Consists of no more than two providers, who live in the adult behavioral health therapeutic home;
 2. Has the authority and responsibility to manage the adult behavioral health therapeutic home;

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3. Has a documented agreement with a collaborating health care institution that establishes the responsibilities of the adult behavioral health therapeutic home and the collaborating health care institution, consistent with the requirements in this Chapter;
 4. Shall establish, in writing, the adult behavioral health therapeutic home's scope of services, which are approved by the collaborating health care institution;
 5. Shall designate a back-up provider to be present in the adult behavioral health therapeutic home and accountable for services provided by the adult behavioral health therapeutic home when the provider is not present at the adult behavioral health therapeutic home; and
 6. Shall ensure that:
 - a. No more than three residents are accepted by the adult behavioral health therapeutic home;
 - b. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - c. When documentation or information is required by this Chapter to be submitted on behalf of the adult behavioral health therapeutic home, the documentation or information is provided to the unit in the Department that is responsible for licensing the adult behavioral health therapeutic home.
- B.** A provider or back-up provider:
1. Is at least 21 years of age;
 2. Holds current certification in cardiopulmonary resuscitation and first aid training applicable to the ages of residents;
 3. Has the skills and knowledge established by the collaborating health care institution as specified in R9-10-118;
 4. Has documentation of completion of training in assistance in the self-administration of medication as specified in R9-10-118; and
 5. Has documentation of evidence of freedom from infectious tuberculosis:
 - a. On or before the date the provider or back-up provider begins providing services at or on behalf of the adult behavioral health therapeutic home, and
 - b. As specified in R9-10-113.
- C.** A provider shall ensure that policies and procedures are:
1. Established, documented, and implemented to protect the health and safety of a resident that cover:
 - a. Recordkeeping;
 - b. Resident acceptance and release;
 - c. Resident rights;
 - d. The provision of services, including coordinating the provision of behavioral health services;
 - e. Residents' medical records, including electronic medical records;
 - f. Assistance in the self-administration of medication;
 - g. Infection control; and
 - h. How a provider will respond to a resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual;
 2. Approved, in writing, by an adult behavioral health therapeutic home's collaborating health care institution before implementation and when the policies and procedures are reviewed or updated; and
 3. Reviewed by the provider and an adult behavioral health therapeutic home's collaborating health care institution at least once every three years and updated as needed.
- D.** A provider shall provide written notification to the Department and the adult behavioral health therapeutic home's collaborating health care institution of a resident's:
1. Death, if the resident's death is required to be reported according to A.R.S. § 11-593, within one working day after the resident's death; and
 2. Self-injury, within two working days after the resident inflicts a self-injury that requires immediate intervention by an emergency medical services provider.
- E.** If abuse, neglect, or exploitation of a resident is alleged or suspected to have occurred before the resident was accepted or while the resident is not at an adult behavioral health therapeutic home and not receiving services from the adult behavioral health therapeutic home, a provider shall report the alleged or suspected abuse, neglect, or exploitation of the resident according to A.R.S. § 46-454.
- F.** If a provider has a reasonable basis, according to A.R.S. § 46-454, to believe abuse, neglect, or exploitation has occurred on the premises or while a resident is receiving adult behavioral health therapeutic services, the provider shall:
1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Immediately report the suspected abuse, neglect, or exploitation of the resident as follows:
 - a. To the adult behavioral health therapeutic home's collaborating health care institution; and
 - b. According to A.R.S. § 46-454;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (F)(1); and
 - c. The report in subsection (F)(2);
 4. Maintain the documentation in subsection (F)(3) for at least 12 months after the date of the report in subsection (F)(2);
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (F)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the resident related to the suspected abuse or neglect and any change to the resident's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the provider to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 6. Maintain a copy of the documented information required in subsection (F)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- G.** A provider shall maintain a record for each provider and backup provider that includes:
1. For the provider and the backup provider:
 - a. Name;
 - b. Date of birth;
 - c. Contact telephone number; and
 - d. Documentation of:
 - i. Verification of skills and knowledge, completed by the adult behavioral health therapeutic home's collaborating health care institution;

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- ii. Certification in cardiopulmonary resuscitation and first aid training;
 - iii. Completion of training in assistance in the self-administration of medication, provided by the adult behavioral health therapeutic home's collaborating health care institution;
 - iv. If the provider or backup provider provides behavioral health services, clinical oversight as required in R9-10-1805(C); and
 - v. Evidence of freedom from infectious tuberculosis; and
2. For the backup provider, home address.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1804. Resident Rights

- A.** A provider shall ensure that:
- 1. A resident is treated with dignity, respect, and consideration;
 - 2. A resident is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by:
 - i. An adult behavioral health therapeutic home's provider or backup provider; or
 - ii. An individual other than a resident residing in the adult behavioral health therapeutic home; and
 - 3. A resident or the resident's representative:
 - a. Is informed of the resident complaint process;
 - b. Consents to photographs of the resident before the resident is photographed, except that the resident may be photographed when accepted by an adult behavioral health therapeutic home for identification and administrative purposes; and
 - c. Except as otherwise permitted by law, provides written consent to the release of information in the resident's medical record.
- B.** A resident has the following rights:
- 1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 - 2. To receive services that support and respect the resident's individuality, choices, strengths, and abilities;
 - 3. To receive privacy in care for personal needs;
 - 4. To review, upon written request, the resident's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
 - 5. To receive a referral to another health care institution if the provider is not authorized or not able to provide physical health services or behavioral health services needed by the resident; and

- 6. To receive assistance from a family member, resident's representative, or other individual in understanding, protecting, or exercising the resident's rights.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1805. Providing Services

- A.** A provider shall ensure that behavioral health services and ancillary services are provided to a resident according to the resident's treatment plan obtained from the adult behavioral health therapeutic home's collaborating health care institution.
- B.** A provider shall submit documentation of any significant change in a resident's behavior or physical, cognitive, or functional condition and the action taken by the provider to address the resident's changing needs to the adult behavioral health therapeutic home's collaborating health care institution or, if applicable, the resident's case manager.
- C.** A provider who provides behavioral health services to a resident:
- 1. For the purpose of an exception to licensing in A.R.S. § 32-3271, is considered a behavioral health technician; and
 - 2. Shall comply with the requirements for clinical oversight for a behavioral health technician in R9-10-115.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1806. Assistance in the Self-Administration of Medication

- A.** If a provider provides assistance in the self-administration of medication, the provider shall ensure that:
- 1. If a resident is receiving assistance in the self-administration of medication, the resident's medication is stored by the provider;
 - 2. The following assistance is provided to a resident:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container or medication organizer for the resident;
 - c. Observing the resident while the resident removes the medication from the medication container or medication organizer;
 - d. Verifying that the medication is taken as ordered by the resident's medical practitioner by confirming that:
 - i. The resident taking the medication is the individual stated on the medication container label,
 - ii. The resident is taking the dosage of the medication as stated on the medication container label, and
 - iii. The resident is taking the medication at the time stated on the medication container label; or
 - e. Observing the resident while the resident takes the medication; and
 - 3. Assistance in the self-administration of medication provided to a resident is documented in the resident's medical record.
- B.** When medication is stored by a provider, the provider shall ensure that:

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1. A locked cabinet, closet, or self-contained unit is used for medication storage;
 2. Medication is stored according to the instructions on the medication container; and
 3. Medication, including expired medication, that is no longer being used is discarded.
- C. A provider shall immediately report a medication error or a resident's adverse reaction to a medication to the:
1. Medical practitioner who ordered the medication, or
 2. Contact individual at an adult behavioral health therapeutic home's collaborating health care institution.
- i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
5. A copy of the resident's treatment plan and any updates to the resident's treatment plan, obtained from the adult behavioral health therapeutic home's collaborating health care institution;
 6. For a resident receiving assistance in the self-administration of medication, documentation that includes for each medication:
 - a. The date and time of assistance;
 - b. The name, strength, dosage, and route of administration;
 - c. The provider's signature or first and last initials; and
 - d. Any adverse reaction the resident has to the medication;
 7. Documentation of the resident's refusal of a medication, if applicable;
 8. Documentation of any significant change in a resident's behavior or physical, cognitive, or functional condition and the action taken by a provider to address the resident's changing needs;
 9. If applicable, documentation of any actions taken to control the resident's sudden, intense, or out-of-control behavior to prevent harm to the resident or another individual; and
 10. If applicable, a written notice of termination of residency.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1807. Medical Records

- A. A provider shall ensure that:
1. A medical record is established and maintained for each resident according to A.R.S. Title 12, Chapter 13, Article 7.1;
 2. An entry in a resident's medical record is:
 - a. Only recorded by the provider or individual designated by the provider to record an entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 3. A resident's medical record is available to an individual:
 - a. Authorized by policies and procedures to access the resident's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the resident or the resident's representative; or
 - c. As permitted by law; and
 4. A resident's medical record is protected from loss, damage, or unauthorized use.
- B. If a provider maintains residents' medical records electronically, the provider shall ensure that safeguards exist to prevent unauthorized access.
- C. A provider shall ensure that a resident's medical record contains:
1. Resident information that includes:
 - a. The resident's name,
 - b. The resident's date of birth,
 - c. Any known allergies, and
 - d. Medication information for the resident;
 2. The names, addresses, and telephone numbers of:
 - a. The resident's medical practitioner;
 - b. The resident's case manager, if applicable;
 - c. The behavioral health professional assigned to the resident by the adult behavioral health therapeutic home's collaborating health care institution; and
 - d. An individual to be contacted in the event of an emergency;
 3. The date of the resident's acceptance by the adult behavioral health therapeutic home and, if applicable, the date of the resident's release from the adult behavioral health therapeutic home;
 4. If applicable, the name and contact information of the resident's representative and:
 - a. The document signed by the resident consenting for the resident's representative to act on the resident's behalf; or
 - b. If the resident's representative:

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1808. Food Services

A provider shall ensure that:

1. Food is obtained, handled, and stored to prevent contamination, spoilage, or a threat to the health of a resident;
2. Three nutritionally balanced meals are served each day;
3. Nutritious snacks are available between meals;
4. Food served meets any special dietary needs of a resident as prescribed by the resident's physician or registered dietitian; and
5. Chemicals or detergents are not stored with food.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1809. Emergency and Safety Standards

A provider shall ensure that:

1. A first aid kit is available at an adult behavioral health therapeutic home sufficient to meet the needs of residents;
2. If a firearm or ammunition for a firearm is stored at an adult behavioral health therapeutic home:
 - a. The firearm is stored separate from the ammunition for the firearm; and
 - b. The firearm and the ammunition for the firearm are:
 - i. Stored in a locked closet, cabinet, or container; and
 - ii. Inaccessible to a resident;

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3. A smoke detector is installed in:
 - a. A bedroom used by a resident,
 - b. A hallway in an adult behavioral health therapeutic home, and
 - c. An adult behavioral health therapeutic home's kitchen;
4. A smoke detector required in subsection (3):
 - a. Is maintained in operable condition; and
 - b. Is battery operated or, if hard-wired into the electrical system of an adult behavioral health therapeutic home, has a back-up battery;
5. An adult behavioral health therapeutic home has a portable fire extinguisher that is labeled 1A-10-BC by the Underwriters Laboratory and available in the adult behavioral health therapeutic home's kitchen;
6. A portable fire extinguisher required in subsection (5) is:
 - a. If a disposable fire extinguisher, replaced when the fire extinguisher's indicator reaches the red zone; or
 - b. Serviced at least once every 12 months and has a tag attached to the fire extinguisher that includes the date of service;
7. A written evacuation plan is maintained and available for use by the provider and any resident in an adult behavioral health therapeutic home;
8. An evacuation drill is conducted at least once every six months; and
9. A record of an evacuation drill required in subsection (8) is maintained for at least one year after the date of the evacuation drill.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2).

R9-10-1810. Physical Plant, Environmental Services, and Equipment Standards

- A. A provider shall ensure that an adult behavioral health therapeutic home:
 1. Is in a building that:
 - a. Is arranged, designed, and used for the living, sleeping, and housekeeping activities for one family on a permanent basis; and
 - b. Is free of any plumbing, electrical, ventilation, mechanical, chemical, or structural hazard that may jeopardize the health or safety of a resident;
 2. Has a living room accessible at all times to a resident;
 3. Has a dining area furnished for group meals that is accessible to the provider, residents, and any other individuals present in the adult behavioral health therapeutic home;
 4. For each six individuals residing in the adult behavioral health therapeutic home, including residents, has at least one bathroom equipped with:
 - a. A working toilet that flushes and has a seat; and
 - b. A sink with running water accessible for use by a resident;
 5. Has equipment and supplies to maintain a resident's personal hygiene that are accessible to the resident;
 6. Is clean and free from accumulations of dirt, garbage, and rubbish; and
 7. Implements a pest control program that complies with A.A.C. R3-8-201(C)(4) to minimize the presence of insects and vermin at the adult behavioral health therapeutic home.
- B. A provider shall ensure that pets and animals are:

1. Controlled to prevent endangering the residents and to maintain sanitation;
 2. Licensed consistent with local ordinances; and
 3. For a dog or cat, vaccinated against rabies.
- C. If a swimming pool is located on the premises, a provider shall ensure that:
 1. The swimming pool is equipped with the following:
 - a. An operational water circulation system that clarifies and disinfects the swimming pool water continuously and that includes at least:
 - i. A removable strainer,
 - ii. Two swimming pool inlets located on opposite sides of the swimming pool, and
 - iii. A drain located at the swimming pool's lowest point and covered by a grating that cannot be removed without using tools; and
 - b. An operational cleaning system;
 2. The swimming pool is enclosed by a wall or fence that:
 - a. Is at least five feet in height as measured on the exterior of the wall or fence;
 - b. Has no vertical openings greater than four inches across;
 - c. Has no horizontal openings, except as described in subsection (C)(2)(e);
 - d. Is not chain-link;
 - e. Does not have a space between the ground and the bottom fence rail that exceeds four inches in height; and
 - f. Has a self-closing, self-latching gate that:
 - i. Opens away from the swimming pool,
 - ii. Has a latch located at least 54 inches from the ground, and
 - iii. Is locked when the swimming pool is not in use; and
 3. A life preserver or shepherd's crook is available and accessible in the pool area.
 - D. A provider shall ensure that a spa that is not enclosed by a wall or fence as described in subsection (C)(2) is covered and locked when not in use.
 - E. A provider shall ensure that:
 1. A bedroom for use by a resident:
 - a. Is separated from a hall, corridors, or other habitable room by floor-to-ceiling walls containing no interior openings except doors and is not used as a passageway to another bedroom or habitable room;
 - b. Provides sufficient space for an individual in the bedroom to have unobstructed access to the bedroom door;
 - c. Contains for each resident using the bedroom:
 - i. A separate, adult-sized, single bed or larger bed with a clean mattress in good repair;
 - ii. Clean bedding appropriate for the season; and
 - iii. An individual dresser and closet for storage of personal possessions and clothing; and
 - d. If used for:
 - i. Single occupancy, contains at least 60 square feet of floor space; or
 - ii. Double occupancy, contains at least 100 square feet of floor space; and
 2. A mirror is available to a resident for grooming;
 3. A resident does not share a bedroom with an individual who is not a resident;
 4. No more than two residents share a bedroom;

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5. If two residents share a bedroom, each resident agrees, in writing, to share the bedroom; and
6. A resident's bedroom is not used to store anything other than the furniture and articles used by the resident and the resident's belongings.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 1409, pursuant to Laws 2013, Ch. 10, § 13; effective July 1, 2014 (Supp. 14-2). Amended by final expedited rulemaking at 25 A.A.R. 259, effective January 8, 2019 (Supp. 19-1).

ARTICLE 19. COUNSELING FACILITIES**R9-10-1901. Repealed****Historical Note**

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4). Repealed by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-1902. Supplemental Application Requirements

In addition to the license application requirements in A.R.S. § 36-422 and 9 A.A.C. 10, Article 1, a governing authority applying for a license as a counseling facility shall submit, in a format provided by the Department:

1. The days and hours of clinical operation and, if different from the days and hours of clinical operation, the days and hours of administrative operation;
2. If applicable, a request to provide one of more of the following:
 - a. DUI screening,
 - b. DUI education,
 - c. DUI treatment, or
 - d. Misdemeanor domestic violence offender treatment;
3. Whether the counseling facility has an affiliated outpatient treatment center;
4. If the counseling facility has an affiliated outpatient treatment center:
 - a. The affiliated outpatient treatment center's name; and
 - b. Either:
 - i. The license number assigned to the affiliated outpatient treatment center by the Department; or
 - ii. If the affiliated outpatient treatment center is not currently licensed, the:
 - (1) Street address of the affiliated outpatient treatment center, and
 - (2) Date the affiliated outpatient treatment center submitted to the Department an application for a health care institution license;
5. Whether the counseling facility is sharing administrative support with an affiliated counseling facility; and
6. If the counseling facility is sharing administrative support with an affiliated counseling facility, for each affiliated counseling facility sharing administrative support with the counseling facility:
 - a. The affiliated counseling facility's name; and
 - b. Either:
 - i. The license number assigned to the affiliated counseling facility by the Department; or

- ii. If the affiliated counseling facility is not currently licensed, the:

- (1) Street address of the affiliated counseling facility, and
- (2) Date the affiliated counseling facility submitted to the Department an application for a health care institution license.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4). Amended by final rulemaking at 25 A.A.R. 1583, effective October 1, 2019 (Supp. 19-3).

R9-10-1903. Administration**A. A governing authority shall:**

1. Consist of one of more individuals accountable for the organization, operation, and administration of a counseling facility;
2. Establish, in writing:
 - a. A counseling facility's scope of services, and
 - b. Qualifications for an administrator;
3. Designate, in writing, an administrator who has the qualifications established in subsection (A)(2)(b);
4. Adopt a quality management program according to R9-10-1904;
5. Review and evaluate the effectiveness of the quality management program in R9-10-1904 at least once every 12 months;
6. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b) if the administrator is:
 - a. Expected not to be present on the premises for more than 30 calendar days, or
 - b. Not present on the premises for more than 30 calendar days; and
7. Except as provided in subsection (A)(6), notify the Department according to A.R.S. § 36-425(I) when there is a change in an administrator and identify the name and qualifications of the new administrator.

B. An administrator:

1. Is directly accountable to the governing authority for the daily operation of the counseling facility and all services provided by or at the counseling facility;
2. Has the authority and responsibility to manage the counseling facility; and
3. Except as provided in subsection (A)(6), designates in writing, an individual who is present on the counseling facility's premises and accountable for the counseling facility when the administrator is not available.

C. An administrator or the administrator of the counseling facility's affiliated outpatient treatment center shall establish policies and procedures to protect the health and safety of a patient that:

1. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience, for personnel members, employees, volunteers, and students;
2. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
3. Include how a personnel member may submit a complaint relating to services provided to a patient;
4. Cover the requirements in Title 36, Chapter 4, Article 11;

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5. Cover patient screening, admission, assessment, discharge planning, and discharge;
 6. Cover medical records;
 7. Cover the provision of counseling and any services listed in the counseling facility's scope of services;
 8. Include when general consent and informed consent are required;
 9. Cover telemedicine, if applicable;
 10. Cover specific steps for:
 - a. A patient or a patient's representative to file a complaint, and
 - b. A counseling facility to respond to a complaint; and
 11. Cover how personnel members will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual.
- D.** An administrator shall ensure that:
1. Policies and procedures established according to subsection (C) are documented and implemented;
 2. Counseling facility policies and procedures are:
 - a. Reviewed at least once every three years and updated as needed, and
 - b. Available to personnel members and employees;
 3. Unless otherwise stated:
 - a. Documentation required by this Article is maintained and provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a counseling facility, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the counseling facility;
 4. The following are conspicuously posted:
 - a. The current license for the counseling facility issued by the Department;
 - b. The name, address, and telephone number of the Department;
 - c. A notice that a patient may file a complaint with the Department about the counseling facility;
 - d. A list of patient rights;
 - e. A map for evacuating the facility; and
 - f. A notice identifying the location on the premises where current license inspection reports required in A.R.S. § 36-425(H), with patient information redacted, are available;
 5. Patient follow-up instructions are:
 - a. Provided, orally or in written form, to a patient or the patient's representative before the patient leaves the counseling facility unless the patient leaves against a personnel member's advice; and
 - b. Documented in the patient's medical record; and
 6. Cardiopulmonary resuscitation training includes a demonstration of the individual's ability to perform cardiopulmonary resuscitation.
- E.** If abuse, neglect, or exploitation of a patient is alleged or suspected to have occurred before the patient was admitted or while the patient is not on the premises and not receiving services from a counseling facility's employee or personnel member, an administrator shall report the alleged or suspected abuse, neglect, or exploitation of the patient as follows:
1. For a patient 18 years of age or older, according to A.R.S. § 46-454; or
 2. For a patient under 18 years of age, according to A.R.S. § 13-3620.
- F.** If an administrator has a reasonable basis, according to A.R.S. §§ 13-3620 or 46-454, to believe that abuse, neglect, or exploitation has occurred on the premises or while a patient is receiving services from a counseling facility's employee or personnel member, an administrator shall:
1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Report the suspected abuse, neglect, or exploitation of the patient as follows:
 - a. For a patient 18 years of age or older, according to A.R.S. § 46-454; or
 - b. For a patient under 18 years of age, according to A.R.S. § 13-3620;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (F)(1); and
 - c. The report in subsection (F)(2);
 4. Maintain the documentation in subsection (F)(3) for at least 12 months after the date of the report in subsection (F)(2);
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (F)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the patient related to the suspected abuse or neglect and any change to the patient's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 6. Maintain a copy of the documented information required in subsection (F)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4). Amended by final expedited rulemaking at 26 A.A.R. 3041, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-10-1904. Quality Management

An administrator shall ensure that:

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;

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2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to patient care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to patient care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-1905. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-1906. Personnel

An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of counseling expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients expected to be receiving the counseling from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the counseling listed in the established job description,
 - ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the counseling listed in the established job description, and
 - iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the counseling listed in the established job description;
2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides counseling, and
 - b. According to policies and procedures;
3. Sufficient personnel members are present on a counseling facility's premises during hours of clinical operation with the qualifications, skills, and knowledge necessary to:
 - a. Provide the counseling in the counseling facility's scope of services,

- b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient;
4. At least one personnel member with cardiopulmonary resuscitation training is present on a counseling facility's premises during hours of clinical operation;
 5. At least one personnel member with first aid training is present on a counseling facility's premises during hours of clinical operation;
 6. A personnel member only provides counseling the personnel member is qualified to provide;
 7. A plan is developed, documented, and implemented to provide orientation specific to the duties of personnel members, employees, volunteers, and students;
 8. A personnel member completes orientation before providing counseling to a patient;
 9. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
 10. A plan is developed, documented, and implemented to provide in-service education specific to the duties of a personnel member;
 11. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the in-service education, and
 - c. The subject or topics covered in the in-service education;
 12. A personnel member who is a behavioral health technician or behavioral health paraprofessional complies with the applicable requirements in R9-10-115;
 13. A record for a personnel member, an employee, a volunteer, or a student is maintained that includes:
 - a. The individual's name, date of birth, and contact telephone number;
 - b. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 - c. Documentation of:
 - i. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - ii. The individual's education and experience applicable to the individual's job duties;
 - iii. The individual's completed orientation and in-service education as required by policies and procedures;
 - iv. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - v. If the individual is a behavioral health technician, clinical oversight required in R9-10-115;
 - vi. The individual's compliance with the fingerprinting requirements in A.R.S. § 36-425.03, if applicable;
 - vii. If applicable, cardiopulmonary resuscitation training; and
 - viii. If applicable, first aid training; and
 14. The record in subsection (13) is:
 - a. Maintained while an individual provides services for or at the counseling facility and for at least 24 months after the last date the individual provided services for or at the counseling facility; and

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- b. If the ending date of employment or volunteer service was 12 or more months before the date of the Department's request, provided to the Department within 72 hours after the Department's request.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-1907. Patient Rights

- A. An administrator shall ensure that at the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C).
- B. An administrator shall ensure that:
 1. A patient is treated with dignity, respect, and consideration;
 2. A patient as not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Restraint or seclusion;
 - i. Retaliation for submitting a complaint to the Department or another entity; or
 - j. Misappropriation of personal and private property by a counseling facility's personnel member, employee, volunteer, or student; and
 3. A patient or the patient's representative:
 - a. Either consents to or refuses counseling;
 - b. May refuse or withdraw consent for receiving counseling before counseling is initiated;
 - c. Is informed of the following:
 - i. The counseling facility's policy on health care directives, and
 - ii. The patient complaint process;
 - d. Consents to photographs of the patient before the patient is photographed, except that a patient may be photographed when admitted to a counseling facility for identification and administrative purposes; and
 - e. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records.
- C. A patient has the following rights:
 1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 2. To receive counseling that supports and respects the patient's individuality, choices, strengths, and abilities;
 3. To receive privacy during counseling;
 4. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
 5. To receive a referral to another health care institution if the counseling facility is not authorized or not able to provide the behavioral health services needed by the patient;
 6. To participate or have the patient's representative participate in the development of, or decisions concerning, the counseling provided to the patient;

7. To participate or refuse to participate in research or experimental treatment; and
8. To receive assistance from a family member, the patient's representative, or other individual in understanding, protecting, or exercising the patient's rights.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-1908. Medical Records

- A. An administrator shall ensure that:
 1. A medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
 2. An entry in a patient's medical record is:
 - a. Recorded only by a personnel member authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 5. A patient's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the patient or the patient's representative; or
 - c. As permitted by law; and
 6. A patient's medical record is protected from loss, damage, or unauthorized use.
- B. If a counseling facility maintains patients' medical records electronically, an administrator shall ensure that:
 1. Safeguards exist to prevent unauthorized access, and
 2. The date and time of an entry in a medical record is recorded by the computer's internal clock.
- C. An administrator shall ensure that a patient's medical record contains:
 1. Patient information that includes:
 - a. The patient's name and address, and
 - b. The patient's date of birth;
 2. A diagnosis or reason for counseling;
 3. Documentation of general consent and, if applicable, informed consent for counseling by the patient or the patient's representative;
 4. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:

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- i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
- 5. Documentation of medical history;
- 6. Orders;
- 7. Assessment;
- 8. Interval notes;
- 9. Progress notes;
- 10. Documentation of counseling provided to the patient;
- 11. The name of each individual providing counseling;
- 12. Disposition of the patient upon discharge;
- 13. Documentation of the patient's follow-up instructions provided to the patient;
- 14. A discharge summary; and
- 15. If applicable, documentation of any actions taken to control the patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4).

R9-10-1909. Counseling

- A.** An administrator of a counseling facility shall ensure that:
 - 1. Counseling provided at the counseling facility is provided under the direction of a behavioral health professional;
 - 2. A personnel member who provides counseling is at least 18 years old; and
 - 3. If a counseling facility provides counseling to a patient who is less than 18 years of age, an employee or a volunteer and the owner comply with the fingerprint clearance card requirements in A.R.S. § 36-425.03.
- B.** An administrator of a counseling facility shall ensure that:
 - 1. Before counseling for a patient is initiated, there is a behavioral health assessment for the patient that complies with the requirements in this Section that is:
 - a. Available:
 - i. In the patient's medical record maintained by the counseling facility;
 - ii. If the counseling facility is an affiliated counseling facility, in the patient's integrated medical record; or
 - iii. If the counseling facility has an affiliated outpatient treatment center, in the patient's integrated medical record maintained by the counseling facility's affiliated outpatient treatment center; and
 - b. Either:
 - i. Completed by a personnel member at the counseling facility; or
 - ii. Obtained from a behavioral health provider other than the counseling facility;
 - 2. A behavioral health assessment, obtained from a behavioral health provider other than the counseling facility or available in a medical record or integrated medical record, was completed within 12 months before the date of the patient's current admission;
 - 3. If a behavioral health assessment is obtained from a behavioral health provider other than the counseling facility or is available as stated in subsection (B)(1)(a),

- the information in the behavioral health assessment is reviewed and updated if additional information that affects the patient's behavioral health assessment is identified;
- 4. The review and update of the patient's assessment information in subsection (B)(3) is documented in the patient's medical record within 48 hours after the review is completed;
- 5. If a behavioral health assessment is conducted by a:
 - a. Behavioral health technician or a registered nurse, within 72 hours after the behavioral health assessment is conducted, a behavioral health professional certified or licensed to provide the counseling needed by the patient reviews and signs the behavioral health assessment to ensure that the behavioral health assessment identifies the counseling needed by the patient; or
 - b. Behavioral health paraprofessional, a behavioral health professional certified or licensed to provide the counseling needed by the patient supervises the behavioral health paraprofessional during the completion of the behavioral health assessment and signs the behavioral health assessment to ensure that the assessment identifies the counseling needed by the patient;
- 6. A behavioral health assessment:
 - a. Documents a patient's:
 - i. Presenting issue;
 - ii. Substance use history;
 - iii. Co-occurring disorder;
 - iv. Medical condition and history;
 - v. Legal history, including:
 - (1) Custody,
 - (2) Guardianship, and
 - (3) Pending litigation;
 - vi. Criminal justice record;
 - vii. Family history;
 - viii. Behavioral health treatment history; and
 - ix. Symptoms reported by the patient or the patient's representative and referrals needed by the patient, if any;
 - b. Includes:
 - i. Recommendations for further assessment or examination of the patient's needs;
 - ii. A description of the counseling, including type, frequency, and number of hours, that will be provided to the patient; and
 - iii. The signature and date signed of the personnel member conducting the behavioral health assessment; and
 - c. Is documented in patient's medical record;
- 7. A patient is referred to a medical practitioner if a determination is made that the patient requires immediate physical health services or the patient's behavioral health issue may be related to the patient's medical condition;
- 8. A request for participation in a patient's behavioral health assessment is made to the patient or the patient's representative;
- 9. An opportunity for participation in the patient's behavioral health assessment is provided to the patient or the patient's representative;
- 10. Documentation of the request in subsection (B)(8) and the opportunity in subsection (B)(9) is in the patient's medical record;

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11. A patient's behavioral health assessment information is documented in the medical record within 48 hours after completing the assessment;
 12. If information in subsection (B)(6)(a) is obtained about a patient after the patient's behavioral health assessment is completed, an interval note, including the information, is documented in the patient's medical record within 48 hours after the information is obtained;
 13. Counseling is:
 - a. Offered as described in the counseling facility's scope of services;
 - b. Provided according to the type, frequency, and number of hours identified in the patient's assessment; and
 - c. Provided by a behavioral health professional or a behavioral health technician;
 14. A personnel member providing counseling to address a specific type of behavioral health issue has the skills and knowledge necessary to provide the counseling that addresses the specific type of behavioral health issue; and
 15. Each counseling session is documented in the patient's medical record to include:
 - a. The date of the counseling session;
 - b. The amount of time spent in the counseling session;
 - c. Whether the counseling was individual counseling, family counseling, or group counseling;
 - d. The treatment goals addressed in the counseling session; and
 - e. The signature of the personnel member who provided the counseling and the date signed.
- C.** An administrator may provide any of the following, according to the applicable requirements in 9 A.A.C. 20, to individuals required to attend by a referring court, if approved by the Department to provide the services:
1. DUI screening,
 2. DUI education,
 3. DUI treatment, or
 4. Misdemeanor domestic violence offender treatment.
- D.** An administrator of a counseling facility authorized to provide the services in subsection (C):
1. Shall comply with the requirements for the specific service in 9 A.A.C. 20, and
 2. May have a behavioral health technician who has the appropriate skills and knowledge established in policies and procedures provide the services.
- Historical Note**
- New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4). Amended by final expedited rulemaking at 26 A.A.R. 3041, with an immediate effective date of November 3, 2020 (Supp. 20-4).
- R9-10-1910. Physical Plant, Environmental Services, and Safety Standards**
- A.** An administrator shall ensure that a counseling facility has either:
1. Both of the following:
 - a. A smoke detector installed in each hallway of the counseling facility that is:
 - i. Maintained in an operable condition;
 - ii. Either battery operated or, if hard-wired into the electrical system of the outpatient treatment center, has a back-up battery; and
 - iii. Tested monthly; and
 - b. A portable, operable fire extinguisher, labeled as rated at least 2A-10-BC by the Underwriters Laboratories, that:
 - i. Is available at the counseling facility;
 - ii. Is mounted in a fire extinguisher cabinet or placed on wall brackets so that the top handle of the fire extinguisher is not over five feet from the floor and the bottom of the fire extinguisher is at least four inches from the floor;
 - iii. If a disposable fire extinguisher, is replaced when its indicator reaches the red zone; and
 - iv. If a rechargeable fire extinguisher, is serviced at least once every 12 months and has a tag attached to the fire extinguisher that specifies the date of the last servicing and the name of the servicing person; or
 2. Both of the following that are tested and serviced at least once every 12 months:
 - a. A fire alarm system installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in R9-10-104.01, that is in working order; and
 - b. A sprinkler system installed according to the National Fire Protection Association 13: Standard for the Installation of Sprinkler Systems, incorporated by reference in R9-10-104.01, that is in working order.
- B.** An administrator shall ensure that documentation of a test required in subsection (A) is maintained for at least 12 months after the date of the test.
- C.** An administrator shall ensure that on a counseling facility's premises:
1. Exit signs are illuminated, if the local fire jurisdiction requires illuminated exit signs;
 2. Corridors and exits are kept clear of any obstructions;
 3. A patient can exit through any exit during hours of clinical operation;
 4. An extension cord is not used instead of permanent electrical wiring; and
 5. Each electrical outlet and electrical switch has a cover plate that is in good repair.
- D.** An administrator shall:
1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 2. Make any repairs or corrections stated on the fire inspection report, and
 3. Maintain documentation of a current fire inspection.
- E.** An administrator shall ensure that:
1. A counseling facility's premises are:
 - a. Sufficient to provide the counseling facility's scope of services;
 - b. Cleaned and disinfected to prevent, minimize, and control illness and infection; and
 - c. Free from a condition or situation that may cause an individual to suffer physical injury;
 2. If a bathroom is on the premises, the bathroom contains:
 - a. A working sink with running water,
 - b. A working toilet that flushes and has a seat,
 - c. Toilet tissue,
 - d. Soap for hand washing,
 - e. Paper towels or a mechanical air hand dryer,
 - f. Lighting, and

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- g. A means of ventilation;
- 3. If a bathroom is not on the premises, a bathroom is:
 - a. Available for a patient's use,
 - b. Located in a building in contiguous proximity to the counseling facility, and
 - c. Free from a condition or situation that may cause an individual using the bathroom to suffer a physical injury; and
- 4. A tobacco smoke-free environment is maintained on the premises.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4). Amended by final expedited rulemaking at 26 A.A.R. 3041, with an immediate effective date of November 3, 2020 (Supp. 20-4).

R9-10-1911. Integrated Information

- A. An administrator of an affiliated outpatient treatment center may maintain the following information, required in this Article for a counseling facility for which the affiliated outpatient treatment center provides administrative support, integrated with information required in 9 A.A.C. 10, Article 10 for the outpatient treatment center:
 - 1. Quality management plan, documented incidents, and reports required in R9-10-1904;
 - 2. Contracted services information in R9-10-1905;
 - 3. Orientation plan, in-service education plan, and personnel records in R9-10-1906; and
 - 4. Medical records in R9-10-1908.
- B. An administrator of an affiliated counseling facility that shares administrative support with one or more other affiliated counseling facilities may maintain the information in subsections (A)(1) through (A)(4) integrated with information maintained by the other affiliated counseling facilities.
- C. If an administrator of an affiliated outpatient treatment center or an affiliated counseling facility maintains integrated information according to subsection (A) or (B), the administrator shall develop, document, and implement a method to ensure that:
 - 1. If the quality management plan is integrated, the incidents documented, concerns identified, and changes or actions taken are identified for each facility;
 - 2. If a person provides contracted services at more than one facility, the types of services the person provides at each facility is identified in the contract information;
 - 3. If an orientation plan is applicable to more than one facility, the orientation a personnel member is expected to obtain for each facility is identified in the orientation plan;
 - 4. If an in-service education plan is applicable to more than one facility, the in-service education a personnel member is expected to obtain for each facility is identified in the in-service education plan;
 - 5. If a personnel member provides counseling at more than one facility, the following is identified in the personnel member's record:
 - a. The days and hours the personnel member provides counseling for each facility;
 - b. If the personnel member's job description is different for each facility:

- i. Each job description for the personnel member, and
- ii. Verification of the skills and knowledge to provide counseling according to each of the personnel member's job descriptions; and
- c. If a personnel member is a behavioral health technician, documentation of the clinical oversight provided to the personnel member, based on the number and acuity of the patients to whom the personnel member provided counseling at each facility; and
- 6. If a patient receives counseling at more than one facility, the counseling received and any information related to the counseling received at each facility is identified in the patient's medical record.
- D. An administrator of a counseling facility receiving administrative support from an affiliated outpatient treatment center or an affiliated counseling facility shall ensure that if the counseling facility:
 - 1. Has integrated information, the integrated information is provided to the Department for review within two hours after the Department's request:
 - a. In a written or electronic format at the counseling facility's premises; or
 - b. Electronically directly to the Department.
 - 2. No longer receives or shares administrative support that includes integrating the information in subsection (A), the information for the counseling facility required in this Article is maintained by the counseling facility and provided to the Department according to the requirements in this Article.

Historical Note

New Section made by exempt rulemaking at 20 A.A.R. 3535, pursuant to Laws 2014, Ch. 233, § 5; effective January 1, 2015 (Supp. 14-4). Amended by final expedited rulemaking at 26 A.A.R. 3041, with an immediate effective date of November 3, 2020 (Supp. 20-4).

ARTICLE 20. PAIN MANAGEMENT CLINICS**R9-10-2001. Definitions**

In addition to the definitions in R9-10-101, the following definitions apply in this Article, unless otherwise specified:

- 1. "Order" means to issue written, verbal, or electronic instructions for a specific dose of a specific medication in a specific quantity and route of administration to be obtained and administered to a patient in a health care institution.
- 2. "Physician" means an individual licensed as a physician according to A.R.S. Title 32, Chapter 13, 14, or 17.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4).

R9-10-2002. Application and Documentation Submission Requirements

- A. An applicant shall submit an application for licensure that meets the requirements in A.R.S. § 36-422 and 9 A.A.C. 10, Article 1.
- B. An applicant or licensee shall submit to the Department:
 - 1. The applicable fees required in R9-10-106(C), and
 - 2. The documentation required according to A.R.S. § 36-448.02(C)(1).

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Historical Note

New Section made by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4). For clarity, the citation to Arizona Revised Statutes in subsection (B)(2) has been corrected to include "A.R.S." and the § (section) symbol (Supp. 21-2).

R9-10-2003. Administration

- A.** A licensee is responsible for the organization and management of a pain management clinic.
- B.** A licensee shall:
 1. Adopt policies and procedures for the administration and operation of a pain management clinic;
 2. Designate a medical director who:
 - a. Is licensed:
 - i. As a physician according to A.R.S. Title 32, Chapter 13 or 17; or
 - ii. As a nurse practitioner according to A.R.S. Title 32, Chapter 15 with advanced pain management certification from a nationally recognized accreditation or certification entity; and
 - b. May be the same individual as the licensee;
 3. Ensure that there are a sufficient number of personnel members and employees with the required knowledge and qualifications to:
 - a. Meet the requirements of this Article,
 - b. Ensure the health and safety of a patient, and
 - c. Meet the needs of a patient based on the patient's medical evaluation; and
 4. Ensure the following are conspicuously posted on the premises:
 - a. The current pain management clinic license issued by the Department;
 - b. The current telephone number and address of the unit in the Department responsible for licensing the pain management clinic;
 - c. An evacuation map posted in all hallways; and
 - d. A phone number for:
 - i. An opioid assistance and referral hotline, and
 - ii. A poison control hotline.
- C.** A medical director shall ensure that:
 1. Pain management services are provided under the direction of:
 - a. A physician, or
 - b. A nurse practitioner licensed according to A.R.S. Title 32, Chapter 15 with advanced pain management certification from a nationally recognized accreditation or certification entity;
 2. A record that includes cardiopulmonary resuscitation training is maintained for each personnel member, employee, volunteer, or student who is required by policies and procedures to obtain cardiopulmonary resuscitation training; and
 3. A personnel member certified in cardiopulmonary resuscitation is available on the pain management clinic's premises while patients are present.
- D.** A medical director shall ensure that policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 1. Cover personnel member qualifications, duties, and responsibilities, including who may order, prescribe, or administer an opioid and the required knowledge and qualifications of those personnel members;
 2. Cover cardiopulmonary resuscitation training, including:
 - a. The method and content of cardiopulmonary resuscitation training, including a demonstration of an individual's ability to perform cardiopulmonary resuscitation;
 - b. The qualifications required for an individual to provide cardiopulmonary resuscitation training;
 - c. The time-frame for renewal of cardiopulmonary resuscitation training; and
 - d. The documentation that verifies that an individual has received cardiopulmonary resuscitation training;
 3. Cover the storage, accessibility, disposal, and documentation of a medication;
 4. Cover the prescribing or ordering of an opioid:
 - a. Including how, when, and by whom:
 - i. A patient's profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database is reviewed;
 - ii. An assessment is conducted of a patient's substance use risk;
 - iii. The potential risks, adverse outcomes, and complications, including death, associated with the use of opioids are explained to a patient or the patient's representative;
 - iv. Alternatives to a prescribed or ordered opioid are explained to a patient or the patient's representative;
 - v. Informed consent is obtained from a patient or the patient's representative;
 - vi. A patient receiving an opioid is monitored; and
 - vii. The actions taken according to subsections (D)(4)(a)(i) through (vi) are documented;
 - b. Addressing conditions that may impose a higher risk to a patient when prescribing or ordering an opioid, including:
 - i. Concurrent use of a benzodiazepine or other sedative-hypnotic medication,
 - ii. History of substance use disorder,
 - iii. Co-occurring behavioral health issue, or
 - iv. Pregnancy;
 - c. Addressing the criteria for co-prescribing a short-acting opioid antagonist for a patient;
 - d. Including the frequency of the following for a patient prescribed an opioid for longer than a 30-calendar-day period:
 - i. Face-to-face interactions with the patient,
 - ii. Assessment of a patient's substance use risk,
 - iii. Urine drug testing,
 - iv. Renewal of an opioid prescription without a face-to-face interaction with the patient, and
 - v. Monitoring the effectiveness of the treatment;
 - e. If applicable according to A.R.S. § 36-2608, including documenting a dispensed opioid in the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - f. Addressing the criteria and procedures for tapering opioid prescription or ordering;
 - g. Addressing the criteria and procedures for offering or referring a patient for treatment for substance use disorder; and
 - h. If opioids are administered at the pain management clinic, including how, when, and by whom:
 - i. A patient's need for opioid administration is assessed,
 - ii. A patient receiving an opioid is monitored, and

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- iii. The actions taken according to subsections (D)(4)(h)(i) and (ii) are documented;
 - 5. Cover accessibility and security of medical records;
 - 6. Cover infection control, including methods for sterilizing equipment and supplies and methods for identifying, storing, and disposing of biohazardous medical waste; and
 - 7. Cover emergency treatment, including:
 - a. A list of the medications, supplies, and equipment kept on the premises to provide treatment in response to an emergency caused by a procedure or medication administered at the pain management clinic;
 - b. A requirement that a cart or a container is available for emergency treatment that contains the medications, supplies, and equipment specified in the policies and procedures according to subsection (D)(7)(a);
 - c. A method to verify and document that the contents of the cart or container are available for emergency treatment; and
 - d. A method for ensuring a patient is transferred to a hospital or other health care institution to receive treatment for a medical emergency that the pain management clinic is not authorized or not able to provide.
- E. As applicable and except when contrary to medical judgment for a patient, a medical director shall ensure that the policies and procedures in subsection (D)(4) are consistent with the Arizona Opioid Prescribing Guidelines or national opioid-prescribing guidelines, such as guidelines developed by the:
 - 1. Centers for Disease Control and Prevention, or
 - 2. The U.S. Department of Veterans Affairs and the U.S. Department of Defense.
- F. A medical director shall, except as prohibited by Title 42 Code of Federal Regulations, Chapter I, Subchapter A, Part 2, ensure that:
 - 1. If an opioid may have contributed to a patient's death:
 - a. Written notification of the patient's death is provided to the Department in a Department-provided format if:
 - i. A personnel member of the pain management clinic prescribed, ordered, or administered the opioid that may have contributed to the patient's death, or
 - ii. The patient's death occurred while the patient was on the premises of the pain management clinic; and
 - b. The written notification required by subsection (F)(1)(a)(i) is provided within one working day:
 - i. After the patient's death, if an opioid administered as part of treatment may have contributed to the death; or
 - ii. After a personnel member of the pain management clinic learns of the patient's death, if a prescribed opioid may have contributed to the patient's death; and
 - c. The written notification required by subsection (F)(1)(a)(ii) is provided according to R9-4-602; and
 - 2. Written notification of a suspected opioid overdose is provided to the Department according to R9-4-602.
- G. If the Department requests a patient's medical record for review, the licensee:
 - 1. May provide the patient medical record to the Department either in paper or in an electronic format that is acceptable to the Department, and
 - 2. Shall ensure that documentation required by this Article is provided to the Department within two hours after a Department request.
- H. The Department may take enforcement action as specified in R9-10-111 if a pain management clinic:
 - 1. Is not in substantial compliance with applicable requirements in 9 A.A.C. 10, Article 1 or this Article; or
 - 2. Is in substantial compliance, but refuses to carry out a plan of correction acceptable to the Department.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4).

R9-10-2004. Quality Management

A medical director shall ensure that:

- 1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate opioid-related adverse reactions or other incidents;
 - b. A method to collect data on services provided to patients;
 - c. A method to use the data to identify concerns about the delivery of services related to patient care;
 - d. A method to make changes or take action in response to a concern identified according to subsection (1)(c); and
 - e. The frequency with which the documented report required in subsection (2) will be submitted to the licensee;
- 2. A documented report is submitted to the licensee that includes:
 - a. Each concern about the delivery of services related to patient care, and
 - b. Any changes made or actions taken in response to that concern; and
- 3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the licensee.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4).

R9-10-2005. Medication Services

A medical director shall ensure that:

- 1. Medications are stored in a locked area on the premises;
- 2. Only personnel members designated by policies and procedures have access to the locked area containing medications;
- 3. Expired, mislabeled, or unusable medications are disposed of according to policies and procedures;
- 4. If an opioid is administered at a pain management clinic, an opioid antagonist is available on the premises;
- 5. A medication error or an adverse reaction, including any actions taken in response to the medication error or adverse reaction, is:
 - a. Immediately reported to the medical director and licensee, and
 - b. Recorded in the patient's medical record; and

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6. Medication information for a patient is maintained in the patient's medical record.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4).

R9-10-2006. Pain Management Services

- A.** A medical director shall ensure that a medical practitioner or nurse anesthetist remains on the premises until all patients who received a procedure at the pain management clinic are discharged.
- B.** A medical director shall ensure that, if a procedure other than the administration of an opioid is used to provide pain management services:
 1. Before the procedure is initially used on a patient, the patient is evaluated by:
 - a. A medical practitioner or
 - b. A nurse anesthetist, according to A.R.S. § 32-1634.04;
 2. The procedure is performed by a personnel member qualified according to policies and procedures to perform the procedure; and
 3. The following information is included in the patient's medical record:
 - a. The evaluation of the patient required in subsection (B)(1),
 - b. A record of the procedure, and
 - c. Any adverse reaction to the procedure and any measures taken to address an adverse reaction.
- C.** Except as provided in subsection (E), a medical director shall ensure that a medical practitioner:
 1. Before prescribing an opioid for a patient of the pain management clinic:
 - a. Conducts a physical examination of the patient;
 - b. Except as exempted by A.R.S. § 36-2606(G), reviews the patient's profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - c. Conducts an assessment of the patient's substance use risk;
 - d. Explains to the patient or the patient's representative the risks and benefits associated with use of an opioid;
 - e. Explains alternatives to a prescribed opioid; and
 - f. Obtains informed consent from the patient or the patient's representative that meets the requirements in R9-10-2007(B), including the potential risks, adverse outcomes, and complications associated with the concurrent use of an opioid and a benzodiazepine or another sedative-hypnotic medication, if the patient:
 - i. Is also prescribed or ordered a sedative-hypnotic medication, or
 - ii. Has been prescribed a sedative-hypnotic medication by another medical practitioner;
 2. Before ordering an opioid for a patient of the pain management clinic:
 - a. Conducts a physical examination of the patient;
 - b. Except as exempted by A.R.S. § 36-2606(G), reviews the patient's profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - c. Conducts an assessment of the patient's substance use risk;
- D.** A medical practitioner is exempt from the requirements in subsection (C)(2), if:
 1. An order for an opioid is part of treatment for a patient in an emergency;
 2. The order is issued according to policies and procedures that include procedures for:
 - a. Providing treatment without obtaining the consent of a patient or the patient's representative,
 - b. Ordering and administering an opioid in an emergency situation, and
 - c. Complying with the requirements in subsection (C)(2) after the emergency is resolved; and
 3. The emergency situation is documented in the patient's medical record.
- E.** The requirements in subsections (C)(1), (2), and (3), as applicable, do not apply when:
 1. A personnel member of a pain management clinic prescribes, orders, or administers an opioid as part of treatment for a patient with an end-of-life condition or pain associated with an active malignancy; or
 2. A prescription for an opioid changes only the type or dosage of an opioid previously prescribed to the patient according to subsection (C)(1):
 - a. Before a pharmacist dispenses the opioid for the patient; or
 - b. If changing the opioid because the patient experienced an adverse reaction to the opioid, within 72 hours after a pharmacist dispensed the opioid for the patient.
- d.** Explains to the patient or the patient's representative the risks and benefits associated with the use of opioids or ensures that the patient or the patient's representative understands the risks and benefits associated with the use of an opioid as explained to the patient or the patient's representative by an individual licensed under A.R.S. Title 32 and authorized by policies and procedures to explain to the patient or the patient's representative the risks and benefits associated with the use of an opioid;
- e.** If applicable, explains alternatives to an ordered opioid; and
- f.** Obtains informed consent from the patient or the patient's representative, according to R9-10-2007(B);
- 3.** When administering or causing administration of an opioid to a patient:
 - a. Before administration, identifies the patient's need for the opioid; and
 - b. Monitors the patient's response to the opioid; and
- 4.** Documents the pain management services provided in the patient's medical record according to R9-10-2008.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4).

R9-10-2007. Patient Rights

- A.** A licensee shall ensure that a patient is afforded the following rights and is informed of these rights:
 1. To refuse treatment or withdraw consent for treatment;
 2. To have patient medical records kept confidential; and
 3. To be informed of proposed treatment and associated risks, possible complications, and alternatives before pain management services are provided.

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- B.** A medical director shall ensure that before an opioid is prescribed or ordered for a patient, a medical practitioner obtains informed consent from the patient or patient's representative that includes:
1. The patient's:
 - a. Name,
 - b. Date of birth or other patient identifier, and
 - c. Condition for which an opioid is being prescribed or ordered;
 2. That an opioid is being prescribed or ordered;
 3. The potential risks, adverse reactions, complications, and medication interactions associated with the use of an opioid;
 4. If applicable, the potential risks, adverse outcomes, and complications associated with the concurrent use of an opioid and a benzodiazepine or another sedative-hypnotic medication;
 5. Alternatives to a prescribed or ordered opioid;
 6. The name and signature of the individual explaining the use of an opioid to the patient; and
 7. The signature of the patient or the patient's representative and the date signed.
11. Medications administered to the patient and, if an opioid is administered:
- a. The patient's need for the opioid before the opioid was administered, and
 - b. The effect of the opioid administered; and
12. A record of services provided to the patient.
- B.** A licensee shall ensure that:
1. A medical record is accessible only to the Department or personnel members authorized by policies and procedures;
 2. Medical record information is confidential and released only with the written informed consent of a patient or the patient's representative or as otherwise permitted by law; and
 3. A medical record is protected from loss, damage, or unauthorized use and is retained according to A.R.S. § 12-2297.
- C.** A medical director shall ensure that:
1. Only personnel authorized by policies and procedures record or sign an entry in a medical record;
 2. An entry in a medical record is dated and legible;
 3. An entry is authenticated;
 4. An entry is not changed after it has been recorded, but additional information related to an entry may be recorded in the medical record;
 5. When a verbal or telephone order is entered in the medical record, the entry is authenticated according to policies and procedures by the individual who issued the order;
 6. If a rubber-stamp signature or an electronic signature is used:
 - a. An individual's rubber-stamp or electronic signature is not used by another individual; and
 - b. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature; and
 7. If a pain management clinic maintains medical records electronically, the date and time of an entry is recorded by the computer's internal clock.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4).

R9-10-2008. Medical Records

- A.** A medical director shall ensure that a medical record is established and maintained for a patient that contains:
1. Patient identification, including:
 - a. The patient's name, address, and date of birth;
 - b. The patient's representative, if applicable; and
 - c. The name and telephone number of an individual to contact in an emergency;
 2. The patient's medical history;
 3. The patient's physical examination;
 4. Laboratory test results;
 5. The patient's diagnosis, including co-occurring disorders;
 6. The patient's treatment plan;
 7. If applicable:
 - a. The effectiveness of the patient's current treatment,
 - b. The duration of the current treatment,
 - c. Alternative treatments tried by or planned for the patient, and
 - d. The expected benefit of a new treatment compared with continuing the current treatment;
 8. Each consent form signed by the patient or the patient's representative;
 9. The patient's medication information, including:
 - a. The patient's age and weight;
 - b. The medications and herbal supplements the patient is currently taking; and
 - c. Allergies or sensitivities to medications, antiseptic solutions, or latex;
 10. Prescriptions ordered for the patient and, if an opioid is prescribed or ordered:
 - a. The nature and intensity of the patient's pain,
 - b. The specific opioid and the reason for the prescription or order,
 - c. The objectives used to determine whether the patient is being successfully treated, and
 - d. Other factors relevant to prescribing or ordering an opioid for the patient;

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4).

R9-10-2009. Equipment and Safety Standards

- A.** A medical director shall ensure that:
1. The equipment is:
 - a. Sufficient to accommodate:
 - i. The services stated in the pain management clinic's scope of services, and
 - ii. An individual accepted as a patient by the pain management clinic;
 - b. Maintained in working order;
 - c. Tested and calibrated at least once every 12 months or according to the manufacturer's recommendations; and
 - d. Used according to the manufacturer's recommendations;
 2. Documentation of each equipment test, calibration, and repair is maintained on the premises for at least 12 months after the date of the testing, calibration, or repair;
 3. Equipment and supplies are clean and, if applicable, sterile before each use;

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4. Personnel members wash hands after each direct patient contact and after handling soiled linen, soiled clothing, or biohazardous medical waste; and
 5. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures.
- B.** A medical director shall establish an infection control program and ensure that:
1. The infection control program includes:
 - a. A method to identify and document infections that occur at the pain management clinic;
 - b. Analysis of the types, causes, and spread of infections and communicable diseases at the pain management clinic;
 - c. The development of corrective measures to minimize or prevent the spread of infections and communicable diseases at the pain management clinic; and
 - d. Documentation of infection control activities, including:
 - i. The collection and analysis of infection control data,
 - ii. The actions taken related to infections and communicable diseases, and
 - iii. Reports of communicable diseases; and
 2. Infection control documentation is maintained for at least 12 months after the date of documentation.
- C.** A medical director shall ensure that soiled linen and clothing are kept:
1. In a covered container, and
 2. Separate from clean linen and clothing.
- D.** A licensee shall:
1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal;
 2. Make and document any repairs or corrections stated on the fire inspection report;
 3. Maintain documentation of a current fire inspection;
 4. Ensure that a written emergency plan is established, documented, and implemented that includes procedures for protecting the health and safety of patients and other individuals if circumstances arise in the pain management clinic that immediately threaten the life or health of patients and other individuals, such as a fire, natural disaster, loss of electrical power, or threat or incidence of violence; and
 5. Ensure that an evacuation drill is conducted at least once every six months that includes all personnel members on the premises on the day of the evacuation drill.
- E.** A licensee shall ensure that a pain management clinic has either:
1. Both of the following that are tested and serviced at least once every 12 months:
 - a. A fire alarm system installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in A.A.C. R9-1-412, that is in working order; and
 - b. A sprinkler system installed according to the National Fire Protection Association 13 Standard for the Installation of Sprinkler Systems, incorporated by reference in A.A.C. R9-1-412, that is in working order; or
 2. Both of the following:
 - a. A smoke detector installed in each hallway of the pain management clinic that is:
 - i. Maintained in an operable condition;
 - ii. Either battery operated or, if hard-wired into the electrical system of the pain management clinic, has a back-up battery; and
 - iii. Tested monthly; and
 - b. A portable, operable fire extinguisher, labeled as rated at least 2A-10-BC by the Underwriters Laboratories, that:
 - i. Is available at the pain management clinic;
 - ii. Is mounted in a fire extinguisher cabinet or placed on wall brackets so that the top handle of the fire extinguisher is not over five feet from the floor and the bottom of the fire extinguisher is at least four inches from the floor;
 - iii. If a disposable fire extinguisher, is replaced when its indicator reaches the red zone; and
 - iv. If a rechargeable fire extinguisher, is serviced at least once every 12 months and has a tag attached to the fire extinguisher that specifies the date of the last servicing and the name of the servicing person.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4).

R9-10-2010. Environmental and Physical Plant Standards

- A.** A licensee shall ensure that the premises:
1. Provide lighting and ventilation to ensure the health and safety of a patient;
 2. Are maintained in a clean condition;
 3. Are free from a condition or situation that may cause a patient to suffer physical injury;
 4. Are maintained free from insects and vermin;
 5. Are smoke-free; and
 6. Are sufficient to accommodate:
 - a. The services stated in the pain management center's scope of services, and
 - b. An individual accepted as a patient by the pain management center.
- B.** A licensee shall ensure that if a pain management clinic collects urine specimens from a patient, the pain management clinic has at least one bathroom on the premises that:
1. Contains:
 - a. A working sink with running water,
 - b. A working toilet that flushes and has a seat,
 - c. Toilet tissue,
 - d. Soap for hand washing,
 - e. Paper towels or a mechanical air hand dryer,
 - f. Lighting, and
 - g. A means of ventilation; and
 2. Is for the exclusive use of the pain management clinic.

Historical Note

New Section made by final rulemaking at 24 A.A.R. 3020, effective January 1, 2019 (Supp. 18-4).

ARTICLE 21. RECOVERY CARE CENTERS**R9-10-2101. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the following applies in this Article unless otherwise specified:

"Recovery care services" has the same meaning as in A.R.S. § 36-448.51.

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Historical Note

New Section R9-10-2101 renumbered from R9-10-501 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-2102. Administration**A.** A governing authority shall:

1. Consist of one or more individuals responsible for the organization, operation, and administration of a recovery care center;
2. Establish in writing:
 - a. A recovery care center's scope of services, and
 - b. Qualifications for an administrator;
3. Designate an administrator, in writing, who has the qualifications established in subsection (A)(2)(b);
4. Grant, deny, suspend, or revoke the clinical privileges of a medical staff member according to medical staff bylaws;
5. Adopt a quality management program according to R9-10-2103;
6. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
7. Designate, in writing, an acting administrator who has the qualifications established in subsection (A)(2)(b) if the administrator is:
 - a. Expected not to be present on a recovery care center's premises for more than 30 calendar days, or
 - b. Not present on a recovery care center's premises for more than 30 calendar days; and
8. Except as provided in subsection (A)(7), notify the Department according to A.R.S. § 36-425(I) when there is a change in the administrator and identify the name and qualifications of the new administrator.

B. An administrator:

1. Is directly accountable to the governing authority of a recovery care center for the daily operation of the recovery care center and all services provided by or at the recovery care center;
2. Has the authority and responsibility to manage a recovery care center; and
3. Except as provided in subsection (A)(7), designates, in writing, an individual who is present on the recovery care center's premises and accountable for the recovery care center when the administrator is not present on the recovery care center premises.

C. An administrator shall ensure that:

1. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover job descriptions, duties, and qualifications including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - c. Include how a personnel member may submit a complaint relating to patient care;
 - d. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - e. Cover cardiopulmonary resuscitation training required in R9-10-2105(G) including:
 - i. The method and content of cardiopulmonary resuscitation training,

- ii. The qualifications for an individual to provide cardiopulmonary resuscitation training,
- iii. The time-frame for renewal of cardiopulmonary resuscitation training, and
- iv. The documentation that verifies an individual has received cardiopulmonary resuscitation training;

- f. Cover first aid training;
 - g. Include a method to identify a patient to ensure the patient receives services as ordered;
 - h. Cover patient rights including assisting a patient who does not speak English or who has a disability to become aware of patient rights;
 - i. Cover specific steps for:
 - i. A patient to file a complaint, and
 - ii. The recovery care center to respond to a patient's complaint;
 - j. Cover health care directives;
 - k. Cover medical records, including electronic medical records;
 - l. Cover a quality management program, including incident reports and supporting documentation;
 - m. Cover contracted services;
 - n. Cover tissue and organ procurement and transplant; and
 - o. Cover when an individual may visit a patient in a recovery care center;
2. Policies and procedures for recovery care services are established, documented, and implemented to protect the health and safety of a patient that:
 - a. Cover patient screening, admission, transfer, discharge planning, and discharge;
 - b. Cover the provision of recovery care services;
 - c. Include when general consent and informed consent are required;
 - d. Cover prescribing a controlled substance to minimize substance abuse by a patient;
 - e. Cover dispensing, administering, and disposing of medications;
 - f. Cover how personnel members will respond to a patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
 - g. Cover infection control; and
 - h. Cover environmental services that affect patient care;
 3. Policies and procedures are reviewed at least once every three years and updated as needed;
 4. Policies and procedures are available to personnel members, employees, volunteers, and students; and
 5. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a recovery care center, the documentation or information is provided to the unit in the Department that is responsible for licensing and monitoring the recovery care center.

Historical Note

New Section R9-10-2102 renumbered from R9-10-502 and amended by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

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R9-10-2103. Quality Management

1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to patients;
 - c. A method to evaluate the data collected to identify a concern about the delivery of services related to patient care;
 - d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to patient care; and
 - e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to patient care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to patient care; and
3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.

Historical Note

New Section R9-10-2103 renumbered from R9-10-503 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-2104. Contracted Services

An administrator shall ensure that:

1. Contracted services are provided according to the requirements in this Article, and
2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

New Section R9-10-2104 renumbered from R9-10-504 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-2105. Personnel

A. An administrator shall ensure that:

1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services or behavioral health services expected to be provided by the personnel member according to the established job description, and
 - ii. The acuity of the patients receiving physical health services or behavioral health services from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services and behavioral health services listed in the established job description,

- ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description, and
- iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services or behavioral health services listed in the established job description;

2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services or behavioral health services, and
 - b. According to policies and procedures; and
3. Sufficient personnel members are present on a recovery care center's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the recovery care center's scope of services,
 - b. Meet the needs of a patient, and
 - c. Ensure the health and safety of a patient.

B. An administrator shall ensure that an individual who is a baccalaureate social worker, master social worker, associate marriage and family therapist, associate counselor, or associate substance abuse counselor is under direct supervision as defined in 4 A.A.C. 6, Article 1.

C. An administrator shall ensure that a personnel member, or an employee or a volunteer who has or is expected to have direct interaction with a patient, provides evidence of freedom from infectious tuberculosis:

1. On or before the date the individual begins providing services at or on behalf of the recovery care center, and
2. As specified in R9-10-113.

D. An administrator shall ensure that a personnel record is maintained for each personnel member, employee, volunteer, or student that includes:

1. The individual's name, date of birth, and contact telephone number;
2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
3. Documentation of:
 - a. The individual's qualifications, including skills and knowledge applicable to the employee's job duties;
 - b. The individual's education and experience applicable to the employee's job duties;
 - c. The individual's completed orientation and in-service education as required by policies and procedures;
 - d. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - e. The individual's compliance with the requirements in A.R.S. § 36-411;
 - f. Cardiopulmonary resuscitation training, if required for the individual, according to R9-10-2102(C)(1)(e);
 - g. First aid training, if the individual is required to have according to this Article and policies and procedures; and

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- h. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (C).
- E. An administrator shall ensure that personnel records are:
 - 1. Maintained:
 - a. Throughout the individual's period of providing services in or for the recovery care center, and
 - b. For at least 24 months after the last date the individual provided services in or for the recovery care center; and
 - 2. For a personnel member who has not provided physical health services or behavioral health services at or for the recovery care center during the previous 12 months, provided to the Department within 72 hours after the Department's request.
- F. An administrator shall ensure that:
 - 1. A plan to provide orientation specific to the duties of a personnel member, an employee, a volunteer, and a student is developed, documented, and implemented;
 - 2. A personnel member completes orientation before providing behavioral health services or physical health services;
 - 3. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
 - 4. A director of nursing develops, documents, and implements a plan to provide in-service education specific to the duties of a personnel member;
 - 5. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training; and
 - 6. A work schedule of each personnel member is developed and maintained at the recovery care center for at least 12 months from the date of the work schedule.
- G. An administrator shall ensure that a nursing personnel member:
 - 1. Is 18 years of age or older,
 - 2. Is certified in cardiopulmonary resuscitation within the first month of employment,
 - 3. Maintains current certification in cardiopulmonary resuscitation, and
 - 4. Attends additional orientation that includes patient care and infection control policies and procedures.
- 4. The medical staff includes at least two physicians who have clinical privileges to admit patients to the recovery care center;
- 5. A medical staff member is available to direct patient care;
- 6. Medical staff bylaws or medical staff regulations are established, documented, and implemented for the process of:
 - a. Conducting peer review according to A.R.S. Title 36, Chapter 4, Article 5;
 - b. Appointing members to the medical staff, subject to approval by the governing authority;
 - c. Establishing committees, including identifying the purpose and organization of each committee;
 - d. Appointing one or more medical staff members to a committee;
 - e. Requiring that each patient has a medical staff member who coordinates the patient's care;
 - f. Defining the responsibilities of a medical staff member to provide medical services to the medical staff member's patient;
 - g. Defining a medical staff member's responsibilities for the transfer of a patient;
 - h. Specifying requirements for oral, telephone, and electronic orders, including which orders require identification of the time of the order;
 - i. Establishing a time-frame for a medical staff member to complete a patient's medical record; and
 - j. Establishing criteria for granting, denying, revoking, and suspending clinical privileges; and
- 7. The organized medical staff reviews the medical staff bylaws and the medical staff regulations at least once every three years and updates the bylaws and regulations as needed.
- B. An administrator shall ensure that:
 - 1. A medical staff member provides evidence of freedom from infectious tuberculosis as specified in R9-10-113 before providing services at the recovery care center and at least once every 12 months thereafter;
 - 2. A record for each medical staff member is established and maintained that includes:
 - a. A completed application for clinical privileges,
 - b. The dates and lengths of appointment and reappointment of clinical privileges,
 - c. The specific clinical privileges granted to the medical staff member including revision or revocation dates for each clinical privilege, and
 - d. A verification of current Arizona health care professional active license according to A.R.S. Title 32; and
 - 3. Except for documentation of peer review conducted according to A.R.S. § 36-445, a record under subsection (B)(2) is provided to the Department for review:
 - a. For a current medical staff member, within 2 hours after the Department's request, or
 - b. Within 72 hours after the time of the Department's request if the individual is no longer a current medical staff member.

Historical Note

New Section R9-10-2105 renumbered from R9-10-505 and amended by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-2106. Medical Staff

- A. A governing authority shall require that:
 - 1. The organized medical staff is directly accountable to the governing authority for the quality of care provided by a medical staff member to a patient in a recovery care center;
 - 2. The medical staff bylaws and medical staff regulations are approved according to the medical staff bylaws and governing authority requirements;
 - 3. A medical staff member complies with medical staff bylaws and medical staff regulations;

Historical Note

New Section R9-10-2106 renumbered from R9-10-506 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-2107. Admission

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- A. An administrator shall ensure that a physician only admits patients to the recovery care center who require recovery care services, as defined in A.R.S. § 36-448.51.
- B. An administrator shall ensure that the following documents are in a patient's medical record at the time the patient is admitted to the recovery care center:
 - 1. A medical history and physical examination performed or approved by a member of the recovery care center's medical staff within 30 calendar days before the patient's admission to the recovery care center,
 - 2. A discharge summary from the referring health care institution or physician,
 - 3. Physician orders, and
 - 4. Documentation concerning health care directives.

Historical Note

New Section R9-10-2107 renumbered from R9-10-507 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-2108. Discharge

- A. For a patient, an administrator shall ensure that discharge planning:
 - 1. Identifies the specific needs of the patient after discharge, if applicable;
 - 2. If a discharge date has been determined, identifies the anticipated discharge date;
 - 3. Includes the participation of the patient or the patient's representative;
 - 4. Is completed before discharge occurs;
 - 5. Provides the patient or the patient's representative with written information identifying classes or subclasses of health care institutions and the level of care that the health care institutions provide that may meet the patient's assessed and anticipated needs after discharge, if applicable; and
 - 6. Is documented in the patient's medical record.
- B. For a patient discharge or a transfer of the patient, an administrator shall ensure that:
 - 1. A discharge summary is developed that includes:
 - a. A description of the patient's medical condition and the medical services provided to the patient, and
 - b. The signature of the medical practitioner coordinating the patient's medical services;
 - 2. A discharge order for the patient is received from a medical practitioner coordinating the patient's medical services before discharge, unless the patient leaves the recovery care center against a medical staff member's advice;
 - 3. Discharge instructions are developed and documented; and
 - 4. The patient or the patient's representative is provided with a copy of the discharge instructions.

Historical Note

New Section R9-10-2108 renumbered from R9-10-508 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-2109. Transfer

Except for a transfer of a patient due to an emergency, an administrator shall ensure that:

- 1. A personnel member coordinates the transfer and the services provided to the patient;
- 2. According to policies and procedures:

- a. An evaluation of the patient is conducted before the transfer;
 - b. Information from the patient's medical record, including orders that are in effect at the time of the transfer, is provided to a receiving health care institution; and
 - c. A personnel member explains risks and benefits of the transfer to the patient or the patient's representative; and
- 3. Documentation in the patient's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the patient during a transfer.

Historical Note

New Section R9-10-2109 renumbered from R9-10-509 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-2110. Patient Rights

- A. An administrator shall ensure:
 - 1. The requirements in subsection (B) and the patient rights in subsection (C) are conspicuously posted on the premises;
 - 2. At the time of admission, a patient or the patient's representative receives a written copy of the requirements in subsection (B) and the patient rights in subsection (C); and
 - 3. Policies and procedures include:
 - a. How and when a patient or the patient's representative is informed of the patient rights in subsection (C), and
 - b. Where patient rights are posted as required in subsection (A)(1).
- B. An administrator shall ensure that:
 - 1. A patient is treated with dignity, respect, and consideration;
 - 2. A patient is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity; or
 - k. Misappropriation of personal and private property by a recovery care center's medical staff, personnel members, employees, volunteers, or students; and
 - 3. A patient or the patient's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of proposed treatment alternatives, associated risks, and possible complications;
 - d. Is informed of the following:

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- i. The recovery care center's policy on health care directives, and
 - ii. The patient complaint process;
 - e. Consents to photographs of the patient before the patient is photographed, except that a patient may be photographed when admitted to a recovery care center for identification and administrative purposes; and
 - f. Except as otherwise permitted by law, provides written consent to the release of information in the patient's:
 - i. Medical record, or
 - ii. Financial records.
 - C. A patient has the following rights:
 - 1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
 - 2. To receive treatment that supports and respects the patient's individuality, choices, strengths, and abilities;
 - 3. To receive privacy in treatment and care for personal needs;
 - 4. To have access to a telephone;
 - 5. To be advised of the recovery care center's policy regarding health care directives;
 - 6. To associate and communicate privately with individuals of the patient's choice;
 - 7. To review, upon written request, the patient's own medical record according to A.R.S. §§ 12-2293, 12-2294, and 12-2294.01;
 - 8. To receive a referral to another health care institution if the health care institution is not authorized or not able to provide physical health services or behavioral health services needed by the patient;
 - 9. To participate or have the patient's representative participate in the development of, or decisions concerning treatment;
 - 10. To participate or refuse to participate in research or experimental treatment; and
 - 11. To receive assistance from a family member, the patient's representative, or other individual in understanding, protecting, or exercising the patient's rights.
- Historical Note**
- New Section R9-10-2110 renumbered from R9-10-510 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).
- R9-10-2111. Medical Records**
- A. An administrator shall ensure that:
 - 1. A patient's medical record is established and maintained for each patient according to A.R.S. Title 12, Chapter 13, Article 7.1;
 - 2. An entry in a patient's medical record is:
 - a. Recorded only by an individual authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
 - 3. An order is:
 - a. Dated when the order is entered in the patient's medical record and includes the time of the order;
 - b. Authenticated by a medical staff according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical staff issuing the order;
 - 4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
 - 5. A patient's medical record is available to an individual:
 - a. Authorized according to policies and procedures to access the patient's medical record;
 - b. If the individual is not authorized according to policies and procedures, with the written consent of the patient or the patient's representative; or
 - c. As permitted by law;
 - 6. Policies and procedures that include the maximum time-frame to retrieve an onsite or off-site patient's medical record at the request of a medical staff or authorized personnel member; and
 - 7. A patient's medical record is protected from loss, damage, or unauthorized use.
 - B. If a recovery care center maintains patients' medical records electronically, an administrator shall ensure that:
 - 1. Safeguards exist to prevent unauthorized access, and
 - 2. The date and time of an entry in a patient's medical record is recorded by the computer's internal clock.
 - C. An administrator shall ensure that a patient's medical record contains:
 - 1. Patient information that includes:
 - a. The patient's name,
 - b. The patient's address,
 - c. The patient's date of birth, and
 - d. Any known allergies;
 - 2. The date of admission and, if applicable, the date of discharge;
 - 3. The admitting diagnosis;
 - 4. A discharge summary from the referring health care institution or physician;
 - 5. If applicable, documented general consent and informed consent by the patient or the patient's representative;
 - 6. The medical history and physical examination required in R9-10-2107(B)(1);
 - 7. A copy of the patient's health care directive, if applicable;
 - 8. The name and telephone number of the patient's medical practitioner;
 - 9. If applicable, the name and contact information of the patient's representative and:
 - a. If the patient is 18 years of age or older or an emancipated minor, the document signed by the patient consenting for the patient's representative to act on the patient's behalf; or
 - b. If the patient's representative:
 - i. Is a legal guardian, a copy of the court order establishing guardianship; or
 - ii. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney;
 - 10. Orders;
 - 11. Nursing assessment;
 - 12. Treatment plans;
 - 13. Progress notes;
 - 14. Documentation of recovery care center services provided to a patient;
 - 15. The disposition of the patient after discharge;
 - 16. The discharge plan;

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17. A discharge summary, if applicable;
18. Transfer documentation from the referring health care institution or physician;
19. If applicable:
 - a. A laboratory report,
 - b. A radiologic report,
 - c. A diagnostic report, and
 - d. A consultation report;
20. If applicable, documentation of any actions taken to control the patient's sudden, intense, or out-of-control behavior to prevent harm to the patient or another individual;
21. If applicable, documentation that evacuation from the recovery care center would cause harm to the patient; and
22. Documentation of a medication administered to the patient that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. For a medication administered for pain on a PRN basis:
 - i. An assessment of the patient's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - d. For a psychotropic medication administered on a PRN basis:
 - i. An assessment of the patient's behavior before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - e. The signature of the individual administering or observing the patient self-administer the medication; and
 - f. Any adverse reaction a patient has to the medication.
- D. An administrator shall ensure that a patient's medical record is completed within 30 calendar days after the patient's discharge.

Historical Note

New Section R9-10-2111 renumbered from R9-10-511 and amended by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-2112. Nursing Services

- A. An administrator shall appoint a registered nurse as the director of nursing who has the authority and responsibility to manage nursing services at a recovery care center.
- B. A director of nursing shall:
 1. Ensure that policies and procedures are developed, documented, and implemented to protect the health and safety of a patient that cover nursing assessments;
 2. Designate, in writing, a registered nurse to manage nursing services when the director of nursing is not present on a recovery care center's premises;
 3. Ensure that a recovery care center is staffed with nursing personnel according to the number of patients and their health care needs;
 4. Ensure that a patient receives medical services, nursing services, and health-related services based on the patient's nursing assessment and the physician's orders; and
 5. Ensure that medications are administered by a nurse licensed according to A.R.S. Title 32, Chapter 15 or as otherwise provided by law.
- C. An administrator shall ensure that a registered nurse completes a nursing assessment of each patient, which addresses patient

care needs, when the patient is admitted to the recovery care center.

- D. An administrator shall ensure that a licensed nurse provides a patient with written discharge instructions, based on the patient's health care needs and physician's instructions, before the patient is discharged from the recovery care center.

Historical Note

New Section R9-10-2112 renumbered from R9-10-512 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-2113. Medication Services

- A. An administrator shall ensure that policies and procedures for medication services:
 1. Include:
 - a. A process for providing information to a patient about medication prescribed for the patient including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse reaction to a medication, or
 - iii. A medication overdose;
 - c. Procedures for documenting medication administration; and
 - d. Procedures to ensure that a patient's medication regimen and method of administration is reviewed by a medical practitioner to ensure the medication regimen meets the patient's needs; and
 2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.
- B. An administrator shall ensure that:
 1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a medical practitioner;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a patient only as prescribed; and
 - d. Cover the documentation of a patient's refusal to take prescribed medication is documented in the patient's medical record;
 2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law;
 3. A medication administered to a patient:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the patient's medical record.
- C. An administrator shall ensure that:
 1. A current drug reference guide is available for use by personnel members;
 2. A current toxicology reference guide is available for use by personnel members; and
 3. If pharmaceutical services are provided on the premises:

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- a. A committee, composed of at least one physician, one pharmacist, and other personnel members as determined by policies and procedures, is established to:
 - i. Develop a drug formulary,
 - ii. Update the drug formulary at least every 12 months,
 - iii. Develop medication usage and medication substitution policies and procedures, and
 - iv. Specify which medications and medication classifications are required to be stopped automatically after a specific time period unless the ordering medical staff member specifically orders otherwise;
 - b. The pharmaceutical services are provided under the direction of a pharmacist;
 - c. The pharmaceutical services comply with ARS Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - d. A copy of the pharmacy license is provided to the Department upon request.
- D.** When medication is stored at a recovery care center, an administrator shall ensure that:
- 1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
 - 2. Medication is stored according to the instructions on the medication container; and
 - 3. Policies and procedures are established, documented, and implemented to protect the health and safety of a patient for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication, including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of patients who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.
- E.** An administrator shall ensure that a personnel member immediately reports a medication error or a patient's adverse reaction to a medication to the medical practitioner who ordered the medication and, if applicable, the recovery care center's director of nursing.

Historical Note

New Section R9-10-2113 renumbered from R9-10-513 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-2114. Ancillary Services

An administrator shall ensure that:

- 1. Laboratory services are provided on the premises, or are available through contract, with a laboratory that holds a certificate of accreditation or certificate of compliance issued by the U.S. Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Improvement Act of 1967; and
- 2. Pharmaceutical services are provided on the premises, or are available through contract, by a pharmacy licensed according to A.R.S. Title 32, Chapter 18.

Historical Note

New Section R9-10-2114 renumbered from R9-10-514 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-2115. Food Services

- A.** An administrator shall ensure that:
- 1. The recovery care center has a license or permit as a food establishment under 9 A.A.C. 8, Article 1;
 - 2. A copy of the recovery care center's food establishment license or permit is maintained; and
 - 3. If a recovery care center contracts with a food establishment, as established in 9 A.A.C. 8, Article 1, to prepare and deliver food to the recovery care center:
 - a. A copy of the contracted food establishment's license or permit under 9 A.A.C. 8, Article 1 is maintained by the recovery care center; and
 - b. The recovery care center is able to store, refrigerate, and reheat food to meet the dietary needs of a patient.
- B.** An administrator shall:
- 1. Designate a food service manager who is responsible for food service in the recovery care center; and
 - 2. Ensure that a current therapeutic diet reference manual is available to the food service manager.
- C.** A food service manager shall ensure that:
- 1. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance; and
 - b. In a form to meet the needs of a patient such as cut, chopped, ground, pureed, or thickened;
 - 2. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served each day,
 - c. Is conspicuously posted at least one day before the first meal on the food menu will be served,
 - d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;
 - 3. Meals and snacks provided by the recovery care center are served according to posted menus;
 - 4. Meals and snacks for each day are planned using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2010.asp>;
 - 5. A patient is provided:
 - a. A diet that meets the patient's nutritional needs and, if applicable, the orders of the patient's physician;
 - b. Three meals a day with not more than 14 hours between the evening meal and breakfast except as provided in subsection (C)(5)(d);
 - c. The option to have a daily evening snack identified in subsection (C)(5)(d)(ii) or other snack; and
 - d. The option to extend the time span between the evening meal and breakfast from 14 hours to 16 hours if:
 - i. A patient agrees; and
 - ii. The patient is offered an evening snack that includes meat, fish, eggs, cheese, or other protein, and a serving from either the fruit and vegetable food group or the bread and cereal food group;
 - 6. A patient requiring assistance to eat is provided with assistance that recognizes the patient's nutritional, physi-

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cal, and social needs, including the use of adaptive eating equipment or utensils; and

7. Water is available and accessible to a patient.

Historical Note

New Section R9-10-2115 renumbered from R9-10-515 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-2116. Emergency and Safety Standards

- A. An administrator shall ensure that policies and procedures for providing emergency treatment are established, documented, and implemented that protect the health and safety of patients and include:
 1. Basic life support procedures, including the administration of oxygen and cardiopulmonary resuscitation; and
 2. Transfer arrangements for patients who require care not provided by the recovery care center.
- B. An administrator shall ensure that emergency treatment is provided to a patient admitted to the recovery care center according to policies and procedures.
- C. An administrator shall ensure that:
 1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and other employees, and, if necessary, implemented that includes:
 - a. When, how, and where patients will be relocated, including:
 - i. Instructions for the evacuation or transfer of patients,
 - ii. Assigned responsibilities for each employee and personnel member, and
 - iii. A plan for providing continuing services to meet patient's needs;
 - b. How each patient's medical record will be available to individuals providing services to the patient during a disaster;
 - c. A plan to ensure each patient's medication will be available to administer to the patient during a disaster; and
 - d. A plan for obtaining food and water for individuals present in the recovery care center or the recovery care center's relocation site during a disaster;
 2. The disaster plan required in subsection (C)(1) is reviewed at least once every 12 months;
 3. Documentation of a disaster plan review required in subsection (C)(2) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each personnel member, employee, or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
 4. A disaster drill for employees is conducted on each shift at least once every three months and documented;
 5. An evacuation drill for employees and patients:
 - a. Is conducted at least once every six months;
 - b. Includes all individuals on the premises except for:
 - i. A patient whose medical record contains documentation that evacuation from the recovery care center would cause harm to the patient, and
 - ii. Sufficient personnel members to ensure the health and safety of patients not evacuated according to subsection (C)(5)(b)(i);

6. Documentation of each evacuation drill is created, is maintained for at least 12 months after the date of the evacuation drill, and includes:
 - a. The date and time of the evacuation drill;
 - b. The amount of time taken for employees and patients to evacuate to a designated area;
 - c. If applicable:
 - i. An identification of patients needing assistance for evacuation, and
 - ii. An identification of patients who were not evacuated;
 - d. Any problems encountered in conducting the evacuation drill; and
 - e. Recommendations for improvement, if applicable; and
 7. An evacuation path is conspicuously posted on each hallway of each floor of the recovery care center.
- D. An administrator shall:
 1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
 2. Make any repairs or corrections stated on the inspection report, and
 3. Maintain documentation of a current fire inspection.

Historical Note

New Section R9-10-2116 renumbered from R9-10-516 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-2117. Environmental Standards

- A. An administrator shall ensure the recovery care center's infection control policies and procedures include:
 1. Development and implementation of a written plan for preventing, detecting, reporting, and controlling communicable diseases and infection;
 2. Handling and disposal of biohazardous medical waste; and
 3. Sterilization, disinfection, and storage of medical equipment and supplies.
- B. An administrator shall ensure that:
 1. A recovery care center's premises and equipment are:
 - a. Cleaned and disinfected according to policies and procedures or manufacturer's instructions to prevent, minimize, and control illness or infection; and
 - b. Free from a condition or situation that may cause a patient or an individual to suffer physical injury;
 2. A pest control program is implemented and documented;
 3. Equipment used to provide recovery care services is:
 - a. Maintained in working order;
 - b. Tested and calibrated according to the manufacturer's recommendations or, if there are no manufacturer's recommendations, as specified in policies and procedures; and
 - c. Used according to the manufacturer's recommendations;
 4. Documentation of equipment testing, calibration, and repair is maintained for at least 12 months after the date of the testing, calibration, or repair;
 5. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
 6. Soiled linen and clothing are:
 - a. Collected in a manner to minimize or prevent contamination;

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- b. Bagged at the site of use; and
 - c. Maintained separate from clean linen and clothing and away from food storage, kitchen, or dining areas;
- 7. Garbage and refuse are:
 - a. Stored in covered containers lined with plastic bags, and
 - b. Removed from the premises at least once a week;
- 8. Heating and cooling systems maintain the recovery care center at a temperature between 70° F and 84° F;
- 9. Common areas:
 - a. Are lighted to assure the safety of patients, and
 - b. Have lighting sufficient to allow personnel members to monitor patient activity;
- 10. The supply of hot and cold water is sufficient to meet the personal hygiene needs of patients and the cleaning and sanitation requirements in this Article;
- 11. Oxygen containers are secured in an upright position;
- 12. Poisonous or toxic materials stored by the recovery care center are maintained in labeled containers in a locked area separate from food preparation and storage, dining areas, and medications and are inaccessible to patients;
- 13. Combustible or flammable liquids and hazardous materials stored by the recovery care center are stored in the original labeled containers or safety containers in a locked area inaccessible to patients;
- 14. If pets or animals are allowed in the recovery care center, pets or animals are:
 - a. Controlled to prevent endangering the patients and to maintain sanitation; and
 - b. Licensed consistent with local ordinances;
- 15. If a water source that is not regulated under 18 A.A.C. 4 by the Arizona Department of Environmental Quality is used:
 - a. The water source is tested at least once every 12 months for total coliform bacteria and fecal coliform or *E. coli* bacteria;
 - b. If necessary, corrective action is taken to ensure the water is safe to drink; and
 - c. Documentation of testing is retained for at least 12 months after the date of the test; and
- 16. If a non-municipal sewage system is used, the sewage system is in working order and is maintained according to applicable state laws and rules.
- C. An administrator shall ensure that:
 - 1. Smoking tobacco products is not permitted within a recovery care center; and
 - 2. Smoking tobacco products may be permitted outside a recovery care center if:
 - a. Signs designating smoking areas are conspicuously posted, and
 - b. Smoking is prohibited in areas where combustible materials are stored or in use.

Historical Note

New Section R9-10-2117 renumbered from R9-10-517 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2).

R9-10-2118. Physical Plant Standards

- A. An administrator shall ensure that recovery care center's patient rooms and service areas comply with the applicable physical plant health and safety codes and standards, incorporated by reference in R9-10-104.01, in effect on the date the recovery care center submitted architectural plans and speci-

cations to the Department for approval, according to R9-10-104.

- B. An administrator shall ensure that the premises and equipment are sufficient to accommodate:
 - 1. The services stated in the recovery care center's scope of services; and
 - 2. An individual accepted as a patient by the recovery care center.
- C. An administrator shall ensure that the recovery care center does not allow more than two beds per room.

Historical Note

New Section R9-10-2118 renumbered from R9-10-518 by exempt rulemaking at 25 A.A.R. 1222, effective April 25, 2019 (Supp. 19-2). Amended by final expedited rulemaking, at 25 A.A.R. 3481 with an immediate effective date of November 5, 2019 (Supp. 19-4).

ARTICLE 22. NURSING-SUPPORTED GROUP HOMES**R9-10-2201. Definitions**

In addition to the definitions in A.R.S. § 36-401 and R9-10-101, the definitions in A.R.S. § 36-551 apply in this Article unless otherwise specified.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2202. Supplementary Application Requirements and Documentation Submission Requirements

- A. In addition to the license application requirements in A.R.S. § 36-422 and R9-10-105, an applicant for a license as a nursing-supported group home shall include:
 - 1. In a Department-provided format, whether the applicant is requesting authorization:
 - a. To admit residents who:
 - i. Are on a ventilator,
 - ii. Have a tracheostomy tube, or
 - iii. Receive total parenteral nutrition; or
 - b. To provide:
 - i. Services to individuals under 18 years of age, including the licensed capacity requested;
 - ii. Restraint;
 - iii. Clinical laboratory services; or
 - iv. Respiratory care services; and
 - 2. A copy of the applicant's service provider award letter with the Division.
- B. A licensee shall submit to the Department, with the relevant fees required in R9-10-106(C) and in a Department-provided format:
 - 1. The information required in subsection (A)(1), as applicable; and
 - 2. Documentation of the licensee's service provider contract with the Division.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2203. Administration

- A. A governing authority shall:
 - 1. Consist of one or more individuals responsible for the organization, operation, and administration of a nursing-supported group home;

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2. Establish, in writing, the nursing-supported group home's scope of services;
 3. Designate, in writing, an administrator for the nursing-supported group home who:
 - a. Is at least 21 years old; and
 - b. Meets one of the following:
 - i. Is a registered nurse,
 - ii. Is a nursing care institution administrator, or
 - iii. Has a minimum of three-years' experience working as an administrator or personnel member in a nursing-supported group home or other health care institution licensed under this Chapter;
 4. Adopt a quality management program according to R9-10-2204;
 5. Review and evaluate the effectiveness of the quality management program at least once every 12 months;
 6. Designate, in writing, an acting administrator who meets the requirements in subsection (A)(3), if the administrator is:
 - a. Expected not to be present on the premises of the nursing-supported group home for more than 30 calendar days, or
 - b. Not present on the premises of the nursing-supported group home for more than 30 calendar days; and
 7. Except as permitted in subsection (A)(6), when there is a change of administrator:
 - a. Notify the Department according to A.R.S. § 36-425(I), and
 - b. Submit to the Department a copy of documentation demonstrating the new administrator's compliance with the requirements in subsection (A)(3).
- B. An administrator:**
1. Is directly accountable to the governing authority of a nursing-supported group home for the daily operation of the nursing-supported group home and all services provided by or at the nursing-supported group home;
 2. Has the authority and responsibility to manage the nursing-supported group home;
 3. Except as provided in subsection (A)(6), designates, in writing, an individual who is present on the premises of the nursing-supported group home and accountable for the nursing-supported group home when the administrator is not present on the nursing-supported group home's premises; and
 4. Ensures the nursing-supported group home's compliance with A.R.S. § 36-411 and, as applicable, A.R.S. § 8-804 or § 46-459.
- C. An administrator shall ensure that:**
1. Policies and procedures are established, documented, and implemented to protect the health and safety of a resident that:
 - a. Cover job descriptions, duties, and qualifications, including required skills, knowledge, education, and experience for personnel members, employees, volunteers, and students;
 - b. Cover the process for checking on a personnel member through the adult protective services registry, established according to A.R.S. § 46-459, or the central registry, established according to A.R.S. § 8-804, as applicable;
 2. Policies and procedures for physical health services, habilitation services, and behavioral care are established,
 - c. Cover orientation and in-service education for personnel members, employees, volunteers, and students;
 - d. Include methods to prevent abuse or neglect of a resident, including:
 - i. Training of personnel members, at least annually, on how to recognize the signs and symptoms of abuse or neglect; and
 - ii. Reporting of abuse or neglect of a resident;
 - e. Include how a personnel member may submit a complaint relating to resident care;
 - f. Cover the requirements in A.R.S. Title 36, Chapter 4, Article 11;
 - g. Cover cardiopulmonary resuscitation training including:
 - i. Which personnel members are required to obtain cardiopulmonary resuscitation training;
 - ii. The method and content of cardiopulmonary resuscitation training, which includes a demonstration of the ability to perform cardiopulmonary resuscitation;
 - iii. The qualifications for an individual to provide cardiopulmonary resuscitation training;
 - iv. The time-frame for renewal of cardiopulmonary resuscitation training; and
 - v. The documentation that verifies an individual has received cardiopulmonary resuscitation training;
 - h. Cover first aid training;
 - i. Include a method to identify a resident to ensure the resident receives physical health services, habilitation services, and behavioral care as ordered;
 - j. Cover resident rights, including assisting a resident who does not speak English or who has a disability to become aware of resident rights;
 - k. Cover specific steps for:
 - i. A resident to file a complaint, and
 - ii. The nursing-supported group home to respond to a resident's complaint;
 - l. Cover health care directives;
 - m. Cover medical records, including electronic medical records;
 - n. Cover a quality management program, including incident reports and supporting documentation;
 - o. Cover contracted services;
 - p. Cover resident's personal accounts;
 - q. Cover petty cash funds;
 - r. If the nursing-supported group home may admit a resident who is not placed in the nursing-supported group home by the Division, cover:
 - i. Fees and the process for receiving a fee for a resident,
 - ii. The reasons and process for terminating residency, and
 - iii. The process for refunding a fee for a resident;
 - s. Cover smoking and the use of tobacco products on the premises;
 - t. Cover the storage and use of alcoholic beverages on the premises; and
 - u. Cover when an individual may visit a resident in a nursing-supported group home;

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documented, and implemented to protect the health and safety of a resident that:

- a. Cover resident screening, admission, transport, transfer, discharge planning, and discharge;
 - b. Cover the provision of physical health services, habilitation services, and behavioral care;
 - c. Cover acuity, including a process for obtaining sufficient nursing personnel and other personnel members to meet the needs of residents;
 - d. Include when general consent and informed consent are required;
 - e. Cover storing, dispensing, administering, and disposing of medication, including provisions for inventory control and preventing diversion of controlled substances;
 - f. Cover infection control;
 - g. Cover interventions to address a resident's inappropriate behavior, including:
 - i. The hierarchy for use;
 - ii. Use of time-outs for inappropriate behavior; and
 - iii. Except in an emergency, require positive techniques for behavior modification to be used before more restrictive methods are used;
 - h. Cover restraints, both chemical restraints and physical restraints if applicable, that:
 - i. Require an order, including the frequency of monitoring and assessing the restraint; and
 - ii. Are necessary to prevent imminent harm to self or others, including how personnel members will respond to a resident's sudden, intense, or out-of-control behavior;
 - i. Cover telemedicine, if applicable;
 - j. Cover environmental services that affect resident care;
 - k. Cover the security of a resident's possessions that are allowed on the premises;
 - l. Cover methods to encourage participation of a resident's family or friends or other individuals in activities planned according to R9-10-2210(B);
 - m. Include a method for obtaining an advocate for a resident, if necessary;
 - n. Cover resident outings;
 - o. Cover the process for obtaining resident preferences for social, recreational, or rehabilitative activities and meals and snacks; and
 - p. Cover whether pets and animals are allowed on the premises, including procedures to ensure that any pets or animals allowed on the premises do not endanger the health or safety of residents or the public;
3. Policies and procedures are reviewed at least once every three years and updated as needed;
 4. Policies and procedures are available to personnel members, employees, volunteers, and students; and
 5. Unless otherwise stated:
 - a. Documentation required by this Article is provided to the Department within two hours after a Department request; and
 - b. When documentation or information is required by this Chapter to be submitted on behalf of a nursing-supported group home, the documentation or information is provided to the unit in the Department that

is responsible for licensing and monitoring the nursing-supported group home.

- D. If abuse, neglect, or exploitation of a resident is alleged or suspected to have occurred before the resident was admitted or while the resident is not on the premises and not receiving services from a nursing-supported group home's employee or personnel member, an administrator shall report the alleged or suspected abuse, neglect, or exploitation of the resident as follows:
 1. For a resident 18 years of age or older, according to A.R.S. § 46-454; or
 2. For a resident under 18 years of age, according to A.R.S. § 13-3620.
- E. If an administrator has a reasonable basis, according to A.R.S. §§ 13-3620 or 46-454, to believe that abuse, neglect, or exploitation has occurred on the premises or while a resident is receiving services from a nursing-supported group home's employee or personnel member, an administrator shall:
 1. If applicable, take immediate action to stop the suspected abuse, neglect, or exploitation;
 2. Report the suspected abuse, neglect, or exploitation of the resident as follows:
 - a. For a resident 18 years of age or older, according to A.R.S. § 46-454; or
 - b. For a resident under 18 years of age, according to A.R.S. § 13-3620;
 3. Document:
 - a. The suspected abuse, neglect, or exploitation;
 - b. Any action taken according to subsection (E)(1); and
 - c. The report in subsection (E)(2);
 4. Maintain the documentation in subsection (E)(3) for at least 12 months after the date of the report in subsection (E)(2);
 5. Initiate an investigation of the suspected abuse, neglect, or exploitation and document the following information within five working days after the report required in subsection (E)(2):
 - a. The dates, times, and description of the suspected abuse, neglect, or exploitation;
 - b. A description of any injury to the resident related to the suspected abuse or neglect and any change to the resident's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected abuse, neglect, or exploitation; and
 - d. The actions taken by the administrator to prevent the suspected abuse, neglect, or exploitation from occurring in the future; and
 6. Maintain a copy of the documented information required in subsection (E)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
- F. An administrator shall:
 1. Allow a resident advocate to assist a resident or the resident's representative with a request or recommendation, and document in writing any complaint submitted to the nursing-supported group home;
 2. Ensure that a monthly schedule of recreational activities for residents is developed, documented, and implemented; and
 3. Ensure that the following are conspicuously posted on the premises:
 - a. The current nursing-supported group home license issued by the Department;

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- b. The name, address, and telephone number of:
 - i. The Department's Bureau of Long Term Care Facilities Licensing;
 - ii. Adult Protective Services of the Department of Economic Security; and
 - iii. If applicable, Child Protective Services of the Department of Child Safety;
 - c. A notice that a resident may file a complaint with the Department concerning the nursing-supported group home;
 - d. The monthly schedule of recreational activities; and
 - e. One of the following:
 - i. A copy of the current license survey report with information identifying residents redacted, any subsequent reports issued by the Department, and any plan of correction that is in effect; or
 - ii. A notice that the current license survey report with information identifying residents redacted, any subsequent reports issued by the Department, and any plan of correction that is in effect are available for review upon request.
- G.** An administrator shall provide written notification to the Department of a resident's:
- 1. Death, if the resident's death is required to be reported according to A.R.S. § 11-593, within one working day after the resident's death; and
 - 2. Self-injury, within two working days after the resident inflicts a self-injury that requires immediate intervention by an emergency medical services provider.
- H.** An administrator shall:
- 1. Notify a resident's representative, family member, or other individual designated by the resident within one calendar day after:
 - a. The resident's death,
 - b. There is a significant change in the resident's medical condition, or
 - c. The resident has an illness or injury that requires immediate intervention by an emergency medical services provider or treatment by a health care provider; and
 - 2. For an illness or injury in subsection (H)(1)(c), document the following:
 - a. The date and time of the illness or injury;
 - b. A description of the illness or injury;
 - c. If applicable, the names of individuals who observed the injury;
 - d. The actions taken by personnel members, according to policies and procedures;
 - e. The individuals notified by the personnel members; and
 - f. Any action taken to prevent the illness or injury from occurring in the future.
- I.** If an administrator administers a resident's personal account at the request of the resident or the resident's representative, the administrator shall:
- 1. Comply with policies and procedures established according to subsection (C)(1)(p);
 - 2. Designate a personnel member who is responsible for the personal accounts;
 - 3. Maintain a complete and separate accounting of each personal account;
 - 4. Obtain written authorization from the resident or the resident's representative for a personal account transaction;
 - 5. Document an account transaction and provide a copy of the documentation to the resident or the resident's representative upon request and at least every three months;
 - 6. Transfer all money from the resident's personal account in excess of \$50.00 to an interest-bearing account and credit the interest to the resident's personal account; and
 - 7. Within 30 calendar days after the resident's death, transfer, or discharge, return all money in the resident's personal account and a final accounting to the resident, the resident's representative, or the probate jurisdiction administering the resident's estate.
- J.** If a petty cash fund is established for use by residents, the administrator shall ensure that:
- 1. The policies and procedures established according to subsection (C)(1)(q) include:
 - a. A prescribed cash limit of the petty cash fund, and
 - b. The hours of the day a resident may access the petty cash fund; and
 - 2. A resident's written acknowledgment is obtained for a petty cash transaction.
- K.** An administrator shall ensure that an acuity plan is developed, documented, and implemented for the nursing-supported group home that:
- 1. Includes:
 - a. A method that establishes the types and numbers of personnel members that are required in the nursing-supported group home to ensure resident health and safety, and
 - b. A policy and procedure stating the steps the nursing-supported group home will take to obtain or assign the necessary personnel members to address resident acuity;
 - 2. Is used when making assignments for resident treatment; and
 - 3. Is reviewed and updated, as necessary, at least once every 12 months.
- L.** An administrator shall establish and document the criteria for determining when a resident's absence is unplanned, including the criteria for a resident who:
- 1. Is absent against medical advice,
 - 2. Is under the age of 18, or
 - 3. Does not return to the nursing-supported group home at the expected time after a planned absence.
- M.** An administrator shall ensure that documentation of the most recent monitoring of the nursing-supported group home, conducted by the Arizona Department of Economic Security under A.R.S. § 36-557(G)(2), is on the premises of the nursing-supported group home.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2204. Quality Management

An administrator shall ensure that:

- 1. A plan is established, documented, and implemented for an ongoing quality management program that, at a minimum, includes:
 - a. A method to identify, document, and evaluate incidents;
 - b. A method to collect data to evaluate services provided to residents;

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- c. A method to evaluate the data collected to identify a concern about the delivery of services related to resident care;
- d. A method to make changes or take action as a result of the identification of a concern about the delivery of services related to resident care; and
- e. The frequency of submitting a documented report required in subsection (2) to the governing authority;
- 2. A documented report is submitted to the governing authority that includes:
 - a. An identification of each concern about the delivery of services related to resident care, and
 - b. Any change made or action taken as a result of the identification of a concern about the delivery of services related to resident care; and
- 3. The report required in subsection (2) and the supporting documentation for the report are maintained for at least 12 months after the date the report is submitted to the governing authority.
- ii. The type and duration of education that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services, habilitation services, or behavioral care listed in the established job description; and
- iii. The type and duration of experience that may allow the personnel member to have acquired the specific skills and knowledge for the personnel member to provide the expected physical health services, habilitation services, or behavioral care listed in the established job description;
- 2. A personnel member's skills and knowledge are verified and documented:
 - a. Before the personnel member provides physical health services, habilitation services, or behavioral care; and
 - b. According to policies and procedures; and
- 3. Sufficient personnel members are present on a nursing-supported group home's premises with the qualifications, skills, and knowledge necessary to:
 - a. Provide the services in the nursing-supported group home's scope of services,
 - b. Meet the needs of a resident, and
 - c. Ensure the health and safety of a resident.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2205. Contracted Services

An administrator shall ensure that:

- 1. Contracted services are provided according to the requirements in this Article, and
- 2. Documentation of current contracted services is maintained that includes a description of the contracted services provided.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2206. Personnel

A. An administrator shall ensure that:

- 1. A personnel member is:
 - a. At least 21 years old, or
 - b. At least 18 years old and is licensed or certified under A.R.S. Title 32 and providing services within the personnel member's scope of practice;
- 2. An employee is at least 18 years old;
- 3. A student is at least 18 years old; and
- 4. A volunteer is at least 21 years old.

B. An administrator shall ensure that:

- 1. The qualifications, skills, and knowledge required for each type of personnel member:
 - a. Are based on:
 - i. The type of physical health services, habilitation services, or behavioral care expected to be provided by the personnel member according to the established job description; and
 - ii. The acuity of the residents receiving physical health services, habilitation services, or behavioral care from the personnel member according to the established job description; and
 - b. Include:
 - i. The specific skills and knowledge necessary for the personnel member to provide the expected physical health services, habilitation services, or behavioral care listed in the established job description;

- C. An administrator shall ensure that an organizational chart of the nursing-supported group home is established, updated as necessary, and maintained on the premises:
 - 1. Outlining the roles, responsibilities, and relationships within the nursing-supported group home; and
 - 2. Including the name and, if applicable, the license or certification credential of each individual shown on the organizational chart.
- D. An administrator shall ensure that, if a personnel member provides services that require a license under A.R.S. Title 32 or 36, the personnel member is licensed under A.R.S. Title 32 or 36, as applicable.
- E. An administrator shall ensure that an individual who is a licensed baccalaureate social worker, master social worker, associate marriage and family therapist, associate counselor, or associate substance abuse counselor is under direct supervision as defined in 4 A.A.C. 6, Article 1.
- F. An administrator shall ensure that a personnel member or an employee or volunteer who has or is expected to have direct interaction with a resident for more than eight hours a week provides evidence of freedom from infectious tuberculosis:
 - 1. On or before the date the individual begins providing services at or on behalf of the nursing-supported group home, and
 - 2. As specified in R9-10-113.
- G. An administrator shall ensure that:
 - 1. The types and numbers of nurses and other personnel members required according to the acuity plan in R9-10-2203(K) are present in the nursing-supported group home;
 - 2. Documentation of the nurses and other personnel members present on the nursing-supported group home's premises each day is maintained and includes:
 - a. The date;
 - b. The number of residents;

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- c. The name, license or certification credential if applicable, and assigned duties of each nurse or other personnel member who worked that day; and
- d. The actual number of hours each nurse or other personnel member worked that day; and
- 3. The documentation of nurses and other personnel members required in subsection (G)(2) is maintained for at least 12 months after the date of the documentation.
- H.** An administrator shall ensure that a personnel member is on duty, on the premises, awake, and able to respond, according to policies and procedures, to injuries, symptoms of illness, or fire or other emergencies on the premises.
- I.** An administrator shall ensure that a personnel record is maintained for each personnel member, employee, volunteer, or student that includes:
 - 1. The individual's name, date of birth, and contact telephone number;
 - 2. The individual's starting date of employment or volunteer service and, if applicable, the ending date; and
 - 3. Documentation of:
 - a. The individual's qualifications, including skills and knowledge applicable to the individual's job duties;
 - b. The individual's education and experience applicable to the individual's job duties;
 - c. The individual's compliance with the requirements in A.R.S. § 36-411;
 - d. The nursing-supported group home's check on the individual in the adult protective services registry, established according to A.R.S. § 46-459, or the central registry, established according to A.R.S. § 8-804, as applicable;
 - e. Orientation and in-service education as required by policies and procedures;
 - f. Training in preventing, recognizing, and reporting abuse or neglect, required according to R9-10-2203(C)(1)(d)(i);
 - g. The individual's license or certification, if the individual is required to be licensed or certified in this Article or policies and procedures;
 - h. If applicable, the individual's qualifications and ongoing training for each type of restraint used, as required in R9-10-2217;
 - i. Cardiopulmonary resuscitation training, if required for the individual according to R9-10-2203(C)(1)(g);
 - j. First aid training, if required for the individual according to this Article or policies and procedures; and
 - k. Evidence of freedom from infectious tuberculosis, if required for the individual according to subsection (F).
- J.** An administrator shall ensure that personnel records are:
 - 1. Maintained:
 - a. Throughout the individual's period of providing services in or for the nursing-supported group home, and
 - b. For at least 24 months after the last date the individual provided services in or for the nursing-supported group home; and
 - 2. For a personnel member who has not provided physical health services, habilitation services, or behavioral care at or for the nursing-supported group home during the previous 12 months, provided to the Department within 72 hours after the Department's request.
- K.** An administrator shall ensure that:
 - 1. A plan to provide orientation specific to the duties of a personnel member, an employee, a volunteer, and a student is developed, documented, and implemented;
 - 2. A personnel member completes orientation before providing physical health services, habilitation services, or behavioral care;
 - 3. An individual's orientation is documented, to include:
 - a. The individual's name,
 - b. The date of the orientation, and
 - c. The subject or topics covered in the orientation;
 - 4. A plan to provide in-service education specific to the duties of a personnel member is developed, documented, and implemented;
 - 5. A personnel member's in-service education is documented, to include:
 - a. The personnel member's name,
 - b. The date of the training, and
 - c. The subject or topics covered in the training; and
 - 6. A work schedule of each personnel member is developed and maintained at the nursing-supported group home for at least 12 months after the date of the work schedule.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2207. Admissions

An administrator shall ensure that:

- 1. A resident is admitted only:
 - a. On a physician's order or based on a placement evaluation by the Division;
 - b. If the resident has or is at risk for having a developmental disability or cognitive disability;
 - c. If the resident's placement evaluation indicates that the resident requires continuous nursing services;
 - d. If the resident's placement evaluation indicates that the resident's needs can be met by the nursing-supported group home; and
 - e. Except when the resident's placement evaluation states that the resident would benefit from being part of a group that includes residents of different ages or social needs, if the resident can be assigned to a room within the nursing-supported group home with other residents of similar ages or social needs;
- 2. The physician's admitting order or placement evaluation documentation in subsection (1)(a) includes the physical health services, habilitation services, and behavioral care required to meet the immediate needs of a resident, including medication and food services;
- 3. At the time of a resident's admission, a registered nurse conducts or coordinates an initial assessment on a resident to determine the resident's acuity and ensure the resident's immediate needs are met;
- 4. The resident's individual service and program plan, as required by A.A.C. R6-6-602, accompanies the resident;
- 5. A resident's needs do not exceed the medical services, rehabilitation services, and nursing services available at the nursing-supported group home as established in the nursing-supported group home's scope of services;
- 6. A resident is assigned to the nursing-supported group home based, as applicable, on the patient's:
 - a. Documented diagnosis,
 - b. Treatment needs,

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- c. Developmental level,
- d. Social skills,
- e. Verbal skills, and
- f. Acuity;
- 7. A resident does not share any space, participate in any activity or treatment, or verbally or physically interact with any other resident that, based on the other resident's documented diagnosis, treatment needs, developmental level, social skills, verbal skills, and personal history, may present a threat to the resident's health and safety;
- 8. Within 30 calendar days before admission or 10 working days after admission, a medical history and physical examination is completed on a resident by:
 - a. A medical practitioner designated for the resident, or
 - b. A physician assistant or a registered nurse practitioner designated by the resident's designated medical practitioner;
- 9. Compliance with the requirements in subsection (8) is documented in the resident's medical record;
- 10. Except as specified in subsection (11), a resident provides evidence of freedom from infectious tuberculosis:
 - a. Before or within seven calendar days after the resident's admission, and
 - b. As specified in R9-10-113; and
- 11. A resident who transfers from a nursing care institution or another nursing-supported group home to the nursing-supported group home is not required to be rescreened for tuberculosis as specified in R9-10-113 if:
 - a. Fewer than 12 months have passed since the resident was screened for tuberculosis, and
 - b. The documentation of freedom from infectious tuberculosis required in subsection (10) accompanies the resident at the time of transfer.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2208. Transfer; Discharge

- A. An administrator, in coordination with the Division if applicable, shall ensure that:
 - 1. A resident is transferred or discharged if:
 - a. The nursing-supported group home is not authorized or not able to meet the needs of the resident,
 - b. The resident no longer requires continuous nursing services, or
 - c. The resident's behavior is a threat to the health or safety of the resident or other individuals at the nursing-supported group home; and
 - 2. Documentation of a resident's transfer or discharge includes:
 - a. The date of the transfer or discharge,
 - b. The reason for the transfer or discharge,
 - c. A notation by a physician or the physician's designee if the transfer or discharge is due to any of the reasons listed in subsection (A)(1), and
 - d. If applicable, actions taken by a personnel member to protect the resident or other individuals if the resident's behavior is a threat to the health and safety of the resident or other individuals in the nursing-supported group home and beyond the nursing-supported group home's scope of services.
- B. Except for a transfer of a resident due to an emergency, an administrator shall ensure that:

- 1. A registered nurse coordinates the transfer and the services provided to the resident;
- 2. According to policies and procedures:
 - a. An evaluation of the resident is conducted before the transfer;
 - b. Information from the resident's medical record, including the following, is provided to a receiving health care institution:
 - i. Orders that are in effect at the time of the transfer; and
 - ii. The resident's need for nursing services, rehabilitation services, or habilitation services at the time of transfer; and
 - c. A personnel member explains risks and benefits of the transfer to the resident or the resident's representative; and
- 3. Documentation in the resident's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transfer;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the resident during a transfer.
- C. Except in an emergency, a registered nurse shall ensure that before a resident is discharged:
 - 1. Written follow-up instructions are developed with the resident or the resident's representative that include:
 - a. Information necessary to meet the resident's need for medical services and nursing services, including specific care instructions and whether the resident requires any durable medical equipment or supplies; and
 - b. The state long-term care ombudsman's name, address, and telephone number;
 - 2. A copy of the written follow-up instructions is provided to the resident or the resident's representative; and
 - 3. A discharge summary:
 - a. Is developed by a registered nurse;
 - b. Authenticated by the resident's designated medical practitioner or designee; and
 - c. Includes:
 - i. The resident's need for nursing services, rehabilitation services, or habilitation services at the time of discharge;
 - ii. The resident's need for medical services;
 - iii. The resident's developmental, behavioral, social, and nutritional status;
 - iv. The resident's medical and psychosocial history;
 - v. The date of the discharge; and
 - vi. The location of the resident after discharge.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2209. Transport

- A. Except as provided in subsections (B) and (C), an administrator shall ensure that:
 - 1. A personnel member authorized by policies and procedures coordinates the transport and the services provided to the resident;
 - 2. According to policies and procedures:

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- a. An evaluation of the resident is conducted before and after the transport,
 - b. Information from the resident's medical record is provided to a receiving health care institution, and
 - c. A personnel member explains risks and benefits of the transport to the resident or the resident's representative; and
- 3. Documentation in the resident's medical record includes:
 - a. Communication with an individual at a receiving health care institution;
 - b. The date and time of the transport;
 - c. The mode of transportation; and
 - d. If applicable, the name of the personnel member accompanying the resident during a transport.
- B.** If the transport of a resident is to provide the resident with rehabilitation services or habilitation services off the premises, an administrator shall ensure that:
 - 1. The rehabilitation services or habilitation services are included in the resident's individual program plan,
 - 2. A registered nurse coordinates the transport and the services provided to the resident, and
 - 3. The resident is transported according to R9-10-2210(A).
- C.** Subsection (A) does not apply to:
 - 1. Except as provided in subsection (B), transportation according to R9-10-2210 to a location other than a licensed health care institution;
 - 2. Transportation provided for a resident by the resident or the resident's representative;
 - 3. Transportation provided by an outside entity that was arranged for a resident by the resident or the resident's representative; or
 - 4. A transport to another licensed health care institution in an emergency.
- iii. Resident who is incapable of independent exit from the vehicle; and
 - e. Ensures the safe and hazard-free loading and unloading of residents; and
- 4. Transportation safety is maintained as follows:
 - a. An individual in the vehicle is sitting in a seat, which may include the seat of a wheel chair, and wearing a working seat belt while the vehicle is in motion; and
 - b. Each seat in the vehicle is securely fastened to the vehicle and provides sufficient space for a resident's body.
- B.** An administrator shall ensure that an outing is consistent with the age, physical ability, medical condition, and treatment needs of each resident participating in the outing.
- C.** An administrator shall ensure that:
 - 1. A sufficient number of personnel members are present on an outing to ensure the health and safety of a resident on the outing;
 - 2. Each personnel member on the outing has documentation of current training in cardiopulmonary resuscitation according to R9-10-2203(C)(1)(g) and first aid training;
 - 3. Documentation is developed before an outing that includes:
 - a. The name of each resident participating in the outing;
 - b. A description of the outing;
 - c. The date of the outing;
 - d. The anticipated departure and return times;
 - e. The name, address, and, if available, telephone number of the outing destination; and
 - f. If applicable, the license plate number of a vehicle used to provide transportation for the outing;
 - 4. The documentation described in subsection (C)(3) is updated to include the actual departure and return times and is maintained for at least 12 months after the date of the outing; and
 - 5. Emergency information for a resident participating in the outing is maintained by a personnel member participating in the outing or in the vehicle used to provide transportation for the outing and includes:
 - a. The resident's name;
 - b. Medication information, including the name, dosage, route of administration, and directions for each medication needed by the resident during the anticipated duration of the outing;
 - c. The resident's allergies; and
 - d. The name and telephone number of a designated individual, who is present on the nursing-supported group home's premises, to notify in case of an emergency.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2210. Transportation; Resident Outings

- A.** An administrator of a nursing-supported group home that uses a vehicle owned or leased by the nursing-supported group home to provide transportation to a resident shall ensure that:
 - 1. The vehicle:
 - a. Is safe and in good repair,
 - b. Contains a first aid kit,
 - c. Contains drinking water sufficient to meet the needs of each resident present in the vehicle, and
 - d. Contains a working heating and air conditioning system;
 - 2. Documentation of current vehicle insurance and a record of maintenance performed or a repair of the vehicle is maintained;
 - 3. A driver of the vehicle:
 - a. Is 21 years of age or older;
 - b. Has a valid driver license and no driving restriction on the driver's documentation of compliance with the requirements in A.R.S. § 36-411;
 - c. Operates the vehicle in a manner that does not endanger a resident in the vehicle;
 - d. Does not leave in the vehicle an unattended:
 - i. Child;
 - ii. Resident who may be a threat to the health, safety, or welfare of the resident or another individual; or

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2211. Resident Rights

- A.** An administrator shall ensure that:
 - 1. The requirements in subsection (B) and the resident rights in subsection (C) are conspicuously posted on the premises;
 - 2. At the time of admission, a resident or the resident's representative receives a written copy of the requirements in

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subsection (B) and the resident rights in subsection (C); and

3. Policies and procedures include:

- a. How and when a resident or the resident's representative is informed of resident rights in subsection (C), and
- b. Where resident rights are posted as required in subsection (A)(1).

B. An administrator shall ensure that:

1. A resident has privacy in:
 - a. Treatment,
 - b. Bathing and toileting,
 - c. Room accommodations, and
 - d. Visiting or meeting with another resident or an individual;
2. A resident is treated with dignity, respect, and consideration;
3. A resident is not subjected to:
 - a. Abuse;
 - b. Neglect;
 - c. Exploitation;
 - d. Coercion;
 - e. Manipulation;
 - f. Sexual abuse;
 - g. Sexual assault;
 - h. Seclusion;
 - i. Except as allowed in R9-10-2217, restraint;
 - j. Retaliation for submitting a complaint to the Department or another entity;
 - k. Misappropriation of personal and private property by a nursing-supported group home's personnel members, employees, volunteers, or students; or
 - l. Segregation solely on the basis of the resident's disability; and
4. A resident or the resident's representative:
 - a. Except in an emergency, either consents to or refuses treatment;
 - b. May refuse or withdraw consent for treatment before treatment is initiated;
 - c. Except in an emergency, is informed of proposed alternatives to psychotropic medication and the associated risks and possible complications of the psychotropic medication;
 - d. Is informed of the following:
 - i. The health care institution's policy on health care directives;
 - ii. If applicable, the policies in R9-10-2203(C)(1)(r); and
 - iii. The resident complaint process;
 - e. Consents to photographs of the resident before the resident is photographed, except that the resident may be photographed when admitted to a nursing-supported group home for identification and administrative purposes;
 - f. May manage the resident's financial affairs;
 - g. Has access to and may communicate with any individual, organization, or agency;
 - h. Except as provided in the resident's individual program plan, has privacy:
 - i. In interactions with other residents or visitors to the nursing-supported group home,
 - ii. In the resident's mail, and
 - iii. For telephone calls made by or to the resident;

- i. May review the nursing-supported group home's current license survey report and, if applicable, plan of correction in effect;
- j. May review the resident's financial records within two working days and medical record within one working day after the resident's or the resident's representative's request;
- k. May obtain a copy of the resident's financial records and medical record within two working days after the resident's request and in compliance with A.R.S. § 12-2295;
- l. Except as otherwise permitted by law, consents, in writing, to the release of information in the resident's:
 - i. Medical record, and
 - ii. Financial records;
- m. May select a pharmacy of choice if the pharmacy complies with policies and procedures and does not pose a risk to the resident;
- n. Is informed of the method for contacting the resident's designated medical practitioner;
- o. Is informed of the resident's overall physical and psychosocial well-being, as determined by the resident's comprehensive assessment;
- p. Is provided with a copy of those sections of the resident's medical record that are required for continuity of care free of charge, according to A.R.S. § 12-2295, if the resident is transferred or discharged; and
- q. Except in the event of an emergency, is informed orally or in writing before the nursing-supported group home makes a change in a resident's room or roommate assignment and notification is documented in the resident's medical record.

C. In addition to the rights in A.R.S. § 36-551.01, a resident has the following rights:

1. Not to be discriminated against based on race, national origin, religion, gender, sexual orientation, age, disability, marital status, or diagnosis;
2. To receive treatment that supports and respects the resident's individuality, choices, strengths, and abilities;
3. To choose activities and schedules consistent with the resident's interests that do not interfere with other residents;
4. To participate in social, religious, political, and community activities that do not interfere with other residents;
5. To retain personal possessions including furnishings and clothing as space permits unless use of the personal possession infringes on the rights or health and safety of other residents;
6. To share a room with the resident's spouse if space is available and the spouse consents;
7. To receive a referral to another health care institution if the nursing-supported group home is not authorized or not able to provide physical health services, habilitation services, and behavioral care needed by the resident;
8. To participate or have the resident's representative participate in the development of the resident's individual program plan or decisions concerning treatment;
9. To participate or refuse to participate in research or experimental treatment; and
10. To receive assistance from a family member, the resident's representative, or other individual in understanding, protecting, or exercising the resident's rights.

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Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2212. Medical Records**A.** An administrator shall ensure that:

1. A medical record is established and maintained for each resident according to A.R.S. Title 12, Chapter 13, Article 7.1;
2. An entry in a resident's medical record is:
 - a. Recorded only by an individual authorized by policies and procedures to make the entry;
 - b. Dated, legible, and authenticated; and
 - c. Not changed to make the initial entry illegible;
3. An order is:
 - a. Dated when the order is entered in the resident's medical record and includes the time of the order;
 - b. Authenticated by a medical practitioner or behavioral health professional according to policies and procedures; and
 - c. If the order is a verbal order, authenticated by the medical practitioner or behavioral health professional issuing the order;
4. If a rubber-stamp signature or an electronic signature is used to authenticate an order, the individual whose signature the rubber-stamp signature or electronic signature represents is accountable for the use of the rubber-stamp signature or electronic signature;
5. A resident's medical record is available to an individual:
 - a. Authorized to access the resident's medical record according to policies and procedures;
 - b. If the individual is not authorized to access the resident's medical record according to policies and procedures, with the written consent of the resident or the resident's representative; or
 - c. As permitted by law; and
6. A resident's medical record is protected from loss, damage, or unauthorized use.

B. If a nursing-supported group home maintains residents' medical records electronically, an administrator shall ensure that:

1. Safeguards exist to prevent unauthorized access, and
2. The date and time of an entry in a resident's medical record is recorded by the computer's internal clock.

C. An administrator shall ensure that a resident's medical record contains:

1. Resident information that includes:
 - a. The resident's name;
 - b. The resident's date of birth; and
 - c. Any known allergies, including medication allergies;
2. The admission date and, if applicable, the date of discharge;
3. The admitting diagnosis or presenting symptoms;
4. Documentation of the resident's placement evaluation;
5. Documentation of the resident's individual service and program plan, as required by A.A.C. R6-6-602;
6. Documentation of:
 - a. The resident's last periodic evaluation, conducted according to A.A.C. R6-6-604, before the resident's admission; and
 - b. Each periodic evaluation, conducted according to A.A.C. R6-6-604, while the resident was admitted to the nursing-supported group home;

7. Documentation of general consent and, if applicable, informed consent;
8. If applicable, the name and contact information of the resident's representative and:
 - a. The document signed by the resident consenting for the resident's representative to act on the resident's behalf; or
 - b. If the resident's representative:
 - i. Has a health care power of attorney established under A.R.S. § 36-3221 or a mental health care power of attorney executed under A.R.S. § 36-3282, a copy of the health care power of attorney or mental health care power of attorney; or
 - ii. Is a legal guardian, a copy of the court order establishing guardianship;
9. The name and contact information of an individual to be contacted under R9-10-2203(H)(1);
10. Documentation of the initial assessment required in R9-10-2207(3) to determine acuity;
11. The medical history and physical examination required in R9-10-2215(A)(2);
12. A copy of the resident's living will or other health care directive, if applicable;
13. The name and telephone number of the resident's designated medical practitioner;
14. Orders;
15. Documentation of the resident's comprehensive assessment;
16. Individual program plans, including nursing care plans or medical care plans, if applicable;
17. Documentation of physical health services, habilitation services, and behavioral care provided to the resident;
18. Progress notes, including data needed to evaluate the effectiveness of the methods, schedule, and strategies being used to accomplish the goals in the resident's individual program plan;
19. If applicable, documentation of restraint;
20. If applicable, documentation of any actions other than restraint taken to control or address the resident's behavior to prevent harm to the resident or another individual or to improve the resident's social interactions;
21. If applicable, documentation that evacuation from the nursing-supported group home would cause harm to the resident;
22. The disposition of the resident after discharge;
23. The discharge plan;
24. The discharge summary;
25. Transfer documentation;
26. If applicable:
 - a. A laboratory report,
 - b. A radiologic report,
 - c. A diagnostic report, and
 - d. A consultation report;
27. Documentation of freedom from infectious tuberculosis required in R9-10-2207(10);
28. Documentation of a medication administered to the resident that includes:
 - a. The date and time of administration;
 - b. The name, strength, dosage, and route of administration;
 - c. The type of vaccine, if applicable;
 - d. For a medication administered for pain on a PRN basis:

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- i. An evaluation of the resident's pain before administering the medication, and
 - ii. The effect of the medication administered;
 - e. For a psychotropic medication administered on a PRN basis:
 - i. An evaluation of the resident's symptoms before administering the psychotropic medication, and
 - ii. The effect of the psychotropic medication administered;
 - f. The identification, signature, and professional designation of the individual administering the medication; and
 - g. Any adverse reaction a resident has to the medication; and
29. If applicable, a copy of written notices, including follow-up instructions, provided to the resident or the resident's representative.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2213. Nursing Services

- A.** An administrator shall ensure that:
- 1. Nursing services are provided 24 hours a day in a nursing-supported group home;
 - 2. A director of nursing is appointed who:
 - a. Is a registered nurse, and
 - b. Is responsible for the direction of nursing services;
 - 3. The director of nursing or an individual designated by the administrator participates in the quality management program; and
 - 4. If the director of nursing is responsible for nursing services for 30 or more residents, the director of nursing does not provide direct care to residents on a regular basis.
- B.** A director of nursing shall ensure that:
- 1. A method is established and documented that identifies the types and numbers of nursing personnel that are necessary to provide nursing services to residents based on the residents' comprehensive assessments; orders for physical health services, rehabilitation services, and behavioral care; and individual program plans and the nursing-supported group home's scope of services;
 - 2. Sufficient nursing personnel, as determined by the method in subsection (B)(1), are assigned to be on the nursing-supported group home premises to meet the needs of a resident for nursing services;
 - 3. At least one nurse is present on the nursing-supported group home's premises;
 - 4. As soon as possible but not more than 24 hours after one of the following events occur, a nurse notifies a resident's designated medical practitioner and, if applicable, the resident's representative, if the resident:
 - a. Is injured,
 - b. Is involved in an incident that may require medical services, or
 - c. Has a significant change in condition; and
 - 5. Only a medication required by an order is administered to a resident.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2214. Individual Program Plan

- A.** An administrator shall ensure that:
- 1. A comprehensive assessment of a resident:
 - a. Is conducted or coordinated by the director of nursing, in collaboration with an interdisciplinary team that includes:
 - i. The resident's designated medical practitioner or designee;
 - ii. A registered nurse;
 - iii. If the resident is receiving medications as part of physical health services or behavioral care, a pharmacist; and
 - iv. Personnel members qualified to provide each type of habilitation services or rehabilitation services identified in a placement evaluation in R9-10-2207(1)(a) or the initial assessment required in R9-10-2207(3);
 - b. Is completed for the resident within 30 calendar days after the resident's admission to a nursing-supported group home;
 - c. Is updated:
 - i. No later than 12 months after the date of the resident's last comprehensive assessment, and
 - ii. When the resident experiences a significant change;
 - d. Includes the following information for the resident:
 - i. Identifying information;
 - ii. An evaluation of the resident's hearing, speech, and vision;
 - iii. An evaluation of the resident's ability to understand and recall information;
 - iv. An evaluation of the resident's mental status;
 - v. Whether the resident demonstrates inappropriate behavior;
 - vi. Preferences for customary routine and activities;
 - vii. An evaluation of the resident's ability to perform activities of daily living;
 - viii. Need for a mobility device;
 - ix. An evaluation of the resident's ability to control the resident's bladder and bowels;
 - x. Any diagnosis that impacts rehabilitation services or other physical health services or behavioral care that the resident may require;
 - xi. Any medical conditions that impact the resident's functional status, quality of life, or need for nursing services;
 - xii. An evaluation of the resident's ability to maintain adequate nutrition and hydration;
 - xiii. An evaluation of the resident's oral and dental status;
 - xiv. An evaluation of the condition of the resident's skin;
 - xv. Identification of any medication or treatment administered to the resident during a seven-day calendar period that includes the time the comprehensive assessment was conducted;

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- xvi. Identification of any treatment or medication ordered for the resident;
 - xvii. Identification of interventions that may support the resident towards independence;
 - xviii. Identification of any assistive devices needed by the resident;
 - xix. Identification of the physical health services needed by the resident, including physical health services not provided by the nursing-supported group home;
 - xx. Identification of measurable goals and behavioral objective for the physical health services, habilitation services, and behavioral care, in priority order, with time limits for attainment;
 - xxi. Identification of the methods, schedule, and strategies to accomplish the goals in subsection (A)(1)(d)(xviii), including the personnel member responsible;
 - xxii. Evaluation procedures for determining if the methods and strategies in subsection (A)(1)(d)(xix) are working, including the type of data required and frequency of collection;
 - xxiii. Whether any restraints have been used for the resident during a seven-day calendar period that includes the time the comprehensive assessment was conducted;
 - xxiv. If the resident demonstrates inappropriate behavior, as reported according to subsection (A)(1)(d)(v), identification of the methods, schedule, and strategies for replacement of the inappropriate behavior with appropriate behavioral expressions, including the hierarchy for use;
 - xxv. If restraint is included in subsection (A)(1)(d)(xxiv), the specific restraints that may be used because of the resident's inappropriate behavior;
 - xxvi. A description of the resident or resident's representative's participation in the comprehensive assessment;
 - xxvii. The name and title of the interdisciplinary team members who participated in the resident's comprehensive assessment;
 - xxviii. Potential for rehabilitation, including the resident's strengths and specific developmental or behavioral health needs; and
 - xxix. Potential for discharge;
 - e. Is signed and dated by the director of nursing; and
 - f. Is used to determine or update the resident's acuity;
 - 2. If any of the conditions in subsection (A)(1)(d)(v) are answered in the affirmative during the comprehensive assessment or review, a behavioral health professional reviews a resident's comprehensive assessment or review and individual program plan to ensure that the resident's needs for behavioral care are being met;
 - 3. A new comprehensive assessment is not required for a resident who is hospitalized and readmitted to a nursing-supported group home unless a physician, an individual designated by the physician, or a registered nurse determines the resident has a significant change in condition; and
 - 4. A resident's comprehensive assessment is reviewed at least once every three months after the date of the current comprehensive assessment and if there is a significant change in the resident's condition by:
 - a. The director of nursing;
 - b. A registered nurse providing nursing services to the resident; and
 - c. If there is a significant change in the resident's ability to maintain adequate nutrition and hydration, a registered dietitian.
- B.** An administrator shall ensure that an individual program plan for a resident:
- 1. Is developed, documented, and implemented for the resident within seven calendar days after completing the resident's comprehensive assessment required in subsection (A)(1);
 - 2. Includes the acuity of the resident;
 - 3. Is reviewed at least annually by the interdisciplinary team required in subsection (A)(1)(a) and revised based on any change to the resident's comprehensive assessment; and
 - 4. Ensures that a resident is provided physical health services, rehabilitation services, habilitation services, and other services or behavioral care that:
 - a. Address any medical condition or behavioral care issue identified in the resident's comprehensive assessment, and
 - b. Assist the resident in maintaining the resident's highest practicable well-being according to the resident's comprehensive assessment.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2215. Physical Health Services

- A.** An administrator shall ensure that:
- 1. A resident has a designated medical practitioner;
 - 2. A physical examination is performed on a resident by the resident's designated medical practitioner or by a physician, physician assistant, or registered nurse practitioner designated by the resident's designated medical practitioner:
 - a. If indicated, based on the resident's placement evaluation or comprehensive assessment; and
 - b. At least once every 12 months after the date of admission, including an assessment of the acuity of the resident's medical condition;
 - 3. The resident's designated medical practitioner, in conjunction with the director of nursing, develops a medical care plan of treatment for the resident, which is integrated into the resident's individual program plan; and
 - 4. Vaccinations for influenza and pneumonia are available to each resident at least once every 12 months unless:
 - a. The resident's designated medical practitioner provides documentation that the vaccination is medically contraindicated;
 - b. The resident or the resident's representative refuses the vaccination or vaccinations and documentation is maintained in the resident's medical record that the resident or the resident's representative has been informed of the risks and benefits of a vaccination refused; or
 - c. The resident or the resident's representative provides documentation that the resident received a pneumo-

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nia vaccination within the last five years or the current recommendation from the U.S. Department of Health and Human Services, Center for Disease Control and Prevention.

B. A director of nursing shall ensure that:

1. A registered nurse participates in the development, review, and updating of a resident's nursing care plan or medical care plan;
2. Personnel members providing direct care to a resident with a nursing care plan or medical care plan receive direction from a nurse; and
3. Nursing personnel provide education and training to:
 - a. Residents on hygiene and other behaviors that promote health; and
 - b. Personnel members on:
 - i. Detecting signs of illness or injury or significant changes in condition,
 - ii. First aid, and
 - iii. Basic skills for caring for residents.

C. An administrator shall ensure that:

1. A resident's need for dental services is determined as part of the resident's initial assessment in R9-10-2207(3);
2. Unless a resident's eligibility for third-party payment for dental services is determined before the resident's initial comprehensive assessment in R9-10-2214(A)(1)(b) due to the resident's immediate need for dental services, the resident's eligibility for third-party payment for dental services is determined as part of the resident's comprehensive assessment;
3. Within one month after the initial comprehensive assessment in R9-10-2214(A)(1)(b), a personnel member coordinates for a resident the scheduling of a dental examination and, if needed, dental treatment:
 - a. If the resident is eligible for third-party payment for dental services, and
 - b. Unless the nursing-supported group home has documentation that the resident received a dental examination within 12 months before admission;
4. If a resident is eligible for third-party payment for dental services:
 - a. A dental examination is scheduled for the resident according to guidelines by the entity providing third-party payment for dental services and at least once every 12 months, and
 - b. Dental treatment is scheduled according to guidelines by the entity providing third-party payment for dental services and as needed;
5. Except as provided in subsection (C)(6), if a dental examination of a resident indicates a need for dental treatment, the resident's individual program plan includes the scheduling of dental treatment for the resident when the resident is eligible for third-party payment for dental services;
6. If needed, a resident is provided with emergency dental services;
7. A resident is provided with education and training in oral hygiene; and
8. A resident's medical record contains documentation of:
 - a. Each dental examination of the resident,
 - b. All dental treatment received by the resident, and
 - c. The resident's education and training in oral hygiene.

D. An administrator shall ensure that:

1. A resident's vision and hearing are assessed as part of the resident's comprehensive assessment in R9-10-2214(A)(1)(b) and, if applicable, as part of the update of the comprehensive assessment in R9-10-2214(A)(1)(c); and
2. If an issue is identified with the resident's vision or hearing:
 - a. The issue is included in the resident's individual program plan,
 - b. A personnel member contacts and coordinates with applicable entities to determine any vision or hearing benefits for which the resident may be eligible, and
 - c. The nursing-supported group home makes reasonable accommodations to address the issue in compliance with applicable federal and state disability laws.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2216. Behavioral Care

A. An administrator shall ensure that:

1. A resident who receives behavioral care from the nursing-supported group home is evaluated by a behavioral health professional or medical practitioner:
 - a. Within 30 calendar days before the resident is admitted to the nursing-supported group home or before the resident begins receiving behavioral care, and
 - b. At least once every six months throughout the duration of the resident's need for behavioral care;
2. A behavioral health professional or medical practitioner:
 - a. Documents that the behavioral care needed by the resident is within the nursing-supported group home's scope of services, and
 - b. Includes measurable objectives for the behavioral care and the methods for meeting the objectives in the resident's individual program plan; and
3. The documentation in subsection (A)(2) is included in the resident's medical record.

B. If a resident of a nursing-supported group home requires behavioral health services provided by a behavioral health professional on an intermittent basis as part of behavioral care, an administrator shall ensure that:

1. The behavioral health services are provided by a behavioral health professional licensed or certified to provide the type of behavioral health services required by the resident; and
2. Except for a psychotropic drug used as a chemical restraint or administered according to an order from a court of competent jurisdiction, informed consent is obtained from a resident or the resident's representative for a psychotropic drug and documented in the resident's medical record before the psychotropic drug is administered to the resident.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2217. Restraint

If a nursing-supported group home is authorized to provide restraint, an administrator shall ensure that:

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1. Policies and procedures for providing restraint are established, documented, and implemented to protect the health and safety of a resident that:
 - a. Establish the process for resident assessment, including identification of a resident's medical conditions and criteria for the on-going monitoring of any identified medical condition;
 - b. Identify each type of restraint used and include for each type of restraint used:
 - i. The qualifications of a personnel member who can:
 - (1) Order the restraint,
 - (2) Place a resident in the restraint,
 - (3) Monitor a resident in the restraint,
 - (4) Evaluate a resident's physical and psychological well-being after being placed in the restraint and when released from the restraint, or
 - (5) Renew the order for restraint;
 - ii. On-going training requirements for a personnel member who has direct resident contact while the resident is in a restraint; and
 - iii. Criteria for monitoring and assessing a resident including:
 - (1) Frequencies of monitoring and assessment based on a resident's medical condition and risks associated with the specific restraint;
 - (2) For the renewal of an order for restraint, whether an assessment is required before the order is renewed and, if an assessment is required, who may conduct the assessment;
 - (3) Assessment content, which may include, depending on a resident's condition, the resident's vital signs, respiration, circulation, hydration needs, elimination needs, level of distress and agitation, mental status, cognitive functioning, neurological functioning, and skin integrity;
 - (4) If a mechanical restraint is used, how often the mechanical restraint is loosened; and
 - (5) A process for meeting a resident's nutritional needs and elimination needs;
 - c. Establish the criteria and procedures for renewing an order for restraint;
 - d. Establish procedures for internal review of the use of restraint; and
 - e. Establish medical record and personnel record documentation requirements for restraint, if applicable;
2. An order for restraint is:
 - a. Obtained from a physician or registered nurse practitioner, and
 - b. Not written as a standing order or on an as-needed basis;
3. Restraint is:
 - a. Not used as a means of coercion, discipline, convenience, or retaliation;
 - b. Only used when all of the following conditions are met:
 - i. Except as provided in subsection (4), after obtaining an order for the restraint;
 - ii. For the management of a resident's aggressive, violent, or self-destructive behavior;
 - iii. When less restrictive interventions have been determined to be ineffective; and
 - iv. To ensure the immediate physical safety of the resident, to prevent imminent harm to the resident or another individual, or to stop physical harm to another individual; and
 - c. Discontinued at the earliest possible time;
4. If as a result of a resident's aggressive, violent, or self-destructive behavior, harm to the resident or another individual is imminent or the resident or another individual is being physically harmed, a personnel member:
 - a. May initiate an emergency application of restraint for the resident before obtaining an order for the restraint, and
 - b. Obtains an order for the restraint of the resident during the emergency application of the restraint;
5. An order for restraint includes:
 - a. The name of the physician or registered nurse practitioner ordering the restraint;
 - b. The date and time that the restraint was ordered;
 - c. The specific restraint ordered;
 - d. If a drug is ordered as a chemical restraint, the drug's name, strength, dosage, and route of administration;
 - e. The specific criteria for release from restraint without an additional order; and
 - f. The maximum duration authorized for the restraint;
6. An order for restraint is limited to the duration of the emergency situation and does not exceed three continuous hours;
7. If an order for restraint of a resident is not provided by the resident's designated medical practitioner, the resident's designated medical practitioner is notified as soon as possible;
8. A medical practitioner or personnel member does not participate in restraint, assess or monitor a resident during restraint, or evaluate a resident after restraint, and a physician or registered nurse practitioner does not order restraint, until the medical practitioner or personnel member, completes education and training that:
 - a. Includes:
 - i. Techniques to identify medical practitioner, personnel member, and resident behaviors, events, and environmental factors that may trigger circumstances that require restraint;
 - ii. The use of nonphysical intervention skills, such as de-escalation, mediation, conflict resolution, active listening, and verbal and observational methods;
 - iii. Techniques for identifying the least restrictive intervention based on an assessment of the resident's medical or behavioral health condition;
 - iv. The safe use of restraint, including training in how to recognize and respond to signs of physical and psychological distress in a resident who is restrained or secluded;
 - v. Clinical identification of specific behavioral changes that indicate that the restraint is no longer necessary;
 - vi. Monitoring and assessing a resident while the resident is in restraint according to policies and procedures; and

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- vii. Except for the medical practitioner, training exercises in which the personnel member successfully demonstrates the techniques that the medical practitioner or personnel member has learned for managing emergency situations; and
 - b. Is provided by individuals qualified according to policies and procedures;
- 9. When a resident is placed in restraint:
 - a. The restraint is conducted according to policies and procedures;
 - b. The restraint is proportionate and appropriate to the severity of the resident's behavior and the resident's:
 - i. Chronological and developmental age;
 - ii. Size;
 - iii. Gender;
 - iv. Physical condition;
 - v. Medical condition;
 - vi. Psychiatric condition; and
 - vii. Personal history, including any history of physical or sexual abuse;
 - c. The physician or registered nurse practitioner who ordered the restraint is available for consultation throughout the duration of the restraint;
 - d. The resident is monitored and assessed according to policies and procedures;
 - e. A physician or registered nurse assesses the resident within one hour after the resident is placed in the restraint and determines:
 - i. The resident's current behavior,
 - ii. The resident's reaction to the restraint used,
 - iii. The resident's medical and behavioral condition, and
 - iv. Whether to continue or terminate the restraint;
 - f. The resident is given the opportunity:
 - i. To eat during mealtime, and
 - ii. To use the toilet; and
 - g. The restraint is discontinued at the earliest possible time, regardless of the length of time identified in the order;
- 10. A medical practitioner or personnel member documents the following information in a resident's medical record before the end of the shift in which the resident is placed in restraint or, if the resident's restraint does not end during the shift in which it began, during the shift in which the resident's restraint ends:
 - a. The emergency situation that required the resident to be restrained,
 - b. The times the resident's restraint actually began and ended,
 - c. The monitoring required in subsection (9)(d),
 - d. The time of the assessment required in subsection (9)(e),
 - e. The names of the medical practitioners and personnel members with direct resident contact while the resident was in the restraint,
 - f. The times the resident was given the opportunity to eat or use the toilet according to subsection (9)(f), and
 - g. The resident evaluation required in subsection (12);
- 11. If an emergency situation continues beyond the time limit of an order for restraint, the order is renewed according to policies and procedures that include:
 - a. The specific criteria for release from restraint without an additional order, and
 - b. The maximum duration authorized for the restraint; and
- 12. A resident is evaluated after restraint is no longer being used for the resident.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2218. Rehabilitation Services

If rehabilitation services are provided on a nursing-supported group home's premises, an administrator shall ensure that:

- 1. Rehabilitation services are provided:
 - a. Under the direction of an individual qualified according to policies and procedures,
 - b. By an individual licensed to provide the rehabilitation services, and
 - c. According to an order; and
- 2. The medical record of a resident receiving rehabilitation services includes:
 - a. An order for rehabilitation services that includes the name of the ordering individual and a referring diagnosis,
 - b. A documented individual program plan that is developed in coordination with the ordering individual and the individual providing the rehabilitation services,
 - c. The rehabilitation services provided,
 - d. The resident's response to the rehabilitation services, and
 - e. The authentication of the individual providing the rehabilitation services.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2219. Clinical Laboratory Services

If clinical laboratory services are authorized to be provided on a nursing-supported group home's premises, an administrator shall ensure that:

- 1. Clinical laboratory services and pathology services are provided through a laboratory that holds a certificate of accreditation, certificate of compliance, or certificate of waiver issued by the United States Department of Health and Human Services under the 1988 amendments to the Clinical Laboratories Improvement Act of 1967;
- 2. A copy of the certificate of accreditation, certificate of compliance, or certificate of waiver in subsection (1) is provided to the Department for review upon the Department's request;
- 3. The nursing-supported group home:
 - a. Is able to provide the clinical laboratory services delineated in the nursing-supported group home's scope of services when needed by the residents,
 - b. Obtains specimens for the clinical laboratory services delineated in the nursing-supported group home's scope of services without transporting the residents from the nursing-supported group home's premises, and
 - c. Has the examination of the specimens performed by a clinical laboratory;

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4. Clinical laboratory and pathology test results are:
 - a. Available to the ordering physician:
 - i. Within 24 hours after the test is complete with results if the test is performed at a laboratory on the nursing-supported group home's premises, or
 - ii. Within 24 hours after the test result is received if the test is performed at a laboratory outside of the nursing-supported group home's premises; and
 - b. Documented in a resident's medical record;
5. If a test result is obtained that indicates a resident may have an emergency medical condition, as established in policies and procedures, a personnel member notifies:
 - a. The ordering physician,
 - b. A registered nurse in the nursing-supported group home,
 - c. The nursing-supported group home's administrator, or
 - d. The director of nursing;
6. If a clinical laboratory report is completed on a resident, a copy of the report is included in the resident's medical record;
7. If the nursing-supported group home provides blood or blood products, policies and procedures are established, documented, and implemented for:
 - a. Procuring, storing, transfusing, and disposing of blood or blood products;
 - b. Blood typing, antibody detection, and blood compatibility testing; and
 - c. Investigating transfusion adverse reactions that specify a process for review through the quality management program; and
8. Expired laboratory supplies are discarded according to policies and procedures.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2220. Respiratory Care Services

If respiratory care services are authorized to be provided on a nursing-supported group home's premises, an administrator shall ensure that:

1. Respiratory care services are provided under the direction of a resident's designated medical practitioner;
2. Respiratory care services are provided according to an order that includes:
 - a. The resident's name;
 - b. The name and signature of the ordering individual;
 - c. The type, frequency, and, if applicable, duration of treatment;
 - d. The type and dosage of medication and diluent; and
 - e. The oxygen concentration or oxygen liter flow and method of administration;
3. Respiratory care services provided to a resident are documented in the resident's medical record and include:
 - a. The date and time of administration;
 - b. The type of respiratory care services provided;
 - c. The effect of the respiratory care services;
 - d. The resident's adverse reaction to the respiratory care services, if any; and
 - e. The authentication of the individual providing the respiratory care services; and

4. Any area or unit that performs blood gases or clinical laboratory tests complies with the requirements in R9-10-2219.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2221. Medication Services

A. An administrator shall ensure that policies and procedures for medication services:

1. Include:
 - a. A process for providing information to a resident or the resident's representative about medication prescribed for the resident including:
 - i. The prescribed medication's anticipated results,
 - ii. The prescribed medication's potential adverse reactions,
 - iii. The prescribed medication's potential side effects, and
 - iv. Potential adverse reactions that could result from not taking the medication as prescribed;
 - b. Procedures for preventing, responding to, and reporting:
 - i. A medication error,
 - ii. An adverse response to a medication, or
 - iii. A medication overdose;
 - c. Procedures to ensure that a pharmacist reviews a resident's medications at least once every three months and provides documentation to the resident's designated medical practitioner and the director of nursing indicating potential medication problems such as incompatible or duplicative medications;
 - d. Procedures for documenting medication services; and
 - e. Procedures for assisting a resident in obtaining medication; and
2. Specify a process for review through the quality management program of:
 - a. A medication administration error, and
 - b. An adverse reaction to a medication.

B. An administrator shall ensure that:

1. Policies and procedures for medication administration:
 - a. Are reviewed and approved by a pharmacist;
 - b. Specify the individuals who may:
 - i. Order medication, and
 - ii. Administer medication;
 - c. Ensure that medication is administered to a resident only as prescribed; and
 - d. Cover the documentation of a resident's refusal to take prescribed medication in the resident's medical record;
2. Verbal orders for medication services are taken by a nurse, unless otherwise provided by law;
3. A medication administered to a resident:
 - a. Is administered in compliance with an order, and
 - b. Is documented in the resident's medical record; and
4. If a psychotropic medication is administered to a resident, the psychotropic medication:
 - a. Is only administered to a resident for a diagnosed medical condition; and
 - b. Unless clinically contraindicated or otherwise ordered by the resident's designated medical practitioner or the designated medical practitioner's design-

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nee, is gradually reduced in dosage while the resident is simultaneously provided with interventions such as behavior and environment modification in an effort to discontinue the psychotropic medication, unless a dose reduction is attempted and the resident displays behavior justifying the need for the psychotropic medication, and the designated medical practitioner documents the necessity for the continued use and dosage.

- C. If a nursing-supported group home provides assistance in the self-administration of medication, an administrator shall ensure that:
1. A resident's medication is stored by the nursing-supported group home;
 2. The following assistance is provided to a resident:
 - a. A reminder when it is time to take the medication;
 - b. Opening the medication container for the resident;
 - c. Observing the resident while the resident removes the medication from the container;
 - d. Verifying that the medication is taken as ordered by the resident's designated medical practitioner by confirming that:
 - i. The resident taking the medication is the individual stated on the medication container label,
 - ii. The resident is taking the dosage of the medication stated on the medication container label or according to an order from the resident's designated medical practitioner dated later than the date on the medication container label, and
 - iii. The resident is taking the medication at the time stated on the medication container label or according to an order from the resident's designated medical practitioner dated later than the date on the medication container label; or
 - e. Observing the resident while the resident takes the medication;
 3. Policies and procedures for assistance in the self-administration of medication are reviewed and approved by the resident's designated medical practitioner or a registered nurse;
 4. Training for a personnel member, other than a physician, physician assistant, or registered nurse, in assistance in the self-administration of medication:
 - a. Is provided by the resident's designated medical practitioner; another physician, physician assistant, or registered nurse; or an individual trained by a physician, physician assistant, or registered nurse; and
 - b. Includes:
 - i. A demonstration of the personnel member's skills and knowledge necessary to provide assistance in the self-administration of medication,
 - ii. Identification of medication errors and medical emergencies related to medication that require emergency medical intervention, and
 - iii. The process for notifying the appropriate entities when an emergency medical intervention is needed;
 5. A personnel member, other than a physician, physician assistant, or registered nurse, completes the training in subsection (C)(4) before the personnel member provides assistance in the self-administration of medication; and

6. Assistance in the self-administration of medication provided to a resident:
 - a. Is in compliance with an order, and
 - b. Is documented in the resident's medical record.

D. An administrator shall ensure that:

1. A current drug reference guide is available for use by personnel members; and
2. If pharmaceutical services are provided:
 - a. The pharmaceutical services are provided under the direction of a pharmacist;
 - b. The pharmaceutical services comply with A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23; and
 - c. A copy of the pharmacy license is provided to the Department upon request.

E. When medication is stored at a nursing-supported group home, an administrator shall ensure that:

1. Medication is stored in a separate locked room, closet, or self-contained unit used only for medication storage;
2. Medication is stored according to the instructions on the medication container; and
3. Policies and procedures are established, documented, and implemented to protect the health and safety of a resident for:
 - a. Receiving, storing, inventorying, tracking, dispensing, and discarding medication including expired medication;
 - b. Discarding or returning prepackaged and sample medication to the manufacturer if the manufacturer requests the discard or return of the medication;
 - c. A medication recall and notification of residents who received recalled medication; and
 - d. Storing, inventorying, and dispensing controlled substances.

- F. An administrator shall ensure that a personnel member immediately reports a medication error or a resident's adverse reaction to a medication to the resident's designated medical practitioner or the physician who ordered the medication and the nursing-supported group home's director of nursing.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2222. Infection Control

An administrator shall ensure that:

1. An infection control program is established, under the direction of an individual qualified according to policies and procedures, to prevent the development and transmission of infections and communicable diseases including:
 - a. A method to identify and document infections occurring at the nursing-supported group home;
 - b. Analysis of the types, causes, and spread of infections and communicable diseases at the nursing-supported group home;
 - c. The development of corrective measures to minimize or prevent the spread of infections and communicable diseases at the nursing-supported group home; and
 - d. Documentation of infection control activities including:
 - i. The collection and analysis of infection control data,

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- ii. The actions taken related to infections and communicable diseases, and
 - iii. Reports of communicable diseases to the governing authority and state and county health departments;
- 2. Infection control documentation is maintained for at least 12 months after the date of the documentation;
- 3. Policies and procedures are established, documented, and implemented that cover:
 - a. Handling and disposal of biohazardous medical waste;
 - b. Sterilization, disinfection, and storage of medical equipment and supplies;
 - c. Using personal protective equipment such as aprons, gloves, gowns, masks, or face protection when applicable;
 - d. Cleaning of an individual's hands when the individual's hands are visibly soiled and before and after providing a service to a resident;
 - e. Cleaning of a resident's bedroom, furniture, and bedding after the resident's discharge before the bedroom is reassigned to another resident;
 - f. Training of personnel members, employees, and volunteers in infection control practices; and
 - g. Work restrictions for a personnel member with a communicable disease or infected skin lesion;
- 4. Biohazardous medical waste is identified, stored, and disposed of according to 18 A.A.C. 13, Article 14 and policies and procedures;
- 5. Soiled linen and clothing are:
 - a. Collected in a manner to minimize or prevent contamination;
 - b. Bagged at the site of use; and
 - c. Maintained separate from clean linen and clothing and away from food storage, kitchen, or dining areas;
- 6. A resident's personal laundry is washed separately from towels, sheets, and bedding; and
- 7. A personnel member, an employee, or a volunteer washes hands or uses a hand disinfection product after a resident contact and after handling soiled linen, soiled clothing, or potentially infectious material.
- b. Taking into consideration the food allergies and preferences of the residents;
 - c. Including for a resident the modified or special diet for the resident; and
 - d. In a form to meet the needs of a resident, such as cut, chopped, ground, pureed, or thickened;
- 2. A food menu:
 - a. Is prepared at least one week in advance,
 - b. Includes the foods to be served on each day,
 - c. Is conspicuously posted at least one day before the first meal on the food menu will be served,
 - d. Includes any food substitution no later than the morning of the day of meal service with a food substitution, and
 - e. Is maintained for at least 60 calendar days after the last day included in the food menu;
- 3. Meals and snacks for each day are planned and served using the applicable guidelines in <http://www.health.gov/dietaryguidelines/2015.asp>;
- 4. A resident is provided:
 - a. A diet that meets the resident's nutritional needs as specified in the resident's comprehensive assessment and individual program plan;
 - b. Food served in sufficient quantities to meet the resident's nutritional needs and at an appropriate temperature;
 - c. Three meals a day with not more than 14 hours between the evening meal and breakfast; and
 - d. The opportunity to have additional food between meals, unless a restrictive diet is specified in the resident's individual program plan;
- 5. A resident is provided with food substitutions of similar nutritional value if:
 - a. The resident refuses to eat the food served, or
 - b. The resident requests a substitution;
- 6. Recommendations and preferences are requested from a resident or the resident's representative for meal planning;
- 7. If food is used as a part of a program to manage a resident's inappropriate behavior:
 - a. A special diet is included as part of the resident's individual program plan, and
 - b. The special diet is reviewed and evaluated by a physician and a dietitian to ensure the special diet meets the resident's nutritional needs;
- 8. Meals are served to residents at tables in a dining area and in a manner that allows the resident to eat from an upright position, unless otherwise specified in the resident's individual program plan or by the resident's designated medical practitioner;
- 9. A resident requiring assistance to eat is provided with assistance that recognizes the resident's nutritional, physical, and social needs, including the use of adaptive eating equipment or utensils;
- 10. Personnel members supervise meals in dining areas to:
 - a. Direct a resident's self-help dining procedures,
 - b. Ensure a resident consumes enough food to meet the resident's nutritional needs, and
 - c. Ensure that a resident eats in a manner consistent with the resident's developmental level;
- 11. Tableware, utensils, equipment, and food-contact surfaces are clean and in good repair; and
- 12. Water is available and accessible to residents.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2223. Food Services

- A. An administrator shall ensure that a registered nurse who is part of the interdisciplinary team for a resident requiring a modified or special diet:
 - 1. Consults with a registered dietitian or the resident's designated medical practitioner, as needed, about the resident's modified or special diet;
 - 2. Reviews a food menu before the food menu is used to ensure that the resident's nutritional needs are being met;
 - 3. Documents the review of a food menu; and
 - 4. Is available for consultation regarding the resident's nutritional needs.
- B. An administrator shall ensure that:
 - 1. Food is prepared:
 - a. Using methods that conserve nutritional value, flavor, and appearance;

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Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2224. Emergency and Safety Standards**A.** An administrator shall ensure that:

1. A disaster plan is developed, documented, maintained in a location accessible to personnel members and other employees, and, if necessary, implemented that includes:
 - a. A floor plan of the facility showing emergency protection equipment, evacuation routes, and exits;
 - b. When, how, and where residents will be relocated, including:
 - i. Instructions for the evacuation or transfer of residents,
 - ii. Assigned responsibilities for each employee and personnel member, and
 - iii. A plan for continuing to provide services to meet a resident's needs;
 - c. How a resident's medical record will be available to individuals providing services to the resident during a disaster;
 - d. A plan for back-up power and water supply;
 - e. A plan to ensure a resident's medications will be available to administer to the resident during a disaster;
 - f. A plan to ensure a resident is provided nursing services, rehabilitation services, and other services required by the resident during a disaster; and
 - g. A plan for obtaining food and water for individuals present in the nursing-supported group home or the nursing-supported group home's relocation site during a disaster;
2. Personnel members receive training on the content and use of the disaster plan required in subsection (A)(1);
3. The disaster plan required in subsection (A)(1) is reviewed at least once every 12 months;
4. Documentation of a disaster plan review required in subsection (A)(3) is created, is maintained for at least 12 months after the date of the disaster plan review, and includes:
 - a. The date and time of the disaster plan review;
 - b. The name of each personnel member, employee, or volunteer participating in the disaster plan review;
 - c. A critique of the disaster plan review; and
 - d. If applicable, recommendations for improvement;
5. A disaster drill for employees is conducted on each shift at least once every three months and documented;
6. An evacuation drill for employees is conducted on each shift at least once every three months and documented;
7. An evacuation drill for residents:
 - a. Is conducted at least once each year on each shift and documented; and
 - b. Includes all residents on the premises except for:
 - i. A resident whose medical record contains documentation that evacuation from the nursing-supported group home would cause harm to the resident, and
 - ii. Sufficient personnel members to ensure the health and safety of residents not evacuated according to subsection (A)(7)(b)(i);
8. Documentation of each evacuation drill is created, is maintained for at least 12 months after the date of the drill, and includes:

- a. The date and time of the evacuation drill;
- b. The amount of time taken for employees and residents to evacuate to a designated area;
- c. If applicable:
 - i. An identification of residents needing assistance for evacuation, and
 - ii. An identification of residents who were not evacuated;
- d. Any problems encountered in conducting the evacuation drill; and
- e. Recommendations for improvement, if applicable; and

9. An evacuation path is conspicuously posted on each hallway of each floor of the nursing-supported group home.

B. An administrator shall ensure that a nursing-supported group home has either:

1. A fire alarm system and a sprinkler system meeting the following requirements installed and in working order:
 - a. A fire alarm system installed according to the National Fire Protection Association 72: National Fire Alarm and Signaling Code, incorporated by reference in R9-10-104.01; and
 - b. A sprinkler system installed according to the National Fire Protection Association 13: Standard for the Installation of Sprinkler Systems, incorporated by reference in R9-10-104.01; or
2. Both of the following:
 - a. A fire extinguisher that is:
 - i. Labeled as rated at least 2A-10-BC by the Underwriters Laboratories;
 - ii. Accessible to personnel members and inaccessible to residents;
 - iii. If a disposable fire extinguisher, replaced when its indicator reaches the red zone; and
 - iv. If a rechargeable fire extinguisher, is serviced at least once every 12 months, as documented by a tag attached to the fire extinguisher that specifies the date of the last servicing and the identification of the person who serviced the fire extinguisher; and
 - b. Smoke detectors that are:
 - i. Installed in each bedroom, hallway that adjoins a bedroom, storage room, laundry room, attached garage, and room or hallway adjacent to the kitchen, and other places recommended by the manufacturer;
 - ii. Either battery operated or, if hard-wired into the electrical system of the nursing-supported group home, have a back-up battery;
 - iii. Capable of alerting all residents in the nursing-supported group home, including a resident with a mobility or sensory impairment;
 - iv. In working order; and
 - v. Tested at least once a month, with documentation of the test maintained for at least 12 months after the date of the test.

C. An administrator shall:

1. Obtain a fire inspection conducted according to the time-frame established by the local fire department or the State Fire Marshal,
2. Make any repairs or corrections stated on the fire inspection report, and
3. Maintain documentation of a current fire inspection.

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- D. An administrator shall ensure that, if applicable, a sign is placed at the entrance to a room or area indicating that oxygen is in use.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2225. Environmental Standards

- A. An administrator shall ensure that:
1. The premises and equipment are free from a condition or situation that may cause a resident or other individual to suffer physical injury;
 2. The premises are free of accumulations of garbage or refuse;
 3. Garbage and refuse in the facility are:
 - a. Stored in cleanable containers or in sealable plastic bags and
 - b. Removed from the facility at least once every seven days;
 4. Cleaning compounds and toxic substances are maintained in labeled containers that:
 - a. Are stored to prevent a hazard;
 - b. Are appropriate to the contents of each container;
 - c. If appropriate based on a resident's disability, are locked; and
 - d. Are stored in a separate location from food or medicine;
 5. Combustible or flammable materials are not stored within three feet of a furnace, heater, water heater, or usable fire-place;
 6. Unused furniture, equipment, fabrics, or devices are removed from the facility or maintained in a covered area on the premises that is designated by the licensee for storage in a manner that does not create a hazard; and
 7. There are no firearms or ammunition on the premises;
- B. An administrator shall ensure that:
1. A pest control program that complies with A.A.C. R3-8-201(C)(4) is implemented and documented;
 2. The premises and its structures and furnishings are:
 - a. In a clean condition,
 - b. Free of odors, such as urine or rotting food; and
 - c. In sufficiently good repair that no object, equipment, or condition present constitutes a hazard; and
 3. Standing water is not allowed to accumulate on the premises, except in an area or vessel the purpose of which is to hold standing water.
- C. An administrator shall ensure that:
1. An unvented space heater or open-flame space heater is not used on the premises;
 2. An electric portable heater or electric radiant heater is not used on the premises unless the electric portable heater or electric radiant heater:
 - a. Has:
 - i. Either a non-porous casing or a grill with a mesh small enough to prevent cloth or a child's finger from entering the casing,
 - ii. A tilt switch that shuts off power to the electric portable heater if the electric portable heater tips over,
 - iii. An automatic shutoff control to prevent overheating, and
 - iv. A thermostat control; and
 - b. Is plugged directly into a wall outlet; and

3. A vented space heater used on the premises is:
 - a. Safety-approved;
 - b. Professionally installed in accordance with the requirements of the local jurisdiction; and
 - c. Mounted as a permanent fixture in a wall, floor, or ceiling.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

R9-10-2226. Physical Plant Standards

- A. An administrator shall ensure that:
1. A nursing-supported group home is in compliance with applicable federal and state disability laws;
 2. If a nursing-supported group home has a resident with a mobility, sensory, or other physical impairment, documentation is available for review at the nursing-supported group home that:
 - a. Is provided by the Division; and
 - b. Identifies modifications, if any, needed to the premises to ensure that the premises are:
 - i. Accessible to and usable by the resident, and
 - ii. Contribute to the resident's health and safety;
 3. The premises have been modified as identified by the Division in subsection (A)(2)(b);
 4. Ramps, stairs, or steps on the premises are secured firmly to the ground or a permanent structure and have slip-resistant surfaces; and
 5. If handrails and grab bars are installed in a nursing-supported group home, handrails and grab bars are securely attached and stationary.
- B. An administrator shall ensure that:
1. A method of heating and cooling maintains the nursing-supported group home between 65° F and 85° F in areas of the nursing-supported group home occupied by residents;
 2. A usable fireplace is covered by a protective screen or covering at all times;
 3. Ventilation is provided by an openable window, air conditioning, or other mechanical device;
 4. Working, safe appliances for cooling and cooking food are provided in the nursing-supported group home that:
 - a. Are safety-approved;
 - b. If used to refrigerate food, maintain the food at a temperature of 40° F or below at all times; and
 - c. If used to freeze food, maintain the food at a temperature of 0° F or below at all times;
 5. Hot water temperatures in the nursing-supported group home are maintained between 95° F and 120° F; and
 6. Bathtubs and showers contain slip-resistant strips, rubber bath mats, or slip-resistant surfaces.
- C. An administrator shall ensure that:
1. Electrical lighting is contained in each room in the nursing-supported group home;
 2. Electrical devices and equipment on the premises are safety-approved, safe, and in working order;
 3. Electrical outlets on the premises are safe, covered with a faceplate, and installed in accordance with the requirements of the local jurisdiction;
 4. Any electrical outlet located within 3 feet of a water source includes a ground fault circuit interrupt (GFCI);
 5. An appliance, light, or other device with a frayed or spliced electrical cord is not used on the premises; and

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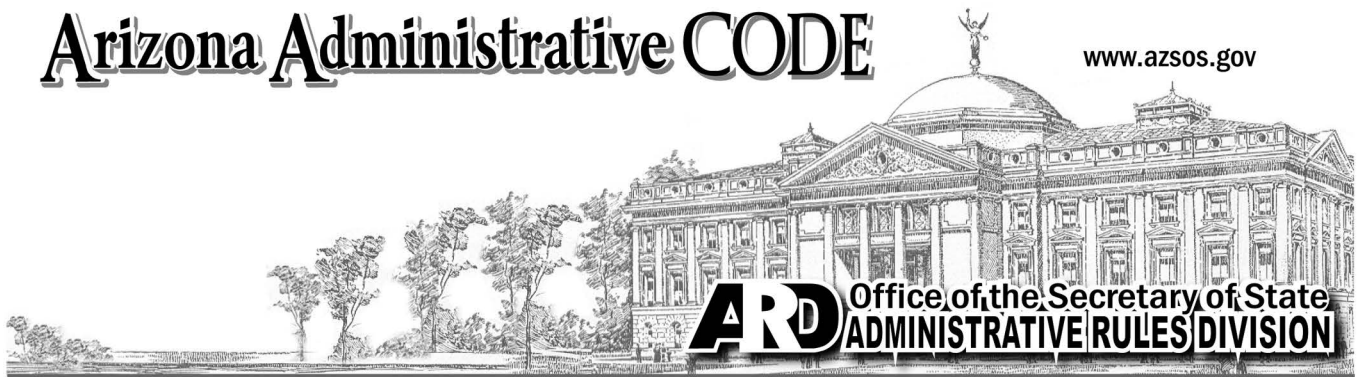
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6. An electrical cord, including an extension cord, on the premises is not:
 - a. Used as a substitute for permanent wiring,
 - b. Run under a rug or carpeting,
 - c. Run over a nail, or
 - d. Run from one room to another.
- D. An administrator shall ensure that:
 1. A nursing-supported group home contains a safe, working plumbing system;
 2. If a nursing-supported group home's plumbing system is connected to a non-municipal sewage disposal system, the plumbing system and connective piping are free of visible leakage; and
 3. The premises do not contain unfenced or uncovered wells, ditches, or holes into which an individual may step or fall.

Historical Note

New Section made by exempt rulemaking at 28 A.A.R. 927 (May 6, 2022), with an immediate effective date of April 15, 2022 (Supp. 22-2).

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TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ADMINISTRATION

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
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The release of this Chapter in Supp. 24-3 replaces Supp. 24-2, 1-156 pages.

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

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

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

THE ADMINISTRATIVE CODE

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

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

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

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

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

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

RULE HISTORY

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

AUTHENTICATION OF PDF CODE CHAPTERS

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

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

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

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

EXEMPTIONS FROM THE APA

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

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

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

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

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

PERSONAL USE/COMMERCIAL USE

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

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Administrative Rules Division

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TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ADMINISTRATION

Authority: A.R.S. § 36-2901 et seq.

Supp. 24-3

Editor's Note: Historical notes for Sections made, repealed or amended in Supp. 14-1 were updated to reflect the effective date as immediate per the original notice filed by the agency. A number of other publication errors have been corrected in Supplement 20-4 that should have been made in Supp. 14-1. These include: adding new Sections R9-22-301 and R9-22-302; correcting a punctuation error in R9-22-1401; repealing Sections R9-22-1407 and R9-22-1443; and the amending of R9-22-1501 (Supp. 20-4).

Editor's Note: The Office of the Secretary of State prints all Code Chapters on white paper (Supp 01-3).

Editor's Note: This Chapter contains rules which were adopted or amended under an exemption from the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6), under Laws 1992, Ch. 301, § 61 and Ch. 302, § 13, and Laws 1993, Ch. 6, § 34. Exemption from A.R.S. Title 41, Chapter 6 means that AHCCCS did not submit notice of this rulemaking to the Secretary of State's Office for publication in the Arizona Administrative Register; the Governor's Regulatory Review Council did not review these rules; AHCCCS was not required to hold public hearings on these rules; and the Attorney General did not certify these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.

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Article 15, consisting of Sections R9-22-1501 through R9-22-1508, repealed; new Article 15, consisting of Sections R9-22-1501 through R9-22-1505 made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

Article 15, consisting of Sections R9-22-1501 through R9-22-1508, adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

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Article 16, consisting of Sections R9-22-1601 through R9-22-1612, R9-22-1614 through R9-22-1616, and R9-22-1618 through R9-22-1619, expired at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

Article 16, consisting of Sections R9-22-1601 through R9-22-1636, repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

Article 16, consisting of Sections R9-22-1601 through R9-22-1613, R9-22-1615 through R9-22-1620, R9-22-1622 through R9-22-1631, R9-22-1633, R9-22-1634, and R9-22-1636, adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

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Article 18, consisting of Sections R9-22-1801 through R9-22-1806, emergency renewed at 30 A.A.R. 69 (January 12, 2024) with an immediate effective date of December 21, 2023 (Supp. 23-4).

Article 18, consisting of Sections R9-22-1801 through R9-22-1806, made by emergency rulemaking at 29 A.A.R. 1577 (July 14, 2023), with an immediate effective date of July 3, 2023 (Supp. 23-3).

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ARTICLE 21. TRAUMA AND EMERGENCY SERVICES FUND

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ARTICLE 1. DEFINITIONS

R9-22-101. Location of Definitions

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

Definition	Section or Citation
"Accommodation"	R9-22-701
"Active treatment"	R9-22-1301
"ADHS"	R9-22-101
"Administration"	A.R.S. § 36-2901
"Adult behavioral health therapeutic home"	9 A.A.C. 10, Article 1
"Adverse action"	R9-22-101
"Affiliated corporate organization"	R9-22-101
"Aged"	42 U.S.C. 1382c(a)(1)(A) and R9-22-1501
"Agency"	R9-22-1201
"Aggregate"	R9-22-701
"AHCCCS"	R9-22-101
"AHCCCS inpatient hospital day or days of care"	R9-22-701
"AHCCCS registered provider"	R9-22-101
"Ambulance"	A.R.S. § 36-2201
"Ancillary service"	R9-22-101
"Anticipatory guidance"	R9-22-201
"Annual enrollment choice"	R9-22-1701
"APC"	R9-22-701
"Applicant"	R9-22-101 or R9-22-301
"Application"	R9-22-101
"Assessment"	R9-22-1101 or R9-22-1201
"Assignment"	R9-22-101
"Attending physician"	R9-22-101 or R9-22-202
"Authorized representative"	R9-22-101
"Authorization"	R9-22-202
"Auto-assignment algorithm"	R9-22-1701
"AZ-NBCCEDP"	R9-22-2001
"Behavior management services"	R9-22-1201
"Behavioral health therapeutic home care services"	R9-22-1201
"Behavioral health paraprofessional"	R9-22-101
"Behavioral health professional"	R9-22-101
"Behavioral health recipient"	R9-22-201
"Behavioral health services"	R9-22-1201
"Behavioral health technician"	R9-22-1201
"Benefit year"	R9-22-201
"BHS"	R9-22-301
"Billed charges"	R9-22-701
"Blind"	R9-22-1501
"Burial plot"	R9-22-1401
"Business agent"	R9-22-701
"Calculated inpatient costs"	R9-22-712.07
"Capital costs"	R9-22-701
"Capped fee-for-service"	R9-22-101
"Caretaker relative"	R9-22-1401
"Case management"	R9-22-1201
"Case record"	R9-22-101
"Cash assistance"	R9-22-1401
"Certified psychiatric nurse practitioner"	R9-22-1201
"Charge master"	R9-22-712
"Child"	R9-22-1503
"Children's Rehabilitative Services" or "CRS"	R9-22-101 or R9-22-301
"Chronic"	R9-22-1301
"Claim"	R9-22-1101
"Claims paid amount"	R9-22-712.07
"Clean claim"	A.R.S. § 36-2904
"Clinical oversight"	9 A.A.C. 10
"CMDP"	R9-22-1701
"CMS"	R9-22-101
"Continuous stay"	R9-22-101
"Contract"	R9-22-101
"Contract year"	R9-22-101
"Contractor"	A.R.S. § 36-2901 or R9-22-210.01

"Copayment"	R9-22-701
"Cost avoid"	R9-22-1201
"Cost-To-Charge Ratio" or "CCR"	R9-22-701 or R9-22-712
"Court-ordered evaluation"	R9-22-1201
"Court-ordered pre-petition screening"	R9-22-1201
"Court-ordered treatment"	R9-22-1201
"Covered charges"	R9-22-701
"Covered services"	R9-22-101
"CPT"	R9-22-701
"Creditable coverage"	R9-22-2003 and 42 U.S.C. 300gg(c)
"Crisis services"	R9-22-1201
"Critical Access Hospital"	R9-22-701
"CRS application"	R9-22-1301
"CRS condition"	R9-22-1301
"CRS provider"	R9-22-1301
"Cryotherapy"	R9-22-2001
"Customized DME"	R9-22-212
"Day"	R9-22-101 and R9-22-1101
"Date of the Notice of Adverse Action"	R9-22-1441
"DBHS"	R9-22-101
"DCSS"	R9-22-301
"Department"	A.R.S. § 36-2901
"Dependent child"	A.R.S. § 46-101 or R9-22-1401
"DES"	R9-22-101
"Diagnostic services"	R9-22-101
"Direct graduate medical education costs" or "direct program costs"	R9-22-701
"Direct supervision"	R9-22-1201
"Director"	R9-22-101
"Disabled"	R9-22-1501
"Discussion"	R9-22-101
"Disenrollment"	R9-22-1701
"DME"	R9-22-101
"DRI inflation factor"	R9-22-701
"E.P.S.D.T. services"	42 CFR 440.40(b)
"Eligibility posting"	R9-22-701
"Eligible person"	A.R.S. § 36-2901
"Emergency behavioral health condition for a non-FES member"	R9-22-201
"Emergency behavioral health services for a non-FES member"	R9-22-201
"Emergency medical condition for a non-FES member"	R9-22-201
"Emergency medical services for a non-FES member"	R9-22-201
"Emergency medical services provider"	R9-22-1201
"Emergency medical or behavioral health condition for a FES member"	R9-22-217
"Emergency services costs"	A.R.S. § 36-2903.07
"Emergency services for a FES member"	R9-22-217
"Encounter"	R9-22-701
"Enrollment"	R9-22-1701
"Equity"	R9-22-101
"Experimental services"	R9-22-203
"Existing outpatient service"	R9-22-701
"Expansion funds"	R9-22-701
"FAA"	R9-22-301
"Facility"	R9-22-101
"Factor"	R9-22-701 and 42 CFR 447.10
"FBR"	R9-22-101
"Federal financial participation" or "FFP"	42 CFR 400.203
"Federal poverty level" or "FPL"	A.R.S. § 36-2981
"Fee-For-Service" or "FFS"	R9-22-101
"FES member"	R9-22-101
"FESP"	R9-22-101
"First-party liability"	R9-22-1001
"File"	R9-22-1101
"Fiscal agent"	R9-22-210
"Fiscal intermediary"	R9-22-701
"Foster care maintenance payment"	42 U.S.C. 675(4)(A)
"FQHC"	R9-22-101

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"Freestanding Children's Hospital"	R9-22-701	"Ownership change"	R9-22-701
"Functionally limiting"	R9-22-1301	"Ownership interest"	42 CFR 455.101
"Fund"	R9-22-712.07	"Partial Care"	R9-22-1201
"Graduate medical education (GME) program"	R9-22-701	"Participating institution"	R9-22-701
"GME program approved by the Administration"		"Peer group"	R9-22-701
or "approved GME program"	R9-22-701	"Peer-reviewed study"	R9-22-2001
"Grievance"	A.A.C. Chapter 34	"Penalty"	R9-22-1101
"GSA"	R9-22-101	"Person"	R9-22-1101
"HCAC"	R9-22-701	"Pharmaceutical service"	R9-22-201
"HCPCS"	R9-22-701	"Physical therapy"	R9-22-201
"Health care institution"	A.R.S. § 36-401	"Physician"	R9-22-101
"Health care practitioner"	R9-22-1201	"Physician assistant"	R9-22-1201
"Hearing aid"	R9-22-201	"Post-stabilization services"	R9-22-201 or 42 CFR 422.113
"HIPAA"	R9-22-701	"PPS bed"	R9-22-701
"Home health services"	R9-22-201	"Practitioner"	R9-22-101
"Hospital"	R9-22-101	"Pre-enrollment process"	R9-22-301
"ICU"	R9-22-701	"Prescription"	R9-22-101
"IHS"	R9-22-101	"Primary care provider" or "PCP"	R9-22-101
"IHS enrolled" or "enrolled with IHS"	R9-22-708	"Primary care provider services"	R9-22-201
"IMD" or "Institution for Mental Diseases"	42 CFR 435.1010	"Prior authorization"	R9-22-101
	and R9-22-101	"Prior period coverage" or "PPC"	R9-22-101
"Income"	R9-22-301	"Procedure code"	R9-22-701
"Indirect program costs"	R9-22-701	"Procurement file"	R9-22-601
"Individual"	R9-22-211	"Proposal"	R9-22-101
"In-kind income"	R9-22-1420	"Prospective rates"	R9-22-701
"Inmate of a public institution"	42 CFR 435.1010	"Psychiatrist"	R9-22-1201
"Inpatient covered charges"	R9-22-712.07	"Psychologist"	R9-22-1201
"Intermediate Care Facility for the		"Psychosocial rehabilitation services"	R9-22-201
Mentally Retarded" or "ICF-MR"	42 U.S.C. 1396d(d)	"Public hospital"	R9-22-701
"Intern and Resident Information System"	R9-22-701	"Qualified alien"	A.R.S. § 36-2903.03
"LEEP"	R9-22-2001	"Qualified behavioral health service provider"	R9-22-1201
"Legal representative"	R9-22-101	"Quality management"	R9-22-501
"Level I trauma center"	R9-22-2101	"Radiology"	R9-22-101
"License" or "licensure"	R9-22-101	"RBHA" or "Regional Behavioral	
"Licensee"	R9-22-1201	Health Authority"	R9-22-201
"MAGI-based income"	R9-22-1401	"Reason to know" or "had reason to know"	R9-22-1101
"Mailing date"	R9-22-101	"Rebase"	R9-22-701
"Medical education costs"	R9-22-701	"Redetermination"	R9-22-1301
"Medical expense deduction" or "MED"	R9-22-1401	"Referral"	R9-22-101
"Medical practitioner"	R9-22-1201	"Rehabilitation services"	R9-22-101
"Medical record"	R9-22-101	"Reinsurance"	R9-22-701
"Medical review"	R9-22-701	"Remittance advice"	R9-22-701
"Medical services"	A.R.S. § 36-401	"Resident"	R9-22-701
"Medical supplies"	R9-22-101	"Residual functional deficit"	R9-22-201
"Medical support"	R9-22-301	"Resources"	R9-22-301
"Medically eligible"	R9-22-1301	"Respiratory therapy"	R9-22-201
"Medically necessary"	R9-22-101	"Respite"	R9-22-1201
"Medicare claim"	R9-22-101	"Responsible offeror"	R9-22-101
"Medicare Urban or Rural Cost-to-Charge		"Responsive offeror"	R9-22-101
Ratio (CCR)"	R9-22-701	"Revenue Code"	R9-22-701
"Member"	A.R.S. § 36-2901 or R9-22-301	"Review"	R9-22-101
"Mental disorder"	A.R.S. § 36-501	"Review month"	R9-22-101
"Milliman study"	R9-22-712.07	"RFP"	R9-22-101
"Monthly equivalent"	R9-22-1401	"Rural Contractor"	R9-22-718
"Monthly income"	R9-22-1401	"Rural Hospital"	R9-22-718
"National Standard code sets"	R9-22-701		R9-22-712.07 and
"New hospital"	R9-22-701	"Scope of services"	R9-22-201
"NICU"	R9-22-701	"Section 1115 Waiver"	A.R.S. § 36-2901
"Noncontracted Hospital"	R9-22-718	"Service location"	R9-22-101
"Noncontracting provider"	A.R.S. § 36-2901	"Service site"	R9-22-101
"Non-FES member"	R9-22-101	"SOBRA"	R9-22-101
"Non-IHS Acute Hospital"	R9-22-701	"Specialist"	R9-22-101
"Nursing facility" or "NF"	42 U.S.C. 1396r(a)	"Specialty facility"	R9-22-701
"Observation day"	R9-22-701	"Speech therapy"	R9-22-201
"Occupational therapy"	R9-22-201	"Spendthrift restriction"	R9-22-1401
"Offeror"	R9-22-101	"Sponsor"	R9-22-301
"Operating costs"	R9-22-701	"Sponsor deemed income"	R9-22-301
"OPPC"	R9-22-701	"Sponsoring institution"	R9-22-701
"Organized health care delivery system"	R9-22-701	"Spouse"	R9-22-101
"Outlier"	R9-22-701	"SSA"	42 CFR 1000.10
"Outpatient hospital service"	R9-22-701	"SSI"	42 CFR 435.4
		"SSN"	R9-22-101

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"Stabilize"	42 U.S.C. 1395dd
"Standard of care"	R9-22-101
"Sterilization"	R9-22-201
"Subcontract"	R9-22-101
"Submitted"	A.R.S. § 36-2904
"Substance abuse"	R9-22-201
"SVES"	R9-22-301
"Tax dependent"	42 CFR 435.4
"Taxi"	A.R.S. § 28-101(53)
"Taxpayer"	R9-22-1401
"Third-party"	R9-22-1001
"Third-party liability"	R9-22-1001
"Tier"	R9-22-701
"Tiered per diem"	R9-22-701
"Title IV-D"	R9-22-1401
"Title IV-E"	R9-22-1401
"Total Inpatient payments"	R9-22-712.07
"Trauma and Emergency Services Fund"	A.R.S. § 36-2903.07
"TRBHA" or "Tribal Regional Behavioral Health Authority"	R9-22-1201
"Treatment"	R9-22-2004
"Tribal Facility"	A.R.S. § 36-2981
"Unrecovered trauma center readiness costs"	R9-22-2101
"Urban Contractor"	R9-22-718
"Urban Hospital"	R9-22-718
"USCIS"	R9-22-301
"Utilization management"	R9-22-501
"WWHP"	R9-22-2001

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

"ADHS" means the Arizona Department of Health Services.

"Adverse action" means an action taken by the Department or Administration to deny, discontinue, or reduce medical assistance.

"Affiliated corporate organization" means any organization that has ownership or control interests as defined in 42 CFR 455.101, and includes a parent and subsidiary corporation.

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

"AHCCCS registered provider" means a provider or non-contracting provider who:

Enters into a provider agreement with the Administration under R9-22-703(A), and

Meets license or certification requirements to provide covered services.

"Ancillary service" means all hospital services for patient care other than room and board and nursing services, including but not limited to, laboratory, radiology, drugs, delivery room (including maternity labor room), operating room (including postanesthesia and postoperative recovery rooms), and therapy services (physical, speech, and occupational).

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

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

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

"Attending physician" means a licensed allopathic or osteopathic doctor of medicine who has primary responsibility for providing or directing preventive and treatment services for a Fee-For-Service member.

"Authorized representative" means a person who is authorized to apply for medical assistance or act on behalf of another person.

"Behavioral health paraprofessional" means an individual who is not a behavioral health professional who provides behavioral health services at or for a health care institution according to the health care institution's policies and procedures that:

If the behavioral health services were provided in a setting other than a licensed health care institution,

If the individual would be required to be licensed as a behavioral professional under A.R.S. Title 32, Chapter 33,

If the behavioral health services were provided in a setting other than a licensed health care institution; and

Are provided under supervision by a behavioral health professional R9-10-101.

"Behavioral Health Professional" has the same meaning as defined A.A.C. R9-10-101 excluding subsection (g).

"Capped fee-for-service" means the payment mechanism by which a provider of care is reimbursed upon submission of a valid claim for a specific covered service or equipment provided to a member. A payment is made in accordance with an upper or capped limit established by the Director. This capped limit can either be a specific dollar amount or a percentage of billed charges.

"Case record" means an individual or family file retained by the Department that contains all pertinent eligibility information, including electronically stored data.

"Children's Rehabilitative Services" or "CRS" means the program that provides covered medical services and covered support services in accordance with A.R.S. § 36-261.

"CMS" means the Centers for Medicare and Medicaid Services.

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

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

"Contract year" means the period beginning on October 1 of a year and continuing until September 30 of the following year.

"Covered services" means the health and medical services described in Articles 2 and 12 of this Chapter as being eligible for reimbursement by AHCCCS.

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“Day” means a calendar day unless otherwise specified.

“DBHS” means the Division of Behavioral Health Services within the Arizona Department of Health Services.

“DES” means the Department of Economic Security.

“Diagnostic services” means services provided for the purpose of determining the nature and cause of a condition, illness, or injury.

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

“Discussion” means an oral or written exchange of information or any form of negotiation.

“DME” means durable medical equipment, which is an item or appliance that can withstand repeated use, is designed to serve a medical purpose, and is not generally useful to a person in the absence of a medical condition, illness, or injury.

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

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

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

“Fee-For-Service” or “FFS” means a method of payment by the AHCCCS Administration to a registered provider on an amount-per-service basis for a member not enrolled with a contractor.

“FES member” means a person who is eligible to receive emergency medical and behavioral health services through the FESP under R9-22-217.

“FESP” means the federal emergency services program under R9-22-217 which covers services to treat an emergency medical or behavioral health condition for a member who is determined eligible under A.R.S. § 36-2903.03(D).

“FQHC” means federally qualified health center.

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

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

“IHS” means Indian Health Service.

“IMD” or “Institution for Mental Diseases” means an Institution for Mental Diseases as described in 42 CFR 435.1010 that is licensed by ADHS.

“Legal representative” means a custodial parent of a child under 18, a guardian, or a conservator.

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

“Mailing date” when used in reference to a document sent first class, postage prepaid, through the United States mail, means the date:

Shown on the postmark;

Shown on the postage meter mark of the envelope, if no postmark; or

Entered as the date on the document, if there is no legible postmark or postage meter mark.

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

“Medical supplies” means consumable items that are designed specifically to meet a medical purpose.

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

“Medicare claim” means a claim for Medicare-covered services for a member with Medicare coverage.

“Non-FES member” means an eligible person who is entitled to full AHCCCS services.

“Offeror” means an individual or entity that submits a proposal to the Administration in response to an RFP.

“Physician” means a person licensed as an allopathic or osteopathic physician under A.R.S. Title 32, Chapter 13 or Chapter 17.

“Practitioner” means a physician assistant licensed under A.R.S. Title 32, Chapter 25, or a registered nurse practitioner certified under A.R.S. Title 32, Chapter 15.

“Prescription” means an order to provide covered services that is signed or transmitted by a provider authorized to prescribe the services.

“Primary care provider” or “PCP” means an individual who meets the requirements of A.R.S. § 36-2901 (14), and who is responsible for the management of a member’s health care.

“Prior authorization” means the process by which the Administration or contractor, whichever is applicable, authorizes, in advance, the delivery of covered services based on factors including but not limited to medical necessity, cost effectiveness, compliance with this Article and any applicable contract provisions. Prior authorization is not a guarantee of payment.

“Prior period coverage” means the period prior to the member’s enrollment during which a member is eligible for covered services. PPC begins on the first day of the month of application or the first eligible month, which-

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ever is later, and continues until the day the member is enrolled with a contractor.

“Proposal” means all documents, including best and final offers, submitted by an offeror in response to an RFP by the Administration.

“Radiology” means professional and technical services rendered to provide medical imaging, radiation oncology, and radioisotope services.

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

“Rehabilitation services” means physical, occupational, and speech therapies, and items to assist in improving or restoring a person’s functional level.

“Responsible offeror” means an individual or entity that has the capability to perform the requirements of a contract and that ensures good faith performance.

“Responsive offeror” means an individual or entity that submits a proposal that conforms in all material respects to an RFP.

“Review” means a review of all factors affecting a member’s eligibility.

“Review month” means the month in which the individual’s or family’s circumstances and case record are reviewed.

“RFP” means Request for Proposals, including all documents, whether attached or incorporated by reference, that are used by the Administration for soliciting a proposal under 9 A.A.C. 22, Article 6.

“Service location” means a location at which a member obtains a covered service provided by a physician or other licensed practitioner of the healing arts under the terms of a contract.

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

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

“Specialist” means a Board-eligible or certified physician who declares himself or herself as a specialist and practices a specific medical specialty. For the purposes of this definition, Board-eligible means a physician who meets all the requirements for certification but has not tested for or has not been issued certification.

“Spouse” means a person who has entered into a contract of marriage recognized as valid by this state.

“SSN” means Social Security number.

“Standard of care” means a medical procedure or process that is accepted as treatment for a specific illness, injury, or medical condition through custom, peer review, or consensus by the professional medical community.

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

A provider of health care services who agrees to furnish covered services to a member,

A marketing organization, or

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

“Taxi” is as defined in A.R.S. § 28-101(53).

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-101 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-101 repealed, former Sections R9-22-102 and R9-22-301 renumbered as Section R9-22-101 and amended effective October 1, 1983 (Supp. 83-5). Adopted as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency by adding new paragraphs (24), (46), (84) and (91) and renumbering accordingly effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Amended as an emergency by adding new paragraphs (2) and (15) and renumbering accordingly effective October 25, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-5). Emergency expired. Permanent amendment added paragraphs (2) and (15) and renumbered accordingly effective February 1, 1985 (Supp. 85-1). Amended effective October 1, 1985 (Supp. 85-5). Amended paragraphs (10) and (15) effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective October 1, 1987; amended effective December 22, 1987 (Supp. 87-4). Amended by deleting paragraphs (39) and (62) and renumbering accordingly effective July 1, 1988 (Supp. 88-3). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Amended effective December 13, 1993 (Supp. 93-4). Amended effective January 14, 1997 (Supp. 97-1). Section repealed; new Section adopted effective December 8, 1997 (Supp. 97-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 867, effective March 4, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking

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at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Amended by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4).

Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 3830, effective November 12, 2005 (Supp. 05-3). Amended by final rulemaking at 11 A.A.R. 5467, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 3351, effective November 10, 2007 (Supp. 07-3). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 461, effective April 1, 2012 (Supp. 12-1). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-102. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-102 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1092 (Supp. 82-4). Former Section R9-22-102 renumbered together with former Section R9-22-301 as Section R9-22-101 and amended effective October 1, 1983 (Supp. 83-5). New Section adopted effective December 8, 1997 (Supp. 97-4). Amended by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 5467, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Section repealed by final rulemaking at 13 A.A.R. 3351, effective November 10, 2007 (Supp. 07-3).

R9-22-103. Repealed**Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-104. Reserved**R9-22-105. Repealed****Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by final

rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

R9-22-106. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by final rulemaking at 11 A.A.R. 5467, effective December 6, 2005 (Supp. 05-4).

R9-22-107. Repealed**Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Section repealed by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2).

R9-22-108. Repealed**Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

R9-22-109. Repealed**Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. effective 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-110. Repealed**Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1).

R9-22-111. Reserved**R9-22-112. Repealed****Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Repealed by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1).

R9-22-113. Reserved**R9-22-114. Repealed****Historical Note**

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New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 11 A.A.R. 5467, effective December 6, 2005 (Supp. 05-4).

R9-22-115. Repealed**Historical Note**

Final Section adopted at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 11 A.A.R. 5467, effective December 6, 2005 (Supp. 05-4).

R9-22-116. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-117. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

R9-22-118. Reserved**R9-22-119. Reserved****R9-22-120. Repealed****Historical Note**

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

ARTICLE 2. SCOPE OF SERVICES**R9-22-201. Scope of Services-related Definitions**

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

“Anticipatory guidance” means a person responsible for a child receives information and guidance of what the person should expect of the child’s development and how to help the child stay healthy.

“Behavioral health recipient” means a Title XIX or Title XXI acute care member who is eligible for, and is receiving, behavioral health services through ADHS/DBHS.

“Benefit year” means a one-year time period of October 1st through September 30th.

“Emergency behavioral health condition for a non-FES member” means a condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson who possesses an average knowledge of health

and medicine could reasonably expect the absence of immediate medical attention to result in:

Placing the health of the person, including mental health, in serious jeopardy;

Serious impairment to bodily functions;

Serious dysfunction of any bodily organ or part; or

Serious physical harm to another person.

“Emergency behavioral health services for a non-FES member” means those behavioral health services provided for the treatment of an emergency behavioral health condition.

“Emergency medical condition for a non-FES member” means treatment for a medical condition, including labor and delivery, which manifests itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

Placing the member’s health in serious jeopardy,

Serious impairment to bodily functions, or

Serious dysfunction of any bodily organ or part.

“Emergency medical services for a non-FES member” means services provided for the treatment of an emergency medical condition.

“Hearing aid” means an instrument or device designed for, or represented by the supplier as aiding or compensating for impaired or defective human hearing, and includes any parts, attachments, or accessories of the instrument or device.

“Home health services” means services and supplies that are provided by a home health agency that coordinates in-home intermittent services for curative, rehabilitative care, including home-health aide services, licensed nurse services, and medical supplies, equipment, and appliances.

“Occupational therapy” means medically prescribed treatment provided by or under the supervision of a licensed occupational therapist, to restore or improve an individual’s ability to perform tasks required for independent functioning.

“Pharmaceutical service” means medically necessary medications that are prescribed by a physician, practitioner, or dentist under R9-22-209.

“Physical therapy” means treatment services to restore or improve muscle tone, joint mobility, or physical function provided by or under the supervision of a registered physical therapist.

“Post-stabilization services” means covered services related to an emergency medical or behavioral health condition provided after the condition is stabilized.

“Primary care provider services” means healthcare services provided by and within the scope of practice, as defined by law, of a licensed physician, certified nurse practitioner, or licensed physician assistant.

“Psychosocial rehabilitation services” means services that provide education, coaching, and training to address or prevent residual functional deficits and may include services that may assist a member to secure and maintain employment. Psychosocial rehabilitation services may include:

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Living skills training,

Cognitive rehabilitation,

Health promotion,

Supported employment, and

Other services that increase social and communication skills to maximize a member's ability to participate in the community and function independently.

"RBHA" or "Regional Behavioral Health Authority" means the same as in A.R.S. § 36-3401.

"Residual functional deficit" means a member's inability to return to a previous level of functioning, usually after experiencing a severe psychotic break or state of decompensation.

"Respiratory therapy" means treatment services to restore, maintain, or improve respiratory functions that are provided by, or under the supervision of, a respiratory therapist licensed according to A.R.S. Title 32, Chapter 35.

"Scope of services" means the covered, limited, and excluded services under Articles 2 and 12 of this Chapter.

"Speech therapy" means medically prescribed diagnostic and treatment services provided by or under the supervision of a certified speech therapist.

"Sterilization" means a medically necessary procedure, not for the purpose of family planning, to render an eligible person or member barren in order to:

Prevent the progression of disease, disability, or adverse health conditions; or

Prolong life and promote physical health.

"Substance abuse" means the chronic, habitual, or compulsive use of any chemical matter that, when introduced into the body, is capable of altering human behavior or mental functioning and, with extended use, may cause psychological dependence and impaired mental, social or educational functioning. Nicotine addiction is not considered substance abuse for adults who are 21 years of age or older

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-201 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B) effective May 30, 1989 (Supp. 89-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 3217, effective October 1, 2005 (Supp. 05-3). Section repealed; new Section made by final rulemaking at 13 A.A.R. 3351, effective November 10, 2007 (Supp. 07-3). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-202. General Requirements

A. For the purposes of this Article, the following definitions apply:

1. "Authorization" means written, verbal, or electronic authorization by:
 - a. The Administration for services rendered to a fee-for-service member, or
 - b. The contractor for services rendered to a prepaid capitated member.
2. Use of the phrase "attending physician" applies only to the fee-for-service population.

B. In addition to other requirements and limitations specified in this Chapter, the following general requirements apply:

1. Only medically necessary, cost effective, and federally-reimbursable and state-reimbursable services are covered services.
2. Covered services for the federal emergency services program (FESP) are under R9-22-217.
3. The Administration or a contractor may waive the covered services referral requirements of this Article.
4. Except as authorized by the Administration or a contractor, a primary care provider, attending physician, practitioner, or a dentist shall provide or direct the member's covered services. Delegation of the provision of care to a practitioner does not diminish the role or responsibility of the primary care provider.
5. A contractor shall offer a female member direct access to preventive and routine services from gynecology providers within the contractor's network without a referral from a primary care provider.
6. A member may receive physical and behavioral health services as specified in Articles 2 and 12.
7. The Administration or a contractor shall provide services under the Section 1115 Waiver as defined in A.R.S. § 36-2901.
8. An AHCCCS registered provider shall provide covered services within the provider's scope of practice.
9. In addition to the specific exclusions and limitations otherwise specified under this Article, the following are not covered:
 - a. A service that is determined by the AHCCCS Chief Medical Officer to be experimental or provided primarily for the purpose of research;
 - b. Services or items furnished gratuitously, and
 - c. Personal care items except as specified under R9-22-212.
10. Medical or behavioral health services are not covered services if provided to:
 - a. An inmate of a public institution; or
 - b. A person who is in residence at an institution for the treatment of tuberculosis.

C. The Administration or a contractor may deny payment of non-emergency services if prior authorization is not obtained as specified in this Article and Article 7 of this Chapter. The Administration or a contractor shall not provide prior authorization for services unless the provider submits documentation of the medical necessity of the treatment along with the prior authorization request.

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- D. Services under A.R.S. § 36-2908 provided during the prior period coverage do not require prior authorization.
- E. Prior authorization is not required for services necessary to evaluate and stabilize an emergency medical condition. The Administration or a contractor shall not reimburse services that require prior authorization unless the provider documents the diagnosis and treatment.
- F. A service is not a covered service if provided outside the GSA unless one of the following applies:
 - 1. A member is referred by a primary care provider for medical specialty care outside the GSA. If a member is referred outside the GSA to receive an authorized medically necessary service, the contractor shall also provide all other medically necessary covered services for the member;
 - 2. There is a net savings in service delivery costs as a result of going outside the GSA that does not require undue travel time or hardship for a member or the member's family;
 - 3. The contractor authorizes placement in a nursing facility located out of the GSA; or
 - 4. Services are provided during prior period coverage or during the prior quarter coverage.
- G. If a member is traveling or temporarily residing outside of the GSA, covered services are restricted to emergency care services, unless otherwise authorized by the contractor.
- H. A contractor shall provide at a minimum, directly or through subcontracts, the covered services specified in this Chapter and in contract.
- I. The Administration shall determine the circumstances under which a FFS member may receive services, other than emergency services, from service providers outside the member's county of residence or outside the state. Criteria considered by the Administration in making this determination shall include availability and accessibility of appropriate care and cost effectiveness.
- J. The restrictions, limitations, and exclusions in this Article do not apply to a contractor electing to provide noncovered services.
 - 1. The Administration shall not consider the costs of providing a noncovered service to a member in the development or negotiation of a capitation rate.
 - 2. A contractor shall pay for noncovered services from administrative revenue or other contractor funds that are unrelated to the provision of services under this Chapter.
 - 3. If a member requests a service that is not covered or is not authorized by a contractor, or the Administration, an AHCCCS-registered service provider may provide the service according to R9-22-702.
- K. Subject to CMS approval, the restrictions, limitations, and exclusions specified in the following subsections do not apply to American Indians receiving services through IHS or a tribal health program operating under P.L. 93-638 when those services are eligible for 100 percent federal financial participation:
 - 1. R9-22-205(A)(8),
 - 2. R9-22-206,
 - 3. R9-22-207,
 - 4. R9-22-212(C),
 - 5. R9-22-212(D),
 - 6. R9-22-212(E)(8),
 - 7. R9-22-215(C)(5), (C)(6), and
 - 8. R9-22-215(C)(4).

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-202 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1987; amended effective December 22, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective December 13, 1993 (Supp. 93-4). Amended effective July 1, 1995, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 322, § 21; filed with the Office of the Secretary of State June 22, 1995 (Supp. 95-3). Amended effective January 1, 1996, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Third Special Session, Ch. 1, § 5; filed with the Office of the Secretary of State December 28, 1995 (Supp. 95-4). Section repealed effective September 22, 1997 (Supp. 97-3). New Section made by final rulemaking at 13 A.A.R. 3351, effective November 10, 2007 (Supp. 07-3). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 1949, effective September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4). Amended by final rulemaking at 21 A.A.R. 1225, effective July 7, 2015 (Supp. 15-3).

R9-22-203. Experimental Services

- A. Experimental services are not covered. A service is not experimental if:
 - 1. It is generally and widely accepted as a standard of care in the practice of medicine in the United States and is a safe and effective treatment for the condition for which it is intended or used.
 - 2. The service does not meet the standard in subsection (A)(1), but the service has been demonstrated to be safe and effective for the condition for which it is intended or used based on the weight of the evidence in peer-reviewed articles in medical journals published in the United States.
 - 3. The service does not meet the standard in subsection (A)(2) because the condition for which the service is intended or used is rare, but the service has been demonstrated to be safe and effective for the condition for which it is intended or used based on the weight of opinions from specialists who provide the service or related services.
- B. The following factors shall be considered when evaluating the weight of peer-reviewed articles or the opinions of specialists:
 - 1. The mortality rate and survival rate of the service as compared to the rates for alternative non-experimental services.
 - 2. The types, severity, and frequency of complications associated with the services as compared with the complications associated with alternative non-experimental services.
 - 3. The frequency with which the service has been performed in the past.
 - 4. Whether there is sufficient historical information regarding the service to provide reliable data regarding risks and benefits.

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5. The reputation and experience of the authors and/or specialists and their record in related areas.
6. The extent to which medical science in the area develops rapidly and the probability that more definite data will be available in the foreseeable future.
7. Whether the peer reviewed article describes a random controlled trial or an anecdotal clinical case study.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-203 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1987; amended effective December 22, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2).

Amended effective April 13, 1990 (Supp. 90-2).

Amended effective September 29, 1992 (Supp. 92-3).

Amended under an exemption from the provisions of the Administrative Procedure Act effective March 22, 1993; received in the Office of the Secretary of State March 24, 1993 (Supp. 93-1). Amended effective December 13, 1993 (Supp. 93-4). Section repealed effective September 22, 1997 (Supp. 97-3). New Section made by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Section amended by final rulemaking at 20 A.A.R. 1956, effective September 6, 2014 (Supp. 14-3).

R9-22-204. Inpatient General Hospital Services

- A. The following limitations apply to inpatient general hospital services that are provided by FFS providers.
 1. Providers shall obtain prior authorization from the Administration for the following inpatient hospital services:
 - a. Nonemergency and elective admission, including psychiatric hospitalization;
 - b. Elective surgery; and
 - c. Services or items provided to cosmetically reconstruct or improve personal appearance after an illness or injury.
 2. The Administration or a contractor may deny a claim if a provider fails to obtain prior authorization.
 3. Providers are not required to obtain prior authorization from the Administration for the following inpatient hospital services:
 - a. Voluntary sterilization,
 - b. Dialysis shunt placement,
 - c. Arteriovenous graft placement for dialysis,
 - d. Angioplasties or thrombectomies of dialysis shunts,
 - e. Angioplasties or thrombectomies of arteriovenous graft for dialysis,
 - f. Hospitalization for vaginal delivery that does not exceed 48 hours,
 - g. Hospitalization for cesarean section delivery that does not exceed 96 hours, and
 - h. Other services identified by the Administration through the Provider Participation Agreement.
 4. The Administration may perform concurrent review for hospitalizations of non-FES members to determine whether there is medical necessity for the hospitalization. A provider shall notify the Administration no later than 72 hours after an emergency admission.
- B. Coverage of in-state and out-of-state inpatient hospital services is limited to 25 days per benefit year for members age 21

and older for claims with discharge dates on or before September 30, 2014. The limit applies for all inpatient hospital services with dates of service during the benefit year regardless of whether the member is enrolled in Fee for Service, is enrolled with one or more contractors, or both, during the benefit year.

1. For purposes of calculating the limit:
 - a. Inpatient days are counted towards the limit if paid by the Administration or a contractor;
 - b. Inpatient days will be counted toward the limit in the order of the adjudication date of a paid claim;
 - c. Paid inpatient days are allocated to the benefit year in which the date of service occurs;
 - d. Each 24 hours of paid observation services is counted as one inpatient day if the patient is not admitted to the same hospital directly following the observation services,
 - e. Observation services, which are directly followed by an inpatient admission to the same hospital are not counted towards the inpatient limit; and
 - f. After 25 days of inpatient hospital services have been paid as provided for in this rule Section:
 - i. Outpatient services that are directly followed by an inpatient admission to the same hospital, including observation services, are not covered.
 - ii. Continuous periods of observation services of less than 24 hours that are not directly followed by an inpatient admission to the same hospital are covered.
 - iii. For continuous periods of observation services of 24 hours or more that are not directly followed by an inpatient admission to the same hospital, 23 hours of observations services are covered.
2. The following inpatient days are not included in the inpatient hospital limitation described in this Section:
 - a. Days reimbursed under specialty contracts between AHCCCS and a transplant facility that are included within the component pricing referred to in the contract;
 - b. Days related to Behavioral Health:
 - i. Inpatient days that qualify for the psychiatric tier under R9-22-712.09 and reimbursed by the Administration or its contractors, or
 - ii. Inpatient days with a primary psychiatric diagnosis code reimbursed by the Administration or its contractors, or
 - iii. Inpatient days paid by the Arizona Department of Health Services Division of Behavioral Health Services or a RBHA or TRBHA.
 - c. Days related to treatment for burns and burn late effects at an American College of Surgeons verified burn center;
 - d. Same Day Admit Discharge services are excluded from the 25 day limit; and
 - e. Subject to approval by CMS, days for which the state claims 100% FFP, such as payments for days provided by IHS or 638 facilities.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-204 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) effective

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tive December 22, 1987 (Supp. 87-4). Amended effective December 13, 1993 (Supp. 93-4). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 1745, effective October 1, 2012 (Supp. 12-2). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 1956, effective September 6, 2014 (Supp. 14-3). The incorrect label C was changed to B (Supp. 22-3).

R9-22-205. Attending Physician, Practitioner, and Primary Care Provider Services

- A.** A primary care provider, attending physician, or practitioner shall provide primary care provider services within the provider's scope of practice under A.R.S. Title 32. A member may receive primary care provider services in an inpatient or outpatient setting including at a minimum:
 1. Periodic health examination and assessment;
 2. Evaluation and diagnostic workup;
 3. Medically necessary treatment;
 4. Prescriptions for medication and medically necessary supplies and equipment;
 5. Referral to a specialist or other health care professional if medically necessary;
 6. Patient education;
 7. Home visits if medically necessary; and
 8. Preventive health services, such as, well visits, immunizations, colonoscopies, mammograms and PAP smears.
- B.** The following limitations and exclusions apply to attending physician and practitioner services and primary care provider services:
 1. Specialty care and other services provided to a member upon referral from a primary care provider, or to a member upon referral from the attending physician or practitioner are limited to the service or condition for which the referral is made, or for which authorization is given by the Administration or a contractor.
 2. A member's physical examination is not covered if the sole purpose is to obtain documentation for one or more of the following:
 - a. Qualification for insurance,
 - b. Pre-employment physical evaluation,
 - c. Qualification for sports or physical exercise activities,
 - d. Pilot's examination for the Federal Aviation Administration,
 - e. Disability certification to establish any kind of periodic payments,
 - f. Evaluation to establish third-party liabilities, or
 - g. Physical ability to perform functions that have no relationship to primary objectives of the services listed in subsection (A).
 3. Orthognathic surgery is covered only for a member who is less than 21 years of age;

4. The following services are excluded from AHCCCS coverage:
 - a. Infertility services, reversal of surgically induced infertility (sterilization), and gender reassignment surgeries;
 - b. Pregnancy termination counseling services;
 - c. Pregnancy terminations, unless required by state or federal law.
 - d. Services or items furnished solely for cosmetic purposes; and
 - e. Hysterectomies unless determined medically necessary.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-205 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A), paragraph (15) and added paragraph (20) effective December 22, 1987 (Supp. 87-4). Amended subsection (C)(2) effective May 30, 1989 (Supp. 89-2). Amended under an exemption from the provisions of the Administrative Procedure Act effective March 22, 1993; received in the Office of the Secretary of State March 24, 1993 (Supp. 93-1). Amended effective December 13, 1993 (Supp. 93-4). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by final rulemaking at 20 A.A.R. 1949, effective September 6, 2014 (Supp. 14-3).

Editor's Note: The following Section was renumbered and a new Section adopted under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not published as a proposed rule in the Arizona Administrative Register; the rule was not reviewed or approved by the Governor's Regulatory Review Council; and the agency was not required to hold public hearings on the rule. This Section was subsequently amended through the regular rulemaking process.

R9-22-206. Organ and Tissue Transplant Services

- A.** Organ and tissue transplant services are covered for a member if prior authorized and coordinated with the member's contractor, or the Administration. Only the following transplants are covered for individuals 21 years of age or older:
 1. Heart, including transplants for the treatment of non-ischemic cardiomyopathy;
 2. Liver, including transplants for patients with hepatitis C;
 3. Kidney (cadaveric and live donor);
 4. Simultaneous Pancreas/Kidney (SPK);
 5. Autologous and Allogeneic related and unrelated Hematopoietic Cell transplants;
 6. Cornea;
 7. Bone;
 8. Lung; and
 9. Pancreas after a kidney transplant (PAK).
- B.** The following transplants are not covered for members 21 years of age or older:

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1. Pancreas only transplants if it is not performed simultaneously with or following a kidney transplant. Partial pancreas transplants and autologous and allogeneic pancreas islet cell transplants are not covered even if performed simultaneously with or following a kidney transplant.
 2. Intestine transplants, and
 3. Any other type of transplant not specifically listed in subsection (A).
- C. When there is a transplant of multiple organs, reimbursement will only be made for those covered.
- D. Organ and tissue transplant services are not covered for non-qualified aliens or noncitizens members of FESP under A.R.S. § 36-2903.03(D).

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-206 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended effective December 13, 1993 (Supp. 93-4). Former Section R9-22-206 renumbered to R9-22-218, new Section R9-22-206 adopted effective January 1, 1996, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Third Special Session, Ch. 1, § 5; filed with the Office of the Secretary of State December 28, 1995 (Supp. 95-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by exempt rulemaking at 16 A.A.R. 1386, effective July 15, 2010 (Supp. 10-3). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by exempt rulemaking at 17 A.A.R. 1122, April 1, 2011 (Supp. 11-2).

R9-22-207. Dental Services

- A. The Administration or a contractor shall cover dental services for a member less than 21 years of age under R9-22-213.
- B. For individuals age 21 years of age or older, the Administration or a contractor shall cover medical and surgical services furnished by a dentist only to the extent such services may be performed under state law either by a physician or by a dentist and such services would be considered a physician service if furnished by a physician.
 1. Except as specified in subsection (C), such services must be related to the treatment of a medical condition such as acute pain, infection, or fracture of the jaw. Covered dental services include examination of the oral cavity, radiographs, complex oral surgical procedures such as treatment of maxillofacial fractures, administration of an appropriate level of anesthesia and the prescription of pain medication and antibiotics.
 2. Such services do not include services that physicians are not generally competent to perform such as dental cleanings, routine dental examinations, dental restorations including crowns and fillings, extractions, pulpotomies, root canals, and the construction or delivery of complete or partial dentures. Diagnosis and treatment of temporomandibular joint dysfunction are not covered except for the reduction of trauma.

- C. For the purposes of this subsection, simple restorations means silver amalgam or composite resin fillings, stainless steel crowns or preformed crowns. In addition, dental services for an individual 21 years of age or older include:

1. The elimination of oral infections and the treatment of oral disease, which includes dental cleanings, treatment of periodontal disease, medically necessary extractions and the provision of simple restorations as a medically necessary pre-requisite to covered transplantation; and
2. Prophylactic extraction of teeth in preparation for covered radiation treatment of cancer of the jaw, neck or head.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-207 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-207 repealed, new Section R9-22-207 adopted effective October 1, 1985 (Supp. 85-5). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3).

R9-22-208. Laboratory, Radiology, and Medical Imaging Services

Laboratory, radiology, and medical imaging services are covered services if:

1. Prescribed by the member's attending physician, practitioner, primary care provider or a dentist, or prescribed by a physician or practitioner upon referral from the primary care provider or dentist.
2. Provided by licensed health care providers in a:
 - a. Hospital,
 - b. Clinic,
 - c. Physician's office, or
 - d. Other health care facility.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-208 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-208 repealed, new Section R9-22-208 adopted effective October 1, 1985 (Supp. 85-5). Amended subsection (C) effective December 22, 1987 (Supp. 87-4). Amended effective December 13, 1993 (Supp. 93-4). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2).

R9-22-209. Pharmaceutical Services

- A. An inpatient or outpatient provider, including a hospital, clinic, other appropriately licensed health care facility, and pharmacy may provide covered pharmaceutical services.
- B. The Administration or a contractor shall require a provider to make pharmaceutical services:
 1. Available during customary business hours, and
 2. Located within reasonable travel distance of a member's residence.
- C. Pharmaceutical services are covered if:

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1. Prescribed for a member by the member's primary care provider, attending physician, practitioner, or dentist;
 2. Prescribed by a specialist upon referral from the primary care provider or attending physician; or
 3. The contractor or its designee authorizes the service.
- D.** The following limitations apply to pharmaceutical services:
1. A medication personally dispensed by a physician, dentist, or a practitioner within the individual's scope of practice is not covered, except in geographically remote areas where there is no participating pharmacy or if accessible pharmacies are closed.
 2. A new prescription or refill in excess of a 30 day supply is not covered unless:
 - a. The member will be out of the provider's service area for an extended period of time and the prescription is limited to the extended time period, not to exceed a 90 day supply; or
 - b. The Contractor authorizes the prescription for an extended time period not to exceed a 90-day supply.
 3. An over-the-counter medication, in place of a covered prescription medication, is covered only if the over-the-counter medication is appropriate, equally effective, safe, and less costly than the covered prescription medication.
- E.** A contractor shall monitor and ensure sufficient services to prevent any gap in the pharmaceutical regimen of a member who requires a continuing or complex regimen of pharmaceutical treatment to restore, improve, or maintain physical well being.
- Historical Note**
- Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-209 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended effective September 24, 1986 (Supp. 86-5). Amended subsections (A) and (C) effective December 22, 1987 (Supp. 87-4). Amended subsection (C)(3), effective May 30, 1989 (Supp. 89-2). Amended under an exemption from the Administrative Procedure Act effective March 22, 1993; received in the Office of the Secretary of State March 24, 1993 (Supp. 93-1). Amended effective December 13, 1993 (Supp. 93-4). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 20 A.A.R. 1949, effective September 6, 2014 (Supp. 14-3).
- R9-22-210. Emergency Medical Services for Non-FES Members**
- A.** General provisions.
1. Applicability. This Section applies to emergency medical services for non-FES members. Provisions regarding emergency behavioral health services for non-FES members are in R9-22-210.01. Provisions regarding emergency medical and behavioral health services for FES members are in R9-22-217.
 2. Definitions.
 - a. For the purposes of this Section, "contractor" has the same meaning as in A.R.S. § 36-2901. Contractor does not include ADHS/DBHS or a subcontractor of ADHS/DBHS.
 - b. For the purposes of this Section and R9-22-210.01, "fiscal agent" means a person who bills and accepts payment for a hospital or emergency room provider.
 3. Verification. A provider of emergency medical services shall verify a person's eligibility status with AHCCCS, and if eligible, determine whether the person is enrolled with AHCCCS as non-FES FFS or is enrolled with a contractor.
 4. Prior authorization.
 - a. Emergency medical services. A provider is not required to obtain prior authorization for emergency medical services.
 - b. Non-emergency medical services. If a non-FES member's medical condition does not require emergency medical services, the provider shall obtain prior authorization as required by the terms of the provider agreement under R9-22-714(A) or the provider's subcontract with the contractor, whichever is applicable.
 5. Prohibition against denial of payment. Neither the Administration nor a contractor shall:
 - a. Limit what constitutes an emergency medical condition on the basis of lists of diagnoses or symptoms,
 - b. Deny or limit payment because the provider failed to obtain prior authorization for emergency services,
 - c. Deny or limit payment because the provider does not have a subcontract.
 6. Grounds for denial. The Administration and a contractor may deny payment for emergency medical services for reasons including but not limited to:
 - a. The claim was not a clean claim;
 - b. The claim was not submitted timely; and
 - c. The provider failed to provide timely notification under subsection (B)(4) to the contractor or the Administration, as appropriate, and the contractor does not have actual notice from any other source that the member has presented for services.
- B.** Additional requirements for emergency medical services for non-FES members enrolled with a contractor.
1. Responsible entity. A contractor is responsible for the provision of all emergency medical services to non-FES members enrolled with the contractor.
 2. Prohibition against denial of payment. A contractor shall not limit or deny payment for emergency medical services when an employee of the contractor instructs the member to obtain emergency medical services.
 3. Contractor notification. A contractor shall not deny payment to a hospital, emergency room provider, or fiscal agent for an emergency medical service rendered to a non-FES member based on the failure of the hospital, emergency room provider, or fiscal agent to notify the member's contractor within 10 days from the day that the member presented for the emergency medical service.
 4. Contractor notification. A hospital, emergency room provider, or fiscal agent shall notify the contractor no later than the 11th day after presentation of the non-FES member for emergency inpatient medical services. A contractor may deny payment for a hospital's, emergency room provider's, or fiscal agent's failure to provide timely notice, under this subsection.
- C.** Post-stabilization services for non-FES members enrolled with a contractor.
1. After the emergency medical condition of a member enrolled with a contractor is stabilized, a provider shall

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request prior authorization from the contractor for post-stabilization services.

2. The contractor is financially responsible for medical post-stabilization services obtained within or outside the network that have been prior authorized by the contractor.
3. The contractor is financially responsible for medical post-stabilization services obtained within or outside the network that are not prior authorized by the contractor, but are administered to maintain the member's stabilized condition within one hour of a request to the contractor for prior authorization of further post-stabilization services;
4. The contractor is financially responsible for medical post-stabilization services obtained within or outside the network that are not prior authorized by the contractor, but are administered to maintain, improve, or resolve the member's stabilized condition if:
 - a. The contractor does not respond to a request for prior authorization within one hour;
 - b. The contractor authorized to give the prior authorization cannot be contacted; or
 - c. The contractor representative and the treating physician cannot reach an agreement concerning the member's care and the contractor physician is not available for consultation. In this situation, the contractor shall give the treating physician the opportunity to consult with a contractor physician. The treating physician may continue with care of the member until the contractor physician is reached or:
 - i. A contractor physician with privileges at the treating hospital assumes responsibility for the member's care,
 - ii. A contractor physician assumes responsibility for the member's care through transfer,
 - iii. The contractor's representative and the treating physician reach agreement concerning the member's care, or
 - iv. The member is discharged.
5. Transfer or discharge. The attending physician or practitioner actually treating the member for the emergency medical condition shall determine when the member is sufficiently stabilized for transfer or discharge and that decision shall be binding on the contractor.

D. Additional requirements for FFS members.

1. Responsible entity. The Administration is responsible for the provision of all emergency medical services to non-FES FFS members.
2. Grounds for denial. The Administration may deny payment for emergency medical services if a provider fails to provide timely notice to the Administration.
3. Notification. A provider shall notify the Administration no later than 72 hours after a FFS member receiving emergency medical services presents to a hospital for inpatient services. The Administration may deny payment for failure to provide timely notice.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-210 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-210 repealed, new Section R9-22-210 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B), para-

graph (1) effective October 1, 1987 (Supp. 87-4). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 5 A.A.R. 867, effective March 4, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 11 A.A.R. 5480, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 1949, effective September 6, 2014 (Supp. 14-3).

R9-22-210.01. Emergency Behavioral Health Services for Non-FES Members

A. General provisions.

1. Applicability. This Section applies to emergency behavioral health services for non-FES members. Provisions regarding emergency medical services for non-FES members are in R9-22-210. Provisions regarding emergency medical and behavioral health services for FES members are in R9-22-217.
2. Definition. For the purposes of this Section, "contractor" has the same meaning as in A.R.S. § 36-2901. Contractor does not include ADHS/DBHS, a subcontractor of ADHS/DBHS, or Children's Rehabilitative Services.
3. Responsible entity for inpatient emergency behavioral health services.
 - a. Members enrolled with a contractor. ADHS/DBHS. ADHS/DBHS or a subcontractor of ADHS/DBHS is responsible for providing all inpatient emergency behavioral health services to non-FES members with psychiatric or substance abuse diagnoses who are enrolled with the contractor.
 - b. FFS members. ADHS/DBHS or a subcontractor of ADHS/DBHS is responsible for providing all inpatient emergency behavioral health services for non-FES FFS members with psychiatric or substance abuse diagnoses unless services are provided in an IHS or tribally operated 638 facility.
4. Responsible entity for non-inpatient emergency behavioral health services for non-FES members. ADHS/DBHS or a subcontractor of ADHS/DBHS is responsible for providing all non-inpatient emergency behavioral health services for non-FES members.
5. Verification. A provider of emergency behavioral health services shall verify a person's eligibility status with AHCCCS, and if eligible, determine whether the person is a member enrolled with AHCCCS as non-FES FFS or is enrolled with a contractor, and determine whether the member is a behavioral health recipient as defined in R9-22-201.
6. Prior authorization.
 - a. Emergency behavioral health services. A provider is not required to obtain prior authorization for emergency behavioral health services.
 - b. Non-emergency behavioral health services. When a non-FES member's behavioral health condition is determined by the provider not to require emergency behavioral health services, the provider shall follow the prior authorization requirements of a contractor

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and ADHS/DBHS or a subcontractor of ADHS/DBHS.

7. Prohibition against limitation or denial of payment. A contractor, TRBHA, the Administration, ADHS/DBHS, or a subcontractor of ADHS/DBHS shall not limit or deny payment to an emergency behavioral health provider for emergency behavioral health services to a non-FES member for the following reasons:
 - a. On the basis of lists of diagnoses or symptoms;
 - b. Prior authorization was not obtained;
 - c. The provider does not have a contract;
 - d. An employee of the contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS instructs the member to obtain emergency behavioral health services; or
 - e. The failure of a hospital, emergency room provider, or fiscal agent to notify the member's contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS within 10 days from the day the member presented for the emergency service.
 8. Grounds for denial. A contractor, the Administration, ADHS/DBHS, or a subcontractor of ADHS/DBHS may deny payment for emergency behavioral health services for reasons including but not limited to the following:
 - a. The claim was not a clean claim;
 - b. The claim was not submitted timely; or
 - c. The provider failed to provide timely notification under subsection (A)(9) to the contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS or the Administration.
 9. Notification.
 - a. A hospital, emergency room provider, or fiscal agent shall notify a contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, whichever is appropriate, no later than the 11th day from presentation of the non-FES member for emergency inpatient behavioral health services.
 - b. A hospital, emergency room provider, or fiscal agent shall notify the Administration no later than 72 hours after a FFS member receiving emergency behavioral health services presents to a hospital for inpatient services.
 10. Transfer or discharge. The attending physician or the provider actually treating the non-FES member for the emergency behavioral health condition shall determine when the member is sufficiently stabilized for transfer or discharge and that decision shall be binding on the contractor and ADHS/DBHS or a subcontractor of ADHS/DBHS.
- B. Post-stabilization requirements for non-FES members.**
1. A contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, as appropriate, is financially responsible for behavioral health post-stabilization services obtained within or outside the network that have been prior authorized by the contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS.
 2. The contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, as appropriate, is financially responsible for behavioral health post-stabilization services obtained within or outside the network that are not prior authorized by the contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, but are administered to maintain the member's stabilized condition within one hour of a request to the contractor, ADHS/DBHS, or a subcontractor for prior authorization of further post-stabilization services;

3. The contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, as appropriate, is financially responsible for behavioral health post-stabilization services obtained within or outside the network that are not prior authorized by the contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, but are administered to maintain, improve, or resolve the member's stabilized condition if:
 - a. The contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS, does not respond to a request for prior authorization within one hour;
 - b. The contractor, ADHS/DBHS, or a subcontractor of ADHS/DBHS authorized to give the prior authorization cannot be contacted; or
 - c. The representative of the contractor, ADHS/DBHS, or the subcontractor and the treating physician cannot reach an agreement concerning the member's care and the contractor's, ADHS/DBHS' or the subcontractor's physician, is not available for consultation. The treating physician may continue with care of the member until ADHS/DBHS', the contractor's, or the subcontractor's physician is reached, or:
 - i. A contracted physician with privileges at the treating hospital assumes responsibility for the member's care;
 - ii. ADHS/DBHS', a contractor's, or a subcontractor's physician assumes responsibility for the member's care through transfer;
 - iii. A representative of the contractor, ADHS/DBHS, or the subcontractor and the treating physician reach agreement concerning the member's care; or
 - iv. The member is discharged.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 5480, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-211. Transportation Services

- A. Emergency ambulance services.**
1. A member shall receive medically necessary emergency transportation in a ground or air ambulance:
 - a. To the nearest appropriate provider or medical facility capable of meeting the member's medical needs, and
 - b. If no other appropriate means of transportation is available.
 2. The Administration or a member's contractor shall reimburse a ground or air ambulance transport that originates in response to a 911 call or other emergency response system:
 - a. If the member's medical condition justifies the medical necessity of the type of ambulance transportation received,
 - b. The transport is to the nearest appropriate provider or medical facility capable of meeting the member's medical needs, and
 - c. No prior authorization is required for reimbursement of these transports.
 3. The member's medical condition at the time of transport determines whether the transport is medically necessary.

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4. A ground or air ambulance provider furnishing transport in response to a 911 call or other emergency response system shall notify the member's contractor within 10 working days from the date of transport. Failure of the provider to provide notification is cause for denial.
 5. Notification to the Administration of emergency transportation provided to a FFS member is not required, but the provider shall submit documentation with the claim that justifies the service.
- B.** The Administration or a contractor covers air ambulance services only if at least one criterion in subsection (B)(1) is met and at least one criterion in subsection (B)(2), or the criterion in subsection (B)(3) is met. The criteria are:
1. The air ambulance transport is initiated at the request of:
 - a. An emergency response unit,
 - b. A law enforcement official,
 - c. A clinic or hospital medical staff member, or
 - d. A physician or practitioner, and
 2. The point of pickup:
 - a. Is inaccessible by ground ambulance, or
 - b. Is a great distance from the nearest hospital or other provider with appropriate facilities to treat the member's condition and ground ambulance service will not suffice, or
 3. The medical condition of the member requires immediate intervention from emergency ambulance personnel or providers with the appropriate facilities to treat the member's condition.
- C.** Coverage of medically necessary nonemergency transportation is limited to the cost of transporting the member to an appropriate provider capable of meeting the member's medical needs.
1. As specified in contract, a contractor shall arrange or provide medically necessary nonemergency transportation services for a member who is unable to arrange transportation to a service site or location.
 2. For a fee-for-service member, the Administration shall authorize medically necessary nonemergency transportation for a member who is unable to arrange transportation to a service site or location.
- D.** For the purposes of this subsection, an individual means a person who is not in the business of providing transportation services such as a family or household member, friend, or neighbor. The Administration or a contractor shall cover expenses for transportation in traveling to and returning from an approved and prior authorized health care service site provided by an individual if:
1. The transportation services are authorized by the Administration or the member's contractor or designee,
 2. The individual is an AHCCCS registered provider, and
 3. No other means of appropriate transportation is available.
- E.** The Administration or a contractor shall cover expenses for meals, lodging, and transportation for a member traveling to and returning from an approved health care service site outside of the member's service area or county of residence.
- F.** The Administration or a contractor shall cover the expense of meals, lodging, and transportation for:
1. A family member accompanying a member if:
 - a. The member is traveling to or returning from an approved health care service site outside of the member's service area or county of residence; and
 - b. The meals, lodging, and transportation services are authorized by the Administration or the member's contractor or designee.
 2. An escort who is not a family member as follows:
 - a. If the member is traveling to or returning from an approved and prior authorized health care service site, including an inpatient facility, outside of the member's service area or county of residence;
 - b. If the escort services are authorized by the Administration or the member's contractor or designee; and
 - c. Wage paid to an escort as reimbursement shall not exceed the federal minimum wage.
- G.** A provider shall obtain prior authorization from the Administration for transportation services provided for a member for the following:
1. Medically necessary nonemergency transportation services not originated through a 911 call or other emergency response system when the distance traveled exceeds 100 miles (whether one way or round trip); and
 2. All meals, lodging, and services of an escort accompanying the member under this Section.
- H.** A charitable organization routinely providing transportation service at no cost to an ambulatory or chairbound person shall not charge or seek reimbursement from the Administration or a contractor for the provision of the service to a member but may enter into a subcontract with a contractor for medically necessary transportation services provided to a member.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-211 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) effective October 1, 1986 (Supp. 86-5). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3).

R9-22-212. Durable Medical Equipment, Orthotic and Prosthetic Devices, and Medical Supplies

- A.** Durable medical equipment, orthotic and prosthetic devices, and medical supplies, including incontinence briefs as specified in subsection (E), are covered services to the extent permitted in this Section if provided in compliance with requirements of this Chapter; and
1. Prescribed by the primary care provider, attending physician, or practitioner; or
 2. Prescribed by a specialist upon referral from the primary care provider, attending physician, or practitioner; and
 3. Authorized as required by the Administration, contractor, or contractor's designee.
- B.** Covered medical supplies are consumable items that are designed specifically to meet a medical purpose, are disposable, and are essential for the member's health.
- C.** Covered DME is any item, appliance, or piece of equipment that is not a prosthetic or orthotic; and
1. Is designed for a medical purpose, and is generally not useful to a person in the absence of an illness or injury, and
 2. Can withstand repeated use, and
 3. Is generally reusable by others.
- D.** Prosthetics are devices prescribed by a physician or other licensed practitioner to artificially replace missing, deformed or malfunctioning portion of the body. Only those prosthetics

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that are medically necessary for rehabilitation are covered, except as otherwise provided in R9-22-215.

E. The following limitations on coverage apply:

1. The DME is furnished on a rental or purchase basis, whichever is less expensive. The total expense of renting the DME does not exceed the cost of the DME if purchased.
2. Reasonable repair or adjustment of purchased DME is covered if necessary to make the DME serviceable and if the cost of repair or adjustment is less than the cost of renting or purchasing another unit.
3. A change in, or addition to, an original order for DME is covered if approved by the prescriber in subsection (A), or prior authorized by the Administration or contractor, and the change or addition is indicated clearly on the order and initialed by the vendor. No change or addition to the original order for DME may be made after a claim for services is submitted to the member's contractor, or the Administration, without prior written notification of the change or addition to the Administration or the contractor.
4. Reimbursement for rental fees shall terminate:
 - a. No later than the end of the month in which the prescriber in subsection (A) certifies that the member no longer needs the DME;
 - b. If the member is no longer eligible for AHCCCS services; or
 - c. If the member is no longer enrolled with a contractor, with the exception of transitions of care as specified in R9-22-509.
5. Except for incontinence briefs for persons over 3 years old and under 21 years old as provided in subsection (E)(6), personal care items including items for personal cleanliness, body hygiene, and grooming are not covered unless needed to treat a medical condition. Personal care items are not covered services if used solely for preventive purposes.
6. Incontinence briefs, including pull-ups are covered to prevent skin breakdown and enable participation in social, community, therapeutic and educational activities under the following circumstances:
 - a. The member is over 3 years old and under 21 years old;
 - b. The member is incontinent due to a documented disability that causes incontinence of bowel or bladder, or both;
 - c. The PCP or attending physician has issued a prescription ordering the incontinence briefs;
 - d. Incontinence briefs do not exceed 240 briefs per month unless the prescribing physician presents evidence of medical necessity for more than 240 briefs per month for a member diagnosed with chronic diarrhea or spastic bladder;
 - e. The member obtains incontinence briefs from providers in the contractor's network;
 - f. Prior authorization has been obtained as required by the Administration, contractor, or contractor's designee. Contractors may require a new prior authorization to be issued no more frequently than every 12 months. Prior authorization for a renewal of an existing prescription may be provided by the physician through telephone contact with the member rather than an in-person physician visit. Prior authorization will be permitted to ascertain that:

- i. The member is over age 3 and under age 21;
- ii. The member has a disability that causes incontinence of bladder or bowel, or both;
- iii. A physician has prescribed incontinence briefs as medically necessary. A physician prescription supporting medical necessity may be required for specialty briefs or for briefs different from the standard briefs supplied by the contractor; and
- iv. The prescription is for 240 briefs or fewer per month, unless evidence of medical necessity for over 240 briefs is provided.

7. First aid supplies are not covered unless they are provided in accordance with a prescription.
8. The following services are not covered for individuals 21 years of age or older:
 - a. Hearing aids;
 - b. Prescriptive lenses unless they are the sole visual prosthetic device used by the member after a cataract extraction;
 - c. Bone Anchor Hearing Aid (BAHA);
 - d. Cochlear implant;
 - e. Percussive vest;
 - f. Insulin pump;
 - g. Microprocessor-controlled lower limbs or microprocessor-controlled joints for lower limbs; and
 - h. Orthotics, which are defined as devices that are prescribed by a physician or other licensed practitioner of the healing arts to support a weak or deformed portion of the body.

F. Liability and ownership.

1. Purchased DME that is provided to a member and no longer needed by the member may be disposed of in accordance with each contractor's policy.
2. The Administration shall retain title to purchased DME provided to a member who becomes ineligible or no longer requires use of the DME.
3. If customized DME is purchased by the Administration or contractor for a member, the equipment shall remain with the person during times of transition to a different contractor, or upon loss of eligibility. For purposes of this subsection, customized DME refers to equipment that is altered or built to specifications unique to a member's medical needs and that, most likely, cannot be used or reused to meet the needs of another individual.
4. A member shall return DME obtained fraudulently to the Administration or the contractor.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-212 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-212 repealed, new Section R9-22-212 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B), paragraph (2), and deleted subsection (C) effective October 1, 1986 (Supp. 86-5). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3272, effective September 11, 2007 (Supp. 07-3). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3).

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R9-22-213. Early and Periodic Screening, Diagnosis, and Treatment Services (E.P.S.D.T.)

A. The following E.P.S.D.T. services are covered for a member less than 21 years of age:

1. Screening services including:
 - a. Comprehensive health and developmental history;
 - b. Comprehensive unclothed physical examination;
 - c. Appropriate immunizations according to age and health history;
 - d. Laboratory tests; and
 - e. Health education, including anticipatory guidance;
2. Vision services including:
 - a. Diagnosis and treatment for defects in vision;
 - b. Eye examinations for the provision of prescriptive lenses;
 - c. Prescriptive lenses; and
 - d. Frames.
3. Hearing services including:
 - a. Diagnosis and treatment for defects in hearing;
 - b. Testing to determine hearing impairment; and
 - c. Hearing aids;
4. Dental services including:
 - a. Emergency dental services as specified in R9-22-207;
 - b. Preventive services including screening, diagnosis, and treatment of dental disease; and
 - c. Therapeutic dental services including fillings, crowns, dentures, and other prosthetic devices;
5. Orthognathic surgery;
6. Medically necessary, nutritional assessment and nutritional therapy as specified in contract to provide complete daily dietary requirements or supplement a member's daily nutritional and caloric intake;
7. Behavioral health services under 9 A.A.C. 22, Article 12;
8. Hospice services do not include home-delivered meals or services provided and covered through Medicare. The following hospice services are covered:
 - a. Hospice services are covered only for a member who is in the final stages of a terminal illness and has a prognosis of death within six months;
 - b. Services available to a member receiving hospice care are limited to those allowable under 42 CFR 418.202, October 1, 2006, incorporated by reference and on file with the Administration. This incorporation by reference contains no future editions or amendments;
9. Incontinence briefs as specified under R9-22-212; and
10. Other necessary health care, diagnostic services, treatment, and measures required by 42 U.S.C. 1396d(r)(5).

B. Providers of E.P.S.D.T. services shall meet the following standards:

1. Ensure that services are provided by or under the direction of the member's primary care provider, attending physician, practitioner, or dentist.
2. Perform tests and examinations under 42 CFR 441 Subpart B, October 1, 2006, which is incorporated by reference and on file with the Administration. This incorporation by reference contains no future editions or amendments.
3. Refer a member as necessary for dental diagnosis and treatment and necessary specialty care.
4. Refer a member as necessary for behavioral health evaluation and treatment services.

C. Contractors shall meet other E.P.S.D.T. requirements as specified in contract.

D. A primary care provider, attending physician, or practitioner shall refer a member with special health care needs under R9-7-301 to CRS.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-213 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-213 repealed, new Section R9-22-213 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3272, effective September 11, 2007 (Supp. 07-3). Amended by final rulemaking at 20 A.A.R. 1949, effective September 6, 2014 (Supp. 14-3).

R9-22-214. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-214 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-214 repealed, new Section R9-22-214 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B), paragraph (4) and added subsection (C), paragraph (2) effective October 1, 1986 (Supp. 86-5). Correction to subsection (C), paragraph (2) (Supp. 87-4). Section repealed effective September 22, 1997 (Supp. 97-3).

R9-22-215. Other Medical Professional Services

A. The following medical professional services are covered services if a member receives these services in an inpatient, outpatient, or office:

1. Dialysis;
2. The following family planning services if provided to delay or prevent pregnancy:
 - a. Medications,
 - b. Supplies,
 - c. Devices, and
 - d. Surgical procedures;
3. Family planning services are limited to:
 - a. Contraceptive counseling, medications, supplies, and associated medical and laboratory examinations, including HIV blood screening as part of a package of sexually transmitted disease tests provided with a family planning service;
 - b. Sterilization; and
 - c. Natural family planning education or referral;
4. Midwifery services provided by a certified nurse practitioner in midwifery;
5. Midwifery services for low-risk pregnancies and home deliveries provided by a licensed midwife;
6. Respiratory therapy;
7. Ambulatory and outpatient surgery facilities services;
8. Home health services under A.R.S. § 36-2907(D);

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9. Private or special duty nursing services;
 10. Rehabilitation services including physical therapy, occupational therapy, speech therapy, and audiology within limitations in subsection (C);
 11. Total parenteral nutrition services, which are the provision of total caloric needs by intravenous route for individuals with severe pathology of the alimentary tract; and
 12. Chemotherapy.
- B.** Prior authorization from the Administration for a member is required for services listed in subsections (A)(3)(b), and (A)(4) through (11); except for:
1. Voluntary sterilization;
 2. Dialysis shunt placement;
 3. Arteriovenous graft placement for dialysis;
 4. Angioplasties or thrombectomies of dialysis shunts;
 5. Angioplasties or thrombectomies of arteriovenous grafts for dialysis;
 6. Eye surgery for the treatment of diabetic retinopathy;
 7. Eye surgery for the treatment of glaucoma;
 8. Eye surgery for the treatment of macular degeneration;
 9. Home health visits following an acute hospitalization (limited up to five visits);
 10. Hysteroscopies (up to two, one before and one after) when associated with a family planning diagnosis code and done within 90 days of hysteroscopic sterilization;
 11. Physical therapy subject to the limitation in subsection (C);
 12. Facility services related to wound debridement,
 13. Apnea management and training for premature babies up to the age of 1; and
 14. Other services identified by the Administration through the Provider Participation Agreement.
- C.** The following are not covered services:
1. Occupational and speech therapies provided on an outpatient basis for a member age 21 or older;
 2. Abortion counseling;
 3. Services or items furnished solely for cosmetic purposes;
 4. Services provided by a podiatrist; or
 5. More than 15 outpatient physical therapy visits per benefit year for persons age 21 years or older for the purpose of restoring a skill or level of function and maintaining that skill or level of function once restored.
 6. More than 15 outpatient physical therapy visits per benefit year for persons age 21 years or older for the purpose of acquiring a new skill or a new level of function and maintaining that skill or level of function once acquired.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-215 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 16 A.A.R. 1638, effective October 1, 2010 (Supp. 10-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 1949, effective September 6, 2014 (Supp. 14-3).

R9-22-216. NF, Alternative HCBS Setting, or HCBS

- A.** Services provided in a NF, including room and board, an alternative HCBS setting as defined in R9-28-101, or a HCBS as defined in A.R.S. § 36-2939 are covered for a maximum of 90 days per contract year if the member's medical condition would otherwise require hospitalization.
- B.** Except as otherwise provided in 9 A.A.C. 28, the following services are not itemized for separate billing if provided in a NF, alternative HCBS setting, or HCBS:
1. Nursing services, including:
 - a. Administering medication;
 - b. Tube feedings;
 - c. Personal care services, including but not limited to assistance with bathing and grooming;
 - d. Routine testing of vital signs; and
 - e. Maintenance of a catheter;
 2. Basic patient care equipment and sickroom supplies, including:
 - a. First aid supplies such as bandages, tape, ointments, peroxide, alcohol, and over-the-counter remedies;
 - b. Bathing and grooming supplies;
 - c. Identification device;
 - d. Skin lotion;
 - e. Medication cup;
 - f. Alcohol wipes, cotton balls, and cotton rolls;
 - g. Rubber gloves (non-sterile);
 - h. Laxatives;
 - i. Bed and accessories;
 - j. Thermometer;
 - k. Ice bags;
 - l. Rubber sheeting;
 - m. Passive restraints;
 - n. Glycerin swabs;
 - o. Facial tissue;
 - p. Enemas;
 - q. Heating pad; and
 - r. Incontinence briefs.
 3. Dietary services including preparation and administration of special diets, and adaptive tools for eating;
 4. Any service that is included in a NF's room and board charge or a service that is required of the NF to meet a federal or state licensure standard or county certification requirement;
 5. Physician visits made solely for the purpose of meeting state licensure standards or county certification requirements;
 6. Physical therapy prescribed only as a maintenance regimen; and
 7. Assistive devices and non-customized durable medical equipment.
- C.** A provider shall obtain prior authorization from the Administration for a NF admission for a FFS member.

Historical Note

Adopted effective October 1, 1985 (Supp. 85-5). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Subsection (C) amended to correct a typographical error (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 2325, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 13 A.A.R. 3272, effective September 11, 2007 (Supp. 07-3). Amended by final rulemaking at 13 A.A.R. 4122, effective November 6, 2007 (Supp. 07-4).

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R9-22-217. Services Included in the Federal Emergency Services Program

- A.** Definition. Notwithstanding the definition in R9-22-201, for the purposes of this Section, an emergency medical or behavioral health condition for a FES member means a medical condition or a behavioral health condition, including labor and delivery, manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:
1. Placing the member's health in serious jeopardy,
 2. Serious impairment to bodily functions,
 3. Serious dysfunction of any bodily organ or part, or
 4. Serious physical harm to another person.
- B.** Services. "Emergency services for a FES member" mean those medical or behavioral health services provided for the treatment of an emergency condition. Emergency services include outpatient dialysis services for a FES member with End Stage Renal Disease (ESRD) where a treating physician has certified for the month in which services are received that in the physician's opinion the absence of receiving dialysis at least three times per week would reasonably be expected to result in:
1. Placing the member's health in serious jeopardy, or
 2. Serious impairment of bodily function, or
 3. Serious dysfunction of a bodily organ or part.
- C.** Covered services. Services are considered emergency services if all of the criteria specified in subsection (A) are satisfied at the time the services are rendered. The Administration shall determine whether an emergency condition exists on a case-by-case basis.
- D.** Prior authorization. A provider is not required to obtain prior authorization for emergency services for FES members. Prior authorization for outpatient dialysis services is met when the treating physician has completed and signed a monthly certification as described in subsection (B).
- E.** Services rendered through the Federal Emergency Services Program are subject to all exclusions and limitation on services in this Article including but not limited to the limitations on inpatient hospital services in R9-22-204.

Historical Note

Adopted under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed, new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 5480, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 3351, effective November 10, 2007 (Supp. 07-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 1868, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-218. Repealed**Historical Note**

Section R9-22-218 renumbered from R9-22-206 effective January 1, 1996, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Third Special Session, Ch. 1, § 5; filed with the Office of the Secretary of State December 28, 1995 (Supp. 95-4). Section repealed effective September 22, 1997 (Supp. 97-3).

ARTICLE 3. GENERAL ELIGIBILITY REQUIREMENTS**R9-22-301. General Eligibility Definitions**

Definitions. In addition to definitions contained in R9-22-101 and A.R.S. § 36-2901, the words and phrases in this Article, Article 14 and Article 15 have the following meanings unless the context explicitly requires another meaning:

"Applicant," notwithstanding R9-22-101, means a person listed on an application for whom AHCCCS coverage is being sought.

"BHS" means the division of Behavioral Health Services within the Arizona Department of Health Services.

"CRS" means the program administered by the Administration or its designee that provides covered medical services and covered support services in accordance with A.R.S. 36-261.

"DCSS" means the Division of Child Support Services, which is the division within the Department that administers the Title IV-D program and includes a contract agent operating a child support enforcement program on behalf of the Department.

"FAA" means the Family Assistance Administration, the administration within the Department's Division of Benefits and Medical Eligibility with responsibility for providing cash and food stamp assistance to a member and for determining eligibility for AHCCCS medical coverage.

"Income" means combined earned and unearned income.

"Medical support" means to provide health care coverage in the form of health insurance or court-ordered payment for medical care.

"Member" means an applicant who has been determined to qualify for AHCCCS coverage by the Administration or its designee.

"Pre-enrollment process" means the process that provides an applicant the opportunity to choose an AHCCCS health plan before the determination of eligibility is completed.

"Resources" means real and personal property, including liquid assets.

"Sponsor" means an individual who signs the USCIS I-864 Affidavit of Support agreeing to support a non-citizen as a condition of the non-citizen's admission for permanent residence in the United States.

"Sponsor deemed income" means the unearned income deemed available to the applicant named on the USCIS I-864 Affidavit of Support.

"SVES" means the State Verification and Exchange System, a system through which the Department exchanges income and benefit information with the Internal Revenue Service, Social Security Administration, and State Wage and Unemployment Insurance Benefit data files.

"USCIS" means the United States Citizen and Immigration Services.

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Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-301 renumbered together with former Section R9-22-102 as Section R9-22-101 and amended effective October 1, 1983 (Supp. 83-5). New Section R9-22-301 adopted effective November 20, 1984 (Supp. 84-6).

Amended effective October 1, 1985 (Supp. 85-5).

Amended subsection (B), paragraph (8), subsection (E), paragraph (3), and subsection (J), paragraph (5) effective October 1, 1986 (Supp. 86-5). Amended subsections (C) and (E) effective January 1, 1987, filed December 31,

1986 (Supp. 86-6). Amended subsections (B) and (C) effective October 1, 1987; amended subsection (D) effective December 22, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

Section reserved by final rulemaking at 19 A.A.R. 3309, effective November 30, 2013 (Supp. 13-4). New Section made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014; the adoption of this Section was slated to be codified in Supp. 14-1 but due to a clerical error, was not published. The new Section was published in Supp. 20-4 and no additional amendments have been made to this Section since January 7, 2014 (Supp. 20-4).

R9-22-302. AHCCCS Eligibility Application**Application Process**

1. Right to apply. A person may apply for AHCCCS medical coverage by submitting an Administration-approved application to the Administration or its designee, an FAA office, or one of the following outstation locations:
 - a. A BHS site;
 - b. A Federally Qualified Health Center or disproportionate share hospital under 42 U.S.C. 1396r-4; or
 - c. Any other site, including a hospital, approved by the Administration or its designee.
2. Application. To initiate the application process, the Administration or its designee will accept an application from the applicant, an adult who is in the applicant's household, as defined in 42 CFR 435.603(f), or family, as defined in section 36B(d)(1) of the Internal Revenue Service (IRS) Code, an authorized representative, or if the applicant is a minor or incapacitated, someone acting responsibly for the applicant by submitting a written or online application under 42 CFR 435.907.
 - a. A phone or written application must contain at least the following to be submitted to the Administration or its designee:
 - i. Applicant's legible name,
 - ii. Address or location where the applicant can be reached,
 - iii. Signature of the person submitting the application,
 - iv. Date the application was signed.
 - v. The Administration or its designee shall require that a third party witness the signing and attest by signing the application if the individual signing the application signs with a mark.
 - b. An online application must be completed in full in order to be submitted to the Administration or its designee.

3. Incomplete application. If the application is incomplete, the Administration or its designee shall do at least one of the following:
 - a. Contact an applicant or an applicant's representative by telephone or electronic medium to obtain the missing information required for an eligibility determination;
 - b. Mail a request for additional information to an applicant or an applicant's representative, allowing 10 days from the date of the request to provide the required additional information; or
 - c. Meet with the applicant, representative, or household member.
4. Date of application. The date of application is the date application is received by the Administration or its designee either on-line or at a location listed in subsection (1).
5. Complete application form. The Administration or its designee shall consider an application complete when all questions are answered. The same person as listed under subsection (2) is the person that must sign the completed application. The application shall be witnessed and signed by a third party if the individual signing the application signs with a mark.
6. Assistance with application. The Administration or its designee shall allow a person of the applicant's choice to accompany, assist, and represent the applicant in the application process.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-302 repealed, new Section R9-22-302 adopted effective November 20, 1984 (Supp. 84-6).

Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section reserved by final rulemaking at 19 A.A.R. 3309, effective November 30, 2013 (Supp. 13-4). New Section made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014; the adoption of this Section was slated to be codified in Supp. 14-1 but due to a clerical error, was not published. The new Section was published in Supp. 20-4 and no additional amendments have been made to this Section since January 7, 2014 (Supp. 20-4).

R9-22-303. Prior Quarter Eligibility

- A. Subject to CMS approval, prior quarter coverage eligibility shall be limited to applicants who meet the requirements in subsection (B) and who also:
 1. Are eligible during any of the three months prior to application; and
 2. Received one or more covered services described in 9 A.A.C. 22, Article 2 and Article 12, and 9 A.A.C. 28, Article 2 during the month; and
 3. Would have qualified for Medicaid at the time services were received if the person had applied regardless of whether the person is alive when the application is made.
- B. Prior quarter coverage eligibility is limited to applicants who are:
 1. Under the age of 19, or
 2. Pregnant, or

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3. In the 60 day post-partum period beginning with the last day of the pregnancy.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-303 repealed, new Section R9-22-303 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective February 26, 1988 (Supp. 88-1). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section made by final rulemaking at 19 A.A.R. 3309, effective November 30, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 1849, with an immediate effective date of July 1, 2019 (Supp. 19-3).

R9-22-304. Verification of Eligibility Information

- A. Except as provided in subsection (E), if information provided by or on behalf of an applicant or member on an application, renewal form or otherwise does not conflict with information obtained by the agency through an electronic data match, the Administration or its designee shall determine or renew eligibility based on such information.
- B. The Administration or its designee shall not require an applicant, member, or representative to provide additional verification unless the verification cannot be obtained electronically or the verification obtained electronically conflicts with information provided by or on behalf of the applicant or member.
- C. If information provided by or on behalf of an applicant or member does conflict with information obtained through an electronic data match, the applicant or member shall provide the Administration or its designee with information or documentation necessary to verify eligibility, including evidence originating from an agency, organization, or an individual with actual knowledge of the information.
- D. Income information obtained through an electronic data match shall be considered reasonably compatible with income information provided by or on behalf of an individual if both meet or both exceed the applicable income limit.
- E. The Administration or its designee shall not accept the applicant's or member's statement by itself as verification of:
1. SSN;
 2. Qualified alien status, except as described under 42 USC 1320b-7(d)(4)(A); or
 3. Citizenship, except as described under 42 USC 1396a(ee)(1).
- F. The Administration or its designee shall give an applicant or member at least 10 days from the date of a written or electronic request for information to provide required verification. The Administration or its designee may deny the application or discontinue eligibility if an applicant or a member does not provide the required information timely.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-304 repealed, new Section R9-22-304 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-304 made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-305. Eligibility Requirements

As a condition of eligibility, the Administration or its designee must require applicants, and members to do the following:

1. Take all necessary steps to obtain any annuities, pensions, retirement, disability benefits to which they are entitled, unless they can show good cause for not doing so.
2. Furnish a SSN under 42 CFR 435.910 and 435.920, or in the absence of an SSN, provide proof of a submitted application of SSN. The Administration or its designee will assist in obtaining or verifying the applicant's SSN under 42 CFR 435.910 if an applicant cannot recall the applicant's SSN or has not been issued a SSN. An applicant is not required to furnish an SSN if the applicant is not able to legally obtain a SSN. The Administration or its designee shall determine eligibility notwithstanding the applicant's lack of a SSN, if the applicant is cooperating with the Administration or its designee to obtain a SSN and obtain a SSN prior to the next scheduled review of eligibility.
3. Provide proof of residency of Arizona. An applicant or a member is not eligible unless the applicant or member is a resident of Arizona under 42 CFR 435.403 effective October 1, 2012, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
4. A written declaration, signed under penalty of perjury, must be provided for each person for whom benefits are being sought stating whether the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is a qualified alien. The declaration must be provided by the individual for whom eligibility is being sought or an adult member of the individual's family or household.
5. Each applicant who claims qualified alien status must provide either:
 - a. Alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or
 - b. Other documents that the Administration or its designee accepts as evidence of immigration status, such as:
 - i. A Form I-94 Departure Record issued by the USCIS,
 - ii. A Foreign Passport,
 - iii. A USCIS Parole Notice,
 - iv. A Victim of Trafficking Certification or Eligibility Letter issued by the US DHHS Office of Refugee Resettlement,
 - v. Other documentation consistent with 42 CFR 435.406 or 435.407.
 - c. Sufficient information for the Administration or its designee to obtain electronic verification of immigration status from the USCIS.
6. If a person for whom eligibility is being sought, states that they are an alien, that person is not required to comply with subsections (4) and (5); however, if they do not comply with those sections, and if they meet all other eligibility criteria, benefits will be limited to those necessary to treat an emergency medical condition.

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Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-305 repealed, new Section R9-22-305 adopted effective November 20, 1984 (Supp. 84-6). Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective February 26, 1988 (Supp. 88-1). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-305 made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-306. Administration, Administration's designee or Member Responsibilities

A. The Administration or its designee is responsible for the following:

1. The Administration or its designee shall determine eligibility within 90 days for an applicant applying on the basis of disability and 45 days for all other applicants, unless:
 - a. The agency cannot reach a decision because the applicant or an examining physician delays or fails to take a required action, or
 - b. When there is an administrative or other emergency beyond the agency's control.
2. If an applicant dies while an application is pending, the Administration or its designee shall complete an eligibility determination for the deceased applicant.
3. The Administration or its designee shall complete an eligibility determination on an application filed on behalf of a deceased applicant.
4. During the application process the Administration or its designee shall provide information to the applicant or member explaining the requirements to:
 - a. Cooperate with DCSS in establishing paternity and enforcing medical support, except in circumstances when good cause under 42 CFR 433.147 exists for not cooperating;
 - b. Establish good cause for not cooperating with DCSS in establishing paternity and enforcing medical support, when applicable;
 - c. Report a change listed under subsection (B)(3)(c) no later than 10 days from the date the applicant or member knows of the change;
 - d. Send to the Administration or its designee any medical support payments resulting from a court order;
 - e. Cooperate with the Administration or its designee's assignment of rights and securing payments received from any liable party for a member's medical care.
5. Offer to help the applicant or member to complete the application form and to obtain the required verification;
6. Provide the applicant or member with information explaining:
 - a. The eligibility and verification requirements for AHCCCS medical coverage;
 - b. The requirement that the applicant or member obtain and provide a SSN to the Administration or its designee;
 - c. How the Administration or its designee uses the SSN;
7. Explain to the applicant or member the practice of exchange of eligibility and income information through the electronic service established by the Secretary;
8. Explain to the applicant and member the right to appeal an adverse action under R9-22-315;

9. Use any information provided by the member to complete data matches with potentially liable parties;
10. Explain the eligibility review process;
11. Explain the AHCCCS pre-enrollment process;
12. Use the Systematic Alien Verification for Entitlements (SAVE) process to verify qualified alien status;
13. Provide information regarding the penalties for perjury and fraud on the application;
14. Review any verification items provided by the applicant or member and inform the member of any additional verification items and time-frames within which the applicant or member shall provide information to the Administration or its designee;
15. Explain to the applicant or member the applicant's and member's responsibilities under subsection (B);
16. Transfer the applicant's information to other insurance affordability programs as described under 42 CFR 435.1200(e) when the applicant does not qualify for Medicaid;
17. Attain a written record of a collateral contact: such as a verbal statement from a representative of an agency or organization, or an individual with actual knowledge of the information;
18. Complete a review of eligibility:
 - a. Any time there is a change in a member's circumstance that may affect eligibility,
 - b. For a member approved for the MED program under R9-22-1435 through R9-22-1440 before the end of the six-month eligibility period,
 - c. Of each member's continued eligibility for AHCCCS medical coverage once every 12 months;
19. The Administration or its designee shall discontinue eligibility and notify the member of the discontinuance under R9-22-307 if the member:
 - a. Fails to comply with the review of eligibility,
 - b. Fails to comply under 42 CFR 433.148 with the requirements and conditions of eligibility under this Article regarding assignment of rights and cooperation of establishing paternity and obtaining medical support, or
 - c. Does not meet the eligibility requirements; and
20. Redetermine eligibility for a person terminated from the SSI cash program.
 - a. Continuation of AHCCCS medical coverage. The Administration shall continue AHCCCS medical coverage for a person terminated from the SSI cash program until a redetermination of eligibility is completed.
 - b. Coverage group screening. Before terminating a person from the SSI cash program, the Administration shall determine if the person is eligible for coverage as a person described in A.R.S. §§ 36-2901(6)(a)(i) through (vi) or 36-2934.
 - c. Eligibility decision.
 - i. If a person is eligible under this Article or 9 A.A.C. 28, Article 4, the Administration shall send a notice informing the applicant that AHCCCS medical coverage is approved.
 - ii. If a person is ineligible, the Administration shall send a notice to deny AHCCCS medical coverage.

B. Applicant and Member Responsibilities.

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1. An applicant or a member shall authorize the Administration or its designee to obtain verification for initial eligibility or continuation of eligibility.
 2. As a condition of eligibility, an applicant or a member shall:
 - a. Provide the Administration or its designee with complete and truthful information. The Administration or its designee may deny an application or discontinue eligibility if:
 - i. The applicant or member fails to provide information necessary for initial or continuing eligibility;
 - ii. The applicant or member fails to provide the Administration or its designee with written authorization or electronic authorization to permit the Administration or its designee to obtain necessary initial or continuing eligibility verification;
 - iii. The applicant or member fails to provide verification under R9-22-304 after the Administration or its designee made an effort to obtain the necessary verification but has not obtained the necessary information; or
 - iv. The applicant or member does not assist the Administration or its designee in resolving incomplete, inconsistent, or unclear information that is necessary for initial or continuing eligibility;
 - b. Cooperate with the Division of Child Support Services (DCSS) in establishing paternity and enforcing medical support obligations when requested unless good cause exists for not cooperating under 42 CFR 433.147 as of October 1, 2012, which is incorporated by reference, on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol St., NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments. The Administration or its designee shall not deny AHCCCS eligibility to an applicant who would otherwise be eligible, is a minor child, and whose parent or legal representative does not cooperate with the medical support requirements or first- and third-party liability requirements under Article 10 of this Chapter; and
 - c. Provide the information needed to pursue third party coverage for medical care, such as:
 - i. Name of policyholder,
 - ii. Policyholder's relationship to the applicant or member,
 - iii. Name and address of the insurance company, and
 - iv. Policy number.
 3. A member or an applicant shall:
 - a. Send to the Administration or its designee any medical support payments received while the member is eligible that result from a medical support order;
 - b. Cooperate with the Administration or its designee regarding any issues arising as a result of Eligibility Quality Control described under A.R.S. § 36-2903.01; and
 - c. Inform the Administration or its designee of the following changes within 10 days from the date the applicant or member knows of a change:
 - i. In address;
 - ii. In the household's composition;
 - iii. In income;
 - iv. In resources, when required under the Medical Expense Deduction (MED) program;
 - v. In Arizona state residency;
 - vi. In citizenship or immigrant status;
 - vii. In first- or third-party liability that may contribute to the payment of all or a portion of the person's medical costs;
 - viii. That may affect the member's or applicant's eligibility, including a change in a woman's pregnancy status;
 - ix. Death;
 - x. Change in marital status; or
 - xi. Change in school attendance.
 4. As a condition of eligibility, an applicant or a member shall cooperate with the assignment of rights as required by R9-22-311. If the applicant or member receives medical care and services for which a first or third party is or may be liable, the applicant or member shall cooperate with the Administration or its designee in assisting, identifying and providing information to assist the Administration or its designee in pursuing any first or third party who is or may be liable to pay for medical care and services.
 5. A pregnant woman under A.R.S. § 36-2901(6)(a)(ii) is not required to provide the Administration or its designee with information regarding paternity or medical support from a father of a child born out of wedlock.
- C. Administration or its designee responsibilities at Eligibility Renewal.
1. The Administration or its designee shall renew eligibility without requiring information from the individual if able to do so based on reliable information available to the agency, including through an electronic data match. If able to renew eligibility based on such information, the Administration or its designee shall send the member notice of:
 - a. The eligibility determination; and
 - b. The member's requirement to notify the Administration or its designee if any of the information contained in the renewal notice is inaccurate.
 2. If unable to renew eligibility, the Administration or its designee shall:
 - a. Send a pre-populated renewal form listing the information needed to renew eligibility,
 - b. Give the member 30 days from the date of the renewal form to submit the signed renewal form and the information needed,
 - c. Send the member notice of the renewal decision under R9-22-312 or R9-22-1413(B) as applicable.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-306 repealed, new Section R9-22-306 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B), paragraphs (1) and (6) effective October 1, 1986 (Supp. 86-5). Amended subsection (B), paragraph (1) and added a new subsection (N) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (B) effective October 1, 1987; amended subsection (N) effective December 22, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp.

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90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-306 made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-307. Approval or Denial of Eligibility

- A.** Approval. If the applicant meets all the eligibility requirements and conditions of eligibility of this Article, the Administration or its designee shall approve the application and provide the applicant with an approval notice. The approval notice shall contain:
1. The name of each approved applicant,
 2. The effective date of eligibility for each approved applicant,
 3. The reason and the legal citations if a member is approved for only emergency medical services, and
 4. The applicant's right to appeal the decision.
- B.** Denial. If an applicant fails to meet the eligibility requirements or conditions of eligibility of this Article, the Administration or its designee shall deny the application and provide the applicant with a denial notice. The denial notice shall contain:
1. The name of each ineligible applicant,
 2. The specific reason why the applicant is ineligible,
 3. The income and resource calculations for the applicant compared to the income or resource standards for eligibility when the reason for the denial is due to the applicant's income or resources exceeding the applicable standard,
 4. The legal citations supporting the reason for the ineligibility,
 5. The location where the applicant can review the legal citations,
 6. The date of the application being denied; and
 7. The applicant's right to appeal the decision and request a hearing.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Amended subsections (A) and (C), added subsection (G) and (H) effective October 1, 1983 (Supp. 83-5). Former Section R9-22-307 repealed, new Section R9-22-307 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) as an emergency effective December 4, 1985 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 85-6). Permanent amendment to subsection (A) effective February 5, 1986 (Supp. 86-1). Amended subsections (E) and (F) effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective February 26, 1988 (Supp. 88-1). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 8,

1996; filed with the Office of the Secretary of State November 6, 1996 (Supp. 96-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-307 made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-308. Reinstating Eligibility

The Administration or its designee shall reopen an application or reinstate eligibility of a member when any of the following conditions are met:

1. The denial or discontinuance of eligibility was due to an administrative error,
2. The discontinuance of eligibility was due to noncompliance with a condition of eligibility and the applicant or member complies prior to the effective date of the discontinuance,
3. The member informs the Administration or its designee of a change of circumstances prior to the effective date of the discontinuance, that would allow for continued eligibility, or
4. Following a discontinuance, the member qualifies for continuation of medical coverage pending an appeal.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1983 (Supp. 83-5). Amended by adding subsection (C) effective March 2, 1984 (Supp. 84-2). Former Section R9-22-308 repealed, new Section R9-22-308 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-308 made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-309. Confidentiality and Safeguarding of Information

The Administration or its designee shall maintain the confidentiality of an applicant or member's records and limit the release of safeguarded information under R9-22-512 and 6 A.A.C. 12, Article 1. In the event of a conflict between R9-22-512 and 6 A.A.C. 12, Article 1, R9-22-512 prevails.

Historical Note

Adopted effective August 30, 1984 (Supp. 82-4). Amended (D)(1)(d) effective October 1, 1983 (Supp. 83-5). Former Section R9-22-309 repealed, new Section R9-22-309 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsection (F) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (A), (B) and (C) effective October 1, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective May 30, 1989 (Supp. 89-2). Amended effective

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April 13, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-309 made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-310. Ineligible Person

A person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution, or
2. Over age 64 and is residing in an Institution for Mental Disease under 42 CFR 435.1009 except as allowed in 42 USC 1396d(h) or as allowed under the Administration's Section 1115 waiver.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Amended (B)(7) and added subsections (C) and (D) effective October 1, 1983 (Supp. 83-5). Former Section R9-22-310 repealed, new Section R9-22-310 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B) and deleted subsection (C) effective October 1, 1986 (Supp. 86-5). Amended subsection (B), paragraph (7) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (B) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-310 made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-311. Assignment of Rights Under Operation of Law

By operation of law and under A.R.S. § 36-2903, a person determined eligible assigns rights to the system medical benefits to which the person is entitled.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-311 repealed, new Section R9-22-311 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective April 13, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-311 made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-312. Member Notices

- A.** Contents of notice. The Administration or its designee shall issue a notice by mail, personal delivery, or electronic means when an action is taken regarding a person's eligibility or premiums. The notice shall contain the following information:
1. The date of the notice issued;
 2. A statement of the action being taken;
 3. The effective date of the action;
 4. The specific reason for the intended action;
 5. If eligibility is being discontinued due to income in excess of the income standards, the actual figures used in

the eligibility determination and the amount by which the person exceeds income standards;

6. If a premium is imposed or increased, the actual figures used in determining the premium amount;
 7. The specific law or regulation that supports the action, or a change in federal or state law that requires an action;
 8. An explanation of the member's rights to an appeal and continued benefits.
- B.** Advance notice of changes in eligibility or premiums. "Advance notice" means a notice that is issued to a person at least 10 days before the effective date of the change. Except as specified in subsection (C), advance notice shall be issued whenever the following adverse action is taken:
1. To discontinue or suspend or reduce eligibility or covered services; or
 2. To impose a premium or increase a person's premium.
- C.** The Administration or its designee shall issue a Notice of Adverse Action to a member no later than the effective date of action if:
1. The Administration or its designee receives a request to withdraw;
 2. A person provides information that requires termination of eligibility or an increase or imposition of the premium and the person signs a clear written statement waiving advance notice;
 3. A person cannot be located and mail sent to that person has been returned as undeliverable;
 4. A person has been admitted to a public institution where the person is ineligible under R9-22-310;
 5. A person has been approved for Medicaid or CHIP in another state; or
 6. The Administration or its designee has information that confirms the death of the person.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Amended subsections (A) and (B), added subsection (D) effective October 1, 1983 (Supp. 83-5). Former Section R9-22-312 repealed, new Section R9-22-312 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) effective October 1, 1986 (Supp. 86-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective October 1, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-312 made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-313. Withdrawal of Application

- A.** An applicant may withdraw an application at any time before the Administration or its designee completes an eligibility determination by making an oral or written request for withdrawal to the Administration or its designee and stating the reason for withdrawal.
- B.** If an applicant orally requests withdrawal of the application, the Administration or its designee shall document the:
1. Date of the request,
 2. Name of the applicant for whom the withdrawal applies, and

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3. Reason for the withdrawal.
- C. An applicant may withdraw an application in writing by:
 1. Completing an Administration-approved voluntary withdrawal form; or
 2. Submitting a written, signed, and dated request to withdraw the application.
- D. The effective date of the withdrawal is the date of the application.
- E. If an applicant requests to withdraw an application, the Administration or its designee shall:
 1. Deny the application, and
 2. Notify the applicant of the denial following the notice requirements under R9-22-307.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4).
 Amended effective October 1, 1983 (Supp. 83-5).
 Amended subsections (C) and (D) as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended subsections (D) and (E) as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-313 repealed, new Section R9-22-313 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsections (B), (C), (E) and (G) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (B) and (C) effective December 22, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Amended effective December 13, 1993 (Supp. 93-4). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 8, 1996; filed with the Office of the Secretary of State November 6, 1996 (Supp. 96-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-313 made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-314. Withdrawal from AHCCCS Medical Coverage

- A. A member may withdraw from AHCCCS medical coverage at any time by giving oral or written notice of withdrawal to the Administration or its designee. The member or the member's legal or authorized representative shall provide the Administration or its designee with:
 1. The reason for the withdrawal,
 2. The date the notice is effective, and
 3. The name of the member for whom AHCCCS medical coverage is being withdrawn.
- B. If a notice of withdrawal does not identify specific members the Administration or its designee shall discontinue eligibility for any members that the person submitting the withdrawal has legal authority to act on behalf of.
- C. The Administration or its designee shall notify the member of the discontinuance as required by R9-22-312.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4).
 Amended subsection (A) and added subsection (F) as an emergency effective February 28, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1).
 Amended subsection (A) and added subsection (F) as a permanent rule effective May 16, 1983; text of the amended rule identical to the emergency (Supp. 83-3).
 Former Section R9-22-314 repealed, new Section R9-22-314 adopted effective November 20, 1984 (Supp. 84-6).
 Amended effective October 1, 1985 (Supp. 85-5).
 Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-314 made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-315. Notice of Adverse Action

- A. Adverse actions. An applicant or member may appeal, as described under Chapter 34, by requesting a hearing from the Administration or its designee concerning any of the following adverse actions:
 1. Complete or partial denial of eligibility under R9-22-307 and R9-22-313(E);
 2. Suspension, termination, or reduction of AHCCCS medical coverage under R9-22-307, R9-22-312 and R9-22-314;
 3. Delay in the eligibility determination beyond the timeframes under this Article;
 4. The imposition of or increase in a premium or copayment; or
 5. The effective date of eligibility.
- B. Notice of Adverse Action. The Administration or its designee shall personally deliver or send, by mail, or electronic means a Notice of Adverse Action to the person affected by the action. For the purpose of this Section, the date of the Notice of Adverse Action shall be the date of personal delivery to the applicant or the postmark date, if mailed.
- C. Automatic change and hearing rights.
 1. An applicant or a member is not entitled to a hearing if the sole issue is a federal or state law requiring an automatic change adversely affecting some or all recipients.
 2. An applicant or a member is entitled to a hearing if a federal or state law requires an automatic change and the applicant or member timely files an appeal that alleges a misapplication of the facts to the law.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-315 repealed, new Section R9-22-315 adopted effective November 20, 1984 (Supp. 84-6). Repealed effective October 1, 1985 (Supp. 85-5). New Section R9-22-315 adopted effective February 5, 1986 (Supp. 86-1). Amended effective February 26, 1988 (Supp. 88-1). Amended effective April 13, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-315 made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-316. Exemptions from Sponsor Deemed Income

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- A. An applicant shall provide proof to the Administration or its designee when claiming an exemption from sponsor deemed income.
- B. The Administration or its designee shall grant an exemption from deeming a sponsor's income for a Lawful Permanent Resident applicant if the applicant:
 - 1. Adjusted immigration status to Lawful Permanent Resident from status as a refugee or asylee;
 - 2. Is the spouse or dependent child of the sponsor and lives with the sponsor;
 - 3. Is indigent as specified in subsection (C);
 - 4. Is a victim of domestic violence or extreme cruelty as specified in subsection (D); or
 - 5. Has acquired 40 qualified quarters of work credit based on earnings as specified in subsection (E).
- C. Exemption from sponsor deeming based on indigence.
 - 1. The Administration or its designee shall consider the applicant indigent and grant an exemption from sponsor deemed income for an applicant, for a period of 12 months beginning with the first month of eligibility if all the following are met:
 - a. An applicant is indigent if all of the following are met:
 - i. The applicant does not reside with the applicant's sponsor;
 - ii. The applicant does not receive free room and board; and
 - iii. The applicant's total gross income including monies received from the sponsor and the value of any vendor payments received for food, utilities, or shelter does not exceed 100% of the FPL for the size of the income group.
 - 2. The Administration or its designee shall send a notice under 8 U.S.C. 1631(e)(2) to the Attorney General's Office when approving an applicant who is exempt from sponsor deemed income due to indigence.
- D. The Administration or its designee shall grant an exemption from sponsor deemed income for an applicant who is a victim of domestic violence or extreme cruelty under 8 CFR 204.2 for a period of 12 months beginning with the first month of eligibility. The Administration or its designee shall redetermine the exemption status at each renewal.
 - 1. The Administration or its designee considers an applicant to be a victim of domestic violence or extreme cruelty when all of the following are met:
 - a. The applicant is the victim, the parent of a child victim, or the child of a parent victim;
 - b. The perpetrator of the domestic violence or extreme cruelty was the spouse or parent of the victim or other family member related by blood, marriage or adoption to the victim;
 - c. The perpetrator was residing in the same household as the victim when the abuse occurred;
 - d. The abuse occurred in the United States;
 - e. The applicant did not participate in the domestic violence or cruelty; and
 - f. The victim does not currently live with the perpetrator.
 - 2. The applicant shall provide proof that the applicant or the applicant's child is a victim of domestic violence or extreme cruelty by presenting one of the following:
 - a. USCIS form I-360 Petition for Amerasian, Widow, or Special Immigrant;
 - b. USCIS form I-797 USCIS approval of the I-360 petition;
 - c. Reports or affidavits concerning the domestic violence or cruelty documented by police, judges, or other court officials, medical personnel, school officials, clergy, social workers, counseling or mental health personnel, or other social service agency personnel;
 - d. Legal documentation, such as an order of protection against the perpetrator or an order convicting the perpetrator of committing an act of domestic violence or extreme cruelty that chronicles the existence of domestic violence or extreme cruelty;
 - e. Evidence that indicates that the applicant sought safe haven in a battered women's shelter or similar refuge because of the domestic violence or extreme cruelty against the applicant or the applicant's child; or
 - f. Photographs of the applicant or applicant's child showing visible injury.
- E. The Administration or its designee shall grant an exemption from sponsor deemed income for an applicant who has reached 40 qualifying quarters of work credit.
 - 1. The Administration or its designee shall not count quarters credited after January 1, 1997 that were earned while the applicant was receiving any federal means-tested benefits.
 - 2. The Administration or its designee shall not count the 40 qualifying quarters of work credit unless the credited quarters are:
 - a. Quarters that the applicant worked;
 - b. Quarters worked by the applicant's spouse or deceased spouse during their marriage; or
 - c. Quarters worked by the applicant's parents when the applicant was under age 18.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-316 repealed, new Section R9-22-316 adopted as an emergency effective February 9, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Former Section R9-22-316 repealed, new Section R9-22-316 adopted as a permanent rule effective May 16, 1983; text of permanent rule identical to the emergency (Supp. 83-3). Amended effective October 1, 1983 (Supp. 83-5). Correction subsection (A), paragraph (1) amended effective October 1, 1983, (Supp. 83-6). Amended as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-316 repealed, new Section R9-22-316 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (C) effective October 1986 (Supp. 86-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-316 made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-317. Sponsor Deemed Income

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- A. The Administration or its designee shall use income of a USCIS sponsor to determine eligibility for a non-citizen applicant, whether or not the income is available, to the non-citizen applicant unless exempt under R9-22-316.
- B. Counting the income from a sponsor.
1. This Section applies to non-citizen applicants who:
 - a. Are Lawful Permanent Residents under 8 CFR 101.3;
 - b. Applied for Lawful Permanent Resident Status on or after December 19, 1997;
 - c. Are sponsored by an individual who signed a USCIS I-864 Affidavit of Support; and
 - d. Are eligible for full AHCCCS medical coverage.
 2. Sponsor deemed income shall be considered the income of the non-citizen applicant only.
 3. The Administration or its designee shall not use the provisions of this Section when:
 - a. The applicant becomes a naturalized U.S. citizen;
 - b. The applicant qualifies for an exemption listed in R9-22-316; or
 - c. The sponsor dies.
- C. Determining income from a sponsor.
1. For an applicant who is exempt from sponsor deeming under R9-22-316, only cash contributions actually received from the sponsor are countable income to the applicant.
 2. For an applicant to whom the sponsor's income is deemed, the Administration or its designee shall exclude any cash contributions received from the sponsor.
- D. Calculation of income from a sponsor.
1. The Administration or its designee shall include the total gross income of the sponsor and the sponsor's spouse, when living with the sponsor;
 2. The Administration or its designee shall subtract an amount equal to 100% of the FPL for the sponsor's household size from the total gross income under (D)(1); and
 3. The amount calculated under subsection (D)(2) is deemed as income to the applicant for purposes of determining eligibility.

Historical Note

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-317 repealed, new Section R9-22-317 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1986 (Supp. 86-5). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). New Section R9-22-317 made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-318. Repealed**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1983 (Supp. 83-5). Amended as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-318 repealed, new Section R9-22-318 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) and added subsection (C) effective October 1, 1986 (Supp. 86-5). Amended subsection (A) effective

January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (B) effective October 1, 1987; amended subsection (A) effective December 22, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended effective December 13, 1993 (Supp. 93-4). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 8, 1996; filed with the Office of the Secretary of State November 6, 1996 (Supp. 96-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-319. Repealed**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-319 repealed, new Section R9-22-319 adopted effective November 20, 1984 (Supp. 84-6). Amended effective May 30, 1989 (Supp. 89-2). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-320. Repealed**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-320 repealed, new Section R9-22-320 adopted effective November 20, 1984 (Supp. 84-6). Amended effective April 13, 1990 (Supp. 90-2). Repealed effective December 13, 1993 (Supp. 93-4).

R9-22-321. Repealed**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-321 repealed, new Section R9-22-321 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsections (B) through (E) effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective October 1, 1987 (Supp. 87-4). Amended subsections (B) and (D) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-322. Repealed**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective May 27, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-3). Former Section R9-22-322 repealed, new Section R9-

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22-322 adopted effective October 1, 1983 (Supp. 83-5). Amended as an emergency effective May 18, 1984 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-322 repealed, new Section R9-22-322 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective September 29, 1992 (Supp. 92-3). Amended December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-323. Repealed**Historical Note**

Adopted effective August 30, 1982 (Supp. 82-4). Former Section R9-22-323 repealed, new Section R9-22-323 adopted effective October 1, 1983 (Supp. 83-5). Amended as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-323 repealed, new Section R9-22-323 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsections (B) through (D) effective October 1, 1986 (Supp. 86-5). Amended subsections (A), (B) and (D) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (B), (D) and (E) effective October 1, 1987 (Supp. 87-4). Amended subsections (B) and (D) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-324. Repealed**Historical Note**

Adopted as an emergency effective July 27, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-4). Former Section R9-22-324 adopted as an emergency renumbered as Section R9-22-327. New Section R9-22-324 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-324 repealed, former Section R9-22-323 renumbered as Section R9-22-324 and adopted as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Former Section R9-22-324 repealed, new Section R9-22-324 adopted as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. Former Section R9-22-324 repealed, new Section R9-22-324 adopted effective November 20, 1984 (Supp. 84-6). Change in heading only effective October 1, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-325. Repealed**Historical Note**

Adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-325 repealed, new Section R9-22-325 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1987 (Supp. 87-4). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-326. Repealed**Historical Note**

Adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-326 repealed, new Section R9-22-326 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) effective October 1, 1986 (Supp. 86-5). Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Change in heading only effective October 1, 1987 (Supp. 87-4). Amended subsection (A) effective May 30, 1989 (Supp. 89-2). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-327. Repealed**Historical Note**

Former Section R9-22-324 adopted as an emergency effective July 27, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days renumbered as Section R9-22-327 and adopted as a permanent rule effective October 1, 1983 (Supp. 83-5). Former Section R9-22-327 repealed, new Section R9-22-327 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsections (A), (D), (E), (G), (H), and (I) effective October 1, 1986 (Supp. 86-5). Amended subsection (D) and added a new subsection (J) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (A) and (E) effective October 1, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-328. Repealed**Historical Note**

Adopted as an emergency effective October 6, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-5). Emergency Expired. New Section R9-22-328 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsections (A) and (E) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (D) effective October 1, 1987 (Supp. 87-4). Amended subsection (D) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-329. Repealed**Historical Note**

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Adopted as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Adopted as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. New Section R9-22-329 adopted effective November 20, 1984 (Supp. 84-6).

Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (B) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-330. Repealed**Historical Note**

Adopted as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Emergency expired. New Section R9-22-330 adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (A) effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective October 1, 1987 (Supp. 87-4). Amended subsection (A) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-331. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended effective October 1, 1987 (Supp. 87-4). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-332. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-333. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-334. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective January 1, 1987, filed December 31,

1986 (Supp. 86-6). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-335. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended by adding subsection (C) effective October 1, 1986 (Supp. 86-5). Amended subsection (B) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-336. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended by adding subsection (C) effective September 16, 1987 (Supp. 87-3). Amended subsection (A) effective October 1, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-337. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Correction to subsection (B), paragraph (1) (Supp. 87-3). Amended subsection (C) effective December 22, 1987 (Supp. 87-4). Amended subsection (C) effective December 22, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp. 90-2). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-338. Repealed**Historical Note**

Adopted effective November 20, 1984 (Supp. 84-6). Heading changed effective October 1, 1985 (Supp. 85-5). Change in heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-339. Repealed**Historical Note**

Adopted effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsection (B) effective October 1, 1987 (Supp. 87-4). Amended effective January 14, 1997 (Supp. 97-1). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-340. Reserved**Historical Note**

Adopted effective October 1, 1986 (Supp. 86-5). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-341. Repealed

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Historical Note

Adopted effective March 1, 1987, filed December 31, 1986 (Supp. 86-6). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-342. Repealed**Historical Note**

Adopted effective September 29, 1992 (Supp. 92-3). Amended effective September 22, 1997 (Supp. 97-3). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-343. Repealed**Historical Note**

Adopted under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

R9-22-344. Repealed**Historical Note**

Adopted under an exemption from the provisions of the Administrative Procedure Act, effective October 8, 1996; filed with the Office of the Secretary of State November 6, 1996 (Supp. 96-4). Section repealed by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1).

ARTICLE 4. PENALTY FOR OBTAINING ELIGIBILITY BY FRAUD**R9-22-401. Definitions**

Definitions. The following definitions apply specifically to terms used within this Article:

“Amounts incurred by the system” include capitation payments, costs incurred by any contractor in excess of capitation, reinsurance, and other administrative, legal or investigative costs associated with a person who obtained eligibility contrary to A.R.S. §§ 36-2905.04 and/or A.R.S. § 36-2991.

“Application for eligibility” means any request for benefits administered by AHCCCS under the authority of A.R.S. Title 36, Chapter 29, including applications for presumptive eligibility submitted to hospitals as described under Article 16 of this Chapter.

“Penalty” means an amount not to exceed the amounts incurred by the system during any time period that the person would have been ineligible for benefits but for the false or fraudulent information provided on the application for eligibility. A penalty does not include, and does not need to be reduced by, the amount of any overpayments that AHCCCS may be entitled to recoup from a person who violated A.R.S. § 36-2905.04 and/or A.R.S. § 36-2991.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-401 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective January 31, 1986 (Supp. 86-1). Amended effective January 31, 1997 (Supp. 97-1). Amended by final rulemaking at 5 A.A.R. 867,

effective March 4, 1999 (Supp. 99-1). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

R9-22-402. Determining the Amount of the Penalty

- A. AHCCCS shall determine the amount of a penalty according to A.R.S. § 36-2905.04(B) or A.R.S. § 36-2991(B), whichever is applicable, and this Article.
- B. In addition to any penalty imposed pursuant to ARS §§ 36-2905.04 or 36-2991, and this Article, the Administration may also recoup from the person the amounts incurred by the system as a part of the notice and appeal process described in this Article.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-402 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective January 31, 1986 (Supp. 86-1). Amended effective January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

R9-22-403. Mitigating and Aggravating Circumstances

- A. AHCCCS shall consider any of the following to be mitigating circumstances when determining the amount of a penalty for obtaining eligibility by fraud.
 1. Degree of culpability. The degree of culpability of a person is a mitigating circumstance if the person did not intend to provide or cause to be provided false information on the application for eligibility but was negligent as to the truthfulness of the information provided.
 2. Prior Offenses. At the time of the submittal of the application the person:
 - a. Did not have any prior criminal convictions; and
 - b. Had not been held civilly liable for defrauding a public assistance program.
 3. Financial condition. The financial condition of a person who violates A.R.S. §§ 36-2905.04 or 36-2991 is a mitigating circumstance if the imposition of a penalty without reduction will render the person incapable of obtaining necessities of life such as food, clothing, and shelter. AHCCCS may consider the resources available to the person when determining the amount of the penalty.
 4. Other matters as justice may require. AHCCCS shall take into account other circumstances of a mitigating nature, if in the interest of justice; the circumstances require a reduction of the penalty.
- B. AHCCCS shall consider any of the following to be aggravating circumstances when determining the amount of a penalty for obtaining eligibility by fraud.
 1. Degree of culpability. The degree of culpability of a person who provides or causes to be provided false information on the application for eligibility is an aggravating circumstance if the person knows or had reason to know that the information provided on the application for eligibility was false, or the person failed to correct the false information prior to AHCCCS incurring a financial loss as a result of the application for eligibility.

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2. Prior offenses. At any time before the submittal of the application for eligibility, the person was held criminally or civilly liable for committing any fraud, waste, or abuse against any public assistance program.
3. Financial Loss. The person's violation of A.R.S. §§ 36-2905.04 or 36-2991 caused a loss to the system equal to or exceeding \$5,000.00.
4. Other matters as justice may require. AHCCCS shall take into account other circumstances of an aggravating nature, if in the interest of justice; the circumstances require an increase of the penalty.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-403 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective January 31, 1986 (Supp. 86-1). Amended by adding subsection (C) effective October 1, 1987 (Supp. 87-4). Amended effective January 14, 1997 (Supp. 97-1). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

R9-22-404. Notice of Intent

- A. If AHCCCS imposes a penalty pursuant to this Article, AHCCCS shall hand deliver or send by certified mail, return receipt requested, or Federal Express to the person, a written Notice of Intent to impose a penalty.
- B. The Notice of Intent shall include:
 1. The legal and factual basis for AHCCCS' determination that there has been a violation of A.R.S. §§ 36-2905.04 and/or 36-2991;
 2. The penalty;
 3. The amounts incurred by the system as a result of the violation of A.R.S. §§ 36-2905.04 and/or 36-2991, if AHCCCS intends to recoup those amounts through this process; and
 4. The procedure for requesting a State Fair Hearing.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-404 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective January 31, 1986 (Supp. 86-1). Amended effective January 14, 1997 (Supp. 97-1). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

R9-22-405. Failure to Respond to the Notice of Intent

If a person fails to respond to the Notice of Intent within the time-frame described in A.A.C. § R9-22-406(A), AHCCCS shall uphold the penalty and recoupment amounts described in the Notice of Intent.

Historical Note

Adopted as an emergency effective May 20, 1982 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-405 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective February 23, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Amended as a

permanent rule effective May 16, 1983; text of the amended rule similar to the emergency (Supp. 83-3).

Amended effective January 31, 1986 (Supp. 86-1).

Amended effective January 14, 1997 (Supp. 97-1). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

R9-22-406. Request for State Fair Hearing

- A. To dispute the agency action described in the Notice of Intent, the person shall file a written Request for State Fair Hearing with AHCCCS within sixty (60) days from the date of receipt of the Notice of Intent.
- B. If AHCCCS receives a timely request for a State Fair Hearing from the person, AHCCCS shall mail a Notice of Hearing pursuant to the Uniform Administrative Hearing Procedures described in A.R.S. Title 41, Chapter 6, Article 10.
- C. AHCCCS shall accept a written request for withdrawal of a hearing request if the written request for withdrawal is received from the person before AHCCCS mails a Notice of Hearing under the Uniform Administrative Hearing Procedures described in A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-406 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-406 repealed, new Section R9-22-406 adopted as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Former Section R9-22-316 repealed, new Section R9-22-316 adopted as a permanent rule effective May 16, 1983; text of the Section identical to the emergency (Supp. 83-3). Amended effective January 31, 1986 (Supp. 86-1). Amended effective January 14, 1997 (Supp. 97-1). Section repealed by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

R9-22-407. Burden of Proof

- A. In any State Fair Hearing conducted under this Article, AHCCCS shall prove a violation of A.R.S. §§ 36-2905.04 and/or 36-2991, and any aggravating circumstances by a preponderance of the evidence.
- B. AHCCCS does not have to prove any specific intent to defraud.
- C. A person shall bear the burden of producing and proving by a preponderance of the evidence any affirmative defense or any circumstance that would justify reducing the amount of the penalty.

Historical Note

New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

R9-22-408. Rescission of the Notice of Intent

AHCCCS may rescind the Notice of Intent at any time prior to the State Fair Hearing without prejudice.

Historical Note

New Section made by final rulemaking at 22 A.A.R. 3191, effective October 19, 2016 (Supp. 16-4).

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ARTICLE 5. GENERAL PROVISIONS AND STANDARDS**R9-22-501. General Provisions and Standards - Related Definitions**

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

“Quality management” means a process used by professional health personnel through a formal program involving multiple organizational components and committees to:

- Assess the degree to which services provided conform to desired medical standards and practices; and
- Quality improvement or maintenance of care and services.

“Quality Improvement” means a process designed to achieve, through ongoing measurements and intervention, significant improvement that is sustained over time, in the areas of clinical care and non-clinical care and is expected to have a favorable effect on health outcomes and member satisfaction. Quality Improvement includes focusing organizational efforts on improving performance and utilizing data to develop intervention strategies to improve performance and outcomes.

“Utilization management/review” means a methodology used by professional health personnel to assess the medical indications, appropriateness, and efficiency of care provided. Utilization management applies to a contractor’s process to evaluate and approve or deny the medical necessity, appropriateness, efficacy and efficiency of health care services, procedures, or settings. Utilization review includes processes for prior authorization, concurrent review, retrospective review, and case management.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-501 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-501 repealed, former Section R9-22-502 renumbered and adopted without change as Section R9-22-501 effective October 1, 1983 (Supp. 83-5). Former Section R9-22-501 repealed, former Section R9-22-526 renumbered and amended as Section R9-22-501 effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-502. Pre-existing Conditions

- A. A contractor shall not impose a pre-existing condition exclusion with respect to covered services.
- B. A contractor or subcontractor shall not adopt or use any procedure to identify a person who has an existing or anticipated medical or psychiatric condition in order to discourage or exclude the person from enrolling in the contractor’s health plan or encourage the person to enroll in another health plan.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-502 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-502 renumbered without change as Section R9-22-501, former Sec-

tion R9-22-503 renumbered and amended as Section R9-22-502 effective October 1, 1983 (Supp. 83-5). Former Section R9-22-502 repealed, new Section R9-22-502 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4). Amended by final rulemaking at 19 A.A.R. 3309, effective November 30, 2013 (Supp. 13-4).

R9-22-503. Provider Requirements Regarding Records

The provider shall maintain records that meet uniform accounting standards and generally accepted practices for maintenance of medical records, including detailed specification of all patient services delivered, the rationale for delivery, and the service date. A provider shall maintain and upon request, make available to a contractor and to the Administration, financial and medical records relating to payment for not less than five years from the date of final payment, or for records relating to costs and expenses to which the Administration has taken exception, five years after the date of final disposition or resolution of the exception. Providers shall provide one copy of a medical record at no cost if requested by the member.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-503 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-503 renumbered and amended as Section R9-22-502, new Section R9-22-503 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended effective May 30, 1986 (Supp. 86-3). Amended subsection (D) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsections (F) and (G) effective December 22, 1987 (Supp. 87-4). Amended subsection (I) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). New Section made by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-504. Marketing; Prohibition Against Inducements; Misrepresentations; Discrimination; Sanctions

- A. A contractor or the contractor’s marketing representative shall not offer or give any form of compensation or reward, or engage in any behavior or activity that may be reasonably construed as coercive, to induce or procure AHCCCS enrollment with the contractor. Any marketing solicitation offering a benefit, good, or service in excess of the covered services in Article 2 is deemed an inducement.
- B. A marketing representative shall not misrepresent itself, the contracting health plan represented, or the AHCCCS program, through false advertising, false statements, or in any other manner to induce a member of another contractor to enroll in the represented health plan. Violations of this subsection include, but are not limited to, false or misleading claims, inferences, or representations such as:
 1. A member will lose benefits under the AHCCCS program or lose any other health or welfare benefits to which a

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member is legally entitled, if the member does not enroll in the represented contracting health plan;

2. Marketing representatives are employees of the state or representatives of the Administration, a county, or any health plan other than the health plan by which they are employed, or by which they are reimbursed; and
 3. The represented health plan is recommended or endorsed as superior to its competition by any state or county agency, or any organization, unless the organization has certified its endorsement in writing to the health plan and the Administration.
- C. A marketing representative shall not engage in any marketing or pre-enrollment practice that discriminates against a member because of race, creed, age, color, sex, religion, national origin, ancestry, marital status, sexual preference, physical or mental disability, or health status.
- D. The Administration shall hold a contractor responsible for a violation of this Section resulting from the performance of any marketing representative, subcontractor, agent, program, or process under the contractor's employ or direction and shall impose contract sanctions on the contractor as specified in contract.
- E. A contractor shall produce and distribute informational materials that are approved by the Administration to each enrolled member or designated representative after the contractor receives notification of enrollment from the Administration. The contractor shall ensure that the informational materials include, at a minimum:
1. A description of all covered services as specified in contract;
 2. An explanation of service limitations and exclusions;
 3. An explanation of the procedure for obtaining services;
 4. An explanation of the procedure for obtaining emergency services;
 5. An explanation of the procedure for filing a grievance and appeal; and
 6. An explanation of when plan changes may occur as specified in contract.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-504 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-504 repealed, former Section R9-22-505 renumbered and adopted without change as Section R9-22-504 effective October 1, 1983 (Supp. 83-5). Former Section R9-22-504 repealed, former Section R9-22-528 renumbered and amended as Section R9-22-504 effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-505. Standards, Licensure, and Certification for Providers of Hospital and Medical Services

A provider shall not provide hospital or medical services to a member unless the provider is licensed by the Arizona Department of Health Services and meets the requirements in 42 CFR 441 and 482, as of October 1, 2007, and 42 CFR 456 Subpart C, as of October 1, 2007, incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation

contains no future editions or amendments. An Indian Health Service (IHS) hospital and a Veterans Administration hospital shall not provide services to a member unless accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-505 adopted as an emergency expired, former Section R9-22-506 adopted as an emergency now adopted, amended and renumbered as Section R9-22-505 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-505 renumbered without change as Section R9-22-504, new Section R9-22-505 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-505 renumbered and amended as Section R9-22-509, former Section R9-22-527 renumbered and amended as Section R9-22-505 effective October 1, 1985 (Supp. 85-5). Editorial correction, spelling of "paraphernalia" in subsection (A) (Supp. 87-4). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). New Section made by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-506. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-506 adopted as an emergency adopted, amended and renumbered as Section R9-22-505, former Section R9-22-507 adopted as an emergency now adopted, amended and renumbered as Section R9-22-506 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-506 repealed, new Section R9-22-506 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-506 repealed, new Section R9-22-506 adopted effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsection (D) effective December 22, 1987 (Supp. 87-4). Repealed effective April 13, 1990 (Supp. 90-2). New Section adopted effective December 13, 1993 (Supp. 93-4). Repealed effective December 8, 1997 (Supp. 97-4).

R9-22-507. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-507 adopted as an emergency adopted, amended and renumbered as Section R9-22-506, former Section R9-22-508 adopted as an emergency now adopted, amended and renumbered as Section R9-22-507 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-507 repealed, new Section R9-22-507 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

R9-22-508. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-

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3). Former Section R9-22-508 adopted as an emergency adopted, amended and renumbered as Section R9-22-507, former Section R9-22-509 adopted as an emergency now adopted, amended and renumbered as Section R9-22-508 as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

R9-22-509. Transition and Coordination of Member Care

A. A contractor shall assist in the transition of members to and from other AHCCCS contractors.

1. Both the receiving and relinquishing contractor shall:
 - a. Coordinate with the other contractor to facilitate and schedule appointments for medically necessary services for the transitioned member within the Administration's timelines specified in the contract. If requested by the Administration, a contractor shall submit the policies and procedures regarding transition of members to the Administration for review and approval;
 - b. Assist in the referral of transitioned members to other community health agencies or county medical assistance programs for medically necessary services not covered by the Administration, as appropriate; and
 - c. Develop policies and procedures to be followed when transitioning members who have significant medical conditions; are receiving ongoing services; or have, at the time of the transition, received prior authorization or approval for undelivered, specific services.
2. The relinquishing contractor shall notify the receiving contractor of relevant information about the member's medical condition and current treatment regimens within the timelines defined in contract;
3. The relinquishing contractor shall forward medical records and other relevant materials to the receiving contractor. The relinquishing contractor shall bear the cost of reproducing and forwarding medical records and other relevant materials;
4. Within the timelines specified in contract, the receiving contractor shall ensure that the member selects or is assigned to a primary care provider, and provide the member with:
 - a. Information regarding the contractor's providers,
 - b. Emergency numbers, and
 - c. Instructions about how to obtain services.

B. A contractor shall not use a county or noncontracting provider health resource alternative to diminish the contractor's contractual responsibility or accountability for providing the full scope of covered services. The Administration may impose sanctions as described in contract if a contractor makes referrals to other agencies or programs to reduce expenses incurred by the contractor on behalf of its members.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-509 adopted as an emergency adopted, amended and renumbered as Section R9-22-508, former Section R9-22-510 adopted as an emergency now adopted and renumbered as Section R9-22-509 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-509 repealed, former Section R9-22-

505 renumbered and amended as Section R9-22-509 effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-510. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-510 adopted as an emergency adopted and renumbered as Section R9-22-509, former Section R9-22-511 adopted as an emergency now adopted, amended and renumbered as Section R9-22-510 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-510 repealed, new Section R9-22-510 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

R9-22-511. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-511 adopted as an emergency adopted, amended and renumbered as Section R9-22-510, former Section R9-22-512 adopted as an emergency now adopted, amended and renumbered as Section R9-22-511 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-511 repealed, new Section R9-22-511 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

R9-22-512. Release of Safeguarded Information

- A. The Administration, contractors, providers, and noncontracting providers shall limit the release of safeguarded information to persons or agencies for the following purposes in accordance with 45 CFR 160 and 45 CFR 164, October 1, 2004, and 42 CFR 431.300 through 431.307, October 1, 2004, incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments:
1. Official purposes directly related to the administration of the AHCCCS program including:
 - a. Establishing eligibility and post-eligibility treatment of income, as applicable;
 - b. Determining the amount of medical assistance;
 - c. Providing services for members;
 - d. Performing evaluations and analysis of AHCCCS operations;
 - e. Filing liens on property as applicable;
 - f. Filing claims on estates, as applicable; and
 - g. Filing, negotiating, and settling medical liens and claims.
 2. Law enforcement. The Administration may release safeguarded information without the applicant's or member's written or verbal consent, for the purpose of conducting or assisting an investigation, prosecution, or criminal or civil proceeding related to the administration of the AHCCCS program.

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3. The Administration may release safeguarded member information to a review committee in accordance with the provisions of A.R.S. § 36-2917, without the consent of the applicant or member.
- B. Except as provided in subsection (A), the Administration, contractors, providers, and noncontracting providers shall disclose safeguarded information only to:
 1. An applicant;
 2. A member;
 3. An unemancipated minor, with written permission of a parent, custodial relative, or designated representative, if:
 - a. An Administration employee, authorized representative, or responsible caseworker is present during the examination of the safeguarded information; or
 - b. After written notification to the provider, and at a reasonable time and place.
 4. Persons authorized by the applicant or member; or
 5. A court order or subpoena compliant with 45 CFR 164.512(e), October 1, 2004, incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments.
- C. The Administration, contractors, providers, and noncontracting providers shall safeguard identifiable information, protected health information as specified in 45 CFR 160, and information obtained in the course of application for or redetermination of eligibility concerning an applicant or member, that includes, but is not limited to the following:
 1. Name and address;
 2. Social Security number;
 3. Social and economic conditions or circumstances;
 4. Agency evaluation of personal information;
 5. Medical data and information concerning medical services received, including diagnosis and history of disease or disability;
 6. State Data Exchange (SDX) tapes, and other types of information received from outside sources for the purpose of verifying income eligibility and amount of medical assistance payments; and
 7. Any information received in connection with the identification of legally liable third-party resources.
- D. The restriction upon disclosure of information in this Section does not apply to:
 1. De-identified information as described by 45 CFR 164.514, October 1, 2004, incorporated by reference in subsection (A); or
 2. A disclosure, in response to a request for information, that complies with 45 CFR 160 and 45 CFR 164, October 1, 2004, and 42 CFR 431.300 through 431.307, October 1, 2004, incorporated by reference in subsection (A).
- E. A provider shall furnish records requested by the Administration or a contractor to the Administration or the contractor at no charge.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-512 adopted as an emergency adopted, amended and renumbered as Section R9-22-511, former Section R9-22-513 adopted as an emergency now adopted and renumbered as Section R9-22-512 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-512 repealed, new Section R9-22-512 adopted effective October 1, 1985 (Supp. 85-5).

Amended effective December 13, 1993 (Supp. 93-4).

Amended effective December 8, 1997 (Supp. 97-4).

Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-513. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-513 adopted as an emergency adopted and renumbered as Section R9-22-512, former Section R9-22-514 adopted as an emergency now adopted, amended and renumbered as Section R9-22-513 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-513 repealed, former Section R9-22-526 renumbered and amended as Section R9-22-513 effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

R9-22-514. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-514 adopted as an emergency adopted, amended and renumbered as Section R9-22-513, former Section R9-22-515 adopted as an emergency now adopted, amended and renumbered as Section R9-22-514 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-514 repealed, former Section R9-22-517 renumbered and amended as Section R9-22-514 effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

R9-22-515. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-515 adopted as an emergency adopted, amended and renumbered as Section R9-22-514, former Section R9-22-517 adopted as an emergency now adopted, amended and renumbered as Section R9-22-515 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-515 repealed, former Section R9-22-522 renumbered and amended as Section R9-22-515 effective October 1, 1985 (Supp. 85-5). Repealed effective December 8, 1997 (Supp. 97-4).

R9-22-516. Renumbered**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-516 adopted as an emergency expired, former Section R9-22-518 adopted as an emergency now adopted, amended and renumbered as Section R9-22-516 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-516 renumbered as Section R9-22-513 effective October 1, 1985 (Supp. 85-5).

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R9-22-517. Renumbered**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-517 adopted as an emergency adopted, amended and renumbered as Section R9-22-515, former Section R9-22-519 adopted as an emergency now adopted and renumbered and amended as Section R9-22-517 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-517 renumbered and amended as Section R9-22-514 effective October 1, 1985 (Supp. 85-5).

R9-22-518. Information to Enrolled Members

- A. Each contractor shall produce and distribute printed informational materials to each member or family unit no later than 10 days of receipt of notification of enrollment from the Administration. The contractor shall ensure that the informational materials meet the requirements specified in the contractor's current contract.
- B. A contractor shall provide a member with the name, address, and telephone number of the member's primary care provider no later than 10 days from the date of enrollment. The contractor shall include information on how the member may change primary care providers.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-518 adopted as an emergency adopted, amended and renumbered as Section R9-22-516, former Section R9-22-520 adopted as an emergency now adopted, amended and renumbered as Section R9-22-518 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-518 repealed, new Section R9-22-518 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-519. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-519 adopted as an emergency adopted, amended and renumbered as Section R9-22-517, former Section R9-22-521 adopted as an emergency now adopted, amended and renumbered as Section R9-22-519 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-519 repealed, new Section R9-22-519 adopted effective October 1, 1985 (Supp. 85-5). Repealed effective December 8, 1997 (Supp. 97-4).

R9-22-520. Expired**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-520 adopted as an emergency adopted, amended and renumbered as Section R9-22-518, former Section R9-22-522 adopted as an emergency now adopted, amended and renumbered as Section R9-22-520 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-520 repealed, new Section R9-

22-520 adopted effective October 1, 1985 (Supp. 85-5).

Amended effective December 13, 1993 (Supp. 93-4).

Amended effective December 8, 1997 (Supp. 97-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 4851, effective October 9, 2002 (Supp. 02-4).

R9-22-521. Program Compliance Audits

- A. The Administration shall conduct an onsite program compliance audit of a contractor at least once every three years during the term of the Administration's contract with the contractor. The Administration may conduct, without prior notice, inspections of contractor facilities or perform other elements of a program compliance audit.
- B. An audit team may perform any or all of the following procedures:
 1. Conduct private interviews and group conferences with members, physicians, other health professionals, and members of the contractor's administrative staff including, but not limited to, the contractor's principal management persons;
 2. Examine records, books, reports, and papers of the contractor and any management company, and all providers or subcontractors providing health care and other services. The examination may include, but need not be limited to: minutes of medical staff meetings, peer review and quality of care review records, duty rosters of medical personnel, appointment records, written procedures for the internal operation of the health plan, contracts and correspondence with members and with providers of health care services and other services to the plan, and additional documentation deemed necessary by the Administration to review the quality of medical care.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-521 adopted as an emergency adopted, amended and renumbered as Section R9-22-519, former Section R9-22-523 adopted as an emergency now adopted, amended and renumbered as Section R9-22-521 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-521 repealed, new Section R9-22-521 adopted effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

Editor's Note: The following Section was amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General has not certified this rule. This Section was subsequently amended through the regular rulemaking process.

R9-22-522. Quality Management/Utilization Management (QM/UM) Requirements

- A. A contractor shall comply with Quality Management/Utilization Management (QM/UM) requirements specified in this Section and in contract. The contractor shall ensure compliance with QM/UM requirements that are accomplished through delegation or subcontract with another party.

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- B.** In addition to any requirements specified in contract, a contractor shall:
1. Submit to the Administration a written QM/UM plan that includes a description of the systems, methodologies, protocols, and procedures to be used in:
 - a. Monitoring and evaluating the types of services provided,
 - b. Identifying the numbers and costs of services provided,
 - c. Assessing and improving the quality and appropriateness of care and services,
 - d. Evaluating the outcome of care provided to members, and
 - e. Determining the actions necessary to improve service delivery;
 2. Submit the QM/UM plan to the Administration on an annual basis within timelines specified in contract. If the QM/UM plan is changed during the year, the contractor shall submit the revised plan to the Administration before implementation;
 3. Receive approval from the Administration before implementing the initial or revised QM/UM plan;
 4. Ensure that a QM/UM committee operates under the control of the contractor's medical director and includes representation from medical and executive management personnel. The committee shall:
 - a. Oversee the development, revision, and implementation of the QM/UM plan; and
 - b. Ensure that there are qualified QM/UM personnel and sufficient resources to implement the contractor's QM/UM activities; and
 5. Ensure that the QM/UM activities include at least:
 - a. Prior authorization for non-emergency or scheduled hospital admissions;
 - b. Concurrent review of inpatient hospitalization;
 - c. Retrospective review of hospital claims;
 - d. Program and provider audits designed to detect over- or under-utilization, service delivery effectiveness, and outcome;
 - e. Medical records audits;
 - f. Surveys to determine satisfaction of members;
 - g. Assessment of the adequacy and qualifications of the contractor's provider network;
 - h. Review and analysis of QM/UM data;
 - i. Measurement of performance using objective quality indicators;
 - j. Ensuring individual and systemic quality of care;
 - k. Integrating quality throughout the organization;
 - l. Process improvement;
 - m. Credentialing a provider network;
 - n. Resolving quality of care grievances; and
 - o. Quality improvement activities focused on improving the quality of care and the efficient, cost-effective delivery and utilization of services.
- C.** A member's primary care provider shall maintain medical records that:
1. Conform to professional medical standards and practices for documentation of medical diagnostic and treatment data;
 2. Facilitate follow-up treatment; and
 3. Permit professional medical review and medical audit processes.
- D.** Within 30 days following termination of the contract between a subcontractor and a contractor, the subcontractor or the sub-

contractor's designee shall forward to the primary care provider medical records or copies of medical records of all members assigned to the subcontractor or for whom the subcontractor has provided services.

- E.** The Administration shall monitor each contractor and the contractor's providers to ensure compliance with Administration QM/UM requirements and adherence to the contractor's QM/UM plan.
1. A contractor and the contractor's providers shall cooperate with the Administration in the performance of the Administration's QM/UM monitoring activities; and
 2. A contractor and the contractor's providers shall develop and implement mechanisms for correcting deficiencies identified through the Administration's QM/UM monitoring.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-522 adopted as an emergency adopted, amended and renumbered as Section R9-22-520, former Section R9-22-524 adopted as an emergency now adopted and renumbered as Section R9-22-522 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-522 renumbered and amended as Section R9-22-515, new Section R9-22-522 adopted effective October 1, 1985 (Supp. 85-5). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective December 13, 1993 (Supp. 93-4). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4330, effective January 3, 2009 (Supp. 08-4).

R9-22-523. Expired**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-523 adopted as an emergency adopted, amended and renumbered as Section R9-22-521, former Section R9-22-525 adopted as an emergency now adopted, amended and renumbered as Section R9-22-523 as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1985 (Supp. 85-5). Amended effective December 8, 1997 (Supp. 97-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 4851, effective October 9, 2002 (Supp. 02-4).

R9-22-524. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-524 adopted as an emergency adopted and renumbered as Section R9-22-522, former Section R9-22-526 adopted as an emergency now adopted, amended and renumbered as Section R9-22-524 as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-524 repealed, new Section R9-22-524 adopted effective October 1, 1985 (Supp. 85-4). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 11 A.A.R. 4277, effective December 5, 2005 (Supp. 05-4).

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R9-22-525. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-525 adopted as an emergency adopted, amended and renumbered as Section R9-22-523, former Section R9-22-527 adopted as an emergency now adopted, amended and renumbered as Section R9-22-525 as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective October 1, 1985 (Supp. 85-5).

R9-22-526. Renumbered**Historical Note**

Adopted as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Adopted as a permanent rule effective May 16, 1983; text of the permanent rule identical to the emergency (Supp. 83-3). Former Section R9-22-526 repealed, new Section R9-22-526 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-526 renumbered and amended as Section R9-22-501 effective October 1, 1985 (Supp. 85-1).

R9-22-527. Renumbered**Historical Note**

Adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-527 renumbered and amended as Section R9-22-505 effective October 1, 1985 (Supp. 85-5).

R9-22-528. Renumbered**Historical Note**

Adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-528 renumbered and amended as Section R9-22-504 effective October 1, 1985 (Supp. 85-5).

R9-22-529. Renumbered**Historical Note**

Adopted as Section R9-22-529 effective October 1, 1985, then renumbered as Section R9-22-1002 effective October 1, 1985 (Supp. 85-5).

ARTICLE 6. RFP AND CONTRACT PROCESS**R9-22-601. General Provisions**

- A. The Director has full operational authority to adopt rules for the RFP process and the award of contracts under A.R.S. § 36-2906.
- B. This Article applies to the award of contracts under A.R.S. §§ 36-2904 and 36-2906 to provide services under A.R.S. § 36-2907 and the expenditure of public monies by the Administration pertaining to covered services when the procurement so states. The Administration shall establish conflict-of-interest safeguards for officers and employees of this state with responsibilities relating to contracts that comply with 42 U.S.C. 1396u-2(d)(3).
- C. The Administration is exempt from the procurement code under A.R.S. § 41-2501.
- D. The Administration and contractors shall retain all contract records for five years under A.R.S. § 36-2903 and dispose of the records under A.R.S. § 41-2550.
- E. The following terms are defined as related to this Article: "Procurement file" means the official records file of the Director whether located in the Office of the Director or at the public procurement unit. The procurement file shall include in

electronic or paper form a list of notified vendors, final solicitation, solicitation amendments, bids/offers, final proposal revisions, clarifications, and final evaluation report.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-601 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective October 1, 1983 (Supp. 83-5). Adopted effective July 16, 1985 (Supp. 85-4). Amended effective December 13, 1993 (Supp. 93-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2340, effective November 11, 2012 (Supp. 12-3).

R9-22-602. RFP

- A. RFP content. The Administration shall include the following items in any RFP under this Article:
 1. Instructions and information to an offeror concerning the proposal submission including:
 - a. The deadline for submitting a proposal,
 - b. The address of the office at which a proposal is to be received,
 - c. The period during which the RFP remains open, and
 - d. Any special instructions and information;
 2. The scope of covered services under Article 2 of this Chapter and A.R.S. §§ 36-2906 and 36-2907, covered populations, geographic coverage, service and performance requirements, and a delivery or performance schedule;
 3. The contract terms and conditions, including bonding or other security requirements, if applicable;
 4. The factors used to evaluate a proposal;
 5. The location and method of obtaining documents that are incorporated by reference in the RFP;
 6. A requirement that the offeror acknowledge receipt of all RFP amendments issued by the Administration;
 7. The type of contract to be used and a copy of a proposed contract form or provisions;
 8. The length of the contract service;
 9. A requirement for cost or pricing data;
 10. The minimum RFP requirements; and
 11. A provision requiring an offeror to certify that a submitted proposal does not involve collusion or other anti-competitive practices.
- B. Proposal process.
 1. After the deadline for submitting proposals, the Administration may open a proposal publicly and announce and record the name of the offeror. The Administration shall keep all other information contained in a proposal confidential. The Administration shall open a proposal for public inspection after contract award unless the Administration determines that disclosure is not in the best interest of the state.
 2. The Administration shall evaluate a proposal based on the GSA and the evaluation factors listed in the RFP.
 3. The Administration may initiate discussions with a responsive and responsible offeror to clarify and assure full understanding of an offeror's proposal. The Administration shall provide an offeror fair treatment with respect to discussion and revision of a proposal. The Administra-

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tion shall not disclose information derived from a proposal submitted by a competing offeror.

4. The Administration shall allow for the adjustment of covered services by expansion, deletion, segregation, or combination in order to secure the most financially advantageous proposals for the state.
 5. The Administration may conduct an investigation of a person or organization who has ownership or management interests in corporate offerors or affiliated corporate organizations of an offeror.
 6. The Administration may issue a written request for best and final offers. The Administration shall state in the request the date, time, and place for the submission of best and final offers.
 7. The Administration shall not request best and final offers more than once unless the Administration determines that it is advantageous to the state to request additional best and final offers. The Administration shall state in the written request for best and final offers that if the offeror does not submit a notice of withdrawal or a best and final offer, the Administration shall take the most recent offer as the offeror's best and final offer.
- C. Proposal rejection.
1. The Administration may reject an offeror's proposal if the offeror fails to supply the information requested by the Administration.
 2. The offeror shall not disclose information pertaining to its proposal to any other offeror prior to contract award. The offeror may disclose proposal information to a person other than another offeror if the recipient agrees to keep the information confidential until contract award. Disclosure in violation of this subsection may be grounds for rejecting a proposal.
 3. The Administration shall provide written notification to an offeror whose proposal is rejected. The rejection notice shall be part of the contract file and a public record.
 4. If the Administration determines that it is in the best interest of the state, the Administration may reject any and all proposals, in whole or in part, under the RFP. The reasons for rejection shall be part of the contract file. An offeror shall have no right to damages for any claims against the state, the state's employees, or agents if a proposal is rejected in whole or in part.
- D. Proposal cancellation. If the Administration determines that it is in the best interest of the state, the Administration may cancel a RFP. The reasons for cancellation shall be part of the contract file. An offeror shall have no right to damages for any claims against the state, the state's employees, or agents if a RFP is cancelled.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-602 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective October 1, 1983 (Supp. 83-5). Adopted effective July 16, 1985 (Supp. 85-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1).

R9-22-603. Contract Award

The Administration shall award a contract to the responsible and responsive offeror whose proposal is determined most advantageous to the state under A.R.S. § 36-2906. If the Administration determines that multiple contracts are in the best interest of the state, the Administration may award multiple contracts. The contract file shall contain the basis on which the award is made.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-603 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective October 1, 1983 (Supp. 83-5). Adopted effective July 16, 1985 (Supp. 85-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1).

R9-22-604. Contract or Proposal Protests; Appeals

- A. Disputes related to contract performance. This Section does not apply to a dispute related to contract performance. A contract performance dispute is governed by 9 A.A.C. 34.
- B. Resolution of a proposal protest. The procurement officer issuing a RFP shall have the authority to resolve proposal protests. An appeal from the decision of the procurement officer shall be made to the Director.
- C. Filing of a protest.
 1. A person may file a protest with the procurement officer regarding:
 - a. A RFP issued by the Administration,
 - b. A proposed award, or
 - c. An award of a contract.
 2. A protester shall submit a written protest and include the following information:
 - a. The name, address, and telephone number of the protester;
 - b. The signature of the protester or protester's representative;
 - c. Identification of a RFP or contract number;
 - d. A detailed statement of the legal and factual grounds of the protest including copies of any relevant documents; and
 - e. The relief requested.
- D. Time for filing a protest.
 1. A protester filing a protest alleging improprieties in an RFP or an amendment to an RFP shall file the protest at least 14 days before the due date of receipt of proposals.
 2. Any protest alleging improprieties in an amendment issued 14 or fewer days before the due date of the proposal shall be filed before the due date for receipt of proposals.
 3. In cases other than those covered in subsections (D)(1) and (2), a protester shall file a protest no later than 10 days after the procurement officer makes the procurement file available for public inspection.
- E. Stay of procurement during the protest. If a protester files a protest before the contract award, the procurement officer may issue a written stay of the contract award. In considering whether to issue a written stay of contract, the procurement officer shall consider but is not limited to considering whether:
 1. A reasonable probability exists that the protest will be sustained, and

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2. The stay of the contract award is in the best interest of the state.
- F. Stay of contract award during an appeal to the Director. The Director shall automatically continue the stay of a contract award if:
 1. An appeal is filed before a contract award, and
 2. The procurement officer issues a stay of the contract award under subsection (E), unless
 3. The Director issues a written determination that the contract award is necessary to protect the best interest of the state.
- G. Decision by the procurement officer.
 1. The procurement officer shall issue a written decision no later than 14 days after a protest has been filed. The decision shall contain an explanation of the basis of the decision.
 2. The procurement officer shall furnish a copy of the decision to the protester by:
 - a. Certified mail, return receipt requested; or
 - b. Any other method that provides evidence of receipt.
 3. The Administration may extend, for good cause, the time-limit for decisions in subsection (G)(1) for a time not to exceed 30 days. The procurement officer shall notify the protester in writing that the time for the issuance of a decision has been extended and the date by which a decision shall be issued.
 4. If the procurement officer fails to issue a decision within the time-limits in subsection (G)(1) or (G)(3), the protester may proceed as if the procurement officer issued an adverse decision.
- H. Remedies.
 1. If the procurement officer sustains the protest in whole or in part and determines that the RFP, proposed contract award, or contract award does not comply with applicable statutes and rules, the procurement officer shall order an appropriate remedy.
 2. In determining an appropriate remedy, the procurement officer shall consider all the circumstances of the procurement or proposed procurement, including:
 - a. Seriousness of the procurement deficiency,
 - b. Degree of prejudice to other interested parties or to the integrity of the RFP process,
 - c. Good faith of the parties,
 - d. Extent of performance,
 - e. Costs to the state, and
 - f. Urgency of the procurement.
 - g. Best interest of the state.
 3. An appropriate remedy may include one or more of the following:
 - a. Terminating the contract;
 - b. Reissuing the RFP;
 - c. Issuing a new RFP;
 - d. Awarding a contract consistent with statutes, rules, and the terms of the RFP; or
 - e. Any relief determined necessary to ensure compliance with applicable statutes and rules.
- I. Appeals to the Director.
 1. A person may file an appeal of a procurement officer's decision with both the Director and the procurement officer no later than five days from the date the decision is received. The date the decision is received shall be determined under subsection (G)(2).
 2. The appeal shall contain:
 - a. The information required in subsection (C)(2),
 - b. A copy of the procurement officer's decision,
 - c. The alleged factual or legal error in the decision of the procurement officer on which the appeal to the Director is based, and
 - d. A request for hearing unless the person requests that the Director's decision be based solely upon the procurement file.
- J. Dismissal. The Director shall not schedule a hearing and shall dismiss an appeal with a written determination if:
 1. The appeal does not state a basis for protest,
 2. The appeal is untimely under subsection (I)(1), or
 3. The appeal is moot.
- K. Hearing. Hearings under this Section shall be conducted using the Arizona Administrative Procedure Act under A.R.S. Title 41, Ch. 6.

Historical Note

Adopted effective July 16, 1985 (Supp. 85-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2340, effective November 11, 2012 (Supp. 12-3).

R9-22-605. Waiver of Contractor's Subcontract with Hospitals

If a contractor is unable to obtain a subcontract with a hospital as contractually required, the contractor may request in writing a waiver from the Administration as allowed by A.R.S. § 36-2906. The contractor shall state in the request the reasons a waiver is believed to be necessary and all efforts the contractor has made to secure a subcontract.

Historical Note

Adopted effective January 31, 1986 (Supp. 86-1). Amended effective December 13, 1993 (Supp. 93-4). Section repealed by final rulemaking at 5 A.A.R. 607, effective February 5, 1999 (Supp. 99-1). New Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2340, effective November 11, 2012 (Supp. 12-3).

R9-22-606. Contract Compliance Sanction

- A. The Director may impose sanctions upon a contractor for violation of any provision of this Chapter or of a contract. Sanctions include but are not limited to:
 1. Suspension of any or all further member enrollment, by choice and/or assignment for a period of time.
 2. Imposition of a monetary sanction.
- B. The Director shall consider the nature, severity, and length of the violation when determining a sanction.
- C. The Director shall provide a contractor with written notice specifying grounds and terms for the sanction.
- D. Nothing contained in this Section shall be construed to prevent the Administration from imposing sanctions as provided in contract under A.R.S. § 36-2903.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2340, effective November 11, 2012 (Supp. 12-3).

ARTICLE 7. STANDARDS FOR PAYMENTS

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R9-22-701. Standards for Payments Related Definitions

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

“Accommodation” means room and board services provided to a patient during an inpatient hospital stay and includes all staffing, supplies, and equipment. The accommodation is semi-private except when the member must be isolated for medical reasons. Types of accommodation include hospital routine medical/surgical units, intensive care units, and any other specialty care unit in which room and board are provided.

“Aggregate” means the combined amount of hospital payments for covered services provided within and outside the GSA.

“AHCCCS inpatient hospital day or days of care” means each day of an inpatient stay for a member beginning with the day of admission and including the day of death, if applicable, but excluding the day of discharge, provided that all eligibility, medical necessity, and medical review requirements are met.

“Ancillary service” means all hospital services for patient care other than room and board and nursing services, including but not limited to, laboratory, radiology, drugs, delivery room (including maternity labor room), operating room (including postanesthesia and postoperative recovery rooms), and therapy services (physical, speech, and occupational).

“APC” means the Ambulatory Payment Classification system under 42 CFR 419.31 used by Medicare for grouping clinically and resource-similar procedures and services.

“Billed charges” means charges for services provided to a member that a hospital includes on a claim consistent with the rates and charges filed by the hospital with Arizona Department of Health Services (ADHS).

“Business agent” means a company such as a billing service or accounting firm that renders billing statements and receives payment in the name of a provider.

“Capital costs” means costs as reported by the hospital to CMS as required by 42 CFR 413.20.

“Copayment” means a monetary amount, specified by the Director, that a member pays directly to a contractor or provider at the time covered services are rendered.

“Cost-to-charge ratio” (CCR) means a hospital’s costs for providing covered services divided by the hospital’s charges for the same services. The CCR is the percentage derived from the cost and charge data for each revenue code provided to AHCCCS by each hospital.

“Covered charges” means billed charges that represent medically necessary, reasonable, and customary items of expense for covered services that meet medical review criteria of AHCCCS or a contractor.

“CHC” means a Community Health Center, which includes both Federally Qualified Health Centers and Rural Health Clinics.

“CPT” means Current Procedural Terminology, published, and updated by the American Medical Association. CPT is a nationally-accepted listing of descriptive terms and identifying codes for reporting medical services and procedures per-

formed by physicians that provide a uniform language to accurately designate medical, surgical, and diagnostic services.

“Critical Access Hospital” is a hospital certified by Medicare under 42 CFR 485 Subpart F and 42 CFR 440.170(g).

“Direct graduate medical education costs” or “direct program costs” means the costs that are incurred for the education activities of an approved graduate medical education program that are the proximate result of training medical residents in the hospital, including resident salaries and fringe benefits, the portion of teaching physician salaries and fringe benefits that are related to the time spent in teaching and supervision of residents, and other related GME overhead costs.

“DRI inflation factor” means Global Insights Prospective Hospital Market Basket.

“Eligibility posting” means the date a member’s eligibility information is entered into the AHCCCS Pre-paid Medical Management Information System (PMMIS).

“Encounter” means a record of a medically-related service rendered by an AHCCCS-registered provider to a member enrolled with a contractor on the date of service.

“Existing outpatient service” means a service provided by a hospital before the hospital files an increase in its charge master as defined in R9-22-712(G), regardless of whether the service was explicitly described in the hospital charge master before filing the increase or how the service was described in the charge master before filing the increase.

“Expansion funds” means funds appropriated to support GME program expansions as described under A.R.S. § 36-2903.01(G)(9)(b) and (c)(i).

“Factor” means a person or an organization, such as a collection agency or service bureau, that advances money to a provider for accounts receivable that the provider has assigned, sold, or transferred to the organization for an added fee or a deduction of a portion of the accounts receivable. Factor does not include a business agent.

“Fiscal intermediary” means an organization authorized by CMS to make determinations and payments for Part A and Part B provider services for a given region.

“Freestanding Children’s Hospital” means a separately standing hospital with at least 120 pediatric beds that is dedicated to providing the majority of the hospital’s services to children.

“GME program approved by the Administration” or “approved GME program” means a graduate medical education program that has been approved by a national organization as described in 42 CFR 415.152.

“Graduate medical education (GME) program” means an approved residency or fellowship program that prepares a physician for independent practice of medicine by providing didactic and clinical education in a medical environment to a medical student who has completed a recognized undergraduate medical education program.

“HCAC” means a health care acquired condition described under 42 CFR 447.26 but does not include Deep Vein Thrombosis (DVT)/Pulmonary Embolism (PE) as related to total knee replacement or hip replacement surgery in pediatric and obstetric patients.

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“HCPCS” means the Health Care Procedure Coding System, published, and updated by Center for Medicare and Medicaid Services (CMS). HCPCS is a listing of codes and descriptive terminology used for reporting the provision of physician services, other health care services, and substances, equipment, supplies, or other items used in health care services.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as specified under 45 CFR 162, that establishes standards and requirements for the electronic transmission of certain health information by defining code sets used for encoding data elements, such as tables of terms, medical concepts, medical diagnostic codes, or medical procedure codes.

“ICU” means the intensive care unit of a hospital.

“Indirect program costs” means the marginal increase in operating costs that a provider experiences as a result of having an approved graduate medical education program and that is not accounted for by the direct program costs.

“Intern and Resident Information System” means a software program used by teaching providers and the provider community for collecting and reporting information on resident training in hospital and non-hospital settings.

“Medical education costs” means direct costs for intern and resident salaries, fringe benefits, program costs, nursing school education, and paramedical education, as described in the Medicare Provider Reimbursement Manual.

“Medical review” means a clinical evaluation of documentation conducted by AHCCCS or a contractor for purposes of prior authorization, concurrent review, post-payment review, or determining medical necessity. The criteria for medical review are established by AHCCCS or a contractor based on medical practice standards that are updated periodically to reflect changes in medical care.

“Medicare Urban or Rural Cost-to-Charge Ratio (CCR)” means statewide average capital cost-to-charge ratio published annually by CMS added to the urban or rural statewide average operating cost-to-charge ratio published annually by CMS.

“National Standard code sets” means codes that are accepted nationally in accordance with federal requirements under 45 CFR 160 and 45 CFR 164.

“New hospital” means a hospital for which Medicare Cost Report claim and encounter data are not available for the fiscal year used for initial rate setting or rebasing.

“NICU” means the neonatal intensive care unit of a hospital that is classified as a Level II or Level III perinatal center by the Arizona Perinatal Trust.

“Non-IHS Acute Hospital” means a hospital that is not run by Indian Health Services, is not a free-standing psychiatric hospital, such as an IMD, and is paid under ADHS rates.

“Observation day” means a physician-ordered evaluation period of less than 24 hours to determine whether a person needs treatment or needs to be admitted as an inpatient. Each observation day consists of a period of 24 hours or less.

“Operating costs” means AHCCCS-allowable accommodation costs and ancillary department hospital costs excluding capital and medical education costs.

“OPPC” means an Other Provider Preventable Condition that is: (1) a wrong surgical or other invasive procedure performed on a patient, (2) a surgical or other invasive procedure performed on the wrong body part, or (3) a surgical or other invasive procedure performed on the wrong patient.

“Organized health care delivery system” means a public or private organization that delivers health services. It includes, but is not limited to, a clinic, a group practice prepaid capitation plan, and a health maintenance organization.

“Outlier” means a hospital claim or encounter in which the operating costs per day for an AHCCCS inpatient hospital stay meet the criteria described under this Article and A.R.S. § 36-2903.01(G).

“Outpatient hospital service” means a service provided in an outpatient hospital setting that does not result in an admission.

“Ownership change” means a change in a hospital’s owner, lessor, or operator under 42 CFR 489.18(a).

“Participating institution” means an institution at which portions of a graduate medical education program are regularly conducted and to which residents rotate for an educational experience for at least one month.

“Peer group” means hospitals that share a common, stable, and independently definable characteristic or feature that significantly influences the cost of providing hospital services, including specialty hospitals that limit the provision of services to specific patient populations, such as rehabilitative patients or children.

“PPC” means prior period coverage. PPC is the period of time, prior to the member’s enrollment, during which a member is eligible for covered services. The time-frame is the first day of the month of application or the first eligible month, whichever is later, until the day a member is enrolled with a contractor.

“PPS bed” means Medicare-approved Prospective Payment beds for inpatient services as reported in the Medicare cost reports for the most recent fiscal year for which the Administration has a complete set of Medicare cost reports for every rural hospital as determined as of the first of February of each year.

“Primary care GME program” means a graduate medical education program that prepares a physician for the practice of internal medicine, family medicine, pediatrics, obstetrics, geriatrics, or psychiatry.

“Procedure code” means the numeric or alphanumeric code listed in the CPT or HCPCS manual by which a procedure or service is identified.

“Prospective rates” means inpatient or outpatient hospital rates set by AHCCCS in advance of a payment period and representing full payment for covered services excluding any quick-pay discounts, slow-pay penalties, and first-and third-party payments regardless of billed charges or individual hospital costs.

“Public hospital” means a hospital that is owned and operated by county, state, or hospital health care district.

“Qualifying health information exchange organization” means a non-profit health information organization as defined in A.R.S. § 36-3801 that provides the statewide exchange of patient health information among disparate health care organizations and providers not owned, operated, or controlled by

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the health information exchange. A qualifying health information exchange organization must include representation by the administration on its board of directors, and have a significant number of health care participants, including hospitals, laboratories, payers, community physicians and Federally Qualified Health Centers.

“Rebase” means the process by which the most currently available and complete Medicare Cost Report data for a year and AHCCCS claim and encounter data for the same year are collected and analyzed to reset the Inpatient Hospital Tiered per diem rates, or the Outpatient Hospital Capped Fee-For-Service Schedule.

“Reinsurance” means a risk-sharing program provided by AHCCCS to contractors for the reimbursement of specified contract service costs incurred by a member beyond a certain monetary threshold.

“Remittance advice” means an electronic or paper document submitted to an AHCCCS-registered provider by AHCCCS to explain the disposition of a claim.

“Resident” means a physician engaged in postdoctoral training in an accredited graduate medical education program, including an intern and a physician who has completed the requirements for the physician’s eligibility for board certification.

“Revenue code” means a numeric code, that identifies a specific accommodation, ancillary service, or billing calculation, as defined by the National Uniform Billing committee for UB04 forms.

“Sub-acute services” means inpatient care for a patient with an acute illness, injury, or exacerbation of a disease process when the patient does not require acute inpatient hospitalization. Sub-acute care is rendered immediately after, or instead of, acute inpatient hospitalization.

“Specialty facility” means a facility where the service provided is limited to a specific population, such as rehabilitative services for children.

“Sponsoring institution” means the institution or entity that is recognized by the GME accrediting organization and designated as having ultimate responsibility for the assurance of academic quality and compliance with the terms of accreditation.

“Tier” means a grouping of inpatient hospital services into levels of care based on diagnosis, procedure, or revenue codes, peer group, NICU classification level, or any combination of these items.

“Tiered per diem” means an AHCCCS capped fee schedule in which payment is made on a per-day basis depending upon the tier (or tiers) into which an AHCCCS inpatient hospital day of care is assigned.

“Trip” means a one-way transport each time a taxi is called. If the taxi waits for the member, then the transport continues to be part of the one-way trip. If the taxi leaves and is called to pick up the member, that is considered a new one-way trip.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-701 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-701 repealed,

new Section R9-22-701 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Section repealed; new Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 12 A.A.R. 2188, effective June 6, 2006 (Supp. 06-2). Amended by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 13 A.A.R. 1782, effective June 30, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 3190, effective October 1, 2007 (Supp. 07-3). Amended by exempt rulemaking at 13 A.A.R. 4032, effective November 1, 2007 (Supp. 07-4). Amended by final rulemaking at 20 A.A.R. 1956, effective September 6, 2014; amended by exempt rulemaking at 20 A.A.R. 2755, effective January 1, 2015 (Supp. 14-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4). Amended by final rulemaking at 28 A.A.R. 837 (April 29, 2022), with an immediate effective date of April 5, 2022 (Supp. 22-2).

R9-22-701.01. Reserved

R9-22-701.02. Reserved

R9-22-701.03. Reserved

R9-22-701.04. Reserved

R9-22-701.05. Reserved

R9-22-701.06. Reserved

R9-22-701.07. Reserved

R9-22-701.08. Reserved

R9-22-701.09. Reserved

R9-22-701.10 Scope of the Administration’s and Contractor’s Liability

The Administration shall bear no liability for providing covered services for any member beyond the date of termination of the member’s eligibility or during the member’s enrollment with a contractor. A contractor has no financial responsibility for services provided to a member beyond the last date of enrollment except as provided in Articles 2 and 5 of this Chapter and as specified in contract.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1).

R9-22-702. Charges to Members

- A.** For purposes of this subsection, the term “member” includes the member’s financially responsible representative as described under A.R.S. § 36-2903.01.
- B.** Registered providers must accept payment from the Administration or a contractor as payment in full.
- C.** Except as provided in subsection (D) a registered provider shall not request or collect payment from, refer to a collection agency, or report to a credit reporting agency an eligible person or a person claiming to be an eligible person.
- D.** An AHCCCS registered provider may charge, submit a claim to, or demand or collect payment from a member:
 1. To collect the copayment described in R9-22-711;

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2. To recover from a member that portion of a payment made by a third party to the member for an AHCCCS covered service if the member has not transferred the payment to the Administration or the contractor as required by the statutory assignment of rights to AHCCCS;
 3. To obtain payment from a member for medical expenses incurred during a period when the member intentionally withheld information or intentionally provided inaccurate information pertaining to the member's AHCCCS eligibility or enrollment that caused payment to the provider to be reduced or denied;
 4. For a service that is excluded by statute or rule, or provided in an amount that exceeds a limitation in statute or rule, if the member signs a document in advance of receiving the service stating that the member understands the service is excluded or is subject to a limit and that the member will be financially responsible for payment for the excluded service or for the services in excess of the limit;
 5. When the contractor or the Administration has denied authorization for a service if the member signs a document in advance of receiving the service stating that the member understands that authorization has been denied and that the member will be financially responsible for payment for the service;
 6. For services requested for a member enrolled with a contractor, and rendered by a noncontracting provider under circumstances where the member's contractor is not responsible for payment of "out of network" services under R9-22-705(A), if the member signs a document in advance of receiving the service stating that the member understands the provider is out of network, that the member's contractor is not responsible for payment, and that the member will be financially responsible for payment for the excluded service;
 7. For services rendered to a person eligible for the FESP if the provider submits a claim to the Administration in the reasonable belief that the service is for treatment of an emergency medical condition and the Administration denies the claim because the service does not meet the criteria of R9-22-217; or
 8. If the provider has received verification from the Administration that the person was not an eligible person on the date of service.
- E.** The signature requirement of subsections (D)(4), (D)(5), and (D)(6) do not apply if:
1. The member is unable or incompetent to sign such a document, or
 2. When services are rendered for the purpose of treating an emergency medical condition as defined in R9-22-217 and a delay in providing treatment to obtain a signature would have a significant adverse affect on the member's health.
- F.** Except as provided for in this Section, registered providers shall not bill a member when the provider could have received reimbursement from the Administration or a contractor but for the provider's failure to file a claim in accordance with the requirements of AHCCCS statutes, rules, the provider agreement, or contract, such as, but not limited to, requirements to request and obtain prior authorization, timely filing, and clean claim requirements.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-702 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Amended as a permanent rule effective May 16, 1983; text identical to the emergency (Supp. 83-3). Former Section R9-22-702 repealed, new Section R9-22-702 adopted effective October 1, 1983 (Supp. 83-5). Amended by adding subsection (B) effective October 1, 1985 (Supp. 85-5). Amended by adding subsection (C) effective October 1, 1987 (Supp. 87-4). Amended effective April 13, 1990 (Supp. 90-2). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 3217, effective October 1, 2005 (Supp. 05-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3).

R9-22-703. Payments by the Administration

- A.** General requirements. A provider shall enter into a provider agreement with the Administration that meets the requirements of A.R.S. § 36-2904 and 42 CFR 431.107(b) as of October 1, 2012, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
- B.** Timely submission of claims.
1. Under A.R.S. § 36-2904, the Administration shall deem a paper claim to be submitted on the date that it is received by the Administration. An electronic claim is deemed received by the Administration when the claim enters the information processing system designated by the Administration for electronic claims in a form that is capable of being processed by the designated information processing system. The Administration shall do one or more of the following for each claim it receives:
 - a. Place a date stamp on the face of the claim,
 - b. Assign a system-generated claim reference number, or
 - c. Assign a system-generated date-specific number.
 2. Unless a shorter time period is specified in contract, the Administration shall not pay a claim for a covered service unless the claim is initially submitted within one of the following time limits, whichever is later:
 - a. Six months from the date of service or for an inpatient hospital claim, six months from the date of discharge; or
 - b. Six months from the date of eligibility posting.
 3. Unless a shorter time period is specified in contract, the Administration shall not pay a clean claim for a covered service unless the claim is submitted within one of the following time limits, whichever is later:
 - a. Twelve months from the date of service or for an inpatient hospital claim, 12 months from the date of discharge; or
 - b. Twelve months from the date of eligibility posting.
 4. Unless a shorter time period is specified in contract, the Administration shall not pay a claim submitted by an HIS

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or tribal facility for a covered service unless the claim is initially submitted within 12 months from the date of service, date of discharge, or eligibility posting, whichever is later.

C. Claims processing.

1. The Administration shall notify the AHCCCS-registered provider with a remittance advice when a claim is processed for payment.
2. The Administration shall reimburse a hospital for inpatient hospital admissions and outpatient hospital services rendered on or after March 1, 1993, as follows and in the manner and at the rate described in A.R.S. § 36-2903.01:
 - a. If the hospital bill is paid within 30 days from the date of receipt, the claim is paid at 99 percent of the rate.
 - b. If the hospital bill is paid between 30 and 60 days from the date of receipt, the claim is paid at 100 percent of the rate.
 - c. If the hospital bill is paid after 60 days from the date of receipt, the claim is paid at 100 percent of the rate plus a fee of one percent per month for each month or portion of a month following the 60th day of receipt of the bill until date of payment.
3. A claim is paid on the date indicated on the disbursement check.
4. A claim is denied as of the date of the remittance advice.
5. The Administration shall process a hospital claim under this Article.

D. Prior authorization.

1. An AHCCCS-registered provider shall:
 - a. Obtain prior authorization from the Administration for non-emergency hospital admissions, covered services as specified in Articles 2 and 12 of this Chapter, and for administrative days as described in R9-22-712.75,
 - b. Notify the Administration of hospital admissions under Article 2 of this Chapter, and
 - c. Make records available for review by the Administration upon request.
2. The Administration may deny a claim if the provider fails to comply with subsection (D)(1).
3. If the Administration issues prior authorization for an inpatient hospital admission, a specific service, or level of care but subsequent medical review indicates that the admission, the service, or level of care was not medically appropriate, the Administration shall adjust the claim payment.

E. Review of claims and coverage for hospital supplies.

1. The Administration may conduct prepayment and post-payment review of any claims, including but not limited to hospital claims.
2. Personal care items supplied by a hospital, including but not limited to the following, are not covered services:
 - a. Patient care kit,
 - b. Toothbrush,
 - c. Toothpaste,
 - d. Petroleum jelly,
 - e. Deodorant,
 - f. Septi soap,
 - g. Razor or disposable razor,
 - h. Shaving cream,
 - i. Slippers,
 - j. Mouthwash,
 - k. Shampoo,

- l. Powder,
- m. Lotion,
- n. Comb, and
- o. Patient gown.

3. The following hospital supplies and equipment, if medically necessary and used by the member, are covered services:
 - a. Arm board,
 - b. Diaper,
 - c. Underpad,
 - d. Special mattress and special bed,
 - e. Gloves,
 - f. Wrist restraint,
 - g. Limb holder,
 - h. Disposable item used instead of a durable item,
 - i. Universal precaution,
 - j. Stat charge, and
 - k. Portable charge.
4. The Administration shall determine in a hospital claims review whether services rendered were:
 - a. Covered services as defined in Article 2;
 - b. Medically necessary;
 - c. Provided in the most appropriate, cost-effective, and least restrictive setting; and
 - d. For claims with dates of admission on and after March 1, 1993, substantiated by the minimum documentation specified in A.R.S. § 36-2903.01.
5. If the Administration adjudicates a claim, a person may file a claim dispute challenging the adjudication under 9 A.A.C. 34.

F. Overpayment for AHCCCS services.

1. An AHCCCS-registered provider shall notify the Administration when the provider discovers the Administration made an overpayment.
2. The Administration shall recoup an overpayment from a future claim cycle if an AHCCCS-registered provider fails to return the overpaid amount to the Administration.
3. The Administration shall document any recoupment of an overpayment on a remittance advice.
4. An AHCCCS-registered provider may file a claim dispute under 9 A.A.C. 34 if the AHCCCS-registered provider disagrees with a recoupment action.

G. For services subject to limitations or exclusions such as the number of hours, days, or visits covered as described in Article 2 of this Chapter, once the limit is reached the Administration will not reimburse the services.**H. Prior quarter reimbursement. A provider shall:**

1. Bill the Administration for services provided during a prior quarter eligibility period upon verification of eligibility or upon notification from a member of AHCCCS eligibility.
2. Reimburse a member when payment has been received from the Administration for covered services during a prior quarter eligibility period. All funds paid by the member shall be reimbursed.
3. Accept payment received by the Administration as payment in full.

I. Payment for in-state inpatient hospital services for claims with discharge dates on or before September 30, 2014. The Administration shall reimburse an in-state provider of inpatient hospital services rendered with a discharge date on or before September 30, 2014, the prospective tiered-per-diem amount in A.R.S. § 36-2903.01 and this Article.

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- J. Payment for out-of-state inpatient hospital services for claims with discharge dates on or before September 30, 2014. The Administration shall reimburse an out-of-state provider of inpatient hospital services rendered with a discharge date on or before September 30, 2014, for covered inpatient services by multiplying covered charges by the most recent statewide urban cost-to-charge ratio as determined in R9-22-712.01(6)(b).
- K. Payment for inpatient hospital services for claims with discharge dates on and after October 1, 2014 regardless of admission date. The Administration shall reimburse an in-state or out-of-state provider of inpatient hospital services rendered with a discharge date on or after October 1, 2014, the DRG rate established by the Administration.
- L. The Administration may enter into contracts for the provisions of transplant services.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R-22-703 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-703 repealed, new Section R9-22-703 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsection (B), paragraph (1) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (A) effective September 16, 1987 (Supp. 87-3). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 3222, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3). Amended by final rulemaking at 19 A.A.R. 3309, November 30, 2013 (Supp. 13-4). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 27 A.A.R. 237, effective April 4, 2021 (Supp. 21-1).

R9-22-704. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-704 adopted as an emergency now adopted and amended as a permanent rule effective August 30 1982 (Supp. 82-4). Amended effective October 1, 1983 (Supp. 83-5). Amended subsection A., Paragraph 2. effective October 1, 1985 (Supp. 85-5). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1).

R9-22-705. Payments by Contractors

- A. General requirements. A contractor shall contract with providers to provide covered services to members enrolled with the

contractor. The contractor is responsible for reimbursing providers and coordinating care for services provided to a member. Except as provided in subsection (A)(2), a contractor is not required to reimburse a noncontracting provider for services rendered to a member enrolled with the contractor.

1. Providers. A provider shall enter into a provider agreement with the Administration that meets the requirements of A.R.S. § 36-2904 and 42 CFR 431.107(b) as of March 6, 1992, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
2. A contractor shall reimburse a noncontracting provider for services rendered to a member enrolled with the contractor as specified in this Article if:
 - a. The contractor referred the member to the provider or authorized the provider to render the services and the claim is otherwise payable under this Chapter, or
 - b. The service is emergent under Article 2 of this Chapter.

B. Timely submission of claims.

1. Under A.R.S. § 36-2904, a contractor shall deem a paper or electronic claim as submitted on the date that the claim is received by the contractor. The contractor shall do one or more of the following for each claim the contractor receives:
 - a. Place a date stamp on the face of the claim,
 - b. Assign a system-generated claim reference number, or
 - c. Assign a system-generated date-specific number.
2. Unless a shorter time period is specified in subcontract, a contractor shall not pay a claim for a covered service unless the claim is initially submitted within one of the following time limits, whichever is later:
 - a. Six months from the date of service or for an inpatient hospital claim, six months from the date of discharge; or
 - b. Six months from the date of eligibility posting.
3. Unless a shorter time period is specified in subcontract, a contractor shall not pay a claim for a covered service unless the claim is submitted within one of the following time limits, whichever is later:
 - a. Twelve months from the date of service or for an inpatient hospital claim, 12 months from the date of discharge; or
 - b. Twelve months from the date of eligibility posting.

C. Date of claim.

1. A contractor's date of receipt of an inpatient or an outpatient hospital claim is the date the claim is received by the contractor as indicated by the date stamp on the claim, the system-generated claim reference number, or the system-generated date-specific number assigned by the contractor.
2. A hospital claim is considered paid on the date indicated on the disbursement check.
3. A denied hospital claim is considered adjudicated on the date of the claim's denial.
4. For a claim that is pending for additional supporting documentation specified in A.R.S. § 36-2903.01 or 36-2904, the contractor shall assign a new date of receipt upon receipt of the additional documentation.

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5. For a claim that is pending for documentation other than the minimum required documentation specified in either A.R.S. § 36-2903.01 or 36-2904, the contractor shall not assign a new date of receipt.
6. A contractor and a hospital may, through a contract approved as specified in R9-22-715, adopt a method for identifying, tracking, and adjudicating a claim that is different from the method described in this subsection.
- D. Payment for in-state inpatient hospital services for claims with discharge dates on or before September 30, 2014. A contractor shall reimburse an in-state provider of inpatient hospital services rendered with a discharge date on or before September 30, 2014, at either a rate specified by subcontract or, in absence of the subcontract, the prospective tiered-per-diem amount in A.R.S. § 36-2903.01 and this Article. Subcontract rates, terms, and conditions are subject to review and approval or disapproval under A.R.S. § 36-2904 and R9-22-715. This subsection does not apply to an urban contractor as specified in R9-22-718 and A.R.S. § 36-2905.01.
- E. Payment for Inpatient out-of-state hospital payments for claims with discharge dates on or before September 30, 2014. In the absence of a contract with an out-of-state hospital that specifies payment rates, a contractor shall reimburse out-of-state hospitals for covered inpatient services by multiplying covered charges by the most recent statewide urban cost-to-charge ratio as determined in R9-22-712.01(6)(b).
- F. Payment for inpatient hospital services for claims with discharge dates on and after October 1, 2014 regardless of admission date. Subject to R9-22-718 and A.R.S. § 36-2905.01 regarding urban hospitals, a contractor shall reimburse an in-state or out-of-state provider of inpatient hospital services, at either a rate specified by subcontract or, in absence of a subcontract, the DRG rate established by the Administration and this Article. Subcontract rates, terms, and conditions are subject to review and approval or disapproval under A.R.S. § 36-2904 and R9-22-715.
- G. Payment for in-state outpatient hospital services.

A contractor shall reimburse an in-state provider of outpatient hospital services rendered on or after July 1, 2005, at either a rate specified by a subcontract or, in absence of a subcontract, as provided under R9-22-712.10, A.R.S. § 36-2903.01 and other Sections of this Article. The terms of the subcontract are subject to review and approval or disapproval under A.R.S. § 36-2904 and R9-22-715.
- H. Outpatient out-of-state hospital payments. In the absence of a contract with an out-of-state hospital that specifies payment rates, a contractor shall reimburse out-of-state hospitals for covered outpatient services by applying the methodology described in R9-22-712.10 through R9-22-712.50. If the outpatient procedure is not assigned a fee schedule amount, the contractor shall pay the claim by multiplying the covered charges for the outpatient services by the statewide outpatient cost-to-charge ratio.
- I. Payment for observation days. A contractor shall reimburse a provider and a noncontracting provider for the provision of observation days at either a rate specified by subcontract or, in the absence of a subcontract, as prescribed under R9-22-712, R9-22-712.10, and R9-22-712.45.
- J. Review of claims and coverage for hospital supplies.
 1. A contractor may conduct a review of any claims submitted and recoup any payments made in error.
 2. A hospital shall obtain prior authorization from the appropriate contractor for nonemergency admissions. When issuing prior authorization, a contractor shall consider the medical necessity of the service, and the availability and cost effectiveness of an alternative treatment. Failure to obtain prior authorization when required is cause for nonpayment or denial of a claim. A contractor shall not require prior authorization for medically necessary services provided during any prior period for which the contractor is responsible. If a contractor and a hospital agree to a subcontract, the parties shall abide by the terms of the subcontract regarding utilization control activities. A hospital shall cooperate with a contractor's reasonable activities necessary to perform concurrent review and shall make the hospital's medical records pertaining to a member enrolled with a contractor available for review.
3. Regardless of prior authorization or concurrent review activities, a contractor may make prepayment or post-payment review of all claims, including but not limited to a hospital claim. A contractor may recoup an erroneously paid claim. If prior authorization was given for an inpatient hospital admission, a specific service, or level of care but subsequent medical review indicates that the admission, the service, or level of care was not medically appropriate, the contractor shall adjust the claim payment.
4. A contractor and a hospital may enter into a subcontract that includes hospital claims review criteria and procedures if the subcontract meets the requirements of R9-22-715.
5. Personal care items supplied by a hospital, including but not limited to the following, are not covered services:
 - a. Patient care kit,
 - b. Toothbrush,
 - c. Toothpaste,
 - d. Petroleum jelly,
 - e. Deodorant,
 - f. Septi soap,
 - g. Razor,
 - h. Shaving cream,
 - i. Slippers,
 - j. Mouthwash,
 - k. Disposable razor,
 - l. Shampoo,
 - m. Powder,
 - n. Lotion,
 - o. Comb, and
 - p. Patient gown.
6. The following hospital supplies and equipment, if medically necessary and used by the member, are covered services:
 - a. Arm board,
 - b. Diaper,
 - c. Underpad,
 - d. Special mattress and special bed,
 - e. Gloves,
 - f. Wrist restraint,
 - g. Limb holder,
 - h. Disposable item used instead of a durable item,
 - i. Universal precaution,
 - j. Stat charge, and
 - k. Portable charge.
7. The contractor shall determine in a hospital claims review whether services rendered were:
 - a. Covered services as defined in R9-22-201;
 - b. Medically necessary;

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- c. Provided in the most appropriate, cost-effective, and least restrictive setting; and
 - d. For claims with dates of admission on and after March 1, 1993, substantiated by the minimum documentation specified in A.R.S. § 36-2904.
8. If a contractor adjudicates a claim or recoups payment for a claim, a person may file a claim dispute challenging the adjudication or recoupment as described under 9 A.A.C. 34.
- K.** Non-hospital claims. A contractor shall pay claims for non-hospital services in accordance with contract, or in the absence of a contract, at a rate not less than the Administration's capped fee-for-service schedule or at a lower rate if negotiated between the two parties.
- L.** Payments to hospitals. A contractor shall pay for inpatient hospital admissions and outpatient hospital services rendered on or after March 1, 1993, as follows and as described in A.R.S. § 36-2904:
- 1. If the hospital bill is paid within 30 days from the date of receipt, the claim is paid at 99 percent of the rate.
 - 2. If the hospital bill is paid between 30 and 60 days from the date of receipt, the claim is paid at 100 percent of the rate.
 - 3. If the hospital bill is paid after 60 days from the date of receipt, the claim is paid at 100 percent of the rate plus a 1 percent penalty of the rate for each month or portion of the month following the 60th day of receipt of the bill until date of payment.
- M.** Interest payment. In addition to the requirements in subsection (L), a contractor shall pay interest for late claims as defined by contract.
- N.** For services subject to limitations or exclusions such as the number of hours, days, or visits covered as described in Article 2 of this Chapter, once the limit is reached the Administration will not reimburse the services.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-705 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Amended as a permanent rule effective May 16, 1983; text of the amended rule identical to emergency (Supp. 83-3). Former Section R9-22-705 repealed, new Section R9-22-705 adopted effective October 1, 1983 (Supp. 83-5). Amended as an emergency effective October 25, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-5). Emergency expired. Permanent amendment adopted effective February 1, 1985 (Supp. 85-1). Amended effective October 1, 1985 (Supp. 85-5). Amended subsection (C) effective October 1, 1986 (Supp. 86-5). Amended subsection (C) effective October 1, 1987; amended subsection (C) effective December 22, 1987 (Supp. 87-4). Amended subsections (A) and (C) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 5 A.A.R. 867, effective

March 4, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 11 A.A.R. 3222, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1). Amended by final rulemaking at 14 A.A.R. 1439, effective May 31, 2008 (Supp. 08-2). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-706. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-706 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-706 repealed, new Section R9-22-706 adopted effective October 1, 1983 (Supp. 83-5). Adopted as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Amended as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Amended as an emergency effective October 25, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-5). Emergency expired. Permanent amendment adopted effective February 1, 1985 (Supp. 85-1). Amended effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended subsections (A), (D), (E), (F), and (G) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (F) effective December 22, 1987 (Supp. 87-4). Amended subsections (A) and (F) effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective September 22, 1997 (Supp. 97-3). Section repealed by final rulemaking at 10 A.A.R. 4656, effective January 1, 2005 (Supp. 04-4).

R9-22-707. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-707 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Repealed as a permanent action effective May 16, 1983 (Supp. 83-3). New Section R9-22-707 adopted effective October 1, 1983 (Supp. 83-5). Adopted as an emergency effective May 18, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-3). Adopted as an emergency effective August 16, 1984, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 84-4). Former Section R9-22-707 repealed, new Section R9-22-707 adopted effective October 1, 1985 (Supp. 85-5). Former Section R9-22-707 repealed, new Section R9-22-707 adopted effective October 1, 1986 (Supp. 86-5). Amended subsection (A) effective October 1, 1987 (Supp. 87-4). Amended effective September 29, 1992 (Supp. 92-3). Amended

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effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 856, effective May 5, 2007 (Supp. 07-1).

R9-22-708. Payments for Services Provided to Eligible American Indians

- A. For purposes of this Article "IHS enrolled" or "enrolled with IHS" means an American Indian who has elected to receive covered services through IHS instead of a contractor.
- B. For an American Indian who is enrolled with IHS, AHCCCS shall pay IHS the most recent all-inclusive inpatient, outpatient or ambulatory surgery rates published by Health and Human Services (HHS) in the *Federal Register*, or a separately contracted rate with IHS, for AHCCCS-covered services provided in an IHS facility. AHCCCS shall reimburse providers for the Medicare coinsurance and deductible amounts required to be paid by the Administration or contractor in A.A.C. Chapter 29, Article 3 of this Title.
- C. When IHS refers an American Indian enrolled with IHS to a provider other than an IHS or tribal facility, the provider to whom the referral is made shall obtain prior authorization from AHCCCS for services as required under Articles 2, 7 or 12 of this Chapter.
- D. For an American Indian enrolled with a contractor, AHCCCS shall pay the contractor a monthly capitation payment.
- E. Once an American Indian enrolls with a contractor, AHCCCS shall not reimburse any provider other than IHS or a Tribal facility.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-708 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-708 repealed, new Section R9-22-708 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-708 renumbered and amended as Section R9-22-709, new Section R9-22-708 adopted effective October 1, 1985 (Supp. 85-5). Amended effective October 1, 1986 (Supp. 86-5). Amended by final rulemaking at 10 A.A.R. 4656, effective January 1, 2005 (Supp. 04-4). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-709. Contractor's Liability to Hospitals for the Provision of Emergency and Post-stabilization Care

A contractor is liable for emergency hospitalization and post-stabilization care as described in R9-22-210 and R9-22-210.01.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-709 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-709 repealed, new Section R9-22-709 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-709 renumbered and amended as Section R9-22-713, former Section R9-22-708 renumbered and amended as Section R9-22-709 effective October 1, 1985 (Supp. 85-5). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R.

424, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 13 A.A.R. 856, effective May 5, 2007 (Supp. 07-1).

Editor's Note: The following Section was amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General did not certify this rule. This Section was subsequently amended through the regular rulemaking process.

R9-22-710. Payments for Non-hospital Services

- A. Capped fee-for-service. The Administration shall provide notice of changes in methods and standards for setting payment rates for services in accordance with 42 CFR 447.205, December 19, 1983, incorporated by reference and on file with the Administration and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
 1. Non-contracted services. In the absence of a contract that specifies otherwise, a contractor shall reimburse a provider or noncontracting provider for non-hospital services according to the Administration's capped-fee-for-service schedule.
 2. Procedure codes. The Administration shall maintain a current copy of the National Standard Code Sets mandated under 45 CFR 160 (October 1, 2004) and 45 CFR 162 (October 1, 2004), incorporated by reference and on file with the Administration and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
 - a. A person shall submit an electronic claim consistent with 45 CFR 160 (October 1, 2004) and 45 CFR 162 (October 1, 2004).
 - b. A person shall submit a paper claim using the National Standard Code Sets as described under 45 CFR 160 (October 1, 2004) and 45 CFR 162 (October 1, 2004).
 - c. The Administration may deny a claim for failure to comply with subsection (A) (2) (a) or (b).
 3. Fee schedule. The Administration shall pay providers, including noncontracting providers, at the lesser of billed charges or the capped fee-for-service rates specified in subsections (A)(3)(a) through (A)(3)(d) unless a different fee is specified in a contract between the Administration and the provider, or is otherwise required by law.
 - a. Physician services. Fee schedules for payment for physician services are on file at the central office of the Administration for reference use during customary business hours.
 - b. Dental services. Fee schedules for payment for dental services are on file at the central office of the Administration for reference use during customary business hours.
 - c. Transportation services. Fee schedules for payment for transportation services are on file at the central office of the Administration for reference use during customary business hours. For dates of service beginning:

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- i. October 1, 2012 through September 30, 2013, the Administration and its contractors shall reimburse ambulance services at 68.59 percent of the ADHS rates that are in effect as of August 2, 2012.
 - ii. October 1, 2013 through September 30, 2014, the Administration and its contractors shall reimburse ambulance services at 68.59 percent of the ADHS rates that are in effect as of August 2, 2013.
 - iii. October 1, 2014 through September 30, 2015, the Administration and its contractors shall reimburse ambulance services at 74.74 percent of the ADHS rates that are in effect as of August 2, 2014.
 - d. Medical supplies and durable medical equipment (DME). Fee schedules for payment for medical supplies and DME are on file at the central office of the Administration for reference use during customary business hours. The Administration shall reimburse a provider once for purchase of DME during any two-year period, unless the Administration determines that DME replacement within that period is medically necessary for the member. Unless prior authorized by the Administration, no more than one repair and adjustment of DME shall be reimbursed during any two-year period.
- B. Pharmacy services.** The Administration shall not reimburse pharmacy services unless the services are provided by a pharmacy having a subcontract with a Pharmacy Benefit Manager (PBM) contracted with AHCCCS. Except as specified in subsection (C), the Administration shall reimburse pharmacy services according to the terms of the contract.
- C. FQHC Pharmacy reimbursement.**
- 1. For purposes of this Section the following terms are defined:
 - a. "340B Drug Pricing Program" means the discount drug purchasing program described in 42 U.S.C 256b.
 - b. "340B Ceiling Price" means the maximum price that drug manufacturers can charge covered entities participating in the 340B Drug Pricing Program as reported by the drug manufacturer to HRSA.
 - c. "340B entity" means a covered entity, eligible to participate in the 340B Drug Pricing Program, as defined by the Health Resources and Human Services Administration.
 - d. "Actual Acquisition Cost (AAC)" means the purchase price of a drug paid by a pharmacy net of discounts, rebates, chargebacks and other adjustments to the price of the drug. The AAC excludes dispensing fees.
 - e. "Contracted Pharmacy" means an arrangement through which a 340B entity may contract with an outside pharmacy to provide comprehensive pharmacy services utilizing medications subject to 340B pricing.
 - f. "Dispensing Fee" means the amount paid for the professional services provided by the pharmacist for dispensing a prescription. The Dispensing Fee does not include any payment for the drugs being dispensed.
 - g. "Federally Qualified Health Center" means a public or private non-profit health care organization that has been identified by HRSA and certified by CMS as meeting the criteria under sections 1861(aa)(4) and 1905(l)(2)(B) of the Social Security Act and receives funds under section 330 of the Public Health Service Act.
 - h. "Federally Qualified Health Center Look-Alike" means a public or private non-profit health care organization that has been identified by HRSA and certified by CMS as meeting the definition of "health center" under section 330 of the Public Health Service Act, but does not receive grant funding under section 330.
 - i. "FQHC or FQHC Look-Alike pharmacy" means a pharmacy that dispenses drugs to FQHC or FQHC-LA patients and that is owned and/or operated by an FQHC/FQHC-LA or by an entity that reports the costs of an FQHC/FQHC-LA on its Medicare Cost Report, whether or not collocated with an FQHC or an FQHC Look-Alike.
- 2. Effective the later of February 1, 2012, or CMS approval of a State Plan Amendment, an FQHC or FQHC Look-Alike shall:
 - a. Notify the AHCCCS provider registration unit of its status as a 340B covered entity no later than:
 - i. 30 days after the effective date of this Section;
 - ii. 30 days after registration with the Health Resources and Services Administration (HRSA) for participation in the 340B program, or
 - iii. The time of application to become an AHCCCS provider.
 - b. Provide the 340B pricing file to the AHCCCS Administration upon request. The 340B pricing file shall be provided in the file format as defined by AHCCCS.
 - c. Identify 340B drug claims submitted to the AHCCCS FFS PBM or the Managed Care Contractors' PBMs for reimbursement. The 340B drug claim identification and claims processing for a drug claim submission shall be consistent with claim instructions issued and required by AHCCCS to identify such claims.
 - 3. The FQHC and the FQHC Look-Alike pharmacies shall submit claims for AHCCCS members for drugs that are identified in the 340B pricing file, whether or not purchased under the 340B pricing file, with the lesser of:
 - a. The actual acquisition cost, or
 - b. The 340B ceiling price.
 - 4. The AHCCCS Fee-for-Service and Managed Care Contractors' PBMs shall reimburse claims for drugs which are identified in the 340B pricing file dispensed by FQHC and FQHC Look -Alike pharmacies, whether or not purchased under the 340B pricing file, at the amount submitted under subsection (C)(3) plus a dispensing fee listed in the AHCCCS Capped Fee-For-Service Schedule unless a contract between the 340B entity and a Managed Care Contractor's PBM specifies a different dispensing fee.
 - 5. Contracted pharmacies shall not submit claims for drugs dispensed under an agreement with the 340B entity as part of the 340B drug pricing program, and the AHCCCS Administration and Managed Care Contractors shall not reimburse such claims.
 - 6. The AHCCCS Administration and Managed Care Contractors shall reimburse contracted pharmacies for drugs

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not dispensed under an agreement with the 340B entity as part of the 340B program at the price and dispensing fee set forth in the contract between the contracted pharmacy and the AHCCCS or its Managed Care Contractors' PBMs. Neither the Administration nor its Managed Care Contractors will reimburse a contracted pharmacy that does not have a contract with the Administration or MCO's PBM.

7. The AHCCCS Administration and its Managed Care Contractors shall reimburse FQHC and FCHC Look-Alike pharmacies for drugs that are not eligible under the 340B Drug Pricing Program at the price and dispensing fee set forth in their contract with the AHCCCS or its Managed Care Contractors' PBMs.
8. AHCCCS may periodically conduct audits to ensure compliance with this Section.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-710 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Amended as a permanent rule effective May 16, 1983; text of amended rule identical to emergency (Supp. 83-3). Former Section R9-22-710 repealed, new Section R9-22-710 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985. The capped fee-for-service schedules, deleted from Section R9-22-710, are now on file at the central office of the Administration (Supp. 85-5). Amended subsections (B) through (D) effective October 1, 1986 (Supp. 86-5). Amended subsection (B) effective July 1, 1988 (Supp. 88-3). Amended subsection (B) effective April 27, 1989 (Supp. 89-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective December 13, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 11 A.A.R. 3830, effective November 12, 2005 (Supp. 05-3). Amended by exempt rulemaking at 18 A.A.R. 212, effective February 1, 2012 (Supp. 12-1). Amended by exempt rulemaking at 18 A.A.R. 1971, effective August 1, 2012 (Supp. 12-3). Amended by exempt rulemaking at 18 A.A.R. 2630, effective October 1, 2012 (Supp. 12-4). Amended by final rulemaking at 19 A.A.R. 1681, effective August 9, 2013 (Supp. 13-2). Amended by exempt rulemaking at 19 A.A.R. 3525, effective October 18, 2013 (Supp. 13-4)

R9-22-711. Copayments**A.** For purposes of this Article:

1. A copayment is a monetary amount that a member pays directly to a provider at the time a covered service is rendered.
2. An eligible individual is assigned to a hierarchy established in subsections (B) through (E), for the purposes of establishing a copayment amount.
3. No refunds shall be made for a retroactive period if there is a change in an individual's status that alters the amount of a copayment.

B. The following services are exempt from AHCCCS copayments for all members:

1. Family planning services and supplies,

2. Services related to a pregnancy or any other medical condition that may complicate the pregnancy, including tobacco cessation treatment for a pregnant woman,
3. Emergency services as described in 42 CFR 447.56(2)(i),
4. All services paid on a fee-for-service basis,
5. Preventive services, such as well visits, immunizations, pap smears, colonoscopies, and mammograms,
6. Provider preventable services.

C. The following individuals are exempt from AHCCCS copayments:

1. An individual under age 19, including individuals eligible for the KidsCare Program in A.R.S. § 36-2982;
2. An individual determined to be Seriously Mentally Ill (SMI) by the Arizona Department of Health Services;
3. An individual eligible for the Arizona Long-Term Care Program in A.R.S. § 36-2931;
4. An individual eligible for QMB under Chapter 29;
5. An individual eligible for the Children's Rehabilitative Services program under A.R.S. § 36-2906(E);
6. An individual receiving nursing facility or HCBS services under R9-22-216;
7. An individual receiving hospice care as defined in 42 U.S.C. 1396d(o);
8. An American Indian individual enrolled in a health plan and has received services through an IHS facility, tribal 638 facility or urban Indian health program;
9. An individual eligible in the Breast and Cervical Cancer program as described under Article 20;
10. An individual who is pregnant including the postpartum period which is the last day of the month in which the 60th day following the date the pregnancy ends;
11. An individual with respect to whom child welfare services are made available under Part B of Title IV of the Social Security Act on the basis of being a child in foster care, without regard to age;
12. An individual with respect to whom adoption or foster care assistance is made available under Part E of Title IV of the Social Security Act, without regard to age; and
13. An adult eligible under R9-22-1427(E), with income at or below 106% of the FPL.

D. Non-mandatory copayments. Unless otherwise listed in subsection (B) or (C), individuals under subsections (D)(1) through (6) are subject to the copayments listed in this subsection. A provider shall not deny a service when a member states to the provider an inability to pay a copayment.

1. A caretaker relative eligible under R9-22-1427(A);
2. An individual eligible for Young Adult Transitional Insurance (YATI) in A.R.S. § 36-2901(6)(a)(iii);
3. An individual eligible for State Adoption Assistance in R9-22-1433;
4. An individual eligible for Supplemental Security Income (SSI);
5. An individual eligible for SSI Medical Assistance Only (SSI/MAO) in Article 15; and
6. An individual eligible for the Freedom to Work program in A.R.S. § 36-2901(6)(g).
7. Copayment amount per service:
 - a. \$2.30 per prescription drug.
 - b. \$3.40 per outpatient visit, excluding an emergency room visit, if any of the services rendered during the visit are coded as evaluation and management services or non-emergent surgical procedures according to the National Standard Code Sets. An outpatient visit includes any setting where these services are

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performed such as a physician's office, an Ambulatory Surgical Center (ASC), or a clinic.

- c. \$2.30 per visit, if a copayment is not being imposed under subsection (D)(7)(b) and any of the services rendered during the visit are coded as physical, occupational or speech therapy services according to the National Standard Code Sets.

E. Mandatory copayments.

1. Copayments for individuals eligible for Transitional Medical Assistance (TMA) under R9-22-1427(B)(1)(c)(i). Unless otherwise listed in subsection (C), an individual is required to pay the following copayments for prescription drugs and outpatient services unless the service is provided during an emergency room visit or the service is otherwise exempt under subsection (B). An outpatient visit includes any setting where these outpatient services are performed such as, an outpatient hospital, a physician's provider's office, HCBS setting, an Ambulatory Surgical Center (ASC), or a clinic:
 - a. \$2.30 per prescription drug.
 - b. \$4.00 per outpatient visit, if any of the services rendered during the visit are coded as evaluation and management services according to the National Standard Code Sets.
 - c. If a copayment is not being imposed under subsection (E)(1)(b), \$3.00 per visit if any of the services rendered during the visit are coded as physical, occupational or speech therapy services according to the National Standard Code Sets.
 - d. If a copayment is not being imposed under subsection (E)(1)(b) or (c), \$3.00 per visit, if any of the services rendered during the visit are coded as non-emergent surgical procedures according to the National Standard Code Sets.

2. Copayments for persons eligible under R9-22-1427(E) with income above 106% of the FPL and for persons eligible under A.R.S. §§ 36-2907.10 and 36-2907.11. Subject to CMS approval, unless otherwise listed in subsection (C), these individuals are required to pay the following copayments for prescription drugs and outpatient services unless the service is provided during an emergency room visit or the service is otherwise exempt under subsection (B). An outpatient visit includes any setting where these outpatient services are performed such as, an outpatient hospital, a physician's provider's office, HCBS setting, an Ambulatory Surgical Center (ASC), or a clinic:
 - a. \$4.00 per prescription drug.
 - b. \$5.00 per outpatient visit when the AHCCCS fee schedule for the visit code is a rate from \$50 to less than \$100, if any of the services rendered during the visit are coded as evaluation and management services according to the National Standard Code Sets.
 - c. \$10.00 per outpatient visit when the AHCCCS fee schedule for the visit code is a rate of \$100 or greater, if any of the services rendered during the visit are coded as evaluation and management services according to the National Standard Code Sets.
 - d. If a copayment is not being imposed under subsection (E)(2)(b) or (E)(2)(c), for services coded as physical, occupational or speech therapy services according to the National Standard Code Sets.
 - i. \$2.00 if the rate on the fee schedule is \$20 to \$39.99,

- ii. \$4.00 if the rate on the fee schedule is \$40 to \$49.99, or
- iii. \$5.00 if the rate on the fee schedule is \$50 and above per visit.

- e. If a copayment is not being imposed under subsection (E)(2)(b) –(E)(2)(d), for services coded as non-emergent surgical procedures according to the National Standard Code Sets,
 - i. \$30.00 if the rate on the fee schedule is \$300 to \$499.99, or
 - ii. \$50.00 if the rate on the fee schedule is \$500 and above per visit.

- f. Unless the individual is otherwise exempt in subsection (C) or the service is exempted under subsection (B) the individual is required to pay \$2.00 per trip for non-emergency transportation in an urban area.

- g. Unless the individual is otherwise exempt in subsection (C) or the service is exempted under subsection (B) the individual is required to pay \$8.00 for non-emergency use of the emergency room.

- h. Unless the individual is otherwise exempt in subsection (C) or the service is exempted under subsection (B) the individual is required to pay \$75 for an Inpatient stay.

3. The provider may deny a service if the member does not pay the copayment required by subsection (E), however, a provider may choose to reduce or waive copayments under this subsection on a case-by-case basis.

- F.** A provider is responsible for collecting any copayment imposed under this Section.

- G.** The total aggregate amount of copayments under subsections (D) or (E) may not exceed 5% of the family's income as applied on a quarterly basis. The member may establish that the aggregate limit has been met on a quarterly basis by providing the Administration with records of copayments incurred during the quarter. In addition, the Administration shall also use claims and encounters information available to the Administration to establish when a member's copayment obligation has reached 5% of the family's income.

- H.** Reduction in payments to providers. The Administration and its contractors shall reduce the payment it makes to any provider by the amount of a member's copayment obligation under subsection (E), regardless of whether the provider successfully collects the copayments described in this Section.

Historical Note

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Sections R9-22-711 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-711 repealed, new Section R9-22-711 adopted effective October 1, 1983 (Supp. 83-5). Amended effective October 1, 1985 (Supp. 85-5). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by exempt rulemaking at 9 A.A.R. 4557, effective October 1, 2003 (Supp. 03-4). Amended by exempt rulemaking at 10 A.A.R. 2194, effective May 3, 2004

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(Supp. 04-2). Amended by exempt rulemaking at 10 A.A.R. 4266, effective October 1, 2004 (Supp. 04-3). Amended by final rulemaking at 16 A.A.R. 1449, effective October 1, 2010 (Supp. 10-3). Section amended by exempt rulemaking at 18 A.A.R. 461, effective April 1, 2012 (Supp. 12-1). Section amended by final rulemaking at 19 A.A.R. 2954, effective November 11, 2013 (Supp. 13-3). Amended by exempt rulemaking at 20 A.A.R. 128, effective December 30, 2013 (Supp. 13-4). Amended by exempt rulemaking at 20 A.A.R. 2755, effective January 1, 2015 (Supp. 14-3). Amended by final rulemaking at 29 A.A.R. 1866 (August 25, 2023), with an immediate effective date of August 1, 2023 (Supp. 23-3).

Editor's Note: The following Section was adopted and amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General did not certify this rule. This Section was subsequently amended through the regular rulemaking process.

R9-22-712. Reimbursement: General

- A. Inpatient and outpatient discounts and penalties. If a claim is pending for additional documentation required under A.R.S. § 36-2903.01(G)(4), the period during which the claim is pending is not used in the calculation of the quick-pay discounts and slow-pay penalties under A.R.S. § 36-2903.01(G)(5).
- B. Inpatient and outpatient in-state or out-of-state hospital payments.
 1. Payment for inpatient out-of-state hospital services for claims with discharge dates on or before September 30, 2014. In the absence of a contract with an out-of-state hospital that specifies payment rates, AHCCCS shall reimburse out-of-state hospitals for covered inpatient services by multiplying covered charges by the most recent statewide urban cost-to-charge ratio as determined in R9-22-712.01(6)(d).
 2. Payment for inpatient in-state hospital services for claims with discharge dates on or before September 30, 2014. AHCCCS shall reimburse an in-state provider of inpatient hospital services rendered with a discharge date on or before September 30, 2014, at the prospective tiered-per-diem amount in A.R.S. § 36-2903.01 and this Article.
 3. Payment for inpatient in-state or out-of-state hospital services for claims with discharge dates on and after October 1, 2014 regardless of admission date. Subject to R9-22-718 and A.R.S. § 36-2905.01 regarding urban hospitals, a contractor shall reimburse an in-state or out-of-state provider of inpatient hospital services, at either a rate specified by subcontract or, in the absence of a subcontract, the DRG rate established by the Administration and this Article. Subcontract rates, terms, and conditions are subject to review and approval or disapproval under A.R.S. § 36-2904 and R9-22-715.
 4. Outpatient out-of-state hospital payments. In the absence of a contract with an out-of-state hospital that specifies payment rates, AHCCCS shall reimburse an out-of-state hospital for covered outpatient services by applying the methodology described in R9-22-712.10 through R9-22-712.50. If the outpatient procedure is not assigned a fee schedule amount, the Administration shall pay the claim by multiplying the covered charges for the outpatient services by the statewide outpatient cost-to-charge ratio.
5. Outpatient in-state hospital payments. A contractor shall reimburse an in-state provider of outpatient hospital services rendered on or after July 1, 2005, at either a rate specified by a subcontract or, in absence of a subcontract, as provided under R9-22-712.10, A.R.S. § 36-2903.01 and other Sections of this Article. The terms of the subcontract are subject to review and approval or disapproval under A.R.S. § 36-2904 and R9-22-715.
- C. Access to records. Subcontracting and noncontracting providers of outpatient or inpatient hospital services shall allow the Administration access to medical records regarding eligible persons and shall in all other ways fully cooperate with the Administration or the Administration's designated representative in performance of the Administration's utilization control activities. The Administration shall deny a claim for failure to cooperate.
- D. Prior authorization. The Administration or contractor may deny a claim if a provider fails to obtain prior authorization as required under R9-22-210.
- E. Review of claims. Regardless of prior authorization or concurrent review activities, the Administration may subject all hospital claims, including outliers, to prepayment medical review or post-payment review, or both. The Administration shall conduct post-payment reviews consistent with A.R.S. § 36-2903.01 and may recoup erroneously paid claims.
- F. Claim receipt.
 1. The Administration's date of receipt of inpatient or outpatient hospital claims is the date the claim is received by the Administration as indicated by the date stamp on the claim and the system-generated claim reference number or system-generated date-specific number.
 2. Hospital claims are considered paid on the date indicated on disbursement checks.
 3. A denied claim is considered adjudicated on the date the claim is denied.
 4. Claims that are denied and are resubmitted are assigned new receipt dates.
 5. For a claim that is pending for additional supporting documentation specified in A.R.S. § 36-2903.01 or 36-2904, the Administration shall assign a new date of receipt upon receipt of the additional documentation.
 6. For a claim that is pending for documentation other than the minimum required documentation specified in either A.R.S. § 36-2903.01 or 36-2904, the Administration shall not assign a new date of receipt.
- G. Outpatient hospital reimbursement. The Administration shall pay for covered outpatient hospital services provided to eligible persons with dates of service from March 1, 1993 through June 30, 2005, at the AHCCCS outpatient hospital cost-to-charge ratio, multiplied by the amount of the covered charges.
 1. Computation of outpatient hospital reimbursement. The Administration shall compute the cost-to-charge ratio on a hospital-specific basis by determining the covered charges and costs associated with treating eligible persons in an outpatient setting at each hospital. Outpatient operating and capital costs are included in the computation but outpatient medical education costs that are included in the inpatient medical education component are excluded. To calculate the outpatient hospital cost-to-charge ratio annually for each hospital, the Administration shall use each hospital's Medicare Cost Reports and a database consisting of outpatient hospital claims paid

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and encounters processed by the Administration for each hospital, subjecting both to the data requirements specified in R9-22-712.01. The Administration shall use the following methodology to establish the outpatient hospital cost-to-charge ratios:

- a. Cost-to-charge ratios. The Administration shall calculate the costs of the claims and encounters for outpatient hospital services by multiplying the ancillary line item cost-to-charge ratios by the covered charges for corresponding revenue codes on the claims and encounters. Each hospital shall provide the Administration with information on how the revenue codes used by the hospital to categorize charges on claims and encounters correspond to the ancillary line items on the hospital's Medicare Cost Report. The Administration shall then compute the overall outpatient hospital cost-to-charge ratio for each hospital by taking the average of the ancillary line items cost-to-charge ratios for each revenue code weighted by the covered charges.
 - b. Cost-to-charge limit. To comply with 42 CFR 447.325, the Administration may limit cost-to-charge ratios to 1.00 for each ancillary line item from the Medicare Cost Report. The Administration shall remove ancillary line items that are non-covered or not applicable to outpatient hospital services from the Medicare Cost Report data for purposes of computing the overall outpatient hospital cost-to-charge ratio.
2. New hospitals. The Administration shall reimburse new hospitals at the weighted statewide average outpatient hospital cost-to-charge ratio multiplied by covered charges. The Administration shall continue to use the statewide average outpatient hospital cost-to-charge ratio for a new hospital until the Administration rebases the outpatient hospital cost-to-charge ratios and the new hospital has a Medicare Cost Report for the fiscal year being used in the rebasing.
 3. Specialty outpatient services. The Administration may negotiate, at any time, reimbursement rates for outpatient hospital services in a specialty facility.
 4. Reimbursement requirements. To receive payment from the Administration, a hospital shall submit claims that are legible, accurate, error free, and have a covered charge greater than zero. The Administration shall not reimburse hospitals for emergency room treatment, observation hours or days, or other outpatient hospital services performed on an outpatient basis, if the eligible person is admitted as an inpatient to the same hospital directly from the emergency room, observation area, or other outpatient department. Services provided in the emergency room, observation area, and other outpatient hospital services provided before the hospital admission are included in the tiered per diem payment.
 5. Rebasing. The Administration shall rebase the outpatient hospital cost-to-charge ratios at least every four years but no more than once a year using updated Medicare Cost Reports and claim and encounter data.
 6. If a hospital files an increase in its charge master for an existing outpatient service provided on or after July 1, 2004, and on or before June 30, 2005, which represents an aggregate increase in charges of more than 4.7%, the Administration shall adjust the hospital-specific cost-to-charge ratio as calculated under subsection (G)(1) through (5) by applying the following formula:

tal-specific cost-to-charge ratio as calculated under subsection (G)(1) through (5) by applying the following formula:

$$CCR * [1.047 / (1 + \% \text{ increase})]$$

Where "CCR" means the hospital-specific cost-to-charge ratio as calculated under subsection (G)(1) through (5) and "% increase" means the aggregate percentage increase in charges for outpatient services shown on the hospital charge master.

"Charge master" means the schedule of rates and charges as described under A.R.S. § 36-436 and the rules that relate to those rates and charges that are filed with the Director of the Arizona Department of Health Services.

Historical Note

Adopted as an emergency effective February 23, 1983 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Adopted as a permanent rule effective May 16, 1983; text of adopted rule identical to emergency (Supp. 83-3). Former Section R9-22-712 repealed, new Section R9-22-712 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-712 renumbered and amended as Section R9-22-1001 effective October 1, 1985 (Supp. 85-5). New Section R9-22-712 adopted under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended effective January 14, 1997 (Supp. 97-1). Amended by exempt rulemaking at 10 A.A.R. 3831, effective August 25, 2004 (Supp. 04-3). Amended by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 11 A.A.R. 3231, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 14 A.A.R. 1439, effective May 31, 2008 (Supp. 08-2). Amended by exempt rulemaking at 17 A.A.R. 1337, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 17 A.A.R. 1658, effective August 2, 2011 (Supp. 11-3). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.01. Inpatient Hospital Reimbursement for claims with admission dates and discharge dates from October 1, 1998 through September 30, 2014

Inpatient hospital reimbursement. The Administration shall pay for covered inpatient acute care hospital services provided to eligible persons for claims with admission dates and discharge dates from October 1, 1998 through September 30, 2014, on a prospective reimbursement basis. The prospective rates represent payment in full, excluding quick-pay discounts, slow-pay penalties, and third-party payments for both accommodation and ancillary department services. The rates include reimbursement for operating and capital costs. The Administration shall make reimbursement for direct graduate medical education as described in A.R.S. § 36-2903.01. For payment purposes, the Administration shall classify each AHC-CCS inpatient hospital day of care into one of several tiers appropriate to the services rendered. The rate for a tier is referred to as the tiered per diem rate of reimbursement. The number of tiers is seven and the maximum number of tiers payable per continuous stay is two. Payment of outlier claims, transplant claims, or payment to out-of-state hospitals, freestanding psychiatric hospitals, and other specialty facilities may differ from the inpatient hospital tiered per diem rates of reimbursement described in this Section.

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1. Tier rate data. The Administration shall base tiered per diem rates effective on and after October 1, 1998 on Medicare Cost Reports for Arizona hospitals for the fiscal year ending in 1996 and a database consisting of inpatient hospital claims and encounters for dates of service matching each hospital's 1996 fiscal year end.
 - a. Medicare Cost Report data. Because Medicare Cost Report years are not standard among hospitals and were not audited at the time of the rate calculation, the Administration shall inflate all the costs to a common point in time as described in subsection (2) for each component of the tiered per diem rates. The Administration shall not make any changes to the tiered per diem rates if the Medicare Cost Report data are subsequently updated or adjusted. If a single Medicare Cost Report is filed for more than one hospital, the Administration shall allocate the costs to each of the respective hospitals. A hospital shall submit information to assist the Administration in this allocation.
 - b. Claim and encounter data. For the database, the Administration shall use only those inpatient hospital claims paid by the Administration and encounters that were accepted and processed by the Administration at the time the database was developed for rates effective on and after October 1, 1998. The Administration shall subject the claim and encounter data to a series of data quality, reasonableness, and integrity edits and shall exclude from the database or adjust claims and encounters that fail these edits. The Administration shall also exclude from the database the following claims and encounters:
 - i. Those missing information necessary for the rate calculation,
 - ii. Medicare crossovers,
 - iii. Those submitted by freestanding psychiatric hospitals, and
 - iv. Those for transplant services or any other hospital service that the Administration would pay on a basis other than the tiered per diem rate.
2. Tier rate components. The Administration shall establish inpatient hospital prospective tiered per diem rates based on the sum of the operating and capital components. The rate for the operating component is a statewide rate for each tier except for the NICU and Routine tiers, which are based on peer groups. The rate for the capital component is a blend of statewide and hospital-specific values, as described in A.R.S. § 36-2903.01. The Administration shall use the following methodologies to establish the rates for each of these components.
 - a. Operating component. Using the Medicare Cost Reports and the claim and encounter database, the Administration shall compute the rate for the operating component as follows:
 - i. Data preparation. The Administration shall identify and group into department categories, the Medicare Cost Report data that provide ancillary department cost-to-charge ratios and accommodation costs per day. To comply with 42 CFR 447.271, the Administration shall limit cost-to-charge ratios to 1.00 for each ancillary department.
 - ii. Operating cost calculation. To calculate the rate for the operating component, the Administration shall derive the operating costs from claims and encounters by combining the Medicare Cost Report data and the claim and encounter database for all hospitals. In performing this calculation, the Administration shall match the revenue codes on the claims and encounters to the departments in which the line items on the Medicare Cost Reports are grouped. The ancillary department cost-to-charge ratios for a particular hospital are multiplied by the covered ancillary department charges on each of the hospital's claims and encounters. The AHCCCS inpatient days of care on the particular hospital's claims and encounters are multiplied by the corresponding accommodation costs per day from the hospital's Medicare Cost Report. The ancillary cost-to-charge ratios and accommodation costs per day do not include medical education and capital costs. The Administration shall inflate the resulting operating costs for the claims and encounters of each hospital to a common point in time, December 31, 1996, using the DRI inflation factor and shall reduce the operating costs for the hospital by an audit adjustment factor based on available national data and Arizona historical experience in adjustments to Medicare reimbursable costs. The Administration shall further inflate operating costs to the midpoint of the rate year (March 31, 1999).
 - iii. Operating cost tier assignment. After calculating the operating costs, the Administration shall assign the claims and encounters used in the calculation to tiers based on diagnosis, procedure, or revenue codes, or NICU classification level, or a combination of these. For the NICU tier, the Administration shall further assign claims and encounters to NICU Level II or NICU Level III peer groups, based on the hospital's certification by the Arizona Perinatal Trust. For the Routine tier, the Administration shall further assign claims and encounters to the general acute care hospital or rehabilitation hospital peer groups, based on state licensure by the Department of Health Services. For claims and encounters assigned to more than one tier, the Administration shall allocate ancillary department costs to the tiers in the same proportion as the accommodation costs. Before calculating the rate for the operating component, the Administration shall identify and exclude any claims and encounters that are outliers as defined in subsection (6).
 - iv. Operating rate calculation. The Administration shall set the rate for the operating component for each tier by dividing total statewide or peer group hospital costs identified in this subsection within the tier by the total number of AHCCCS inpatient hospital days of care reflected in the claim and encounter database for that tier.
 - b. Capital component. For rates effective October 1, 1999 the capital component is calculated as described in A.R.S. § 36-2903.01.

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- c. Statewide inpatient hospital cost-to-charge ratio. For dates of service prior to October 1, 2007, the statewide inpatient hospital cost-to-charge ratio is used for payment of outliers, as described in subsections (4), (5), and (6), and out-of-state hospitals, as described in R9-22-712(B). The Administration shall calculate the AHCCCS statewide inpatient hospital cost-to-charge ratio by using the Medicare Cost Report data and claim and encounter database described in subsection (1) and used to determine the tiered per diem rates. For each hospital, the covered inpatient days of care on the claims and encounters are multiplied by the corresponding accommodation costs per day from the Medicare Cost Report. Similarly, the covered ancillary department charges on the claims and encounters are multiplied by the ancillary department cost-to-charge ratios. The accommodation costs per day and the ancillary department cost-to-charge ratios for each hospital are determined in the same way described in subsection (2)(a) but include costs for operating and capital. The Administration shall then calculate the statewide inpatient hospital cost-to-charge ratio by summing the covered accommodation costs and ancillary department costs from the claims and encounters for all hospitals and dividing by the sum of the total covered charges for these services for all hospitals.
- d. Unassigned tiered per diem rates. If a hospital has an insufficient number of claims to set a tiered per diem rate, the Administration shall pay that hospital the statewide average rate for that tier.
- 3. Tier assignment. The Administration shall assign AHCCCS inpatient hospital days of care to tiers based on information submitted on the inpatient hospital claim or encounter including diagnosis, procedure, or revenue codes, peer group, NICU classification level, or a combination of these.
 - a. Tier hierarchy. In assigning claims for AHCCCS inpatient hospital days of care to a tier, the Administration shall follow the Hierarchy for Tier Assignment through September 30, 2014 in R9-22-712.09. The Administration shall not pay a claim for inpatient hospital services unless the claim meets medical review criteria and the definition of a clean claim. The Administration shall not pay for a hospital stay on the basis of more than two tiers, regardless of the number of interim claims that are submitted by the hospital.
 - b. Tier exclusions. The Administration shall not assign to a tier or pay AHCCCS inpatient hospital days of care that do not occur during a period when the person is eligible. Except in the case of death, the Administration shall pay claims in which the day of admission and the day of discharge are the same, termed a same day admit and discharge, including same day transfers, as an outpatient hospital claim. The Administration shall pay same day admit and discharge claims that qualify for either the maternity or nursery tiers based on the lesser of the rate for the maternity or nursery tier, or the outpatient hospital fee schedule.
 - c. Seven tiers. The seven tiers are:
 - i. Maternity. The Administration shall identify the Maternity Tier by a primary diagnosis code. If a claim has an appropriate primary diagnosis, the Administration shall pay the AHCCCS inpatient hospital days of care on the claim at the maternity tiered per diem rate.
 - ii. NICU. The Administration shall identify the NICU Tier by a revenue code. A hospital does not qualify for the NICU tiered per diem rate unless the hospital is classified as either a NICU Level II or NICU Level III perinatal center by the Arizona Perinatal Trust. The Administration shall pay AHCCCS inpatient hospital days of care on the claim that meet the medical review criteria for the NICU tier and have a NICU revenue code at the NICU tiered per diem rate. The Administration shall pay any remaining AHCCCS inpatient hospital day on the claim that does not meet NICU Level II or NICU Level III medical review criteria at the nursery tiered per diem rate.
 - iii. ICU. The Administration shall identify the ICU Tier by a revenue code. The Administration shall pay AHCCCS inpatient hospital days of care on the claim that meets the medical review criteria for the ICU tier and has an ICU revenue code at the ICU tiered per diem rate. The Administration may classify any AHCCCS inpatient hospital days on the claim without an ICU revenue code, as surgery, psychiatric, or routine tiers.
 - iv. Surgery. The Administration shall identify the Surgery Tier by a revenue code and a valid surgical procedure code that is not on the AHCCCS excluded surgical procedure list. The excluded surgical procedure list identifies minor procedures such as sutures that do not require the same hospital resources as other procedures. The Administration shall only split a surgery tier with an ICU tier. AHCCCS shall pay at the surgery tier rate only when the surgery occurs on a date during which the member is eligible.
 - v. Psychiatric. The Administration shall identify the Psychiatric Tier by either a psychiatric revenue code and a psychiatric diagnosis or any routine revenue code if all diagnosis codes on the claim are psychiatric. The Administration shall not split a claim with AHCCCS inpatient hospital days of care in the psychiatric tier with any tier other than the ICU tier.
 - vi. Nursery. The Administration shall identify the Nursery Tier by a revenue code. The Administration shall not split a claim with AHCCCS inpatient hospital days of care in the nursery tier with any tier other than the NICU tier.
 - vii. Routine. The Administration shall identify the Routine Tier by revenue codes. The routine tier includes AHCCCS inpatient hospital days of care that are not classified in another tier or paid under any other provision of this Section. The Administration shall not split the routine tier with any tier other than the ICU tier.

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4. Annual update. The Administration shall annually update the inpatient hospital tiered per diem rates through September 30, 2011.
5. New hospitals. For rates effective on and after October 1, 1998, the Administration shall pay new hospitals the statewide average rate for each tier, as appropriate. The Administration shall update new hospital tiered per diem rates through September 30, 2011.
6. Outliers. The Administration shall reimburse hospitals for AHCCCS inpatient hospital days of care identified as outliers under this Section by multiplying the covered charges on a claim by the Medicare Urban or Rural Cost-to-Charge Ratio. The Urban cost-to-charge ratio will be used for hospitals located in a county of 500,000 residents or more. The Rural cost-to-charge ratio will be used for hospitals located in a county of fewer than 500,000 residents.
 - a. Outlier criteria. For rates effective on and after October 1, 1998, the Administration set the statewide outlier cost threshold for each tier at the greater of three standard deviations from the statewide mean operating cost per day within the tier, or two standard deviations from the statewide mean operating cost per day across all the tiers. If the covered costs per day on a claim exceed the urban or rural cost threshold for a tier, the claim is considered an outlier. Outliers will be paid by multiplying the covered charges by the applicable Medicare Urban or Rural CCR. The resulting amount will be the outlier payment. If there are two tiers on a claim, the Administration shall determine whether the claim is an outlier by using a weighted threshold for the two tiers. The weighted threshold is calculated by multiplying each tier rate by the number of AHCCCS inpatient hospital days of care for that tier and dividing the product by the total tier days for that hospital. Routine maternity stays shall be excluded from outlier reimbursement. A routine maternity is any one-day stay with a delivery of one or two babies. A routine maternity stay will be paid at tier.
 - b. Update. The CCR is updated annually by the Administration for dates of service beginning October 1, using the most current Medicare cost-to-charge ratios published or placed on display by CMS by August 31 of that year. The Administration shall update the outlier cost thresholds for each hospital through September 30, 2011 as described under A.R.S. § 36-2903.01. For inpatient hospital admissions with begin dates of service on and after October 1, 2011, AHCCCS will increase the outlier cost thresholds by 5% of the thresholds that were effective on September 30, 2011.
 - c. Medicare Cost-to-Charge Ratio Phase-In. AHCCCS shall phase in the use of the Medicare Urban or Rural Cost-to-Charge Ratios for outlier determination, calculation and payment. The three-year phase-in does not apply to out-of-state or new hospitals.
 - i. Medicare Cost-to-Charge Ratio Phase-In outlier determination and threshold calculation. For outlier claims with dates of service on or after October 1, 2007 through September 30, 2008, AHCCCS shall adjust each hospital specific inpatient cost-to-charge ratio in effect on September 30, 2007 by subtracting one-third of the difference between the hospital specific inpatient cost-to-charge ratio and the effective Medicare Urban or Rural Cost-to-Charge Ratio. For outlier claims with dates of service on or after October 1, 2008 through September 30, 2009, AHCCCS shall adjust each hospital specific inpatient cost-to-charge ratio in effect on September 30, 2007 by subtracting two-thirds of the difference between the hospital specific inpatient cost-to-charge ratio and the effective Medicare Urban or Rural Cost-to-Charge Ratio. The adjusted hospital specific inpatient cost-to-charge ratios shall be used for all calculations using the Medicare Urban or Rural Cost-to-Charge Ratios, including outlier determination, and threshold calculation.
 - ii. Medicare Cost-to-Charge Ratio Phase-In calculation for payment. For payment of outlier claims with dates of service on or after October 1, 2007 through September 30, 2008, AHCCCS shall adjust the statewide inpatient hospital cost-to-charge ratio in effect on September 30, 2007 by subtracting one-third of the difference between the statewide inpatient hospital cost-to-charge ratio and the effective Medicare urban or rural cost-to-charge ratio. For payment of outlier claims with dates of service on or after October 1, 2008 through September 30, 2009, AHCCCS shall adjust the statewide inpatient hospital cost-to-charge ratio in effect on September 30, 2007 by subtracting two-thirds of the difference between the statewide inpatient hospital cost-to-charge ratio and the effective Medicare urban or rural cost-to-charge ratio.
 - iii. Medicare Cost-to-Charge Ratio for outlier determination, threshold calculation, and payment. For outlier claims with dates of service on or after October 1, 2009, the full Medicare Urban or Rural Cost-to-Charge Ratios shall be utilized for all outlier calculations.
 - d. Cost-to-Charge Ratio used for qualification and payment of outlier claims.
 - i. For qualification and payment of outlier claims with begin dates of service on or after April 1, 2011 through September 30, 2011, the CCR will be equal to 95% of the ratios in effect on October 1, 2010.
 - ii. For qualification and payment of outlier claims with begin dates of service on or after October 1, 2011, the CCR will be equal to 90.25% of the most recent published Urban or Rural Medicare CCR as described in subsection (6)(b).
 - iii. For qualification and payment of outlier claims with begin dates of service on or after October 1, 2011 through September 30, 2012, AHCCCS will reduce the cost-to-charge ratio determined under subsection (6)(d)(ii) for a hospital that filed a charge master with ADHS on or after April 1, 2011 by an additional percentage equal to the total percent increase reported on the charge master.
 - iv. Subject to approval by CMS, for qualification and payment of outlier claims with begin dates

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of service on or after October 1, 2012, AHCCCS will reduce the cost-to-charge ratio determined under subsection (6)(d)(ii) for a hospital that filed a charge master with ADHS on or after June 1, 2012 by an additional percentage equal to the total percent increase reported on the charge master.

7. Transplants. The Administration shall reimburse hospitals for an AHCCCS inpatient stay in which a covered transplant as described in R9-22-206 is performed through the terms of the relevant contract. If the Administration and a hospital that performs transplant surgery on an eligible person do not have a contract for the transplant surgery, the Administration shall not reimburse the hospital more than what would have been paid to the contracted hospital for that same surgery.
8. Ownership change. The Administration shall not change any of the components of a hospital's tiered per diem rates upon an ownership change.
9. Psychiatric hospitals. The Administration shall pay free-standing psychiatric hospitals an all-inclusive per diem rate based on the contracted rates used by the Department of Health Services.
10. Specialty facilities. The Administration may negotiate, at any time, reimbursement rates for inpatient specialty facilities or inpatient hospital services not otherwise addressed in this Section as provided by A.R.S. § 36-2903.01. For purposes of this subsection, "specialty facility" means a facility where the service provided is limited to a specific population, such as rehabilitative services for children.
11. Outliers for new hospitals. Outliers for new hospitals will be calculated using the Medicare Urban or Rural Cost-to-Charge Ratio times covered charges. If the resulting cost is equal to or above the cost threshold, the claim will be paid at the Medicare Urban or Rural Cost-to-Charge ratio.
12. Reductions to tiered per diem payment for inpatient hospital services. Inpatient hospital admissions with begin dates of service on or after October 1, 2011, shall be reimbursed at 95 percent of the tiered per diem rates in effect on September 30, 2011.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 3231, effective October 1, 2005 (Supp. 05-3). Amended by exempt rulemaking at 13 A.A.R. 3190, effective October 1, 2007 (Supp. 07-3). Amended by exempt rulemaking at 17 A.A.R. 1337, effective October 1, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 1914, effective July 18, 2012 (Supp. 12-3). Amended by final rulemaking at 19 A.A.R. 3315, effective November 30, 2013 (Supp. 13-4). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.02. Reserved

R9-22-712.03. Reserved

R9-22-712.04. Reserved

R9-22-712.05. Graduate Medical Education Fund Allocation

- A. Graduate medical education (GME) reimbursement as of September 30, 1997. Subject to legislative appropriation, the Administration shall make a distribution based on direct graduate medical education costs as described in A.R.S. § 36-2903.01(G)(9)(a).

- B. Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for the expansions of GME programs approved by the Administration to hospitals for direct program costs eligible for funding under A.R.S. § 36-2903.01(G)(9)(b). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (B)(3).

1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (B) if all of the following apply:
 - a. It is a hospital in Arizona that is the sponsoring institution of, or a participating institution in, one or more of the GME programs in Arizona;
 - b. It incurs direct costs for the training of residents in the GME programs, which costs are or will be reported on the hospital's Medicare Cost Report;
 - c. It is not administered by or does not receive its primary funding from an agency of the federal government.
2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (B)(4) the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (B)(1)(c):
 - a. Filled resident positions in approved programs established as of October 1, 1999 at hospitals that receive funding as described in A.R.S. § 36-2903.01(G)(9)(a) that are additional to the number of resident positions that were filled as of October 1, 1999; and
 - b. All filled resident positions in approved programs other than GME programs described in A.R.S. § 36-2903.01(G)(9)(a) that were established before July 1, 2006.
3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (B) shall provide the applicable information listed in this subsection to the Administration:
 - a. A GME program shall provide all of the following:
 - i. The program name and number assigned by the accrediting organization;
 - ii. The original date of accreditation;
 - iii. The names of the sponsoring institution and all participating institutions current as of the date of reporting;
 - iv. The number of approved resident positions and the number of filled resident positions current as of the date of reporting;
 - v. For programs established as of October 1, 1999, the number of resident positions that were filled as of October 1, 1999, if the program has not already provided this information to the Administration;
 - b. A hospital seeking a distribution under subsection (B) shall provide all of the following that apply:
 - i. If the hospital uses the Intern and Resident Information System (IRIS) for tracking and reporting its resident activity to the fiscal intermediary, copies of the IRIS master and assignment files for the hospital's two most recently

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- completed Medicare cost reporting years as filed with the fiscal intermediary;
- ii. If the hospital does not use the IRIS or has less than two cost reporting years available in the form of the IRIS master and assignment files, the information normally contained in the IRIS master and assignment files in an alternative format for the hospital's two most recently completed Medicare cost reporting years;
 - iii. At the request of the Administration, a copy of the hospital's Medicare Cost Report or any part of the report for the most recently completed cost reporting year.
4. Allocation of expansion funds. Annually the Administration shall allocate available funds to each approved GME program in the following manner:
 - a. Information provided by hospitals under subsection (B)(3)(b) shall be used to determine the program in which each eligible resident is enrolled and the number of days that each eligible resident worked in any area of the hospital complex or in a non-hospital setting under agreement with the reporting hospital during the period of assignment to that hospital. For this purpose, the Administration shall use data relating to the most recent 12-month period that is common to all information provided under subsections (B)(3)(b)(i) and (ii).
 - b. The number of eligible residents allocated to each participating institution within each approved GME program shall be determined as follows:
 - i. Total the number of days determined for each participating institution under subsection (B)(4)(a) and divide each total by 365.
 - ii. Proportionally adjust the result of subsection (B)(4)(b)(i) for each participating institution within each program according to the number of residents determined to be eligible under subsection (B)(2).
 - c. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) shall be adjusted for Arizona Medicaid utilization using the most recent Medicare Cost Report information on file with the Administration as of the date of reporting under subsection (B)(3) and the Administration's inpatient hospital claims and encounter data for the time period corresponding to the Medicare Cost Report information for each hospital. The Administration shall use only those inpatient hospital claims paid by the Administration and encounters that were adjudicated by the Administration as of the date of reporting under subsection (B)(3). The Medicaid-adjusted eligible residents shall be determined as follows:
 - i. For each hospital, the total AHCCCS inpatient hospital days of care shall be divided by the total Medicare Cost Report inpatient hospital days, multiplied by 100 and rounded up to the nearest multiple of 5 percent.
 - ii. The number of allocated eligible residents determined for each participating hospital under subsection (B)(4)(b)(ii) shall be multiplied by the percentage derived under subsection (B)(4)(c)(i) for that hospital. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) for a participating institution that is not a hospital and not a health care facility made ineligible under subsection (B)(1)(c) shall be multiplied by the percentage derived under subsection (B)(4)(c)(i) for the program's sponsoring institution or, if the sponsoring institution is not a hospital, the sponsoring institution's affiliated hospital. The number of allocated eligible residents determined under subsection (B)(4)(b)(ii) for a participating institution that is made ineligible under subsection (B)(1)(c) shall be multiplied by zero percent.
 - d. The total allocation for each approved program shall be determined by multiplying the Medicaid-adjusted eligible residents determined under subsection (B)(4)(c)(ii) by the per-resident conversion factor determined below and totaling the resulting dollar amounts for all participating institutions in the program. The per-resident conversion factor shall be determined as follows:
 - i. Calculate the total direct GME costs from the most recent Medicare Cost Reports on file with the Administration for all hospitals that have reported such costs.
 - ii. Calculate the total allocated residents determined under subsection (B)(4)(b)(i) for those hospitals described under subsection (B)(4)(d)(i).
 - iii. Divide the total GME costs calculated under subsection (B)(4)(d)(i) by the total allocated residents calculated under subsection (B)(4)(d)(ii).
 5. Distribution of expansion funds. On an annual basis subject to available funds, the Administration shall distribute the allocated amounts determined under subsection (B)(4) in the following manner:
 - a. The allocated amounts shall be distributed in the following order of priority:
 - i. To eligible hospitals that do not receive funding in accordance with A.R.S. § 36-2903.01(G)(9)(a) for the direct costs of programs established before July 1, 2006;
 - ii. To eligible hospitals that receive funding in accordance with A.R.S. § 36-2903.01(G)(9)(a) for the direct costs of programs established before July 1, 2006;
 - b. The allocated amounts shall be distributed to the eligible hospitals in each approved program in proportion to the number of Medicaid-adjusted eligible residents allocated to each hospital within that program under subsection (B)(4)(c)(ii).
 - c. If funds are insufficient to cover all distributions within any priority group described under subsection (B)(5)(a), the Administration shall adjust the distributions proportionally within that priority group.
- C. Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for the expansions of GME programs approved by the Administration to hospitals for direct program costs eligible for funding under A.R.S. § 36-2903.01(G)(9)(c)(i). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information

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possessed by the Administration as of the date of reporting under subsection (C)(3).

1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (C) if it meets all the conditions of subsections (B)(1)(a) through (c).
2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (C)(4), the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (B)(1)(c):
 - a. All filled resident positions in approved programs established on or after July 1, 2006; and
 - b. For approved programs established on or after July 1, 2006 that have been established for less than one year as of the date of reporting under subsection (C)(3) and have not yet filled their first-year resident positions, all prospective residents reasonably expected by the program to be enrolled as a result of the most recently completed annual resident match.
3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (C) shall provide to the Administration:
 - a. A GME program shall provide all of the following:
 - i. The requirements of subsections (B)(3)(a)(i) through (iv);
 - ii. The academic year rotation schedule on file with the program current as of the date of reporting; and
 - iii. For programs described under subsection (C)(2)(b), the number of residents expected to be enrolled as a result of the most recently completed annual resident match.
 - b. A hospital seeking a distribution under subsection (C) shall provide the requirements of subsection (B)(3)(b).
4. Allocation of expansion funds. Annually the Administration shall allocate available funds to approved GME programs in the following manner:
 - a. Information provided by hospitals in accordance with subsection (B)(3)(b) shall be used to determine the program in which each eligible resident is enrolled and the number of days that each eligible resident worked in any area of the hospital complex or in a non-hospital setting under agreement with the reporting hospital during the period of assignment to that hospital. For this purpose, the Administration shall use data relating to the most recent 12-month period that is common to all information provided in accordance with subsections (B)(3)(b)(i) and (ii).
 - b. For approved programs whose resident activity is not represented in the information provided in accordance with subsection (B)(3)(b), information provided by GME programs under subsection (C)(3)(a) shall be used to determine the number of days that each eligible resident is expected to work at each participating institution.
 - c. The number of eligible residents allocated to each participating institution for each approved GME program shall be determined by totaling the number of days determined under subsections (C)(4)(a) and (b) and dividing the totals by 365.
 - d. The number of allocated residents determined under subsection (C)(4)(c) shall be adjusted for Arizona

Medicaid utilization in accordance with subsection (B)(4)(c).

- e. The total allocation for each approved program shall be determined in accordance with subsection (B)(4)(d).
5. Distribution of expansion funds. On an annual basis subject to available funds, the Administration shall distribute the allocated amounts determined under subsection (C)(4) to the eligible hospitals in each approved program in proportion to the number of Medicaid-adjusted eligible residents allocated to each within that program under subsection (C)(4)(d).
- D. Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for GME programs approved by the Administration to hospitals for indirect program costs eligible for funding under A.R.S. § 36-2903.01(G)(9)(c)(ii). A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (D)(3).
 1. Eligible health care facilities. A health care facility is eligible for distributions under subsection (D) if all of the following apply:
 - a. It is a hospital in Arizona that is the sponsoring institution of, or a participating institution in, one or more of the GME programs in Arizona or is the base hospital for one or more of the GME programs in Arizona whose sponsoring institutions are not hospitals;
 - b. It incurs indirect program costs for the training of residents in the GME programs, which are or will be calculated on the hospital's Medicare Cost Report or are reimbursable under the Children's Hospitals Graduate Medical Education Payment Program administered by HRSA;
 - c. It is not administered by or does not receive its primary funding from an agency of the federal government.
 2. Eligible resident positions. For purposes of determining program allocation amounts under subsection (D)(4) the following resident positions are eligible for consideration to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (D)(1)(c):
 - a. Any filled resident position in an approved program that includes a rotation of at least one month per year in a county other than Maricopa or Pima whose population was less than 500,000 persons at the time the residency rotation was added to the academic year rotation schedule;
 - b. For approved programs that have been established for less than one year as of the date of reporting under subsection (D)(3) and have not yet filled their first-year resident positions, all prospective residents reasonably expected by the program to be enrolled as a result of the most recently completed annual resident match who will perform rotations of at least one month per year in a county other than Maricopa or Pima whose population was less than 500,000 persons at the time the residency rotation was added to the academic year rotation schedule.

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3. Annual reporting. By April 1st of each year, each GME program and each hospital seeking a distribution under subsection (D) shall provide to the Administration:
 - a. A GME program shall provide all of the following:
 - i. The requirements of subsections (B)(3)(a)(i) through (iv);
 - ii. The academic year rotation schedule on file with the program current as of the date of reporting;
 - iii. For programs described under subsection (D)(2)(c), the number of residents expected to be enrolled as a result of the most recently completed annual resident match.
 - b. A hospital seeking a distribution under subsection (D) shall provide the requirements of subsection (B)(3)(b)(iii).
4. Allocation of funds for indirect program costs. Annually the Administration shall allocate available funds to approved GME programs in the following manner:
 - a. Using the information provided by programs under subsection (D)(3), the Administration shall determine for each program the number of residents in the program who are eligible under subsection (D)(2) and the number of months per year that each eligible resident will perform rotations in counties described by subsection (D)(2), multiply the number of eligible residents by the number of months and multiply the result by the per resident per month conversion factor determined under subsection (D)(4)(b).
 - b. Using the most recent Medicare Cost Reports on file with the Administration for all hospitals that have calculated a Medicare indirect medical education payment, the Administration shall determine a per resident per month conversion factor as follows:
 - i. Calculate each hospital's Medicare share by dividing the Medicare inpatient discharges on the Medicare Cost Report by the total inpatient hospital discharges on the Medicare Cost Report.
 - ii. Calculate the ratio of residents to beds by dividing the total allocated residents described in subsection (B)(4)(d)(ii) by the number of bed days available from the Medicare Cost Report and dividing the result by the number of days in the cost reporting period.
 - iii. Calculate the indirect medical education adjustment factor by adding 1 to the value calculated in (D)(4)(b)(ii), multiplying the result by the exponential value 0.405, subtracting 1 from the result, and multiplying that result by 1.35.
 - iv. Calculate each hospital's total indirect medical education cost by adding the DRG amounts other than outlier payments from the Medicare cost report and the managed care simulated payments from the Medicare Cost Report, multiplying the total by the indirect medical education adjustment factor determined in (D)(4)(b)(iii) and dividing the result by the Medicare share determined in (D)(4)(b)(i).
 - v. Calculate each hospital's Medicaid indirect medical education cost by multiplying the amount determined in (D)(4)(b)(iv) by the value determined in subsection (B)(4)(c)(i).
 - vi. Total the amounts determined in (D)(4)(b)(v) for all hospitals, divide the result by the total allocated residents described in subsection (B)(4)(d)(ii) for all hospitals, and divide that result by 12.
5. Distribution of funds for indirect program costs. On an annual basis subject to available funds, the Administration shall distribute to each eligible hospital the amount calculated for the hospital at subsection (D)(4)(a).
- E. Reallocation of funds. If funds appropriated for subsection (B) are not allocated by the Administration and funds appropriated for subsections (C) and (D) are insufficient to cover all distributions under subsections (C)(5) and (D)(5), the funds not allocated under subsection (B) shall be allocated under subsections (C) and (D) to the extent of the calculated distributions. If funds are insufficient to cover all distributions under subsections (C)(5) and (D)(5), the Administration shall adjust the distributions proportionally. If funds appropriated for subsections (C) and (D) are not allocated by the Administration and funds appropriated for subsection (B) are insufficient to cover all distributions under subsection (B)(5), the funds not allocated under subsections (C) and (D) shall be allocated under subsection (B) to the extent of the calculated distributions.
- F. The Administration may enter into intergovernmental agreements with local, county, and tribal governments wherein local, county and tribal governments may transfer funds or certify public expenditures to the Administration. Such funds or certification, subject to approval by CMS, will be used to qualify for additional federal funds. Those funds will be used for the purposes of reimbursing hospitals that are eligible under subsection (D)(1) and specified by the local, county, or tribal government for indirect program costs other than those reimbursed under subsection (D). The Administration shall allocate available funds in accordance with subsection (D) except that reimbursement with such funds is not limited to resident positions or rotations in counties with populations of less than 500,000 persons. On an annual basis subject to available funds, the Administration shall distribute to each eligible hospital the greatest among the following amounts, less any amounts distributed under subsection (D)(5):
 1. The amount that results from multiplying the total number of eligible residents allocated to the hospital under subsection (B)(4)(d)(ii) by 12 by the per resident per month conversion factor determined under subsection (D)(4)(b);
 2. The amount calculated for the hospital at subsection (D)(4)(b)(v);
 3. The median of all amounts calculated at subsection (D)(4)(b)(v) if the hospital does not have an indirect medical education payment calculated on the Medicare Cost Report because it is a new training hospital; or
 4. If the hospital does not have an indirect medical education payment calculated on the Medicare Cost Report because it is a children's hospital, the median Medicaid indirect medical education payment costs shall be calculated as follows:
 - a. For each hospital with indirect medical education costs on the Medicare Cost Report, determine a per resident total indirect medical education cost by dividing the total indirect medical education costs determined under subsection (D)(4)(b) by the number of filled resident positions under subsection (B)(2).

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- b. Determine the median per resident amount under subsection (F)(4)(a).
- c. For each hospital without an indirect medical education component on the Medicare cost report, multiply the median per resident amount under subsection (F)(4)(b) by the number of filled resident positions under subsection (B)(2) for that hospital and by the Medicaid utilization percent for that hospital determined in subsection (B)(4)(c)(i).

Historical Note

New Section made by final rulemaking at 13 A.A.R. 1782, effective June 30, 2007 (Supp. 07-2). Amended by exempt rulemaking at 13 A.A.R. 4032, effective November 1, 2007 (Supp. 07-4). Amended by final rulemaking at 21 A.A.R. 3469, effective January 30, 2016 (Supp. 15-4). Amended by final rulemaking at 24 A.A.R. 185, effective January 9, 2018 (Supp. 18-1). Amended by final rulemaking at 24 A.A.R. 3321, effective January 5, 2019 (Supp. 18-4).

R9-22-712.06. Supplemental Graduate Medical Education Fund Allocation**A. Gradual Medical Education (GME) reimbursement as of July 1, 2020.**

1. In addition to distributions according to Section R9-22-712.05, and subject to the availability of funds and approval by CMS, the Administration shall annually distribute monies appropriated for the GME programs approved by the Administration to hospitals for direct and indirect costs for graduate medical education programs which were established or expanded on or after July 1, 2020. The Administration shall estimate the distributions using information possessed by the Administration as of December 15 of each calendar year. The actual distributions will be made using information possessed by the Administration as of September first of the year in which the new residency or fellowship begins.
2. Eligible Hospitals. A hospital is eligible for distributions under this Section if all of the following apply:
 - a. It is a hospital in Arizona that is the sponsoring institution of, or a participating institution in, one or more of the GME programs in Arizona;
 - b. It incurs direct costs for the training of residents in the GME programs, which costs are or will be reported on the hospital's Medicare Cost Report;
 - c. It is not administered by or does not receive its primary funding from an agency of the federal government;
 - d. It has established a new GME program or expanded the number of residents or fellows in an existing GME program on or after July 1, 2020.
3. Eligible positions. For purposes of determining distributions under this Section the following resident and fellowship positions qualify to the extent that the training takes place in Arizona at an eligible health care facility:
 - a. Filled resident or fellow positions in approved programs which began on or after July 1, 2020;
 - b. Eligible positions do not include residents or fellows that receive payments for services under the Access to Professional Services Initiative (APSI) program established in the Contractors' prepaid capitation contracts with the Administration.
4. Annual Reporting

- a. By December 15 of each year, a GME program shall provide all of the following information for GME programs and positions which are expected to be eligible for funding under this Section as of the upcoming academic year (i.e., July 1 to June 30 of each year):

- i. The program name and number assigned by the accrediting organization if available;
- ii. The original date of accreditation if available;
- iii. The names of the sponsoring institution and all participating institutions expected as of the date of reporting;
- iv. The number of anticipated resident and fellowship positions eligible for funding as of the upcoming academic year;
- v. The number of months or partial months during the upcoming academic year that each resident or fellow is expected to work in each hospital or in a non-hospital setting under agreement between the non-hospital setting and the reporting hospital;
- vi. The academic year of anticipated resident and fellowship positions;
- vii. The length of the program; and
- viii. The names and other information requested by AHCCCS to ensure the total GME distributions for each eligible position are not greater than the costs for each eligible position in the Intern and Resident Information System (IRIS) file.

- b. By December 15 of each year, a GME program located in a county with a population of less than 500,000 persons shall provide the estimated one-time and ongoing costs for each program which it expects to be eligible for funding.

- c. By September 1 of each year, a GME program shall provide the actual name of residents and fellows hired in the current academic year and other information requested by AHCCCS to ensure that total GME distributions for the eligible position are not greater than the costs for each eligible position in the IRIS file.

B. Preliminary allocation of funds for urban hospitals. Annually by January 15, the Administration shall estimate the annual GME distributions under this Section using the funds appropriated for hospitals in counties with a population of 500,000 persons or more based on the number of new residents and fellows in graduate medical education programs in the following manner:

1. Each eligible resident and fellow is placed into tiers with the following priority:
 - a. Returning residents and fellows. A returning resident or fellow is a resident or fellow whose position received funding under this Section for the previous academic year and who is continuing in the same GME program.
 - b. Residents and fellows that are not a returning resident or fellow but are in a GME program for Family Medicine, Internal Medicine, General Pediatrics, Obstetrics and Gynecology, Psychiatry including Subspecialties, General Surgery, and any other program determined as high needs by the AHCCCS Administration.
 - c. Residents or fellows that are not returning residents or fellows and are not described in subsection (1)(b)

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but are in a GME program that received funding under this Section in a prior year.

- d. All other residents and fellows.
2. The amount of the distribution for each GME program for direct costs is calculated as the product of:
 - a. The number of eligible residents and fellows adjusted for the number of months or partial months worked in each hospital or non-hospital setting under agreement between the non-hospital setting and the reporting hospitals;
 - b. The Arizona Medicaid utilization as determined by R9-22-712.05(B)(4)(c)(i) in the previous calendar year; and,
 - c. The average direct cost per resident determined under R9-22-712.05(B)(4)(d) in the previous calendar year.
3. If monies are still remaining after direct funding has been allocated, indirect funding shall be allocated based on the priority of each tier and sub-tier. The amount of the distribution for each GME program for indirect costs is calculated as the product of:
 - a. The number of allocated eligible residents and fellows adjusted for the number of months or partial months worked in each hospital or non-hospital setting under agreement between the non-hospital setting and the reporting hospital;
 - b. The indirect cost per resident per month calculated in R9-22-712.05(D)(4)(b)(vi) in the previous calendar year; and
 - c. Twelve months.
 - d. Funds shall be allocated based on the priority of each tier and sub-tier. Distributions for eligible positions in a tier or sub-tier with a lower priority will not receive a distribution until distributions are allocated for the costs of all positions in a higher tier or sub-tier. If funding is insufficient to fully fund a tier or sub-tier, the remainder of funds will be prorated for eligible positions in that tier or sub-tier.
4. Payments are made to participating hospitals based on the FTEs who worked at their hospitals per year.
- C. Preliminary allocation of funds for rural hospitals. Annually by January 15, the Administration shall estimate the annual GME distributions under this Section using the funds appropriated for rural hospitals based on the number of eligible resident and fellow positions in graduate medical education programs located in a county with a population of less than 500,000 persons in the following manner:
 1. Each resident and fellow will then be placed into a tier with the following priority:
 - a. Returning residents and fellows. A returning resident or fellow is a resident or fellow whose position received funding under this Section for the previous academic year and who is continuing in the same GME program.
 - b. Residents and fellows that are not a returning resident or fellow but are in a GME program for Family Medicine, Internal Medicine, General Pediatrics, Obstetrics and Gynecology, Psychiatry including Subspecialties, General Surgery, and any other program determined as high needs by the AHCCCS Administration.
 - c. Residents or fellows that are not returning residents or fellows and are not described in subsection (1)(b)

but are in a GME program that received funding under this Section in a prior year.

- d. All other residents and fellows.
2. Residents and fellows in each tier are further divided into four sub-tiers with the following priority based on the location of the sponsoring or participating hospital:
 - a. Hospitals in a county designated by the Health Resource and Services Administration of the U.S. Department of Health & Human Services as a HPSA with a greater than 85 percent primary care shortage.
 - b. Hospitals in a county designated as a HPSA with a greater than 50 percent to 85 percent primary care shortage.
 - c. Hospitals in a county designated as a HPSA with a 25-50 percent primary care shortage.
 - d. Hospitals in a county designated as a HPSA with a less than 25 percent primary care shortage.
3. Funds shall first be allocated for direct and indirect costs based in order of priority of each tier. If not enough funding is available to fully fund a tier or sub-tier, the remainder of funds will be prorated in a tier or sub-tier.
4. The amount of the distribution for each GME program for direct costs is calculated as the product of:
 - a. The number of eligible residents and fellows adjusted for the number of months or partial months worked in each hospital or non-hospital setting under agreement between the non-hospital setting and the reporting hospitals;
 - b. The Arizona Medicaid utilization determined under R9-22-712.05(B)(4)(c)(i); and,
 - c. The actual direct cost per resident per year.
5. The amount of the distribution for each GME program for indirect costs is calculated as the product of:
 - a. The number of allocated eligible residents and fellows adjusted for the number of months or partial months worked in each hospital or non-hospital setting under agreement between the non-hospital setting and the reporting hospital;
 - b. The indirect cost per resident per month calculated in R9-22-712.05(D)(4)(b)(vi) in the previous calendar year; and
 - c. Twelve months.
6. Payments are made to participating hospitals based on the FTEs who worked at their hospitals per year.
- D. Final allocation of funds. Annually no sooner than September 1 following the start of the academic year, the Administration will recalculate the allocation for urban and rural hospitals using the same methodology used to estimate distributions, but using the actual residents and fellows as reported in R9-22-712.06(A)(4)(c).
- F. Exclusions. To ensure that residents and fellows are not double counted residents/fellows which receive funding through R9-22-712.06 shall not receive funding through R9-22-712.05.

Historical Note

New Section made by final rulemaking at 27 A.A.R. 2496 (October 29, 2021), with an immediate effective date of October 6, 2021 (Supp. 21-4). Amended by final rulemaking at 29 A.A.R. 923 (April 21, 2023), with an immediate effective date of March 31, 2023 (Supp. 23-1).

R9-22-712.07. Rural Hospital Inpatient Fund Allocation

- A. For purposes of this Section, the following words and phrases have the following meanings unless the context specifically requires another meaning:

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1. "Calculated inpatient costs" means the sum of inpatient covered charges multiplied by the Milliman study's implied cost-to-charge ratio of .8959.
 2. "Claims paid amount" means the sum of all claims paid by the Administration and contractors, as reported by the contractor to the Administration, to a rural hospital for covered inpatient services rendered for dates of service during the previous state fiscal year.
 3. "Fund" means any state funds appropriated by the Legislature for the purposes set forth in A.R.S. § 36-2905.02 and any federal funds that are available for matching the state funds.
 4. "Inpatient covered charges" means the sum of all covered charges billed by a hospital to the Administration or contractors, as reported by the contractors to the Administration, for inpatient services rendered during the previous state fiscal year.
 5. "Milliman study" means the report issued by Milliman USA on March 11, 2004, to the Arizona Hospital and Healthcare Association that updated a portion of a cost study entitled "Evaluation of the AHCCCS Inpatient Hospital Reimbursement System" prepared by Milliman USA for AHCCCS on November 15, 2002. A copy of each report is on file with the Administration.
 6. "Rural hospital" means a health care institution that is licensed as an acute care hospital by the Arizona Department of Health Services for the previous state fiscal year and is not an IHS hospital or a tribally owned or operated facility and:
 - a. Has 100 or fewer PPS beds, not including beds reported as sub provider beds on the hospital's Medicare Cost Report, and is located in a county with a population of less than 500,000 persons, or
 - b. Is designated as a critical access hospital for the majority of the previous state fiscal year.
- B.** Each February, the Administration shall allocate the Fund to the following three pools for the fiscal year:
1. Rural hospitals with 25 or fewer PPS beds not including sub provider beds and all Critical Access Hospitals, regardless of the number of beds in the Critical Access Hospital;
 2. Rural hospitals other than Critical Access Hospitals with 26 to 75 PPS beds not including sub provider beds; and
 3. Rural hospitals other than Critical Access Hospitals with 76 to 100 PPS beds not including sub provider beds.
- C.** The Administration shall allocate the Fund to each pool according to the ratio of claims paid amount for all hospitals assigned to the pool to total claims paid amount for all rural hospitals.
- D.** The Administration shall determine each hospital's claims paid amount and allocate the funds in each pool to each hospital in the pool based on the ratio of each hospital's claims paid amount to the sum of the claims paid amount for all hospitals assigned to the pool.
- E.** The Administration shall not make a Fund payment to a hospital that will result in the hospital's claims paid amount plus that hospital's Fund payment being greater than that hospital's calculated inpatient costs.
1. If a hospital's claims paid amount plus the hospital's Fund payment would be greater than the hospital's calculated inpatient costs, the Administration shall make a Fund payment to the hospital equal to the difference between the hospital's calculated inpatient costs and the hospital's claims paid amount.
 2. The Administration shall reallocate any portion of a hospital's Fund allocation that is not paid to the hospital due to the reason in subsection (E)(1) to the other eligible hospitals in the pool based upon the ratio of the claims paid amount for each hospital remaining in the pool to the sum of the claims paid amount for each hospital remaining in the pool.
- F.** If funds remain in a pool after allocations to each hospital in the pool under subsections (D) and (E), the Administration shall reallocate the remaining funds to the other pools based upon the ratio of each pool's original allocation of the Fund as determined under subsection (C) to the sum of the remaining pools' original Fund allocations under subsection (C). The Administration shall allocate remaining funds to the hospitals in the remaining pools under subsection (D) and (E). See Exhibit 1 for an example.
- G.** Subject to CMS approval of the method and distribution of the Fund, the administration or its contractors will distribute the Fund as a lump sum allocation to the rural hospitals in either one or two installments by the end of each state fiscal year.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 2188, effective June 6, 2006 (Supp. 06-2). Amended by final rulemaking at 22 A.A.R. 3476, effective January 30, 2016 (Supp. 15-4).

Exhibit 1. Pool Example

Pool A receives \$2,000,000. Pool B receives \$7,000,000. Pool C receives \$3,000,000.

If all of the funds in Pool B are paid to eligible hospitals and there is \$1,000,000 remaining, the remaining funds would be allocated to Pool A and Pool C based on the ratio of each pool's original allocation (original allocations of \$2,000,000 and \$3,000,000) to the total of their original allocation (\$2,000,000 + \$3,000,000 = \$5,000,000).

Pool A would receive 2/5 of the remaining funds (\$400,000) and Pool C would receive 3/5 of the remaining funds (\$600,000).

Historical Note

Exhibit 1 made by final rulemaking at 12 A.A.R. 2188, effective June 6, 2006 (Supp. 06-2).

R9-22-712.08. Federally Qualified Health Center and Rural Health Clinic Graduate Medical Education Program

- A.** Subject to available funds and approval by CMS, the Administration shall annually distribute monies appropriated for primary care GME programs approved by the Administration to Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) for direct and indirect program costs eligible for funding under A.R.S. § 36-2907.06(I).

1. A GME program is deemed to be established as of the date of its original accreditation. All determinations that are necessary to make distributions described by this subsection shall be made using information possessed by the Administration as of the date of reporting under subsection (D).
2. For purposes of this subsection, the term "FQHC" includes Federally Qualified Health Center Look-Alikes.

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- B.** Eligible health care facilities. A health care facility is eligible for a distribution under subsection (G) if all of the following apply:
1. It is an FQHC or RHC in Arizona that is the sponsoring institution of, or a full member of a consortium that is the sponsoring institution of, or a participating institution in, one or more approved primary care GME programs in Arizona;
 2. It incurs direct or indirect costs for the training of residents in Arizona in approved primary care GME programs;
 3. The GME program is not eligible for funding under R9-22-712.05; and
 4. The GME program is not fully funded by the federal government.
- C.** Eligible residents and resident positions. For purposes of determining program allocation amounts under subsections (E) and (F) the following residents and resident positions are eligible for consideration, to the extent that the resident training takes place in Arizona and not at a health care facility made ineligible under subsection (B):
1. All filled resident positions in approved primary care GME programs; or
 2. For approved primary care GME programs established for less than one year as of the date of annual reporting under subsection (D) and that have not yet filled their first-year resident positions, all prospective residents reasonably expected by the program to be enrolled as a result of the most recently completed annual resident match.
- D.** Annual reporting. By April 1st of each year, an FQHC or RHC seeking a distribution under this subsection shall:
1. Provide to the Administration the following information about each approved primary care GME program:
 - a. The program name and number assigned by the accrediting organization;
 - b. The original date of accreditation of the program;
 - c. The names of the sponsoring institution and all participating institutions current as of the date of reporting;
 - d. The number of approved resident positions and the number of filled resident positions current as of the date of reporting;
 - e. The academic year rotation schedule on file with the program current as of the date of reporting; and
 - f. For programs described under subsection (C)(2), the number of residents expected to be enrolled as a result of the most recently completed annual resident match.
 2. Provide to the Administration the most recent Medicare Cost Report for the FQHC or RHC seeking the distribution, and
 3. For an FQHC or RHC that is a full member of a consortium that is the sponsoring institution of an approved primary care GME program, provide to the Administration a signed letter attesting to the responsibility of the full member FQHC or RHC for direct or indirect costs of training residents in the program.
- E.** Allocation of funds for direct graduate medical education costs. Annually the Administration shall allocate available funds for direct graduate medical education costs to each eligible FQHC or RHC in the following manner:
1. A Medicaid utilization percent for each FQHC or RHC seeking a distribution shall be calculated using the Medicare Cost Report submitted under subsection (D)(2), dividing the Title XIX visit count by the whole number of visits reported and rounding the result up to the nearest multiple of 5 percent.
 2. A total number of residents eligible for funding in each program shall be calculated using the information submitted under subsection (D)(1), dividing the number of resident rotations in the year that take place in Arizona and not at a health care facility made ineligible under subsection (B) by the total number of resident rotations in the program for that year, multiplying the result by the total number of filled resident positions in the program and rounding to two digits after the decimal.
 3. The allocation for direct graduate medical education costs for each eligible FQHC or RHC shall be calculated by multiplying the number of residents determined under subsection (E)(2) by the statewide average per-resident amount determined under this subsection and multiplying the result by the Medicaid utilization percent calculated for the FQHC or RHC under subsection (E)(1). The statewide average per-resident amount for the academic year ending June 30, 2022 is \$170,090. Annually thereafter, a statewide average per-resident amount shall be calculated by applying the Federally Qualified Health Center PPS Market Basket Update less Productivity Adjustment published by CMS for the calendar year in which the GME academic year begins.
- F.** Allocation of funds for indirect program costs. Annually the Administration shall allocate available funds for indirect program costs to each eligible FQHC or RHC in the following manner:
1. By multiplying the number of residents determined under subsection (E)(2) by the statewide average per-resident amount determined under this subsection and multiplying the result by the Medicaid utilization percent calculated for the FQHC or RHC under subsection (E)(1). The statewide average per-resident amount for the academic year ending June 30, 2022 is \$167,330;
 2. Annually thereafter, a statewide average per-resident amount shall be calculated by applying the Federally Qualified Health Center PPS Market Basket Update less Productivity Adjustment published by CMS for the calendar year in which the GME academic year begins.
- G.** Distribution of funds. On an annual basis subject to available funds, the Administration shall distribute to each eligible FQHC and RHC the sum of all amounts calculated for the FQHC or RHC under subsections (E)(3) and (F).
- H.** The Administration may enter into intergovernmental agreements with local, county, and tribal governments and any university under the jurisdiction of the Arizona Board of Regents wherein such entities may transfer funds or certify public expenditures to the Administration. Such funds or certification, subject to approval by CMS, will contribute to the state funding to qualify for federal matching funds. Those funds will be used for the purposes of reimbursing FQHCs and RHCs that are eligible under this rule and designated by the local, county, or tribal governments for receipt of the contributed funds. The Administration shall allocate available funds in accordance with subsections (E) and (F).

Historical Note

New Section made by final rulemaking at 28 A.A.R. 837 (April 29, 2022), with an immediate effective date of April 5, 2022 (Supp. 22-2).

R9-22-712.09. Hierarchy for Tier Assignment through Sep-

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TIER	IDENTIFICATION CRITERIA	ALLOWED SPLITS
MATERNITY	A primary diagnosis defined as maternity 640.xx - 643.xx, 644.2x - 676.xx, v22.xx - v24.xx or v27.xx.	None
NICU	Revenue Code of 174 and the provider has a Level II or Level III NICU.	Nursery
ICU	Revenue Codes of 200-204, 207-212, or 219.	Surgery Psychiatric Routine
SURGERY	Surgery is identified by a revenue code of 36x. To qualify in this tier, there must be a valid surgical procedure code that is not on the excluded procedure list.	ICU
PSYCHIATRIC	Psychiatric Revenue Codes of 114, 124, 134, 144, or 154 AND primary Psychiatric Diagnosis = 290.xx - 316.xx. If a routine revenue code is present and all diagnoses codes on the claim are equal to 290.xx - 316.xx, classify as a psychiatric claim.	ICU
NURSERY	Revenue Code of 17x, not equal to 174.	NICU
ROUTINE	Revenue Codes of 100 - 101, 110-113, 116 - 123, 126 - 133, 136 - 143, 146 - 153, 156 - 159, 16x, 206, 213, or 214.	ICU

Historical Note

New Section made by final rulemaking at 11 A.A.R. 3231, effective October 1, 2005 (Supp. 05-3). Amended by exempt rulemaking at 17 A.A.R. 1707, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.10. Outpatient Hospital Reimbursement: General

- A. Effective rule. The outpatient hospital reimbursement rules apply to dates of service beginning July 1, 2005, subject to Laws 2004, Ch. 279, § 19.
- B. Basis For Payment. Except as provided under R9-22-712.30, AHCCCS shall pay for designated outpatient procedures provided to AHCCCS members according to the AHCCCS Outpatient Capped Fee-For-Service Schedule as defined in R9-22-712.20.
- C. Data. AHCCCS shall use Medicare Cost Report and adjudicated claim and encounter data from non-IHS acute care hospitals located in the state of Arizona to develop fees for the AHCCCS Outpatient Capped Fee-For-Service Schedule.
- D. Hospital Services Subject To Fees. AHCCCS shall reimburse services, in the following outpatient hospital categories under the AHCCCS Outpatient Capped Fee-For-Service Schedule:
 1. Surgery,
 2. Emergency Department,
 3. Laboratory,
 4. Radiology,
 5. Clinic, and
 6. Other services.
- E. Reimbursement. AHCCCS shall reimburse outpatient hospital services by procedure codes, in proper combination with revenue codes, as prescribed by AHCCCS.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2).

R9-22-712.11. Reserved**R9-22-712.12. Reserved****R9-22-712.13. Reserved****R9-22-712.14. Reserved****R9-22-712.15. Outpatient Hospital Reimbursement: Affected Hospitals**

Except as provided in R9-22-712(G), the AHCCCS Outpatient Capped Fee-For-Service Schedule shall apply to AHCCCS payments for outpatient services in all non-IHS acute hospitals.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2).

R9-22-712.16. Reserved**R9-22-712.17. Reserved****R9-22-712.18. Reserved****R9-22-712.19. Reserved****R9-22-712.20. Outpatient Hospital Reimbursement: Methodology for the AHCCCS Outpatient Capped Fee-For-Service Schedule**

- A. To establish the AHCCCS Outpatient Capped Fee-for-service Schedule for all claims with a begin date of service on or before September 30, 2011, AHCCCS shall:
 1. Define the dataset of claims and encounters that shall be used to establish the AHCCCS Outpatient Capped Fee-for-service Schedule.
 2. Identify all the claims and encounters from non-IHS acute hospitals located in Arizona for services to be paid under the AHCCCS Outpatient Capped Fee-for-service Schedule.
 3. Match the revenue code on each detail of each claim and encounter to the ancillary line item CCR as reported on hospital-specific mapping documents and hospital-specific Medicare Cost Report for those hospitals that have submitted Medicare Cost Reports FYE 2002.
 4. Multiply the line item CCR from subsection (A)(3) by the covered billed charge for that revenue code to establish the cost for the service.
 5. Inflate the cost for the service from subsection (A)(4) using Global Insight Health-care Cost Review inflation factors from date of service month to the midpoint of the rate year in which the fees are initially effective.
 6. Include associated costs under R9-22-712.25 to calculate the rates for emergency room and surgery services.
 7. Combine data from all Arizona hospitals identified in subsection (A)(3) for each procedure code to establish the statewide median cost for each procedure.
 8. Group procedure codes according to the Ambulatory Payment Classification (APC) System groups as listed in 69 FR 65682, November 15, 2004, and establish a statewide median cost for each APC. Multiply each statewide median APC cost by 116 percent to establish the AHCCCS-based fee for each procedure in that specific APC group. AHCCCS shall assign each procedure in the group the same fee.
 9. For those procedure codes that are not grouped into any APC, establish a procedure-specific fee using either:

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- a. The AHCCCS Non-hospital Capped Fee-for-service Fee Schedule,
 - b. 116 percent of the procedure-specific median cost AHCCCS-based fee, or
 - c. The Medicare Clinical Laboratory Fee Schedule for laboratory services.
10. Compare the AHCCCS-based fee established in subsections (A)(8) and (9) against the comparable Medicare fee established for the Medicare APC group as listed in the 69 FR 65682, November 15, 2004. The fee for each procedure shall be the greater of the AHCCCS-based fee or the Medicare fee but no more than 150 percent of the AHCCCS-based fee; however, for those laboratory services for which a limit is established in the Medicare Clinical Laboratory Fee Schedule, the fee shall not exceed that limit.
 11. Assign the 2005 Medicare fee in the AHCCCS Outpatient Capped Fee-for-service Schedule for those procedures for which there are fewer than 20 occurrences of the procedure code in the dataset, either independently, or, if applicable, for all procedure codes within an APC Group.
- B.** For all claims with a begin date of service on or after October 1, 2011, the AHCCCS Outpatient Capped Fee-for-Service Schedule shall be derived from the CMS Medicare Outpatient Prospective Payment System (OPPS) fee schedule modified by an Arizona conversion factor determined annually.
1. When clinic services are billed using 51X revenue codes, the reimbursement to the hospital is the difference between the facility and non-facility rates payable to the practitioner for the procedures listed in the Administration's Capped Fee-for-service Schedule under R9-22-710.
 2. Observation services, when not billed in conjunction with a service for which a single payment is made under R9-22-712.25, are reimbursed at an hourly rate published in the Outpatient Capped Fee-for-service Schedule. This hourly rate includes reimbursement for associated services.
- C.** The AHCCCS Outpatient Capped Fee-for-service Schedule including the effective date of any changes to the listing are on file and posted on AHCCCS' web site.
- Historical Note**
- New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 17 A.A.R. 1460, effective October 1, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 1914, effective July 18, 2012 (Supp. 12-3). Amended by final rulemaking at 19 A.A.R. 3315, effective November 30, 2013 (Supp. 13-4).
- R9-22-712.21. Reserved**
- R9-22-712.22. Reserved**
- R9-22-712.23. Reserved**
- R9-22-712.24. Reserved**
- R9-22-712.25. Outpatient Hospital Fee Schedule Calculations: Associated Service Costs**
- A.** AHCCCS shall include the costs of associated services, as defined by revenue codes and procedure codes, when determining the specific fees for the outpatient hospital procedures for emergency department and surgery services.
- B.** Payment made under subsection (A) or R9-22-712.20(B)(2) is inclusive of all services on the claim regardless of whether the services are provided on one or more days.
- C.** A complete listing of the revenue codes and procedure codes for associated costs included in the payment for emergency and surgery services including the effective date of any changes to the listing are on file and posted on AHCCCS' web site.
- Historical Note**
- New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 17 A.A.R. 1460, effective October 1, 2011 (Supp. 11-3).
- R9-22-712.26. Reserved**
- R9-22-712.27. Reserved**
- R9-22-712.28. Reserved**
- R9-22-712.29. Reserved**
- R9-22-712.30. Outpatient Hospital Reimbursement: Payment for a Service Not Listed in the AHCCCS Outpatient Capped Fee-For-Service Schedule**
- A.** AHCCCS shall calculate a statewide CCR for a service where a specific fee cannot be determined under R9-22-712.20.
- B.** For claims with a begin date of service on or before September 30, 2011, the statewide CCR shall be calculated based on the costs and covered charges associated with a service under subsection (A) for all Arizona hospitals, using the method specified in R9-22-712.20(A)(3).
- C.** For all claims with a begin date of service on or after October 1, 2011, the statewide CCR calculation shall equal either the CMS Medicare Outpatient Urban Cost-to-charge Ratio or the CMS Medicare Outpatient Rural Cost-to-charge Ratio published by CMS for the state of Arizona. AHCCCS shall use the urban cost-to-charge ratio for hospitals located in a county of 500,000 residents or more and for out-of-state hospitals. AHCCCS shall use the rural cost-to-charge ratio for hospitals located in a county of fewer than 500,000 residents. On October 1st of each year, AHCCCS shall adjust urban and rural CCRs to the CCRs as published by CMS in the *Federal Register* on or before August 1st of that year.
- D.** To determine the payment amount for procedures where a specific fee is not determined under R9-22-712.20, the statewide CCR is multiplied by the covered charges.
- E.** Reductions to payments for outpatient hospital services not listed in the AHCCCS Outpatient Capped Fee-For-Service Schedule. Outpatient hospital services not listed in the AHCCCS Outpatient Capped Fee-For-Service Schedule with dates of service on or after October 1, 2011, shall be reimbursed at 95 percent of the rate published by CMS pursuant to subsection (C) of this Section.
- Historical Note**
- New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 17 A.A.R. 1460, effective October 1, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 1914, effective July 18, 2012 (Supp. 12-3). Amended by final rulemaking at 19 A.A.R. 3315, effective November 30, 2013 (Supp. 13-4).
- R9-22-712.31. Reserved**
- R9-22-712.32. Reserved**
- R9-22-712.33. Reserved**
- R9-22-712.34. Reserved**

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R9-22-712.35. Outpatient Hospital Reimbursement: Adjustments to Fees

- A.** For all claims with a begin date of service on or before September 30, 2011, AHCCCS shall increase the Outpatient Capped Fee-for-service Schedule established under R9-22-712.20 (except for laboratory services and out-of-state hospital services) for the following hospitals submitting any claims:
1. By 48 percent for public hospitals on July 1, 2005, and hospitals that were public anytime during the calendar year 2004;
 2. By 45 percent for hospitals in counties other than Maricopa and Pima with more than 100 Medicare PPS beds during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective;
 3. By 50 percent for hospitals in counties other than Maricopa and Pima with 100 or less Medicare PPS beds during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective;
 4. By 115 percent for hospitals designated as Critical Access Hospitals or hospitals that have not been designated as Critical Access Hospitals but meet the criteria during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective;
 5. By 113 percent for a Freestanding Children's Hospital with at least 110 pediatric beds during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective; or
 6. By 14 percent for a University Affiliated Hospital which is a hospital that has a majority of the members of its board of directors appointed by the Board of Regents during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective.
- B.** For all claims with a begin date of service on or after October 1, 2011, AHCCCS shall increase the Outpatient Capped Fee-for-service Schedule (except for laboratory services, and out-of-state hospital services) for the following hospitals. A hospital shall receive an increase from only one of the following categories:
1. By 73 percent for public hospitals;
 2. By 31 percent for hospitals in counties other than Maricopa and Pima with more than 100 licensed beds as of October 1 of that contract year;
 3. By 37 percent for hospitals in counties other than Maricopa and Pima with 100 or fewer licensed beds as of October 1 of that contract year;
 4. By 100 percent for hospitals designated as Critical Access Hospitals or hospitals that have not been designated as Critical Access Hospitals but meet the critical access criteria;
 5. By 78 percent for a Freestanding Children's Hospital with at least 110 pediatric beds as of October 1 of that contract year; or
 6. By 41 percent for a University Affiliated Hospital, this is a hospital that has a majority of the members of its board of directors appointed by the Arizona Board of Regents.
- C.** In addition to subsections (A) and (B), an Arizona Level 1 trauma center as defined by R9-22-2101 shall receive a 50 percent increase to the Outpatient Capped Fee-for-service Schedule (except for laboratory services and out-of-state hospital services) for Level 2 and 3 emergency department procedures.
- D.** Hospitals with greater than 100 pediatric beds not receiving an increase under subsection (B) shall receive an 18 percent increase to the Outpatient Capped Fee-for-service Schedule (except for laboratory services, and out-of-state hospital services).
- E.** For outpatient services with dates of service from October 1, 2022 through September 30, 2023 (CYE 2023), the payment otherwise required for outpatient hospital services provided by qualifying hospitals shall be increased by a percentage established by the administration. The percentage is published on the Administration's public website as part of its fee schedule subsequent to the public notice published no later than September 1, 2022. A hospital will qualify for an increase if it meets the criteria specified below for the applicable hospital subtype.
1. A hospital designated by the Arizona Department of Health Services Division of Licensing Services as type: hospital, subtype: short-term or children's will qualify for an increase if it meets the criteria in subsection (1)(a), (b), (c), or (d):
 - a. By April 1, 2022, the hospital must have submitted a Letter of Intent (LOI) to the Health Information Exchange (HIE) in which it agrees to achieve the following milestones by the specified dates, or maintain its participation in the milestone activities if they have already been achieved.
 - i. No later than April 1, 2022, the hospital must have in place an active participation agreement with a qualifying HIE organization and submit a LOI to the HIE, in which it agrees to achieve the following milestones by the specified dates or maintain its participation in the milestone activities if they have already been achieved.
 - ii. No later than May 1, 2022, or by the hospital's go-live date for new data suppliers, or within 30 days of initiating the respective COVID-19 related services for current data suppliers, the hospital must complete the following COVID-19 related milestones, if they are applicable:
 - (1) Related to COVID-19 testing services, submit all COVID-19 lab test codes and the associated LOINC codes to qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (2) Related to COVID-19 antibody testing services, submit all COVID-19 antibody test codes and the associated LOINC codes to the qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (3) Related to COVID-19 immunization services, submit all COVID-19 immunization codes and the associated CDC-recognized code sets to the qualifying HIE organization to ensure proper processing of immunizations within the HIE system.
 - iii. No later than May 1, 2022, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the qualifying HIE organization, if required by the external reference lab, to have all outsourced lab test results flow to the qualifying HIE on their behalf.
 - iv. No later than May 1, 2022, the hospital must electronically submit the following actual patient identifiable information to the produc-

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- tion environment of a qualifying HIE organization: admission, discharge and transfer information (generally known as ADT information), including data from the hospital emergency department if the provider has an emergency department; laboratory and radiology information (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination.
- v. No later than November 1, 2022, the hospital must approve and authorize a formal statement of work (SOW) to initiate and complete a data quality improvement effort, as defined by the qualifying HIE organization.
 - vi. No later than November 1, 2022, the hospital must approve and authorize a formal SOW to initiate connectivity to and usage of the Arizona Healthcare Directives Registry (AzHDR) operated by the qualifying HIE organization.
 - vii. No later than November 1, 2022, the hospital must approve and authorize a formal statement of work (SOW) to initiate and complete a data quality improvement effort, as defined by the qualifying HIE organization.
 - viii. No later than January 1, 2023, the hospital must complete the initial data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.
 - ix. No later than May 1, 2023, the hospital must complete the final data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.
 - x. Quality Improvement Performance Criteria: Hospitals that meet each of the following HIE data quality performance criteria will be eligible to receive DAP increases described in subsections (x)(1) through (3):
 - (1) Demonstrate a 10% improvement from baseline measurements in the initial data quality profile, based on October 2021 data, to the final data quality profile, based on March 2022 data.
 - (2) Meet a minimum performance standard of at least 60% based on March 2022 data.
 - (3) If performance meets or exceeds an upper threshold of 90% based on March 2022 data, the hospital meets the criteria, regardless of the percentage improvement from the baseline measurements.
 - xi. DAP HIE Data Quality Standards CYE 2023 Measure Categories: Hospitals that meet the standards, as defined in Attachment A of this notice, qualify for a 0.5% DAP increase for each category of the five measure categories, for a total potential increase of 2.5% if criteria are met for all categories.
 - (1) Data source and data site information must be submitted on all ADT transactions. (0.5%)
 - (2) Event type must be properly coded on all ADT transactions. (0%)
 - (3) Patient class must be properly coded on all appropriate ADT transactions. (0%)
 - (4) Patient demographic information must be submitted on all ADT transactions. (0%)
 - (5) Race must be submitted on all ADT transactions. (0.5%)
 - (6) Ethnicity must be submitted on all ADT transactions. (0.5%)
 - (7) Diagnosis must be submitted on all ADT transactions. (0.5%)
 - (8) Overall completeness of the ADT message. (0%)
- b. By April 1, 2022, the hospital must have submitted a registration form for participation in the Social Determinants of Health (SDOH) Closed-Loop Referral Platform operated by the qualifying HIE organization in which the parties agree to achieve the following milestones by the specified dates:
 - i. No later than April 1, 2022, submit registration form or forms for participation using the form or forms on the website of the qualifying HIE organization.
 - ii. No later than April 1, 2022:
 - (1) For hospitals with an active Participation Agreement with a qualifying HIE organization, submit a signed Participant SDOH Addendum to participate in the SDOH Closed-Loop Referral Platform.
 - (2) For hospitals without an active Participation Agreement with a qualifying HIE organization, execute a Participation Agreement and a Participant SDOH Addendum to participate in the SDOH Closed-Loop Referral Platform.
 - (3) For hospitals that have not participated in DAP HIE requirements in CYE 2022, the deadline for this milestone will be November 1, 2022.
 - iii. No later than September 30, 2022, or as soon as reasonably practicable thereafter as determined by the qualifying HIE organization, initiate use of the SDOH Closed-Loop Referral Platform operated by the qualifying HIE organization. After go-live, the hospital must regularly utilize the SDOH Closed-Loop Referral Platform, which will be measured by facilitating at least 10 referrals on average per month from go-live date through the end of CYE 2023. All referrals entered into the system by the hospital will be counted towards volume requirements.
 - c. By March 15, 2022, the facility must submit a LOI to enter into a CCA (a fully signed copy of a CCA with an IHS/Tribal 638 facility is also acceptable). By April 30, 2022, the facility must have entered into a CCA with a IHS/Tribal 638 facility for inpatient, outpatient, and ambulatory services provided through a referral under the executed CCA. The facility agrees to achieve and maintain participation in the following activities:
 - i. The facility will have in place a signed CCA with an IHS/Tribal 638 facility and will have

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- submitted the signed CCA to AHCCCS. The CCA will meet minimum requirements as outlined in the CMS SHO Guidance.
- ii. The facility will have a valid referral process for IHS/Tribal 638 facilities in place for requesting services to be performed by the non-IHS/Tribal 638 facility.
 - iii. The hospital will provide to the IHS/Tribal 638 facility clinical documentation of services provided through a referral under the CCA.
 - iv. AHCCCS will monitor activity specified under the CCA(s) to ensure compliance. To help facilitate this, the facility will participate in the HIE or establish an agreed claims operation process with AHCCCS for the review of medical records by May 31, 2022.
 - v. The non-IHS/Tribal 638 facility will receive a minimum of one referral and any supporting medical documentation from the IHS/Tribal 638 facility and submit a minimum of one claim to AHCCCS under the CCA claiming guidelines, by September 1, 2022. During CYE 2023, from October 1, 2022 through September 30, 2023, demonstrate a concerted effort to submit an average of 5 CCA claims per month to AHCCCS.
 - vi. Existing facilities with a CCA established in CYE 2022 will actively submit a minimum of 5 CCA claims to AHCCCS by March 15, 2022, and submit an average of 5 CCA claims per month to AHCCCS by May 31, 2022.
- d. Upon the declaration of the end of the State of Arizona Public Health Emergency (PHE) issued on March 11, 2020, the hospital must submit a letter of intent (LOI) to AHCCCS in which it agrees to adult and pediatric bed capacity reporting to the Arizona Department of Health Services (ADHS). Specifically, the hospital shall report the following through an ADHS approved method to ADHS weekly, with deadlines and format prescribed by ADHS:
 - i. Number of ICU beds in use,
 - ii. Number of ICU beds available for use,
 - iii. Number of Medical-Surgical beds in use,
 - iv. Number of Medical-Surgical beds available for use,
 - v. Number of Telemetry beds in use,
 - vi. Number of Telemetry beds available for use.
2. A hospital designated by the Arizona Department of Health Services Division of Licensing Services as type: hospital, subtype: critical access hospital will qualify for an increase if it meets the criteria specified in subsection (2)(a), (b), (c), or (d):
 - a. By April 1, 2022, the hospital must have submitted a LOI to the HIE, in which it agrees to achieve the following milestones by the specified dates, or maintain its participation in the milestone activities if they have already been achieved:
 - i. No later than April 1, 2022, the hospital must have in place an active participation agreement with a qualifying HIE organization and submit a LOI to the HIE, in which it agrees to achieve the following milestones by the specified dates or maintain its participation in the milestone activities if they have already been achieved.
 - ii. No later than May 1, 2022, or by the hospital's go-live date for new data suppliers, or within 30 days of initiating the respective COVID-19 related services for current data suppliers, the hospital must complete the following COVID-19 related milestones, if they are applicable:
 - (1) Related to COVID-19 testing services, submit all COVID-19 lab test codes and the associated LOINC codes to the qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (2) Related to COVID-19 antibody testing services, submit all COVID-19 antibody test codes and the associated LOINC codes to the qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (3) Related to COVID-19 immunization services, submit all COVID-19 immunization codes and the associated CDC-recognized code sets to the qualifying HIE organization to ensure proper processing of immunizations within the HIE system.
 - iii. No later than May 1, 2022, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the qualifying HIE, if required by the external reference lab, to have all outsourced lab test results flow to the qualifying HIE organization on their behalf.
 - iv. No later than May 1, 2022, the hospital must electronically submit the following actual patient identifiable information to the production environment of a qualifying HIE organization: admission, discharge and transfer information (generally known as ADT information), including data from the hospital emergency department if the provider has an emergency department; laboratory and radiology information (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination.
 - v. No later than November 1, 2022, the hospital must approve and authorize a formal statement of work (SOW) to initiate and complete a data quality improvement effort, as defined by the qualifying HIE organization.
 - vi. No later than November 1, 2022, the hospital must approve and authorize a formal SOW to initiate connectivity to and usage of the Arizona Healthcare Directives Registry (AzHDR) operated by the qualifying HIE organization.
 - vii. No later than November 1, 2022, the hospital must complete the initial data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.

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- viii. No later than January 1, 2023, the hospital must complete the final data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.
- ix. No later than May 1, 2023, the hospital must complete the final data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.
- x. Quality Improvement Performance Criteria: Hospitals that meet each of the following HIE data quality performance criteria will be eligible to receive DAP increases described in subsections (x)(1) through (3):
 - (1) Demonstrate a 10% improvement from baseline measurements in the initial data quality profile, based on October 2021 data, to the final data quality profile, based on March 2022 data.
 - (2) Meet a minimum performance standard of at least 60% based on March 2022 data.
 - (3) If performance meets or exceeds an upper threshold of 90% based on March 2022 data the hospital meets the criteria, regardless of the percentage improvement from the baseline measurements.
- xi. DAP HIE Data Quality Standards CYE 2023 Measure Categories: Hospitals that meet the standards, as defined in Attachment A of this notice, qualify for a DAP increase for select Data Quality Measures for a total of 8.0% if criteria are met for all categories indicating a DAP.
 - (1) Data source and data site information must be submitted on all ADT transactions. (1.0%)
 - (2) Event type must be properly coded on all ADT transactions. (1.0%)
 - (3) Patient class must be properly coded on all appropriate ADT transactions. (0%)
 - (4) Patient demographic information must be submitted on all ADT transactions. (0%)
 - (5) Race must be submitted on all ADT transactions. (2.0%)
 - (6) Ethnicity must be submitted on all ADT transactions. (2.0%)
 - (7) Diagnosis must be submitted on all ADT transactions. (2.0%)
 - (8) Overall completeness of the ADT message. (0%)
- b. By April 1, 2022, the hospital must have submitted a registration form for participation in the Social Determinants of Health (SDOH) Closed-Loop Referral Platform operated by the qualifying HIE organization in which the parties agree to achieve the following milestones by the specified dates;
 - i. No later than April 1, 2022, submit registration form(s) for participation using the form(s) on the website of the qualifying HIE organization.
 - ii. No later than April 1, 2022:
 - (1) For hospitals with an active Participation Agreement with a qualifying HIE organization, submit a signed Participant SDOH Addendum to participate in the SDOH Closed-Loop Referral Platform.
 - (2) For hospitals without an active Participation Agreement with a qualifying HIE organization, execute a Participation Agreement and a Participant SDOH Addendum to participate in the SDOH Closed-Loop Referral Platform.
 - (3) For hospitals that have not participated in DAP HIE requirements in CYE 2022, the deadline for this milestone will be November 1, 2022.
- iii. No later than September 30, 2022, or as soon as reasonably practicable thereafter as determined by the qualifying HIE organization, initiate use of the SDOH Closed-Loop Referral Platform operated by the qualifying HIE organization. After go-live, the hospital must regularly utilize the SDOH Closed-Loop Referral Platform, which will be measured by facilitating at least 10 referrals on average per month from go-live date through the end of CYE 2023. All referrals entered into the system by the hospital will be counted towards volume requirements.
- c. By March 15, 2022, the facility must submit a LOI to enter into a CCA (a fully signed copy of a CCA with an IHS/Tribal 638 facility is also acceptable). By April 30, 2022, the facility must have entered into a CCA with a IHS/Tribal 638 facility for inpatient, outpatient, and ambulatory services provided through a referral under the executed CCA. The facility agrees to achieve and maintain participation in the following activities:
 - i. The facility will have in place a signed CCA with an IHS/Tribal 638 facility and will have submitted the signed CCA to AHCCCS. The CCA will meet minimum requirements as outlined in the CMS SHO Guidance.
 - ii. The facility will have a valid referral process for IHS/Tribal 638 facilities in place for requesting services to be performed by the non-IHS/Tribal 638 facility.
 - iii. The hospital will provide to the IHS/Tribal 638 facility clinical documentation of services provided through a referral under the CCA.
 - iv. AHCCCS will monitor activity specified under the CCA(s) to ensure compliance. To help facilitate this, the facility will participate in the HIE or establish an agreed claims operation process with AHCCCS for the review of medical records by May 31, 2022.
 - v. The non-IHS/Tribal 638 facility will receive a minimum of one referral and any supporting medical documentation from the IHS/Tribal 638 facility and submit a minimum of one claim to AHCCCS under the CCA claiming guidelines, by September 1, 2022. During CYE 2023, from October 1, 2022 through September 30, 2023, demonstrate a concerted effort to submit an average of 5 CCA claims per month to AHCCCS.
 - vi. Existing facilities with a CCA established in CYE 2022 will actively submit a minimum of 5 CCA claims to AHCCCS by March 15, 2022, and submit an average of 5 CCA claims per month to AHCCCS by May 31, 2022.
- d. Upon the declaration of the end of the State of Arizona Public Health Emergency (PHE) issued on March 11, 2020, the hospital must submit a letter of intent (LOI) to AHCCCS in which it agrees to adult and pediatric bed

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capacity reporting to the Arizona Department of Health Services (ADHS). Specifically, the hospital shall report the following through an ADHS approved method to ADHS weekly, with deadlines and format prescribed by ADHS:

- i. Number of ICU beds in use,
 - ii. Number of ICU beds available for use,
 - iii. Number of Medical-Surgical beds in use,
 - iv. Number of Medical-Surgical beds available for use,
 - v. Number of Telemetry beds in use, and
 - vi. Number of Telemetry beds available for use.
3. A hospital designated as type: hospital, subtype: long term, psychiatric, or rehabilitation by the Arizona Department of Health Services Division of Licensing Services will qualify for an increase if it meets the criteria specified in subsection (3)(a), (b), (c), (d), (e), or (f):
 - a. In order to qualify, by April 1, 2022, the hospital must have submitted a LOI to AHCCCS and the HIE, in which it agrees to achieve the following milestones by the specified dates, or maintain its participation in the milestone activities if they have already been achieved:
 - i. No later than April 1, 2022, the hospital must have in place an active participation agreement with a qualifying HIE organization and submit a LOI to the HIE, in which it agrees to achieve the following milestones by the specified dates or maintain its participation in the milestone activities if they have already been achieved.
 - ii. No later than May 1, 2022, or by the hospital's go-live date for new data suppliers, or within 30 days of initiating the respective COVID-19 related services for current data suppliers, the hospital must complete the following COVID-19 related milestones, if they are applicable:
 - (1) Related to COVID-19 testing services, submit all COVID-19 lab test codes and the associated LOINC codes to the qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (2) Related to COVID-19 antibody testing services, submit all COVID-19 antibody test codes and the associated LOINC codes to the qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (3) Related to COVID-19 immunization services, submit all COVID-19 immunization codes and the associated CDC-recognized code sets to the qualifying HIE organization to ensure proper processing of immunizations within the HIE system.
 - iii. No later than May 1, 2022, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the qualifying HIE, if required by the external reference lab, to have all outsourced lab test results flow to the qualifying HIE organization on their behalf.
 - iv. No later than May 1, 2022, the hospital must electronically submit the following actual patient identifiable information to the production environment of a qualifying HIE organization: admission, discharge, and transfer information (generally known as ADT information), including data from the hospital emergency department if the facility has an emergency department; laboratory and radiology information (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination.
 - v. No later than November 1, 2022, the hospital must approve and authorize a formal SOW to initiate and complete a data quality improvement effort, as defined by the qualifying HIE organization.
 - vi. No later than November 1, 2022, the hospital must approve and authorize a formal SOW to initiate connectivity to and usage of the Arizona Healthcare Directives Registry (AzHDR) operated by the qualifying HIE organization or an Advance Directives Registry platform operated by the qualifying HIE organization.
 - vii. No later than November 1, 2022, the hospital must approve and authorize a formal statement of work (SOW) to initiate and complete a data quality improvement effort, as defined by the qualifying HIE organization.
 - viii. No later than January 1, 2023, the hospital must complete the initial data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.
 - ix. No later than May 1, 2023, the hospital must complete the final data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.
 - x. Quality Improvement Performance Criteria: Hospitals that meet each of the following HIE data quality performance criteria will be eligible to DAP increases described in subsections (x)(1) through (3):
 - (1) Demonstrate a 10% improvement from baseline measurements in the initial data quality profile, based on October 2021 data, to the final data quality profile, based on March 2022 data.
 - (2) Meet a minimum performance standard of at least 60% based on March 2022 data.
 - (3) If performance meets or exceeds an upper threshold of 90% based on March 2022 data the hospital meets the criteria, regardless of the percentage improvement from the baseline measurements.
 - xi. DAP HIE Data Quality Standards CYE 2022 Measure Categories: Hospitals that meet the standards, as defined in Attachment A of this notice, qualify for a 0.5% DAP increase for each category of the five measure categories, for a total potential increase of 2.0% if criteria are met for all categories.
 - (1) Data source and data site information must be submitted on all ADT transactions. (0.5%)
 - (2) Event type must be properly coded on all ADT transactions. (0%)
 - (3) Patient class must be properly coded on all

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- appropriate ADT transactions. (0%)
 - (4) Patient demographic information must be submitted on all ADT transactions. (0%)
 - (5) Race must be submitted on all ADT transactions. (0.5%)
 - (6) Ethnicity must be submitted on all ADT transactions. (0.5%)
 - (7) Diagnosis must be submitted on all ADT transactions. (0.5%)
 - (8) Overall completeness of the ADT message. (0%)
- b. By April 1, 2022, the hospital must have submitted a registration form for participation in the Social Determinants of Health (SDOH) Closed-Loop Referral Platform operated by the qualifying HIE organization in which the parties agree to achieve the following milestones by the specified dates;
 - i. No later than April 1, 2022, submit registration form or forms for participation using the form or forms on the website of the qualifying HIE organization.
 - ii. No later than April 1, 2022:
 - (1) For hospitals with an active Participation Agreement with a qualifying HIE organization, submit a signed Participant SDOH Addendum to participate in the SDOH Closed-Loop Referral Platform.
 - (2) For hospitals without an active Participation Agreement with a qualifying HIE organization, execute a Participation Agreement and a Participant SDOH Addendum to participate in the SDOH Closed-Loop Referral Platform.
 - (3) For hospitals that have not participated in DAP HIE requirements in CYE 2022, the deadline for this milestone will be November 1, 2022.
 - iii. No later than September 30, 2022, or as soon as reasonably practicable thereafter as determined by the qualifying HIE organization, initiate use of the SDOH Closed-Loop Referral Platform operated by the qualifying HIE organization. After go-live, the hospital must regularly utilize SDOH Closed-Loop Referral Platform, which will be measured by facilitating at least 10 referrals on average per month from go-live date through the end of CYE 2023. All referrals entered into the system by the hospital will be counted towards volume requirements.
- c. On March 15, 2022 is identified as a Medicare Annual Payment Update recipients on the QualityNet.org website; APU recipients are those facilities that satisfactorily met the requirements for the IPFQR program, which includes multiple clinical quality measures. Facilities identified as APU recipients will qualify for the DAP increase.
- d. On March 15, 2022 meets or falls below the national average for the rate of pressure ulcers that are new or worsened from the Medicare Provider Data Catalog website for long-term care hospitals. Facility results will be compared to the national average results for the measure. Hospitals that meet or fall below the national average percentage will qualify for the DAP increase.
- e. On March 15, 2022 meets or falls below the national average for the rate of pressure ulcers that are new or worsened from the Medicare Provider Data Catalog website for rehabilitation hospitals. Facility results will be compared to the national average results for the measure. Hospitals that meet or fall below the national average percentage will qualify for the DAP increase.
- f. By April 30, 2022, the facility must have entered into a CCA with a IHS/Tribal 638 facility for inpatient, outpatient, and ambulatory services provided through a referral under the executed CCA. The facility agrees to achieve and maintain participation in the following activities:
 - i. The facility will have in place a signed CCA with an IHS/Tribal 638 facility and will have submitted the signed CCA to AHCCCS. The CCA will meet minimum requirements as outlined in the CMS SHO Guidance.
 - ii. The facility will have a valid referral process for IHS/Tribal 638 facilities in place for requesting services to be performed by the non-IHS/Tribal 638 facility.
 - iii. The hospital will provide to the IHS/Tribal 638 facility clinical documentation of services provided through a referral under the CCA.
 - iv. AHCCCS will monitor activity specified under the CCA(s) to ensure compliance. To help facilitate this, the facility will participate in the HIE or establish an agreed claims operation process with AHCCCS for the review of medical records by May 31, 2022.
 - v. The non-IHS/Tribal 638 facility will receive a minimum of one referral and any supporting medical documentation from the IHS/Tribal 638 facility and submit a minimum of one claim to AHCCCS under the CCA claiming guidelines, by September 1, 2022. During CYE 2023, from October 1, 2022, through September 30, 2023, demonstrate a concerted effort to submit an average of 5 CCA claims per month to AHCCCS.
 - vi. Existing facilities with a CCA established in CYE 2022 will actively submit a minimum of 5 CCA claims to AHCCCS by March 15, 2022, and submit an average of 5 CCA claims per month to AHCCCS by May 31, 2022.
- 4. A hospital designated as type: hospital, subtype: long term or rehabilitation by the Arizona Department of Health Services Division of Licensing Services will qualify for an increase if it meets the following criteria. Upon the declaration of the end of the State of Arizona Public Health Emergency (PHE) issued on March 11, 2020, the hospital must submit a letter of intent (LOI) to AHCCCS in which it agrees to adult and pediatric bed capacity reporting to the Arizona Department of Health Services (ADHS). Specifically, the hospital shall report the following through an ADHS approved method to ADHS weekly, with deadlines and format prescribed by ADHS:
 - a. Number of ICU beds in use,
 - b. Number of ICU beds available for use,
 - c. Number of Medical-Surgical beds in use,
 - d. Number of Medical-Surgical beds available for use,
 - e. Number of Telemetry beds in use, and

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- f. Number of Telemetry beds available for use.
5. A hospital designated as type: hospital by the Arizona Department of Health Services Division of Licensing Services and is owned and/or operated by Indian Health Services (IHS) or under Tribal authority will qualify for an increase if it meets these criteria specified in subsection (5)(a) or (b);
- a. By April 1, 2022 the hospital must have submitted a LOI to AHCCCS and the HIE, in which it agrees to achieve the following milestones by the specified dates, or maintain its participation in the milestone activities if they have already been achieved:
 - i. No later than April 1, 2022, the hospital must have in place an active participation agreement with a qualifying HIE organization and submit a LOI to AHCCCS and the HIE, in which it agrees to achieve the following milestones by the specified dates or maintain its participation in the milestone activities if they have already been achieved.
 - ii. No later than May 1, 2022, or by the hospital's go-live date for new data suppliers, or within 30 days of initiating the respective COVID-19 related services for current data suppliers, the hospital must complete the following COVID-19 related milestones, if they are applicable:
 - (1) Related to COVID-19 testing services, submit all COVID-19 lab test codes and the associated LOINC codes to the qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (2) Related to COVID-19 antibody testing services, submit all COVID-19 antibody test codes and the associated LOINC codes to the qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (3) Related to COVID-19 immunization services, submit all COVID-19 immunization codes and the associated CDC-recognized code sets to the qualifying HIE organization to ensure proper processing of immunizations within the HIE system.
 - iii. No later than May 1, 2022, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the qualifying HIE, if required by the external reference lab, to have all outsourced lab test results flow to the qualifying HIE organization on their behalf.
 - iv. No later than May 1, 2022, the hospital must electronically submit the following actual patient identifiable information to the production environment of a qualifying HIE organization: admission, discharge, and transfer information (generally known as ADT information), including data from the hospital emergency department if the facility has an emergency department; laboratory and radiology information (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination. If the hospital has ambulatory and/or behavioral health practices, then the facility must submit the following actual patient identifiable information to the production environment of a qualifying HIE: registration, encounter summary, and SMI data elements as defined by the qualifying HIE organization. For hospitals that have not participated in DAP HIE requirements in CYE 2022, the deadline for this milestone will be November 1, 2022.
 - v. No later than November 1, 2022, the hospital must approve and authorize a formal SOW to initiate and complete a data quality improvement effort, as defined by the qualifying HIE organization.
 - vi. No later than January 1, 2023, the hospital must complete the initial data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.
 - vii. No later than May 1, 2023, the hospital must complete the final data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.
 - viii. Quality Improvement Performance Criteria: Hospitals that meet each of the following HIE data quality performance criteria will be eligible to receive DAP increases described in subsections (viii)(1) through (3):
 - (1) Demonstrate a 10% improvement from baseline measurements in the initial data quality profile, based on October 2021 data, to the final data quality profile, based on March 2022 data.
 - (2) Meet a minimum performance standard of at least 60% based on March 2022 data.
 - (3) If performance meets or exceeds an upper threshold of 90% based on March 2022 data, the hospital meets the criteria, regardless of the percentage improvement from the baseline measurements.
 - ix. DAP HIE Data Quality Standards CYE 2022 Measure Categories: Hospitals that meet the standards, as defined in Attachment A of this notice, qualify for a DAP increase for select Data Quality Measures for a total of 2.5% if criteria are met for all categories indicating a DAP.
 - (1) Data source and data site information must be submitted on all ADT transactions. (0.5%)
 - (2) Event type must be properly coded on all ADT transactions. (0.5%)
 - (3) Patient class must be properly coded on all appropriate ADT transactions. (0.5%)
 - (4) Patient demographic information must be submitted on all ADT transactions. (0.5%)
 - (5) Overall completeness of the ADT message. (0.5%)
 - b. By March 15, 2022, the facility must submit a LOI to enter into a CCA with a non-HIS/638 facility (a fully signed copy of a CCA with a non-HIS/Tribal 638 facility is also acceptable). By April 30, 2021, the facility must have entered into a CCA with a non-IHS/Tribal 638 facility for inpatient, outpatient, and ambulatory services provided through a referral under the executed CCA. The facility agrees to achieve and maintain participation in the

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following activities: The IHS/Tribal 638 facility will have in place a signed CCA with a non-IHS/Tribal 638 facility and will have submitted the signed CCA to AHCCCS. The CCA will meet minimum requirements as outlined in the CMS SHO Guidance.

- i. The IHS/Tribal 638 facility will have a valid referral template in place for requesting services to be performed by the non-IHS/Tribal 638 facility.
 - ii. The IHS/Tribal 638 facility will continue to assume responsibility of the referred member, maintaining records and release of information protocol including clinical documentation of services provided by the non-IHS/Tribal 638 facility.
 - iii. AHCCCS will monitor activity specified under the CCA(s) to ensure compliance. To help facilitate this, the IHS/Tribal 638 facility will participate in the HIE or establish an agreed claims operation process with AHCCCS for the review of medical records by May 31, 2021.
 - iv. The IHS/638 facility will submit a minimum of one referral and any supporting medical documentation to the non-IHS/Tribal 638 facility by September 1, 2022. During CYE 2023, from October 1, 2022, through September 30, 2023, demonstrate a concerted effort to submit an average of 5 CCA referrals per month to the non-IHS/Tribal 638 facility.
 - v. Existing facilities with a CCA established in CYE 2022 will actively submit a minimum of 5 CCA referrals to the non-IHS/Tribal 638 facility by March 15, 2022, and submit an average of 5 CCA referrals per month by May 31, 2022.
- F. For outpatient services with dates of service from October 1, 2023 through September 30, 2024 (CYE 2024), the payment otherwise required for outpatient hospital services provided by qualifying hospitals shall be increased by a percentage established by the administration. The percentage is published on the Administration's public website as part of its fee schedule subsequent to the public notice published no later than September 1, 2023. If a hospital receives a DAP for CYE 2024 but fails to meet all of the requirements in subsection (F), the hospital shall be disqualified from participating in a DAP for dates of service October 1, 2024 through September 30, 2025 (CYE 2025), if a DAP would be available at that time. A hospital will qualify for an increase if it meets the criteria specified below for the applicable hospital subtype.
1. A hospital designated by the Arizona Department of Health Services Division of Licensing Services as type: hospital, subtype: short-term or children's will qualify for an increase if it meets the criteria in subsection (1)(a), (b), (c) or (d):
 - a. No later than April 1, 2023, the hospital must have in place an active participation agreement with the Health Information Exchange (HIE) organization and submit a signed Health Information Exchange Statement of Work (HIE SOW) to the HIE. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding National Provider Identifier(s) (NPI), that the hospital requests to participate in the DAP.
 - i. No later than May 1, 2023, the hospital must have actively accessed, and continue to access on an ongoing basis, patient health information via the HIE organization, utilizing one or more HIE services, such as the HIE Portal, ADT Alerts, Clinical Notifications, or an interface that delivers patient data into the hospital's EHR system.
 - ii. No later than May 1, 2023, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the HIE organization, if required by the external reference lab, to have all outsourced lab test results flow to the HIE on their behalf.
 - iii. No later than May 1, 2023, the hospital must electronically submit the following actual patient identifiable information to the production environment of the HIE organization: admission, discharge, and transfer information (generally known as ADT information), including data from the hospital emergency department if the provider has an emergency department; laboratory and radiology information (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination.
 - iv. No later than May 1, 2023, the hospital must have or obtain a unique Object Identifier (OID) created by a registration authority, the hospital, and Health Level Seven (HL7). The OID is a globally unique International Organization for Standardization identifier for the hospital. Contact the HIE's Quality Improvement Team for instructions and to ensure the hospital is compliant.
 - v. No later than July 1, 2023, the hospital must sign a DAP SOW amendment to include HIE integration requirements, which will include the steps and expectations and timeline to transition to the hospital's HIE connection to the new HIE platform. The hospital must continue to meet the HIE integration requirements through September 30, 2024.
 - b. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) indicating AzHDR participation to the HIE. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. For hospitals that have participated in DAP HIE requirements in CYE 2023:
 - (1) No later than September 30, 2023, initiate use of the AzHDR platform operated by the HIE organization.
 - (2) After all the onboarding requirements have been met and the provider has access to the platform (Go-Live), the hospital must regularly utilize the AzHDR platform which will be measured by facilitating at least 10 patient document uploads or queries of advance directives per month

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- per registered AHCCCS ID from the Go-Live date through September 30, 2024. Both uploads entered into the system and queries of the system by the hospital will be counted toward volume requirements, tracked monthly, and reported as a final deliverable by June 1, 2024. Uploading is defined by submitting a document or multiple documents for a patient into the registry and a query is defined as querying for documents within the Registry.
- ii. For hospitals that have not participated in DAP HIE requirements in CYE 2023:
 - (1) No later than November 1, 2023, complete the AzHDR Participant Agreement, and
 - (2) No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the platform.
 - c. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) and the Community Cares Access Agreement indicating SDOH participation to the HIE organization. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. For hospitals that have participated in DAP SDOH requirements in CYE 2023:
 - (1) No later than September 30, 2023, initiate use of the Community Cares referral system operated by the HIE organization.
 - (2) No later than May 1, 2024: After all the onboarding requirements have been met and the provider has access to the system and through September 30, 2024, the hospital must regularly utilize the Community Cares referral system operated by the HIE organization. This will be measured by facilitating at least 10 referrals per month per registered AHCCCS ID that resulted from utilizing the social-needs screening tool in Community Cares. The referral is created by the provider or support staff member and sent directly to a social service provider. All referrals entered into the system by the hospital will be counted toward volume requirements, tracked monthly, and reported as a final deliverable by June 1, 2024.
 - ii. For hospitals that have not participated in DAP SDOH requirements in CYE 2023:
 - (1) No later than November 1, 2023, complete the Community Cares Access Agreement and the HIE Participant Agreement, as required, and
 - (2) No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the system.
 - d. No later than April 30, 2023, the hospital must submit a Letter of Intent (LOI) to AHCCCS to the following email address: AHCCCS DAP@azahcccs.gov, indicating that they will participate in the Naloxone Distribution Program (NDP). The LOI must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. No later than November 30, 2023, develop and submit a facility policy that meets AHCCCS/ADHS standards for a NDP.
 - ii. No later than January 1, 2024, begin distribution of Naloxone to individuals at risk of overdose as identified through the facility's policy.
2. A hospital designated by the Arizona Department of Health Services Division of Licensing Services as type: hospital, subtype: critical access hospital will qualify for an increase if it meets this criteria specified in subsection (2)(a), (b), (c) or (d). No later than April 1, 2023, the hospital must have in place an active participation agreement with the Health Information Exchange (HIE) organization and submit a signed Health Information Exchange Statement of Work (HIE SOW) to the HIE. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding National Provider Identifier(s) (NPI), that the hospital requests to participate in the DAP.
 - a. No later than May 1, 2023, the hospital must have actively accessed, and continue to access on an ongoing basis, patient health information via the HIE organization, utilizing one or more HIE services, such as the HIE Portal, ADT Alerts, Clinical Notifications, or an interface that delivers patient data into the hospital's EHR system.
 - i. No later than May 1, 2023, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the HIE organization, if required by the external reference lab, to have all outsourced lab test results flow to the HIE on their behalf.
 - ii. No later than May 1, 2023, the hospital must electronically submit the following actual patient identifiable information to the production environment of the HIE organization: admission, discharge, and transfer information (generally known as ADT information), including data from the hospital emergency department if the provider has an emergency department; laboratory and radiology information (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination.
 - iii. No later than May 1, 2023, the hospital must have or obtain a unique Object Identifier (OID) created by a registration authority, the hospital, and Health Level Seven (HL7). The OID is a globally unique International Organization for Standardization identifier for the hospital. Contact the HIE's Quality Improvement Team for instructions and to ensure the hospital is compliant.

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- iv. No later than July 1, 2023, the hospital must sign a DAP SOW amendment to include HIE integration requirements, which will include the steps and expectations and timeline to transition to the hospital's HIE connection to the new HIE platform. The hospital must continue to meet the HIE integration requirements through September 30, 2024.
- b. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) indicating AzHDR participation to the HIE. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. For hospitals that have participated in DAP HIE requirements in CYE 2023:
 - (1) No later than September 30, 2023, initiate use of the AzHDR platform operated by the HIE organization.
 - (2) After all the onboarding requirements have been met and the provider has access to the platform (Go-Live), the hospital must regularly utilize the AzHDR platform which will be measured by facilitating at least 10 patient document uploads or queries of advance directives per month per registered AHCCCS ID from the Go-Live date through September 30, 2024. Both uploads entered into the system and queries of the system by the hospital will be counted toward volume requirements, tracked monthly, and reported as a final deliverable by June 1, 2024. Uploading is defined by submitting a document or multiple documents for a patient into the registry and a query is defined as querying for documents within the Registry.
 - ii. For hospitals that have not participated in DAP HIE requirements in CYE 2023:
 - (1) No later than November 1, 2023, complete the AzHDR Participant Agreement, and
 - (2) No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the platform.
- c. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) and the Community Cares Access Agreement indicating SDOH participation to the HIE organization. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. For hospitals that have participated in DAP SDOH requirements in CYE 2023:
 - (1) No later than September 30, 2023, initiate use of the Community Cares referral system operated by the HIE organization.
 - (2) No later than May 1, 2024: After all the onboarding requirements have been met and the provider has access to the system and through September 30, 2024, the hospital must regularly utilize the Community Cares referral system operated by the HIE organization. This will be measured by facilitating at least 10 referrals per month per registered AHCCCS ID that resulted from utilizing the social-needs screening tool in Community Cares. The referral is created by the provider or support staff member and sent directly to a social service provider. All referrals entered into the system by the hospital will be counted toward volume requirements, tracked monthly, and reported as a final deliverable by June 1, 2024.
 - ii. For hospitals that have not participated in DAP SDOH requirements in CYE 2023:
 - (1) No later than November 1, 2023, complete the Community Cares Access Agreement and the HIE Participant Agreement, as required, and
 - (2) No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the system.
- d. No later than April 30, 2023, the hospital must submit a Letter of Intent (LOI) to AHCCCS to the following email address: AHCCCS DAP@azahcccs.gov, indicating that they will participate in the Naloxone Distribution Program (NDP). The LOI must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. No later than November 30, 2023, develop and submit a facility policy that meets AHCCCS/ADHS standards for a NDP.
 - ii. No later than January 1, 2024, begin distribution of Naloxone to individuals at risk of overdose as identified through the facility's policy.
- 3. A hospital designated as type: hospital, subtype: long term, psychiatric, or rehabilitation by the Arizona Department of Health Services Division of Licensing Services will qualify for an increase if it meets the criteria specified in subsection (3)(a), (b), (c), (d), (e), or (f):
 - a. No later than April 1, 2023, the hospital must have in place an active participation agreement with the Health Information Exchange (HIE) organization and submit a signed Health Information Exchange Statement of Work (HIE SOW) to the HIE. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding National Provider Identifier(s) (NPI), that the hospital requests to participate in the DAP.
 - i. No later than May 1, 2023, the hospital must have actively accessed, and continue to access on an ongoing basis, patient health information via the HIE organization, utilizing one or more HIE services, such as the HIE Portal, ADT Alerts, Clinical Notifications, or an interface that delivers patient data into the hospital's EHR system.
 - ii. No later than May 1, 2023, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the HIE organization, if

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- required by the external reference lab, to have all outsourced lab test results flow to the HIE on their behalf.
- iii. No later than May 1, 2023, the hospital must electronically submit the following actual patient identifiable information to the production environment of the HIE organization: admission, discharge, and transfer information (generally known as ADT information), including data from the hospital emergency department if the provider has an emergency department; laboratory and radiology information (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination.
 - iv. No later than May 1, 2023, the hospital must have or obtain a unique Object Identifier (OID) created by a registration authority, the hospital, and Health Level Seven (HL7). The OID is a globally unique International Organization for Standardization identifier for the hospital. Contact the HIE's Quality Improvement Team for instructions and to ensure the hospital is compliant.
 - v. No later than July 1, 2023, the hospital must sign a DAP SOW amendment to include HIE integration requirements, which will include the steps and expectations and timeline to transition to the hospital's HIE connection to the new HIE platform. The hospital must continue to meet the HIE integration requirements through September 30, 2024.
 - b. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) indicating AzHDR participation to the HIE. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. For hospitals that have participated in DAP HIE requirements in CYE 2023:
 - (1) No later than September 30, 2023, initiate use of the AzHDR platform operated by the HIE organization.
 - (2) After all the onboarding requirements have been met and the provider has access to the platform (Go-Live), the hospital must regularly utilize the AzHDR platform which will be measured by facilitating at least 10 patient document uploads or queries of advance directives per month per registered AHCCCS ID from the Go-Live date through September 30, 2024. Both uploads entered into the system and queries of the system by the hospital will be counted toward volume requirements, tracked monthly, and reported as a final deliverable by June 1, 2024. Uploading is defined by submitting a document or multiple documents for a patient into the registry and a query is defined as querying for documents within the Registry.
 - ii. For hospitals that have not participated in DAP HIE requirements in CYE 2023:
 - (1) No later than November 1, 2023, complete the AzHDR Participant Agreement, and
 - (2) No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the platform.
 - c. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) and the Community Cares Access Agreement indicating SDOH participation to the HIE organization. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. For hospitals that have participated in DAP SDOH requirements in CYE 2023:
 - (1) No later than September 30, 2023, initiate use of the Community Cares referral system operated by the HIE organization.
 - (2) No later than May 1, 2024: After all the onboarding requirements have been met and the provider has access to the system and through September 30, 2024, the hospital must regularly utilize the Community Cares referral system operated by the HIE organization. This will be measured by facilitating at least 10 referrals per month per registered AHCCCS ID that resulted from utilizing the social-needs screening tool in Community Cares. The referral is created by the provider or support staff member and sent directly to a social service provider. All referrals entered into the system by the hospital will be counted toward volume requirements, tracked monthly, and reported as a final deliverable by June 1, 2024.
 - ii. For hospitals that have not participated in DAP SDOH requirements in CYE 2023:
 - (1) No later than November 1, 2023, complete the Community Cares Access Agreement and the HIE Participant Agreement, as required, and
 - (2) No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the system.
 - d. On March 15, 2023 a hospital that is identified as a Medicare Annual Payment Update (APU) recipient on the QualityNet.org website will qualify for the DAP increase. APU recipients are those hospitals that satisfactorily meet the requirements for the Inpatient Psychiatric Facility Quality Reporting Program, which includes multiple clinical quality measures.
 - e. On March 15, 2023, long-term care hospitals that meet or fall below the national average for the pressure ulcers performance measure will qualify for the

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- DAP increase. The national average will be downloaded from the most current data from the Medicare Provider Data Catalog website for the rate of changes in skin integrity post-acute care: Pressure Ulcer/Injury for long-term care hospitals. Facility results will be compared to the national average results for the measure.
- f. On March 15, 2023, rehabilitation hospitals that meet or fall below the national average for the pressure ulcers performance measure will qualify for the DAP increase. The national average will be downloaded from the most current data from the Medicare Provider Data Catalog website for the rate of changes in skin integrity post-acute care: Pressure Ulcer/Injury rehabilitation hospitals. Facility results will be compared to the national average results for the measure.
4. A hospital designated as type: hospital by the Arizona Department of Health Services Division of Licensing Services and is owned and/or operated by Indian Health Services (IHS) or under Tribal authority will qualify for an increase if it meets these criteria specified in subsection (4)(a) or (b);
- a. No later than April 1, 2023, the hospital must have in place an active participation agreement with the Health Information Exchange (HIE) organization and submit a signed Health Information Exchange Statement of Work (HIE SOW) to the HIE. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding National Provider Identifier(s) (NPI), that the hospital requests to participate in the DAP.
- i. No later than May 1, 2023, the hospital must have actively accessed, and continue to access on an ongoing basis, patient health information via the HIE organization, utilizing one or more HIE services, such as the HIE Portal, ADT Alerts, Clinical Notifications, or an interface that delivers patient data into the hospital's EHR system.
- ii. No later than May 1, 2023, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the HIE organization, if required by the external reference lab, to have all outsourced lab test results flow to the HIE on their behalf.
- iii. No later than May 1, 2023, the hospital must electronically submit the following actual patient identifiable information to the production environment of the HIE organization: admission, discharge, and transfer information (generally known as ADT information), including data from the hospital emergency department if the provider has an emergency department; laboratory and radiology information (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination.
- iv. No later than May 1, 2023, the hospital must have or obtain a unique Object Identifier (OID) created by a registration authority, the hospital, and Health Level Seven (HL7). The OID is a globally unique International Organization for Standardization identifier for the hospital. Contact the HIE's Quality Improvement Team for instructions and to ensure the hospital is compliant.
- v. No later than July 1, 2023, the hospital must sign a DAP SOW amendment to include HIE integration requirements, which will include the steps and expectations and timeline to transition to the hospital's HIE connection to the new HIE platform. The hospital must continue to meet the HIE integration requirements through September 30, 2024.
- b. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) indicating AzHDR participation to the HIE organization. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
- i. No later than November 1, 2023, complete the AzHDR Participant Agreement.
- ii. No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the platform.
- c. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) and the Community Cares Access Agreement indicating SDOH participation to the HIE organization. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
- i. No later than November 1, 2023, complete the Community Cares Access Agreement and the HIE Participant Agreement, as required.
- ii. No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the system.
- d. No later than April 30, 2023, the hospital must submit a Letter of Intent (LOI) to AHCCCS to the following email address: AHCCCS DAP@azahcccs.gov, indicating that they will participate in the Naloxone Distribution Program (NDP). The LOI must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
- i. No later than November 30, 2023, develop and submit a facility policy that meets AHCCCS/ADHS standards for a NDP.
- ii. No later than January 1, 2024, begin distribution of Naloxone to individuals at risk of overdose as identified through the facility's policy.

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New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 3584, effective October 1, 2007 (Supp. 07-4). Amended by final rulemaking at 14 A.A.R. 1439, effective May 31, 2008 (Supp. 08-2). Amended by final rulemaking at 17 A.A.R. 1460, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4). Amended by final rulemaking at 23 A.A.R. 2338, effective October 1, 2017 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 2851, effective October 1, 2018 (Supp. 18-3). Amended by final rulemaking at 25 A.A.R. 3114, effective October 1, 2019 (Supp. 19-4). Amended by final rulemaking at 26 A.A.R. 3025, with an immediate effective date of November 3, 2020 (Supp. 20-4). AHCCCS filed an incorrect version of a final rulemaking which made amendments to this Section published at 27 A.A.R. 2501 (October 29, 2021); AHCCCS filed the correct version of its final rulemaking on December 3, 2021, with this Section amended by final rulemaking at 27 A.A.R. 3015 (December 31, 2021), effective October 1, 2021 (Supp. 21-4). Amended by final rulemaking at 28 A.A.R. 3283 (October 14, 2022), with an immediate effective date of September 23, 2022 (Supp. 22-3). Amended by final rulemaking at 29 A.A.R. 3394 (October 27, 2023), with an immediate effective date of October 4, 2023 (Supp. 23-4).

R9-22-712.36. Reserved

R9-22-712.37. Reserved

R9-22-712.38. Reserved

R9-22-712.39. Reserved

R9-22-712.40. Outpatient Hospital Reimbursement: Annual and Periodic Update

- A. Procedure codes. When procedure codes are issued by CMS and added to the Current Procedural Terminology published by the American Medical Association, AHCCCS shall add to the Outpatient Capped Fee-for-Service Schedule the new procedure codes for covered outpatient services and shall either assign the default CCR under R9-22-712.40(F)(2), the Medicare rate, or calculate an appropriate fee.
- B. APC changes. AHCCCS may reassign procedure codes to new or different APC groups when APC groups are revised by CMS. AHCCCS may reassign procedure codes to a different APC group than Medicare. If AHCCCS determines that utilization of a procedure code within the Medicare program is substantially different from utilization of the procedure code in the AHCCCS program, AHCCCS may choose not to assign the procedure code to any APC group. For procedure codes not grouped into an APC by Medicare, AHCCCS may assign the code to an APC group when AHCCCS determines that the cost and resources associated with the non-assigned code are substantially similar to those in the APC group.
- C. Annual update for Outpatient Hospital Fee Schedule. Beginning October 1, 2006, through September 30, 2011, AHCCCS shall adjust outpatient fee schedule rates:
 1. Annually by multiplying the rates effective during the prior year by the Global Insight Prospective Hospital Market Basket Inflation Index; or
 2. In a particular year the director may substitute the increases in subsection (C)(1) by calculating the dollar value associated with the inflation index in subsection

(C)(1), and applying the dollar value to adjust rates at varying levels.

- D. Reductions to the Outpatient Capped Fee-For-Service Schedule. Claims paid using the Outpatient Capped Fee-For-Service Schedule with dates of service on or after October 1, 2011, shall be reimbursed at 95 percent of the rates in effect on September 30, 2011, subject to the annual adjustments to procedure codes and APCs under this Section.
- E. Rebase. AHCCCS shall rebase the outpatient fees every five years.
- F. Statewide CCR:
 1. For begin dates of service on or before September 30, 2011, the statewide CCR calculated in R9-22-712.30 shall be recalculated at the time of rebasing. When rebasing, AHCCCS may recalculate the statewide CCR based on the costs and charges for services excluded from the outpatient hospital fee schedule.
 2. For begin dates of service on or after October 1, 2011, the statewide CCR shall be set under R9-22-712.30(C).
- G. Other Updates. In addition to the other updates provided for in this Section, the Administration may adjust the Outpatient Capped Fee-For-Service Fee Schedule and the Statewide CCR to the extent necessary to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available at least to the extent that such care and services are available to the general population in the geographic area.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 13 A.A.R. 3584, effective October 1, 2007 (Supp. 07-4). Amended by final rulemaking at 14 A.A.R. 1439, effective May 31, 2008 (Supp. 08-2). Amended by final rulemaking at 17 A.A.R. 1460, effective October 1, 2011 (Supp. 11-3). Amended by exempt rulemaking at 18 A.A.R. 1914, effective July 18, 2012 (Supp. 12-3). Amended by final rulemaking at 19 A.A.R. 3315, effective November 30, 2013 (Supp. 13-4). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.41. Reserved

R9-22-712.42. Reserved

R9-22-712.43. Reserved

R9-22-712.44. Reserved

R9-22-712.45. Outpatient Hospital Reimbursement: Outpatient Payment Restrictions

- A. AHCCCS shall not reimburse hospitals for emergency room treatment, observation hours, or other outpatient hospital services performed on an outpatient basis if the member is admitted as an inpatient to the same hospital directly from the emergency room, observation, or other outpatient department.
- B. AHCCCS shall include payment for the emergency room, observation, and other outpatient hospital services provided to the member before the hospital admission in the AHCCCS Inpatient Tiered Per Diem Capped Fee-For-Service Schedule under Article 7 of this Chapter.
- C. Same day admit and discharge.
 1. For discharges before September 30, 2014. Same day admit and discharge claims that qualify for either the maternity or nursery tiers shall be paid based on the lesser

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of the rate for the maternity or nursery tier, or the outpatient hospital fee schedule.

2. For discharge dates on and after October 1, 2014. Same day admit and discharge claims are paid for through the outpatient fee schedule.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.46. Reserved

R9-22-712.47. Reserved

R9-22-712.48. Reserved

R9-22-712.49. Reserved

R9-22-712.50. Outpatient Hospital Reimbursement: Billing

To receive appropriate reimbursement, hospitals shall:

1. Bill outpatient hospital services on the CMS approved Uniform Billing Form or in electronic format using the appropriate HIPAA transaction.
2. Follow the UB Manual Guidelines, as published by the National Uniform Billing Committee, and use the appropriate revenue code and procedure code combination as prescribed by AHCCCS and on file and online with AHCCCS.

Historical Note

New Section made by exempt rulemaking at 11 A.A.R. 2297, effective July 1, 2005 (Supp. 05-2).

R9-22-712.51. Reserved

R9-22-712.52. Reserved

R9-22-712.53. Reserved

R9-22-712.54. Reserved

R9-22-712.55. Reserved

R9-22-712.56. Reserved

R9-22-712.57. Reserved

R9-22-712.58. Reserved

R9-22-712.59. Reserved

R9-22-712.60. Diagnosis Related Group Payments

- A. Inpatient hospital services with discharge dates on or after October 1, 2014, shall be reimbursed using the diagnosis related group (DRG) payment methodology described in this Section and R9-22-712.61 through R9-22-712.81.
- B. Payments made using the DRG methodology shall be the sole reimbursement to the hospital for all inpatient hospital services and related supplies provided by the hospital. Services provided in the emergency room, observation area, or other outpatient departments that are directly followed by an inpatient admission to the same hospital are not reimbursed separately. Are reimbursed through the DRG methodology and not reimbursed separately.
- C. Each claim for an inpatient hospital stay shall be assigned a DRG code and a DRG relative weight based on the All Patient Refined Diagnosis Related Group (APR-DRG) classification system established by 3M Health Information Systems. The applicable version of the APR-DRG classification system shall be available on the agency's website.

D. Payments for inpatient hospital services reimbursed using the DRG payment methodology are subject to quick pay discounts and slow pay penalties under A.R.S. 36-2904.

E. Payments for inpatient hospital services reimbursed using the DRG payment methodology are subject to the Urban Hospital Reimbursement Program under R9-22-718.

F. For purposes of this Section and Sections R9-22-712.61 through R9-22-712.81:

1. "DRG National Average length of stay" means the national arithmetic mean length of stay published in the All Patient Refined Diagnosis Related Group (APR-DRG) classification established by 3M Health Information Systems.
2. "Length of stay" means the total number of calendar days of an inpatient stay beginning with the date of admission through discharge, but not including the date of discharge (including the date of a discharge to another hospital, i.e., a transfer) unless the member expires.
3. "Medicare" means Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq.
4. "Medicare labor share" means a hospital's labor costs as a percentage of its total costs as determined by CMS for purposes of the Medicare Inpatient Prospective Payment System.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4). Amended by final rulemaking at 23 A.A.R. 2896, effective January 1, 2018 (Supp. 17-4).

R9-22-712.61. DRG Payments: Exceptions

- A. Notwithstanding Section R9-22-712.60, claims for inpatient services from the following hospitals shall be paid on a per diem basis, including provisions for outlier payments, where rates and outlier thresholds are included in the capped fee schedule published by the Administration on its website and available for inspection during normal business hours at 801 E. Jefferson, Phoenix, Arizona. If the covered costs per day on a claim exceed the published threshold for a day, the claim is considered an outlier. Outliers will be paid by multiplying the covered charges by the outlier CCR. The outlier CCR will be the sum of the urban or rural default operating CCR appropriate to the location of the hospital and the statewide capital cost-to-charge ratio in the data file established as part of the Medicare Inpatient Prospective Payment System by CMS. The resulting amount will be the total reimbursement for the claim. There is no provision for outlier payments for hospitals described under subsection (A)(3).
 1. Hospitals designated as type: hospital, subtype; rehabilitation in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website in March of each year;
 2. Hospitals designated as type: hospital, subtype; long term in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website for March of each year;
 3. Hospitals designated as type: hospital, subtype; psychiatric in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website for March of each year;

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- B. Notwithstanding Section R9-22-712.60, claims for inpatient services that are covered by a RBHA or TRBHA, where the principal diagnosis on the claim is a behavioral health diagnosis, shall be reimbursed as prescribed by a per diem rate described by a fee schedule established by the Administration; however, if the principal diagnosis is a physical health diagnosis, the claim shall be processed under the DRG methodology described in this section, even if behavioral health services are provided during the inpatient stay.
 - C. Notwithstanding Section R9-22-712.60, claims for services associated with transplant services shall be paid in accordance with the contract between the AHCCCS administration and the transplant facility.
 - D. Notwithstanding Section R9-22-712.60, claims from an IHS facility or 638 Tribal provider shall be paid the all-inclusive rate on a per visit basis in accordance with the rates published annually by IHS in the Federal Register.
 - E. For hospitals that have contracts with the Administration for the provision of transplant services, inpatient days associated with transplant services are paid in accordance with the terms of the contract.
 - F. For inpatient services with a date of admission from October 1, 2022 through September 30, 2023 (CYE 2023), provided by a hospital in subsection (A) that qualifies, the administration shall pay the hospital an Inpatient Differential Adjusted Payment equal to the sum of the payment otherwise provided for in subsection (A) plus the product of the amount otherwise provided for in subsection (A) and a percentage published on the Administration's public website as part of its fee schedule, subsequent to a public notice published no later than September 1, 2022. A hospital will qualify for an increase if it meets the criteria specified below for the applicable hospital subtype.
 - 1. A hospital designated by the Arizona Department of Health Services Division of Licensing Services as type: hospital, subtype: short-term or children's will qualify for an increase if it meets the criteria in subsection (1)(a), (b), (c), or (d):
 - a. By April 1, 2022, a hospital the hospital must have submitted a Letter of Intent (LOI) to AHCCCS and the Health Information Exchange (HIE), in which it agrees to achieve the following milestones by the specified dates, or maintain its participation in the milestone activities if they have already been achieved.
 - i. No later than April 1, 2022, the hospital must have in place an active participation agreement with a qualifying HIE organization and submit a LOI to AHCCCS and the HIE, in which it agrees to achieve the following milestones by the specified dates or maintain its participation in the milestone activities if they have already been achieved.
 - ii. No later than May 1, 2022, or by the hospital's go-live date for new data suppliers, or within 30 days of initiating the respective COVID-19 related services for current data suppliers, the hospital must complete the following COVID-19 related milestones, if they are applicable:
 - (1) Related to COVID-19 testing services, submit all COVID-19 lab test codes and the associated LOINC codes to qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (2) Related to COVID-19 antibody testing services, submit all COVID-19 antibody test codes and the associated LOINC codes to the qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (3) Related to COVID-19 immunization services, submit all COVID-19 immunization codes and the associated CDC-recognized code sets to the qualifying HIE organization to ensure proper processing of immunizations within the HIE system.
- iii. No later than May 1, 2022, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the qualifying HIE organization, if required by the external reference lab, to have all outsourced lab test results flow to the qualifying HIE on their behalf.
- iv. No later than May 1, 2022, the hospital must electronically submit the following actual patient identifiable information to the production environment of a qualifying HIE organization: admission, discharge and transfer information (generally known as ADT information), including data from the hospital emergency department if the provider has an emergency department; laboratory and radiology information (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination.
- v. No later than November 1, 2022, the hospital must approve and authorize a formal statement of work (SOW) to initiate and complete a data quality improvement effort, as defined by the qualifying HIE organization.
- vi. No later than November 1, 2022, the hospital must approve and authorize a formal SOW to initiate connectivity to and usage of the Arizona Healthcare Directives Registry (AzHDR) operated by the qualifying HIE organization.
- vii. No later than November 1, 2022, the hospital must approve and authorize a formal statement of work (SOW) to initiate and complete a data quality improvement effort, as defined by the qualifying HIE organization.
- viii. No later than January 1, 2023, the hospital must complete the data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.
- ix. No later than May 1, 2023, the hospital must complete the final data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.
- x. Quality Improvement Performance Criteria: Hospitals that meet each of the following HIE data quality performance criteria will be eligi-

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- ble to receive DAP increases described in subsection (1)(a)(x).
- (1) Demonstrate a 10% improvement from baseline measurements in the initial data quality profile, based on October 2022 data, to the final data quality profile, based on March 2022 data.
 - (2) Meet a minimum performance standard of at least 60% based on March 2022 data.
 - (3) If performance meets or exceeds an upper threshold of 90% based on March 2022 data, the hospital meets the criteria, regardless of the percentage improvement from the baseline measurements.
- xi. DAP HIE Data Quality Standards CYE 2022 Measure Categories: Hospitals that meet the standards, as defined in Attachment A of this notice, qualify for a 0.5% DAP increase for each category of the five measure categories, for a total potential increase of 2.0% if criteria are met for all categories.
- (1) Data source and data site information must be submitted on all ADT transactions. (0.5%)
 - (2) Event type must be properly coded on all ADT transactions. (0%)
 - (3) Patient class must be properly coded on all appropriate ADT transactions. (0%)
 - (4) Patient demographic information must be submitted on all ADT transactions. (0%)
 - (5) Race must be submitted on all ADT transactions. (0.5%)
 - (6) Ethnicity must be submitted on all ADT transactions. (0.5%)
 - (7) Diagnosis must be submitted on all ADT transactions. (0.5%)
 - (8) Overall completeness of the ADT message. (0%)
- b. By April 1, 2022, the hospital must have submitted a registration form for participation in the Social Determinants of Health (SDOH) Closed-Loop Referral Platform operated by the qualifying HIE organization in which the parties agree to achieve the following milestones by the specified dates;
- i. No later than April 1, 2022, submit registration form or forms for participation using the form or forms on the website of the qualifying HIE organization.
 - ii. No later than April 1, 2022:
 - (1) For hospitals with an active Participation Agreement with a qualifying HIE organization, submit a signed Participant SDOH Addendum to participate in the SDOH Closed-Loop Referral Platform.
 - (2) For hospitals without an active Participation Agreement with a qualifying HIE organization, execute a Participation Agreement and a Participant SDOH Addendum to participate in the SDOH Closed-Loop Referral Platform.
 - (3) For hospitals that have not participated in DAP HIE requirements in CYE 2022, the deadline for this milestone will be November 1, 2022.
 - iii. No later than September 30, 2022, or as soon as reasonably practicable thereafter as determined by the qualifying HIE organization, initiate use of the SDOH Closed-Loop Referral Platform operated by the qualifying HIE organization. After go-live, the hospital must regularly utilize the SDOH Closed-Loop Referral Platform, which will be measured by facilitating at least 10 referrals on average per month from go-live date through the end of CYE 2023. All referrals entered into the system by the hospital will be counted towards volume requirements.
 - c. By March 15, 2022, the facility must submit a LOI to enter into a CCA (a fully signed copy of a CCA with an IHS/Tribal 638 facility is also acceptable). By April 30, 2022, the facility must have entered into a CCA with a IHS/Tribal 638 facility for inpatient, outpatient, and ambulatory services provided through a referral under the executed CCA. The facility agrees to achieve and maintain participation in the following activities:
 - i. The facility will have in place a signed CCA with an IHS/Tribal 638 facility and will have submitted the signed CCA to AHCCCS. The CCA will meet minimum requirements as outlined in the CMS SHO Guidance.
 - ii. The facility will have a valid referral process for IHS/Tribal 638 facilities in place for requesting services to be performed by the non-IHS/Tribal 638 facility.
 - iii. The hospital will provide to the IHS/Tribal 638 facility clinical documentation of services provided through a referral under the CCA.
 - iv. AHCCCS will monitor activity specified under the CCA(s) to ensure compliance. To help facilitate this, the facility will participate in the HIE or establish an agreed claims operation process with AHCCCS for the review of medical records by May 31, 2022.
 - v. The non-IHS/Tribal 638 facility will receive a minimum of one referral and any supporting medical documentation from the IHS/Tribal 638 facility and submit a minimum of one claim to AHCCCS under the CCA claiming guidelines, by September 1, 2022. During CYE 2023, from October 1, 2022 through September 30, 2023, demonstrate a concerted effort to submit an average of 5 CCA claims per month to AHCCCS.
 - vi. Existing facilities with a CCA established in CYE 2022 will actively submit a minimum of 5 CCA claims to AHCCCS by March 15, 2022, and submit an average of 5 CCA claims per month to AHCCCS by May 31, 2022.
 - d. Upon the declaration of the end of the State of Arizona Public Health Emergency (PHE) issued on March 11, 2020, the hospital must submit a letter of intent (LOI) to AHCCCS in which it agrees to adult and pediatric bed capacity reporting to the Arizona Department of Health Services (ADHS). Specifically, the hospital shall report the following through an ADHS approved method to ADHS weekly, with deadlines and format prescribed by ADHS:
 - i. Number of ICU beds in use,

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- ii. Number of ICU beds available for use,
 - iii. Number of Medical-Surgical beds in use,
 - iv. Number of Medical-Surgical beds available for use,
 - v. Number of Telemetry beds in use, and
 - vi. Number of Telemetry beds available for use.
2. A hospital designated by the Arizona Department of Health Services Division of Licensing Services as type: hospital, subtype: critical access hospital will qualify for an increase if it meets the criteria specified in subsection (2)(a), (b), (c), or (d):
- a. By April 1, 2022 the hospital must have submitted a LOI to AHCCCS and the HIE, in which it agrees to achieve the following milestones by the specified dates, or maintain its participation in the milestone activities if they have already been achieved:
 - i. No later than April 1, 2022, the hospital must have in place an active participation agreement with a qualifying HIE organization and submit a LOI to AHCCCS and the HIE, in which it agrees to achieve the following milestones by the specified dates or maintain its participation in the milestone activities if they have already been achieved.
 - (1) Related to COVID-19 testing services, submit all COVID-19 lab test codes and the associated LOINC codes to the qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (2) Related to COVID-19 antibody testing services, submit all COVID-19 antibody test codes and the associated LOINC codes to the qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (3) Related to COVID-19 immunization services, submit all COVID-19 immunization codes and the associated CDC-recognized code sets to the qualifying HIE organization to ensure proper processing of immunizations within the HIE system.
 - ii. No later than May 1, 2022, or by the hospital's go-live date for new data suppliers, or within 30 days of initiating the respective COVID-19 related services for current data suppliers, the hospital must complete the following COVID-19 related milestones, if they are applicable:
 - (1) Demonstrate a 10% improvement from baseline measurements in the initial data quality profile, based on October 2021 data, to the final data quality profile, based on March 2022 data.
 - (2) Meet a minimum performance standard of at least 60% based on March 2022 data.
 - (3) If performance meets or exceeds an upper threshold of 90% based on March 2022 data the hospital meets the criteria, regardless of the percentage improvement from the baseline measurements.
 - iii. No later than May 1, 2022, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the qualifying HIE, if required by the external reference lab, to have all outsourced lab test results flow to the qualifying HIE organization on their behalf.
 - iv. No later than May 1, 2022, the hospital must electronically submit the following actual patient identifiable information to the production environment of a qualifying HIE organization: admission, discharge and transfer information (generally known as ADT information), including data from the hospital emergency department if the provider has an emergency department; laboratory and radiology information (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination.
 - v. No later than November 1, 2022, the hospital must approve and authorize a formal SOW to initiate and complete a data quality improvement effort, as defined by the qualifying HIE organization.
 - vi. No later than November 1, 2022, the hospital must approve and authorize a formal SOW to initiate connectivity to and usage of the Arizona Healthcare Directives Registry (AzHDR) operated by the qualifying HIE organization.
 - vii. No later than November 1, 2022, the hospital must approve and authorize a formal statement of work (SOW) to initiate and complete a data quality improvement effort, as defined by the qualifying HIE organization.
 - viii. No later than January 1, 2023, the hospital must complete the data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.
 - ix. No later than May 1, 2023, the hospital must complete the final data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.
 - x. Quality Improvement Performance Criteria: Hospitals that meet each of the following HIE data quality performance criteria will be eligible to receive DAP increases described below.
 - (1) Demonstrate a 10% improvement from baseline measurements in the initial data quality profile, based on October 2021 data, to the final data quality profile, based on March 2022 data.
 - (2) Meet a minimum performance standard of at least 60% based on March 2022 data.
 - (3) If performance meets or exceeds an upper threshold of 90% based on March 2022 data the hospital meets the criteria, regardless of the percentage improvement from the baseline measurements.
 - xi. DAP HIE Data Quality Standards CYE 2022 Measure Categories: Hospitals that meet the standards, as defined in Attachment A of this notice, qualify for a DAP increase for select Data Quality Measures for a total of 8.0% if criteria are met for all categories indicating a DAP.
 - (1) Data source and data site information must be submitted on all ADT transactions. (2.0%)
 - (2) Event type must be properly coded on all ADT transactions. (0%)
 - (3) Patient class must be properly coded on all appropriate ADT transactions. (0%)
 - (4) Patient demographic information must be submitted on all ADT transactions. (0%)

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- (5) Race must be submitted on all ADT transactions. (2.0%)
- (6) Ethnicity must be submitted on all ADT transactions. (2.0%)
- (7) Diagnosis must be submitted on all ADT transactions. (2.0%)
- (8) Overall completeness of the ADT message. (0%)
- b. By April 1, 2022, the hospital must have submitted a registration form for participation in the Social Determinants of Health (SDOH) Closed-Loop Referral Platform operated by the qualifying HIE organization in which the parties agree to achieve the following milestones by the specified dates.
 - i. No later than April 1, 2022, submit registration form(s) for participation using the form(s) on the website of the qualifying HIE organization.
 - ii. No later than April 1, 2022:
 - (1) For hospitals with an active Participation Agreement with a qualifying HIE organization, submit a signed Participant SDOH Addendum to participate in the SDOH Closed-Loop Referral Platform.
 - (2) For hospitals without an active Participation Agreement with a qualifying HIE organization, execute a Participation Agreement and a Participant SDOH Addendum to participate in the SDOH Closed-Loop Referral Platform.
 - (3) For hospitals that have not participated in DAP HIE requirements in CYE 2022, the deadline for this milestone will be November 1, 2022.
 - iii. No later than September 30, 2022, or as soon as reasonably practicable thereafter as determined by the qualifying HIE organization, initiate use of the SDOH Closed-Loop Referral Platform operated by the qualifying HIE organization. After go-live, the hospital must regularly utilize the SDOH Closed-Loop Referral Platform, which will be measured by facilitating at least 10 referrals on average per month from go-live date through the end of CYE 2023. All referrals entered into the system by the hospital will be counted towards volume requirements.
- c. By March 15, 2022, the facility must submit a LOI to enter into a CCA (a fully signed copy of a CCA with an IHS/Tribal 638 facility is also acceptable). By April 30, 2022, the facility must have entered into a CCA with a IHS/Tribal 638 facility for inpatient, outpatient, and ambulatory services provided through a referral under the executed CCA. The facility agrees to achieve and maintain participation in the following activities:
 - i. The facility will have in place a signed CCA with an IHS/Tribal 638 facility and will have submitted the signed CCA to AHCCCS. The CCA will meet minimum requirements as outlined in the CMS SHO Guidance.
 - ii. The facility will have a valid referral process for IHS/Tribal 638 facilities in place for requesting services to be performed by the non-IHS/Tribal 638 facility.
 - iii. The hospital will provide to the IHS/Tribal 638 facility clinical documentation of services provided through a referral under the CCA.
 - iv. AHCCCS will monitor activity specified under the CCA(s) to ensure compliance. To help facilitate this, the facility will participate in the HIE or establish an agreed claims operation process with AHCCCS for the review of medical records by May 31, 2022.
 - v. The non-IHS/Tribal 638 facility will receive a minimum of one referral and any supporting medical documentation from the IHS/Tribal 638 facility and submit a minimum of one claim to AHCCCS under the CCA claiming guidelines, by September 1, 2022. During CYE 2023, from October 1, 2022 through September 30, 2023, demonstrate a concerted effort to submit an average of 5 CCA claims per month to AHCCCS.
 - vi. Existing facilities with a CCA established in CYE 2022 will actively submit a minimum of 5 CCA claims to AHCCCS by March 15, 2022, and submit an average of 5 CCA claims per month to AHCCCS by May 31, 2022.
- d. Upon the declaration of the end of the State of Arizona Public Health Emergency (PHE) issued on March 11, 2020, the hospital must submit a letter of intent (LOI) to AHCCCS in which it agrees to adult and pediatric bed capacity reporting to the Arizona Department of Health Services (ADHS). Specifically, the hospital shall report the following through an ADHS approved method to ADHS weekly, with deadlines and format prescribed by ADHS:
 - i. Number of ICU beds in use,
 - ii. Number of ICU beds available for use,
 - iii. Number of Medical-Surgical beds in use,
 - iv. Number of Medical-Surgical beds available for use,
 - v. Number of Telemetry beds in use, and
 - vi. Number of Telemetry beds available for use.
- G. For inpatient services with a date of admission from October 1, 2023 through September 30, 2024 (CYE 2024), provided by a hospital in subsection (A) that qualifies, the administration shall pay the hospital an Inpatient Differential Adjusted Payment equal to the sum of the payment otherwise provided for in subsection (A) plus the product of the amount otherwise provided for in subsection (A) and a percentage published on the Administration's public website as part of its fee schedule, subsequent to a public notice published no later than September 1, 2023. A hospital will qualify for an increase if it meets the criteria specified below for the applicable hospital subtype. If a hospital receives a DAP for CYE 2024 but fails to meet all of the requirements in subsection (G), the hospital shall be disqualified from participating in a DAP for dates of service October 1, 2024 through September 30, 2025 (CYE 2025), if a DAP would be available at that time.
 - 1. A hospital designated by the Arizona Department of Health Services Division of Licensing Services as type: hospital, subtype: short-term or children's will qualify for an increase if it meets the criteria in subsection (1)(a), (b), (c) or (d):
 - a. No later than April 1, 2023, the hospital must have in place an active participation agreement with the Health Information Exchange (HIE) organization

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and submit a signed Health Information Exchange Statement of Work (HIE SOW) to the HIE. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding National Provider Identifier(s) (NPI), that the hospital requests to participate in the DAP.

- i. No later than May 1, 2023, the hospital must have actively accessed, and continue to access on an ongoing basis, patient health information via the HIE organization, utilizing one or more HIE services, such as the HIE Portal, ADT Alerts, Clinical Notifications, or an interface that delivers patient data into the hospital's EHR system.
 - ii. No later than May 1, 2023, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the HIE organization, if required by the external reference lab, to have all outsourced lab test results flow to the HIE on their behalf.
 - iii. No later than May 1, 2023, the hospital must electronically submit the following actual patient identifiable information to the production environment of the HIE organization: admission, discharge, and transfer information (generally known as ADT information), including data from the hospital emergency department if the provider has an emergency department; laboratory and radiology information (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination.
 - iv. No later than May 1, 2023, the hospital must have or obtain a unique Object Identifier (OID) created by a registration authority, the hospital, and Health Level Seven (HL7). The OID is a globally unique International Organization for Standardization identifier for the hospital. Contact the HIE's Quality Improvement Team for instructions and to ensure the hospital is compliant.
 - v. No later than July 1, 2023, the hospital must sign a DAP SOW amendment to include HIE integration requirements, which will include the steps and expectations and timeline to transition to the hospital's HIE connection to the new HIE platform. The hospital must continue to meet the HIE integration requirements through September 30, 2024.
- b. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) indicating AzHDR participation to the HIE. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
- i. For hospitals that have participated in DAP HIE requirements in CYE 2023:
 - (1) No later than September 30, 2023, initiate use of the AzHDR platform operated by the HIE organization.
 - (2) After all the onboarding requirements have been met and the provider has access to the platform (Go-Live), the hospital must regularly utilize the AzHDR platform which will be measured by facilitating at least 10 patient document uploads or queries of advance directives per month per registered AHCCCS ID from the Go-Live date through September 30, 2024. Both uploads entered into the system and queries of the system by the hospital will be counted toward volume requirements, tracked monthly, and reported as a final deliverable by June 1, 2024. Uploading is defined by submitting a document or multiple documents for a patient into the registry and a query is defined as querying for documents within the Registry.
 - ii. For hospitals that have not participated in DAP HIE requirements in CYE 2023:
 - (1) No later than November 1, 2023, complete the AzHDR Participant Agreement, and
 - (2) No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the platform.
- c. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) and the Community Cares Access Agreement indicating SDOH participation to the HIE organization. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
- i. For hospitals that have participated in DAP SDOH requirements in CYE 2023:
 - (1) No later than September 30, 2023, initiate use of the Community Cares referral system operated by the HIE organization.
 - (2) No later than May 1, 2024: After all the onboarding requirements have been met and the provider has access to the system and through September 30, 2024, the hospital must regularly utilize the Community Cares referral system operated by the HIE organization. This will be measured by facilitating at least 10 referrals per month per registered AHCCCS ID that resulted from utilizing the social-needs screening tool in Community Cares. The referral is created by the provider or support staff member and sent directly to a social service provider. All referrals entered into the system by the hospital will be counted toward volume requirements, tracked monthly, and reported as a final deliverable by June 1, 2024.
 - ii. For hospitals that have not participated in DAP SDOH requirements in CYE 2023:

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- (1) No later than November 1, 2023, complete the Community Cares Access Agreement and the HIE Participant Agreement, as required, and
 - (2) No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the system.
 - d. No later than April 30, 2023, the hospital must submit a Letter of Intent (LOI) to AHCCCS to the following email address: AHCCCS DAP@azahcccs.gov, indicating that they will participate in the Naloxone Distribution Program (NDP). The LOI must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. No later than November 30, 2023, develop and submit a facility policy that meets AHCCCS/ADHS standards for a NDP.
 - ii. No later than January 1, 2024, begin distribution of Naloxone to individuals at risk of overdose as identified through the facility's policy.
2. A hospital designated by the Arizona Department of Health Services Division of Licensing Services as type: hospital, subtype: critical access hospital will qualify for an increase if it meets this criteria specified in subsection (2)(a), (b), (c) or (d):
 - a. No later than April 1, 2023, the hospital must have in place an active participation agreement with the Health Information Exchange (HIE) organization and submit a signed Health Information Exchange Statement of Work (HIE SOW) to the HIE. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding National Provider Identifier(s) (NPI), that the hospital requests to participate in the DAP.
 - i. No later than May 1, 2023, the hospital must have actively accessed, and continue to access on an ongoing basis, patient health information via the HIE organization, utilizing one or more HIE services, such as the HIE Portal, ADT Alerts, Clinical Notifications, or an interface that delivers patient data into the hospital's EHR system.
 - ii. No later than May 1, 2023, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the HIE organization, if required by the external reference lab, to have all outsourced lab test results flow to the HIE on their behalf.
 - iii. No later than May 1, 2023, the hospital must electronically submit the following actual patient identifiable information to the production environment of the HIE organization: admission, discharge, and transfer information (generally known as ADT information), including data from the hospital emergency department if the provider has an emergency department; laboratory and radiology information (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination.
 - iv. No later than May 1, 2023, the hospital must have or obtain a unique Object Identifier (OID) created by a registration authority, the hospital, and Health Level Seven (HL7). The OID is a globally unique International Organization for Standardization identifier for the hospital. Contact the HIE's Quality Improvement Team for instructions and to ensure the hospital is compliant.
 - v. No later than July 1, 2023, the hospital must sign a DAP SOW amendment to include HIE integration requirements, which will include the steps and expectations and timeline to transition to the hospital's HIE connection to the new HIE platform. The hospital must continue to meet the HIE integration requirements through September 30, 2024.
- b. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) indicating AzHDR participation to the HIE. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. For hospitals that have participated in DAP HIE requirements in CYE 2023:
 - (1) No later than September 30, 2023, initiate use of the AzHDR platform operated by the HIE organization.
 - (2) After all the onboarding requirements have been met and the provider has access to the platform (Go-Live), the hospital must regularly utilize the AzHDR platform which will be measured by facilitating at least 10 patient document uploads or queries of advance directives per month per registered AHCCCS ID from the Go-Live date through September 30, 2024. Both uploads entered into the system and queries of the system by the hospital will be counted toward volume requirements, tracked monthly, and reported as a final deliverable by June 1, 2024. Uploading is defined by submitting a document or multiple documents for a patient into the registry and a query is defined as querying for documents within the Registry.
 - ii. For hospitals that have not participated in DAP HIE requirements in CYE 2023:
 - (1) No later than November 1, 2023, complete the AzHDR Participant Agreement, and
 - (2) No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the platform.
- c. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) and the Community Cares Access Agree-

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ment indicating SDOH participation to the HIE organization. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.

i. For hospitals that have participated in DAP SDOH requirements in CYE 2023:

- (1) No later than September 30, 2023, initiate use of the Community Cares referral system operated by the HIE organization.
- (2) No later than May 1, 2024: After all the onboarding requirements have been met and the provider has access to the system and through September 30, 2024, the hospital must regularly utilize the Community Cares referral system operated by the HIE organization. This will be measured by facilitating at least 10 referrals per month per registered AHCCCS ID that resulted from utilizing the social-needs screening tool in Community Cares. The referral is created by the provider or support staff member and sent directly to a social service provider. All referrals entered into the system by the hospital will be counted toward volume requirements, tracked monthly, and reported as a final deliverable by June 1, 2024.

ii. For hospitals that have not participated in DAP SDOH requirements in CYE 2023:

- (1) No later than November 1, 2023, complete the Community Cares Access Agreement and the HIE Participant Agreement, as required, and
- (2) No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the system.

d. No later than April 30, 2023, the hospital must submit a Letter of Intent (LOI) to AHCCCS to the following email address: AHCCCSdap@azahcccs.gov, indicating that they will participate in the Naloxone Distribution Program (NDP). The LOI must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.

- i. No later than November 30, 2023, develop and submit a facility policy that meets AHCCCS/ADHS standards for a NDP.
- ii. No later than January 1, 2024, begin distribution of Naloxone to individuals at risk of overdose as identified through the facilities' policy.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4). Amended by final rulemaking at 23 A.A.R. 2338, effective October 1, 2017 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 2851, effective October 1, 2018 (Supp. 18-3). Amended by final rulemaking at 25 A.A.R. 3111 and at 25 A.A.R. 3114, effective October 1, 2019 (Supp. 19-4). Amended by final rulemaking at 26 A.A.R. 3025, with an immediate effective date of November 3, 2020 (Supp. 20-4). AHCCCS filed an incorrect version of a final rulemaking which made amendments to this Section published at 27 A.A.R. 2501 (October 29, 2021); AHCCCS filed the correct version of

its final rulemaking on December 3, 2021, with this Section amended by final rulemaking at 27 A.A.R. 3015 (December 31, 2021), effective October 1, 2021 (Supp. 21-4). Amended by final rulemaking at 28 A.A.R. 3283 (October 14, 2022), with an immediate effective date of September 23, 2022 (Supp. 22-3). Amended by final rulemaking at 29 A.A.R. 3394 (October 27, 2023), with an immediate effective date of October 4, 2023 (Supp. 23-4).

R9-22-712.62. DRG Base Payment

- A. The initial DRG base payment is the product of the DRG base rate, the DRG relative weight for the post-HCAC DRG code assigned to the claim, and any applicable provider and service policy adjusters.
- B. The DRG base rate for each hospital is the statewide standardized amount of which the hospital's labor-related share of that amount is adjusted by the hospital's wage index. The hospital's labor share is determined based on the labor share for the Medicare inpatient prospective payment system published in 85 Fed. Reg. 59060 through 59061 (September 18, 2020). The hospital's wage index is determined based on the wage index tables reference in 85 Fed. Reg. 59059 (September 18, 2020). The statewide standardized amount is included in the AHCCCS capped fee schedule available on the agency's website.
- C. Claims shall be assigned both a DRG code derived from all diagnosis and surgical procedure codes included on the claim (the "pre-HCAC" DRG code) and a DRG code derived excluding diagnosis and surgical procedure codes associated with the health care acquired conditions that were not present on admission or any other provider-preventable conditions (the "post-HCAC" DRG code). The DRG code with the lower relative weight shall be used to process claims using the DRG methodology.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 23 A.A.R. 2896, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 27 A.A.R. 2512 (October 29, 2021), with an immediate effective date of October 6, 2021 (Supp. 21-4).

R9-22-712.63. DRG Base Payments Not Based on the Statewide Standardized Amount

- A. Notwithstanding Section R9-22-712.62, a select specialty hospital standardized amount shall be used in place of the statewide standardized amount in subsection R9-22-712.62(B) to calculate the DRG base rate for the following hospitals:
 1. Hospitals located in a city with a population greater than one million, which on average have at least 15 percent of inpatient days for patients who reside outside of Arizona, and at least 50 percent of discharges as reported on the 2011 Medicare Cost Report are reimbursed by Medicare.
 2. Hospitals designated as type: hospital, subtype: short term that has a license number beginning "SH" in the Provider & Facility Database for Arizona Medical Facilities posted by the ADHS Division of Licensing Services on its website for March of each year.
- B. The select specialty hospital standardized amount is included in the AHCCCS capped fee schedule available on the agency's website.
- C. Notwithstanding Section R9-22-712.62, a rural hospital standardized amount shall be used in place of the statewide standardized amount in subsection R9-22-712.62(B) to calculate the DRG base rate for the following hospitals:

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1. A health care institution that is licensed as an acute care hospital, that has one hundred or fewer beds, and that is located in a county with a population of less than five hundred thousand persons; or
 2. A health care institution that is licensed as a critical access hospital.
- D.** The rural hospital standardized amount is included in the AHCCCS capped fee schedule available on the agency's web-site.
- E.** Notwithstanding Section R9-22-712.62 and R9-22-712.63(B), a hospital standardized amount shall be used in place of the statewide standardized amount in subsection R9-22-712.62(B) or R9-22-712.63(B) to calculate the DRG base rate for a health care institution that is licensed as an acute care hospital, that has one hundred or fewer beds, that is located in a county with a population of less than five hundred thousand persons and has greater than twenty percent of Medicaid inpatient reimbursement with a primary diagnosis of behavioral health in the prior federal fiscal year as of April 30th.
- F.** The hospital standardized amount is included in the AHCCCS capped fee schedule available on the agency's website.
- G.** Notwithstanding Section R9-22-712.62 and R9-22-712.63(B), a hospital standardized amount shall be used in place of the statewide standardized amount in subsection R9-22-712.62(B) or R9-22-712.63(B) to calculate the DRG base rate for a health care institution with two separate ADHS acute care hospital licenses, with one facility that has one hundred or fewer beds, that is located in a county with a population of less than five hundred thousand persons and has one single AHCCCS registration for both licenses.
- H.** The hospital standardized amount is included in the AHCCCS capped fee schedule available on the agency's website.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 23 A.A.R. 2896, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 29 A.A.R. 19 (January 6, 2023), with an immediate effective date of December 16, 2022 (Supp. 22-4).

R9-22-712.64. DRG Base Payments and Outlier CCR for Out-of-State Hospitals

- A.** DRG Base payment:
1. For high volume out-of-state hospitals defined in subsection (C), the wage adjusted DRG base payment is determined as described in R9-22-712.62.
 2. Notwithstanding subsection R9-22-712.62 the wage adjusted DRG base rate for out-of-state hospitals that are not high volume hospitals shall be included in the AHCCCS capped fee schedule available on the agency's website.
- B.** Outlier CCR:
1. Notwithstanding subsection R9-22-712.68, the CCR used for the outlier calculation for out-of-state hospitals that are not high volume hospitals shall be the sum of the statewide urban default operating cost-to-charge ratio and the statewide capital CCR in the data file established as part of the Medicare Inpatient Prospective Payment System by CMS.
 2. The CCR used for the outlier calculation for high volume out-of-state hospitals is the same as in-state hospitals as described in R9-22-712.68.
- C.** A high volume out-of-state hospital is a hospital not otherwise excluded under R9-22-712.61, that is located in a county that

borders the State of Arizona and had 500 or more AHCCCS covered inpatient days for the fiscal year beginning October 1, 2015.

- D.** Other than as required by this Section, DRG reimbursement for out-of-state hospitals is determined under R9-22-712.60 through R9-22-712.81.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 23 A.A.R. 2896, effective January 1, 2018 (Supp. 17-4).

R9-22-712.65. DRG Provider Policy Adjustor

- A.** After calculating the DRG base payment as required in R9-22-712.62, R9-22-712.63, or R9-22-712.64, for claims from a high-utilization hospital, the product of the DRG base rate and the DRG relative weight for the post-HCAC DRG code shall be multiplied by a provider policy adjustor that is included in the AHCCCS capped fee schedule available on the agency's website.
- B.** A hospital is a high-utilization hospital if the hospital had:
1. Covered inpatient days subject to DRG reimbursement, determined using adjudicated claim and encounter data during the fiscal year beginning October 1, 2015, equal to at least four hundred percent of the statewide average number of AHCCCS-covered inpatient days at all hospitals;
 2. A Medicaid inpatient utilization rate greater than 30 percent calculated as the ratio of AHCCCS-covered inpatient days to total inpatient days as reported in the hospital's Medicare Cost Report for the fiscal year ending 2016; and,
 3. Received less than \$2 million in add-on payment for outliers under R9-22-712.68, based on adjudicated claims and encounters for fiscal year beginning October 1, 2015.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 23 A.A.R. 2896, effective January 1, 2018 (Supp. 17-4).

R9-22-712.66. DRG Service Policy Adjustor

In addition to Section R9-22-712.65, for claims with DRG codes in the following categories, the product of the DRG base rate, the DRG relative weight for the post-HCAC DRG code, and the DRG provider policy adjustor shall be multiplied by the service policy adjustor listed in the AHCCCS capped fee schedule, available on the agency's website, corresponding to the following DRG codes:

1. Normal newborn DRG codes,
2. Neonates DRG codes,
3. Obstetrics DRG codes,
4. Psychiatric DRG codes,
5. Rehabilitation DRG codes,
6. Burn DRG codes.
7. Claims for members under age 19 assigned DRG codes other than listed above:
 - a. For dates of discharge occurring on or after October 1, 2014 and ending no later than December 31, 2015 regardless of severity of illness level,
 - b. For dates of discharge on or after January 1, 2016, for severity of illness levels 1 and 2,
 - c. For dates of discharge on or after January 1, 2016 and before January 1, 2017, for severity of illness levels 3 and 4.

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- d. For dates of discharge on or after January 1, 2017, and before January 1, 2018 for severity of illness levels 3 and 4.
- e. For dates of discharge on or after January 1, 2018, for severity of illness levels 3 and 4.
- 8. Claims for members assigned DRG codes other than listed above.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4). Amended by final rulemaking at 23 A.A.R. 2896, effective January 1, 2018 (Supp. 17-4).

R9-22-712.67. DRG Reimbursement: Transfers

- A. For purposes of this Section a "transfer" means the transfer of a member from a hospital to a short-term general hospital for inpatient care, a designated cancer center, children's hospital, or a critical access hospital except when a member is moved for the purpose of receiving sub-acute services.
- B. Designated cancer center or children's hospitals are those hospitals identified as such in the UB-04 billing manual published by the National Uniform Billing Committee.
- C. The hospital the member is transferred from shall be reimbursed either the initial DRG base payment or the transfer DRG base payment, whichever is less.
- D. The transfer DRG base payment is an amount equal to the initial DRG base payment, as determined after making any provider or service policy adjustors, divided by the DRG National Average length of stay for the DRG code multiplied by the sum of one plus the length of stay.
- E. The hospital the member is transferred to shall be reimbursed under the DRG payment methodology without a reduction due to the transfer.
- F. Unadjusted DRG base payment. The unadjusted DRG base payment is either the initial DRG base payment, as determined after making any provider or service policy adjustors, or the transfer DRG base payment, whichever is less.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4).

R9-22-712.68. DRG Reimbursement: Unadjusted Outlier Add-on Payment

- A. Claims for inpatient hospital services qualify for an outlier add-on payment if the claim cost exceeds the outlier cost threshold.
- B. The claim cost is determined by multiplying covered charges by an outlier CCR as described by the following subsections:
 - 1. For hospitals designated as type: hospital, subtype: children's in the Provider & Facility Database for Arizona Medical Facilities posted by the ADHS Division of Licensing Services on its website for March of each year. The outlier CCR will be calculated by dividing the hospital total costs by the total charges using the most recent Medicare Cost Report available as of September 1 of that year.
 - 2. For Critical Access Hospitals the outlier CCR will be the sum of the statewide rural default operating cost-to-charge ratio and the statewide capital cost-to-charge ratio in the data file established as part of the Medicare Inpatient Prospective Payment System by CMS.

- 3. For all other hospitals the outlier CCR will be the sum of the operating cost-to-charge ratio and the capital cost-to-charge ratio established for each hospital in the impact file established as part of the Medicare Inpatient Prospective Payment System by CMS.

- C. AHCCCS shall update the CCRs described in subsection (B) to conform to the most recent CCRs established by CMS as of September 1 of each year, and the CCRs so updated shall be used for claims with dates of discharge on or after October 1 of that year.
- D. The outlier threshold is equal to the sum of the unadjusted DRG base payment plus the fixed loss amount. The fixed loss amount for critical access hospitals and for all other hospitals are included in the AHCCCS capped fee schedule available on the agency's website.
- E. For those inpatient hospital claims that qualify for an outlier add-on payment, the payment is calculated by subtracting the outlier threshold from the claim cost and multiplying the result by the DRG marginal cost percentage. The DRG marginal cost percentage for claims assigned DRG codes associated with the treatment of burns and for all other claims are included in the AHCCCS capped fee schedule available on the agency's website.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 23 A.A.R. 2896, effective January 1, 2018 (Supp. 17-4).

R9-22-712.69. DRG Reimbursement: Covered Day Adjusted DRG Base Payment and Covered Day Adjusted Outlier Add-on Payment

Adjustments to the payments are made to account for days not covered by AHCCCS as follows:

- 1. A covered day reduction factor unadjusted is determined if the member is not eligible on the first day of the inpatient stay but is eligible for subsequent days during the inpatient stay. In this case, a covered day reduction factor unadjusted is calculated by dividing the number of AHCCCS covered days by the DRG National Average length of stay. The number of AHCCCS covered days is equal to the number of days the member is eligible during the inpatient stay.
- 2. A covered day reduction factor unadjusted is also determined if the member is eligible on the first day of the inpatient stay but is determined ineligible for one or more days prior to the date of discharge. In this case, a covered day reduction factor unadjusted is calculated by adding one to the number of AHCCCS covered days and dividing the result by the DRG National Average length of stay. The number of AHCCCS covered days is equal to the number of days the member is eligible during the inpatient stay.
- 3. If the covered day reduction factor unadjusted is greater than one, then the covered day reduction factor final is one; otherwise, the covered day reduction factor final is equal to the covered day reduction factor unadjusted.
- 4. The covered day adjusted DRG base payment is an amount equal to the product of the unadjusted DRG base payment and the covered day reduction factor final.
- 5. The covered day adjusted DRG outlier add-on payment is an amount equal to the product of the unadjusted DRG outlier add-on payment and the covered day reduction factor final.

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Historical Note

New Section made by final rulemaking at 20 A.A.R.
1956, September 6, 2014 (Supp. 14-3).

R9-22-712.70. Covered Day Adjusted DRG Base Payment and Covered Day Adjusted Outlier Add-on Payment for FES members

In addition to the covered day reduction factor in R9-22-712.69, a covered day reduction factor unadjusted is determined for an inpatient stay during which an FES member receives services for the treatment of an emergency medical condition and also receives services once the condition no longer meets the criteria as an emergency medical condition described in R9-22-217.

1. A covered day reduction factor unadjusted is calculated by adding one to the AHCCCS covered days and dividing the result by the DRG National Average length of stay. The number of AHCCCS covered days is equal to the number of inpatient days during which an FES member receives services for an emergency medical condition as described in R9-22-217. For purposes of this adjustment, any portion of a day during which the FES member receives treatment for an emergency medical condition is counted as an AHCCCS covered day.
2. If the covered day reduction factor unadjusted is greater than one, then the covered day reduction factor final is one; otherwise, the covered day reduction factor final is equal to the covered day reduction factor unadjusted.
3. The covered day adjusted DRG base payment is an amount equal to the product of the unadjusted DRG base payment and the covered day reduction factor final.
4. The covered day adjusted DRG outlier add-on payment is an amount equal to the product of the unadjusted DRG outlier add-on payment and the covered day reduction factor final.

Historical Note

New Section made by final rulemaking at 20 A.A.R.
1956, September 6, 2014 (Supp. 14-3).

R9-22-712.71. Final DRG Payment

- A. The final DRG payment is the sum of the final DRG base payment, the final DRG outlier add-on payment, and the Differential Adjusted Payment.
- B. The final DRG base payment is an amount equal to the product of the covered day adjusted DRG base payment and a hospital-specific factor established to limit the financial impact to individual hospitals of the transition from the tiered per diem payment methodology and to account for improvements in documentation and coding that are expected as a result of the transition.
- C. The final DRG outlier add-on payment is an amount equal to the product of the covered day adjusted DRG outlier add-on payment and a hospital-specific factor established to limit the financial impact to individual hospitals of the transition from the tiered per diem payment methodology and to account for improvements in documentation and coding that are expected as a result of the transition.
- D. The factor for each hospital and for each federal fiscal year is published as part of the AHCCCS capped fee schedule and is available on the AHCCCS administration's website and is on file for public inspection at the AHCCCS administration located at 801 E. Jefferson Street, Phoenix, Arizona.
- E. For inpatient services with a date of discharge from October 1, 2022 through September 30, 2023 (CYE 2023), the Inpatient Differential Adjusted Payment is the sum of the final DRG base payment and the final DRG outlier add-on payment mul-

tiplied by a percentage published on the Administration's public website as part of its fee schedule, subsequent to the public notice published no later than September 1, 2022. A hospital will qualify for an increase if it meets the criteria specified below for the applicable hospital subtype.

1. A hospital designated by the Arizona Department of Health Services Division of Licensing Services as type: hospital, subtype: short-term or children's will qualify for an increase if it meets the criteria:
 - a. By April 1, 2022, a hospital the hospital must have submitted a Letter of Intent (LOI) to AHCCCS and the Health Information Exchange (HIE), in which it agrees to achieve the following milestones by the specified dates, or maintain its participation in the milestone activities if they have already been achieved.
 - i. No later than April 1, 2022, the hospital must have in place an active participation agreement with a qualifying HIE organization and submit a LOI to AHCCCS and the HIE, in which it agrees to achieve the following milestones by the specified dates or maintain its participation in the milestone activities if they have already been achieved.
 - ii. No later than May 1, 2022, or by the hospital's go-live date for new data suppliers, or within 30 days of initiating the respective COVID-19 related services for current data suppliers, the hospital must complete the following COVID-19 related milestones, if they are applicable:
 - (1) Related to COVID-19 testing services, submit all COVID-19 lab test codes and the associated LOINC codes to qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (2) Related to COVID-19 antibody testing services, submit all COVID-19 antibody test codes and the associated LOINC codes to the qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (3) Related to COVID-19 immunization services, submit all COVID-19 immunization codes and the associated CDC-recognized code sets to the qualifying HIE organization to ensure proper processing of immunizations within the HIE system.
 - iii. No later than May 1, 2022, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the qualifying HIE organization, if required by the external reference lab, to have all outsourced lab test results flow to the qualifying HIE on their behalf.
 - iv. No later than May 1, 2022, the hospital must electronically submit the following actual patient identifiable information to the production environment of a qualifying HIE organization: admission, discharge and transfer information (generally known as ADT information), including data from the hospital emergency department if the provider has an emergency department; laboratory and radiol-

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- ogy information (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination.
- v. No later than November 1, 2022, the hospital must approve and authorize a formal statement of work (SOW) to initiate and complete a data quality improvement effort, as defined by the qualifying HIE organization.
 - vi. No later than November 1, 2022, the hospital must approve and authorize a formal SOW to initiate connectivity to and usage of the Arizona Healthcare Directives Registry (AzHDR) operated by the qualifying HIE organization.
 - vii. No later than November 1, 2022, the hospital must approve and authorize a formal statement of work (SOW) to initiate and complete a data quality improvement effort, as defined by the qualifying HIE organization.
 - viii. No later than January 1, 2023, the hospital must complete the data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.
 - ix. No later than May 1, 2023, the hospital must complete the final data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.
 - x. Quality Improvement Performance Criteria: Hospitals that meet each of the following HIE data quality performance criteria will be eligible to receive DAP increases described in subsections (x)(1) through (3).
 - (1) Demonstrate a 10% improvement from baseline measurements in the initial data quality profile, based on October 2021 data, to the final data quality profile, based on March 2022 data.
 - (2) Meet a minimum performance standard of at least 60% based on March 2022 data.
 - (3) If performance meets or exceeds an upper threshold of 90% based on March 2022 data, the hospital meets the criteria, regardless of the percentage improvement from the baseline measurements.
 - xi. DAP HIE Data Quality Standards CYE 2023 Measure Categories: Hospitals that meet the standards, as defined in Attachment A of this notice, qualify for a 0.5% DAP increase for each category of the five measure categories, for a total potential increase of 2.0% if criteria are met for all categories.
 - (1) Data source and data site information must be submitted on all ADT transactions. (0.5%)
 - (2) Event type must be properly coded on all ADT transactions. (0%)
 - (3) Patient class must be properly coded on all appropriate ADT transactions. (0%)
 - (4) Patient demographic information must be submitted on all ADT transactions. (0%)
 - (5) Race must be submitted on all ADT transactions. (0.5%)
 - (6) Ethnicity must be submitted on all ADT transactions. (0.5%)
 - (7) Diagnosis must be submitted on all ADT transactions. (0.5%)
 - (8) Overall completeness of the ADT message. (0%)
- b. By April 1, 2022, the hospital must have submitted a registration form for participation in the Social Determinants of Health (SDOH) Closed-Loop Referral Platform operated by the qualifying HIE organization in which the parties agree to achieve the following milestones by the specified dates.
 - i. No later than April 1, 2022, submit registration form or forms for participation using the form or forms on the website of the qualifying HIE organization.
 - ii. No later than April 1, 2022:
 - (1) For hospitals with an active Participation Agreement with a qualifying HIE organization, submit a signed Participant SDOH Addendum to participate in the SDOH Closed-Loop Referral Platform.
 - (2) For hospitals without an active Participation Agreement with a qualifying HIE organization, execute a Participation Agreement and a Participant SDOH Addendum to participate in the SDOH Closed-Loop Referral Platform.
 - (3) For hospitals that have not participated in DAP HIE requirements in CYE 2022, the deadline for this milestone will be November 1, 2022.
 - iii. No later than September 30, 2022, or as soon as reasonably practicable thereafter as determined by the qualifying HIE organization, initiate use of the SDOH Closed-Loop Referral Platform operated by the qualifying HIE organization. After go-live, the hospital must regularly utilize the SDOH Closed-Loop Referral Platform, which will be measured by facilitating at least 10 referrals on average per month from go-live date through the end of CYE 2023. All referrals entered into the system by the hospital will be counted towards volume requirements.
 - c. By March 15, 2022, the facility must submit a LOI to enter into a CCA (a fully signed copy of a CCA with an IHS/Tribal 638 facility is also acceptable). By April 30, 2022, the facility must have entered into a CCA with a IHS/Tribal 638 facility for inpatient, outpatient, and ambulatory services provided through a referral under the executed CCA. The facility agrees to achieve and maintain participation in the following activities:
 - i. The facility will have in place a signed CCA with an IHS/Tribal 638 facility and will have submitted the signed CCA to AHCCCS. The CCA will meet minimum requirements as outlined in the CMS SHO Guidance.
 - ii. The facility will have a valid referral process for IHS/Tribal 638 facilities in place for

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- requesting services to be performed by the non-IHS/Tribal 638 facility.
- iii. The hospital will provide to the IHS/Tribal 638 facility clinical documentation of services provided through a referral under the CCA.
 - iv. AHCCCS will monitor activity specified under the CCA(s) to ensure compliance. To help facilitate this, the facility will participate in the HIE or establish an agreed claims operation process with AHCCCS for the review of medical records by May 31, 2022.
 - v. The non-IHS/Tribal 638 facility will receive a minimum of one referral and any supporting medical documentation from the IHS/Tribal 638 facility and submit a minimum of one claim to AHCCCS under the CCA claiming guidelines, by September 1, 2022. During CYE 2023, from October 1, 2022 through September 30, 2023, demonstrate a concerted effort to submit an average of 5 CCA claims per month to AHCCCS.
 - vi. Existing facilities with a CCA established in CYE 2022 will actively submit a minimum of 5 CCA claims to AHCCCS by March 15, 2022, and submit an average of 5 CCA claims per month to AHCCCS by May 31, 2022.
- d. Upon the declaration of the end of the State of Arizona Public Health Emergency (PHE) issued on March 11, 2020, the hospital must submit a letter of intent (LOI) to AHCCCS in which it agrees to adult and pediatric bed capacity reporting to the Arizona Department of Health Services (ADHS). Specifically, the hospital shall report the following through an ADHS approved method to ADHS weekly, with deadlines and format prescribed by ADHS:
 - i. Number of ICU beds in use,
 - ii. Number of ICU beds available for use,
 - iii. Number of Medical-Surgical beds in use,
 - iv. Number of Medical-Surgical beds available for use,
 - v. Number of Telemetry beds in use,
 - vi. Number of Telemetry beds available for use.
2. A hospital designated by the Arizona Department of Health Services Division of Licensing Services as type: hospital, subtype: critical access hospital will qualify for an increase if it meets the criteria specified;
 - a. By April 1, 2022 the hospital must have submitted a LOI to AHCCCS and the HIE, in which it agrees to achieve the following milestones by the specified dates, or maintain its participation in the milestone activities if they have already been achieved:
 - i. No later than April 1, 2022, the hospital must have in place an active participation agreement with a qualifying HIE organization and submit a LOI to AHCCCS and the HIE, in which it agrees to achieve the following milestones by the specified dates or maintain its participation in the milestone activities if they have already been achieved.
 - ii. No later than May 1, 2022, or by the hospital's go-live date for new data suppliers, or within 30 days of initiating the respective COVID-19 related services for current data suppliers, the hospital must complete the following COVID-19 related milestones, if they are applicable:
 - (1) Related to COVID-19 testing services, submit all COVID-19 lab test codes and the associated LOINC codes to the qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (2) Related to COVID-19 antibody testing services, submit all COVID-19 antibody test codes and the associated LOINC codes to the qualifying HIE organization to ensure proper processing of lab results within the HIE system.
 - (3) Related to COVID-19 immunization services, submit all COVID-19 immunization codes and the associated CDC-recognized code sets to the qualifying HIE organization to ensure proper processing of immunizations within the HIE system.
 - iii. No later than May 1, 2022, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the qualifying HIE, if required by the external reference lab, to have all outsourced lab test results flow to the qualifying HIE organization on their behalf.
 - iv. No later than May 1, 2022, the hospital must electronically submit the following actual patient identifiable information to the production environment of a qualifying HIE organization: admission, discharge and transfer information (generally known as ADT information), including data from the hospital emergency department if the provider has an emergency department; laboratory and radiology information (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination.
 - v. No later than November 1, 2022, the hospital must approve and authorize a formal SOW to initiate and complete a data quality improvement effort, as defined by the qualifying HIE organization.
 - vi. No later than November 1, 2022, the hospital must approve and authorize a formal SOW to initiate connectivity to and usage of the Arizona Healthcare Directives Registry (AzHDR) operated by the qualifying HIE organization.
 - vii. No later than November 1, 2022, the hospital must approve and authorize a formal statement of work (SOW) to initiate and complete a data quality improvement effort, as defined by the qualifying HIE organization.
 - viii. No later than January 1, 2023, the hospital must complete the initial data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.

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- ix. No later than May 1, 2023, the hospital must complete the final data quality profile with a qualifying HIE organization, in alignment with the data quality improvement SOW.
- x. Quality Improvement Performance Criteria: Hospitals that meet each of the following HIE data quality performance criteria will be eligible to receive DAP increases described below.
 - (1) Demonstrate a 10% improvement from baseline measurements in the initial data quality profile, based on October 2021 data, to the final data quality profile, based on March 2022 data.
 - (2) Meet a minimum performance standard of at least 60% based on March 2022 data.
 - (3) If performance meets or exceeds an upper threshold of 90% based on March 2022 data the hospital meets the criteria, regardless of the percentage improvement from the baseline measurements.
- xi. DAP HIE Data Quality Standards CYE 2023 Measure Categories: Hospitals that meet the standards, as defined in Attachment A of this notice, qualify for a DAP increase for select Data Quality Measures for a total of 8.0% if criteria are met for all categories indicating a DAP.
 - (1) Data source and data site information must be submitted on all ADT transactions. (1.0%)
 - (2) Event type must be properly coded on all ADT transactions. (1.0%)
 - (3) Patient class must be properly coded on all appropriate ADT transactions. (0%)
 - (4) Patient demographic information must be submitted on all ADT transactions. (0%)
 - (5) Race must be submitted on all ADT transactions. (2.0%)
 - (6) Ethnicity must be submitted on all ADT transactions. (2.0%)
 - (7) Diagnosis must be submitted on all ADT transactions. (2.0%)
 - (8) Overall completeness of the ADT message. (0%)
- b. By April 1, 2022, the hospital must have submitted a registration form for participation in the Social Determinants of Health (SDOH) Closed-Loop Referral Platform operated by the qualifying HIE organization in which the parties agree to achieve the following milestones by the specified dates;
 - i. No later than April 1, 2022, submit registration form or forms for participation using the form or forms on the website of the qualifying HIE organization.
 - ii. No later than April 1, 2022:
 - (1) For hospitals with an active Participation Agreement with a qualifying HIE organization, submit a signed Participant SDOH Addendum to participate in the SDOH Closed-Loop Referral Platform.
 - (2) For hospitals without an active Participation Agreement with a qualifying HIE organization, execute a Participation Agreement and a Participant SDOH Addendum to participate in the SDOH Closed-Loop Referral Platform.
 - (3) For hospitals that have not participated in DAP HIE requirements in CYE 2022, the deadline for this milestone will be November 1, 2022.
 - iii. No later than September 30, 2022, or as soon as reasonably practicable thereafter as determined by the qualifying HIE organization, initiate use of the SDOH Closed-Loop Referral Platform operated by the qualifying HIE organization. After go-live, the hospital must regularly utilize the SDOH Closed-Loop Referral Platform, which will be measured by facilitating at least 10 referrals on average per month from go-live date through the end of CYE 2023. All referrals entered into the system by the hospital will be counted towards volume requirements.
 - c. By March 15, 2022, the facility must submit a LOI to enter into a CCA (a fully signed copy of a CCA with an IHS/Tribal 638 facility is also acceptable). By April 30, 2022, the facility must have entered into a CCA with a IHS/Tribal 638 facility for inpatient, outpatient, and ambulatory services provided through a referral under the executed CCA. The facility agrees to achieve and maintain participation in the following activities:
 - i. The facility will have in place a signed CCA with an IHS/Tribal 638 facility and will have submitted the signed CCA to AHCCCS. The CCA will meet minimum requirements as outlined in the CMS SHO Guidance.
 - ii. The facility will have a valid referral process for IHS/Tribal 638 facilities in place for requesting services to be performed by the non-IHS/Tribal 638 facility.
 - iii. The hospital will provide to the IHS/Tribal 638 facility clinical documentation of services provided through a referral under the CCA.
 - iv. AHCCCS will monitor activity specified under the CCA(s) to ensure compliance. To help facilitate this, the facility will participate in the HIE or establish an agreed claims operation process with AHCCCS for the review of medical records by May 31, 2022.
 - v. The non-IHS/Tribal 638 facility will receive a minimum of one referral and any supporting medical documentation from the IHS/Tribal 638 facility and submit a minimum of one claim to AHCCCS under the CCA claiming guidelines, by September 1, 2022. During CYE 2023, from October 1, 2022 through September 30, 2023, demonstrate a concerted effort to submit an average of 5 CCA claims per month to AHCCCS.
 - vi. Existing facilities with a CCA established in CYE 2022 will actively submit a minimum of 5 CCA claims to AHCCCS by March 15, 2022, and submit an average of 5 CCA claims per month to AHCCCS by May 31, 2022.
 - d. Upon the declaration of the end of the State of Arizona Public Health Emergency (PHE) issued on March 11, 2020, the hospital must submit a letter of intent (LOI) to AHCCCS in which it agrees to adult

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and pediatric bed capacity reporting to the Arizona Department of Health Services (ADHS). Specifically, the hospital shall report the following through an ADHS approved method to ADHS weekly, with deadlines and format prescribed by ADHS:

- i. Number of ICU beds in use,
- ii. Number of ICU beds available for use,
- iii. Number of Medical-Surgical beds in use,
- iv. Number of Medical-Surgical beds available for use,
- v. Number of Telemetry beds in use,
- vi. Number of Telemetry beds available for use.

F. For inpatient services with a date of discharge from October 1, 2023 through September 30, 2024 (CYE 2024), the Inpatient Differential Adjusted Payment is the sum of the final DRG base payment and the final DRG outlier add-on payment multiplied by a percentage published on the Administration's public website as part of its fee schedule, subsequent to the public notice published no later than September 1, 2023. A hospital will qualify for an increase if it meets the criteria specified below for the applicable hospital subtype. If a hospital receives a DAP for CYE 2024 but fails to meet all of the requirements in subsection (F), the hospital shall be disqualified from participating in a DAP for dates of service October 1, 2024 through September 30, 2025 (CYE 2025), if a DAP would be available at that time.

1. A hospital designated by the Arizona Department of Health Services Division of Licensing Services as type: hospital, subtype: short-term or children's will qualify for an increase if it meets the criteria in subsection (1)(a), (b), (c), or (d):

- a. No later than April 1, 2023, the hospital must have in place an active participation agreement with the Health Information Exchange (HIE) organization and submit a signed Health Information Exchange Statement of Work (HIE SOW) to the HIE. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding National Provider Identifier(s) (NPI), that the hospital requests to participate in the DAP.
 - i. No later than May 1, 2023, the hospital must have actively accessed, and continue to access on an ongoing basis, patient health information via the HIE organization, utilizing one or more HIE services, such as the HIE Portal, ADT Alerts, Clinical Notifications, or an interface that delivers patient data into the hospital's system.
 - ii. No later than May 1, 2023, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the HIE organization, if required by the external reference lab, to have all outsourced lab test results flow to the HIE on their behalf.
 - iii. No later than May 1, 2023, the hospital must electronically submit the following actual patient identifiable information to the production environment of the HIE organization: admission, discharge, and transfer information (generally known as ADT information), including data from the hospital emergency department if the provider has an emergency department; laboratory and radiology informa-

tion (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination.

- iv. No later than May 1, 2023, the hospital must have or obtain a unique Object Identifier (OID) created by a registration authority, the hospital, and Health Level Seven (HL7). The OID is a globally unique International Organization for Standardization identifier for the hospital. Contact the HIE's Quality Improvement Team for instructions and to ensure the hospital is compliant.
- v. No later than July 1, 2023, the hospital must sign a DAP SOW amendment to include HIE integration requirements. Which will include the steps and expectations and timeline to transition to the hospital's HIE connection to the new HIE platform. The hospital must continue to meet the HIE integration requirements through September 30, 2024.
- b. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) indicating AzHDR participation to the HIE. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. For hospitals that have participated in DAP HIE requirements in CYE 2023:
 - (1) No later than September 30, 2023, initiate use of the AzHDR platform operated by the HIE organization.
 - (2) After all the onboarding requirements have been met and the provider has access to the platform (Go-Live), the hospital must regularly utilize the AzHDR platform which will be measured by facilitating at least 10 patient document uploads or queries of advance directives per month per registered AHCCCS ID from the Go-Live date through September 30, 2024. Both uploads entered into the system and queries of the system by the hospital will be counted toward volume requirements, tracked monthly, and reported as a final deliverable by June 1, 2024. Uploading is defined by submitting a document or multiple documents for a patient into the registry and a query is defined as querying for documents within the Registry.
 - ii. For hospitals that have not participated in DAP HIE requirements in CYE 2023:
 - (1) No later than November 1, 2023, complete the AzHDR Participant Agreement, and
 - (2) No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the platform.

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- c. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) and the Community Cares Access Agreement indicating SDOH participation to the HIE organization. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. For hospitals that have participated in DAP SDOH requirements in CYE 2023:
 - (1) No later than September 30, 2023, initiate use of the Community Cares referral system operated by the HIE organization.
 - (2) No later than May 1, 2024: After all the onboarding requirements have been met and the provider has access to the system and through September 30, 2024, the hospital must regularly utilize the Community Cares referral system operated by the HIE organization. This will be measured by facilitating at least 10 referrals per month per registered AHCCCS ID that resulted from utilizing the social-needs screening tool in Community Cares. The referral is created by the provider or support staff member and sent directly to a social service provider. All referrals entered into the system by the hospital will be counted toward volume requirements, tracked monthly, and reported as a final deliverable by June 1, 2024.
 - ii. For hospitals that have not participated in DAP SDOH requirements in CYE 2023:
 - (1) No later than November 1, 2023, complete the Community Cares Access Agreement and the HIE Participant Agreement, as required, and
 - (2) No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the system.
 - d. No later than April 30, 2023, the hospital must submit a Letter of Intent (LOI) to AHCCCS to the following email address: AHCCCSdap@azahcccs.gov, indicating that they will participate in the Naloxone Distribution Program (NDP). The LOI must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. No later than November 30, 2023, develop and submit a facility policy that meets AHCCCS/ADHS standards for a NDP.
 - ii. No later than January 1, 2024, begin distribution of Naloxone to individuals at risk of overdose as identified through the facility's policy.
2. A hospital designated by the Arizona Department of Health Services Division of Licensing Services as type: hospital, subtype: critical access hospital will qualify for an increase if it meets this criteria specified in subsection (2)(a), (b), (c) or (d):
 - a. No later than April 1, 2023, the hospital must have in place an active participation agreement with the Health Information Exchange (HIE) organization and submit a signed Health Information Exchange Statement of Work (HIE SOW) to the HIE. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding National Provider Identifier(s) (NPI), that the hospital requests to participate in the DAP.
 - i. No later than May 1, 2023, the hospital must have actively accessed, and continue to access on an ongoing basis, patient health information via the HIE organization, utilizing one or more HIE services, such as the HIE Portal, ADT Alerts, Clinical Notifications, or an interface that delivers patient data into the hospital's system.
 - ii. No later than May 1, 2023, hospitals that utilize external reference labs for any lab result processing must submit necessary provider authorization forms to the HIE organization, if required by the external reference lab, to have all outsourced lab test results flow to the HIE on their behalf.
 - iii. No later than May 1, 2023, the hospital must electronically submit the following actual patient identifiable information to the production environment of the HIE organization: admission, discharge, and transfer information (generally known as ADT information), including data from the hospital emergency department if the provider has an emergency department; laboratory and radiology information (if the provider has these services); transcription; medication information; immunization data; and discharge summaries that include, at a minimum, discharge orders, discharge instructions, active medications, new prescriptions, active problem lists (diagnosis), treatments and procedures conducted during the stay, active allergies, and discharge destination.
 - iv. No later than May 1, 2023, the hospital must have or obtain a unique Object Identifier (OID) created by a registration authority, the hospital, and Health Level Seven (HL7). The OID is a globally unique International Organization for Standardization identifier for the hospital. Contact the HIE's Quality Improvement Team for instructions and to ensure the hospital is compliant.
 - v. No later than July 1, 2023, the hospital must sign a DAP SOW amendment to include HIE integration requirements. Which will include the steps and expectations and timeline to transition to the hospital's HIE connection to the new HIE platform. The hospital must continue to meet the HIE integration requirements through September 30, 2024.
 - b. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) indicating AzHDR participation to the HIE. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.

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- i. For hospitals that have participated in DAP HIE requirements in CYE 2023:
 - (1) No later than September 30, 2023, initiate use of the AzHDR platform operated by the HIE organization.
 - (2) After all the onboarding requirements have been met and the provider has access to the platform (Go-Live), the hospital must regularly utilize the AzHDR platform which will be measured by facilitating at least 10 patient document uploads or queries of advance directives per month per registered AHCCCS ID from the Go-Live date through September 30, 2024. Both uploads entered into the system and queries of the system by the hospital will be counted toward volume requirements, tracked monthly, and reported as a final deliverable by June 1, 2024. Uploading is defined by submitting a document or multiple documents for a patient into the registry and a query is defined as querying for documents within the Registry.
- ii. For hospitals that have not participated in DAP HIE requirements in CYE 2023:
 - (1) No later than November 1, 2023, complete the AzHDR Participant Agreement, and
 - (2) No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the platform.
- c. No later than April 1, 2023, the hospital must submit a signed Health Information Exchange Statement of Work (HIE SOW) and the Community Cares Access Agreement indicating SDOH participation to the HIE organization. The HIE SOW must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. For hospitals that have participated in DAP SDOH requirements in CYE 2023:
 - (1) No later than September 30, 2023, initiate use of the Community Cares referral system operated by the HIE organization.
 - (2) No later than May 1, 2024: After all the onboarding requirements have been met and the provider has access to the system and through September 30, 2024, the hospital must regularly utilize the Community Cares referral system operated by the HIE organization. This will be measured by facilitating at least 10 referrals per month per registered AHCCCS ID that resulted from utilizing the social-needs screening tool in Community Cares. The referral is created by the provider or support staff member and sent directly to a social service provider. All referrals entered into the system by the hospital will be counted toward volume requirements, tracked monthly, and reported as a final deliverable by June 1, 2024.
 - ii. For hospitals that have not participated in DAP SDOH requirements in CYE 2023:
 - (1) No later than November 1, 2023, complete the Community Cares Access Agreement and the HIE Participant Agreement, as required, and
 - (2) No later than April 1, 2024, have onboarding completed by working with the HIE to submit all HIE requirements prior to gaining access to the system.
 - d. No later than April 30, 2023, the hospital must submit a Letter of Intent (LOI) to AHCCCS to the following email address: AHCCCS DAP@azahcccs.gov, indicating that they will participate in the Naloxone Distribution Program (NDP). The LOI must contain each facility, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. No later than November 30, 2023, develop and submit a facility policy that meets AHCCCS/ADHS standards for a NDP.
 - ii. No later than January 1, 2024, begin distribution of Naloxone to individuals at risk of overdose as identified through the facility's policy.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4). Amended by final rulemaking at 23 A.A.R. 2338, effective October 1, 2017 (Supp. 17-3). Amended by final rulemaking at 23 A.A.R. 2896, effective January 1, 2018 (Supp. 17-4). Amended by final rulemaking at 24 A.A.R. 2851, effective October 1, 2018 (Supp. 18-3). Amended by final rulemaking at 25 A.A.R. 3114, effective October 31, 2019 (Supp. 19-4). Amended by final rulemaking at 26 A.A.R. 3025, with an immediate effective date of November 3, 2020 (Supp. 20-4). AHCCCS filed an incorrect version of a final rulemaking which made amendments to this Section published at 27 A.A.R. 2501 (October 29, 2021); AHCCCS filed the correct version of its final rulemaking on December 3, 2021, with this Section amended by final rulemaking at 27 A.A.R. 3015 (December 31, 2021), effective October 1, 2021 (Supp. 21-4). Amended by final rulemaking at 28 A.A.R. 3283 (October 14, 2022), with an immediate effective date of September 23, 2022 (Supp. 22-3). Amended by final rulemaking at 29 A.A.R. 3394 (October 27, 2023), with an immediate effective date of October 4, 2023 (Supp. 23-4).

R9-22-712.72. DRG Reimbursement: Enrollment Changes During an Inpatient Stay

- A. If a member's enrollment changes during an inpatient stay, including changing enrollment from fee-for-service to a contractor, or vice versa, or changing from one contractor to another contractor, the contractor with whom the member is enrolled on the date of discharge shall be responsible for reimbursing the hospital for the entire length of stay under the DRG payment rules in Sections R9-22-712.60 through R9-22-712.81. If the member is eligible but not enrolled with a contractor on the date of discharge, then the AHCCCS administration shall be responsible for reimbursing the hospital for the entire length of stay under the DRG payment rules in Sections R9-22-712.60 through R9-22-712.81.

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- B. When a member's enrollment changes during an inpatient stay, the hospital shall use the date of enrollment with the payer responsible on the date of discharge as the "from" date of service on the claim regardless of the date of admission.
- C. Interim claims submitted to a payer other than the payer responsible on the day of discharge shall be processed in the same manner as other interim claims as described in R9-22-712.76.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 23 A.A.R. 2896, effective January 1, 2018 (Supp. 17-4).

R9-22-712.73. DRG Reimbursement: Inpatient Stays for Members Eligible for Medicare

If the hospital receives less than the full Medicare payment for a member eligible for benefits under Part A of Medicare because the member has exceeded the maximum benefit permitted under Part A of Medicare, the hospital shall submit a separate claim for services performed after the date the maximum Medicare Part A benefit is exceeded. The claim may include all diagnosis codes for the entire inpatient stay, but the hospital is only required to include revenue codes, surgical procedure codes, service units, and charges for services performed after the date the Medicare Part A benefit is exceeded. A claim so submitted shall be reimbursed using the DRG payment methodology.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.74. DRG Reimbursement: Third Party Liability

DRG payments are subject to reduction based on cost avoidance under Section R9-22-1003 and other rules regarding first-and third-party liability under Article 10 of this Chapter including cost avoidance for claims for ancillary services covered under Part B of Medicare.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.75. DRG Reimbursement: Payment for Administrative Days

- A. Categories of Administrative Days. Administrative days fall into one of two categories, either subsection (A)(1) or (A)(2).
 - 1. Administrative days due to lack of appropriate placement options and not meeting inpatient medical criteria. Administrative days are days in which a member is admitted as an inpatient to an acute care hospital, does not meet the criteria for an acute inpatient stay, but is admitted or not discharged because; (1) an appropriate placement outside the hospital is not available, (2) the member cannot be safely discharged or transferred, or (3) the Administration or the contractor failed to provide for the appropriate placement outside the hospital in a timely manner.
 - a. Administrative days may occur prior to an acute care episode, for example, when a woman with a high-risk pregnancy is admitted to a hospital while awaiting delivery.
 - b. Administrative days may also occur at the end of an acute care episode, for example, when a member is not discharged while awaiting placement in a nursing facility or other sub-acute or post-acute setting.

- c. Administrative days may also include days in a receiving hospital when the member has been discharged from one acute care hospital for the purpose of receiving sub-acute services at the receiving hospital.
 - d. Administrative days do not include days when the member is awaiting appropriate placement or services that are currently available but the hospital has not transferred or discharged the member because of the hospital's administrative or operational delays.
 - e. Administrative days include inpatient claims covered by a RBHA or TRBHA that otherwise meet the criteria in subsection (A)(1).
2. Administrative days for claims with the principal diagnosis of behavioral health meeting inpatient medical criteria. Administrative days are days with dates of discharge on or after October 1, 2018, in which a member is admitted as an inpatient to an acute care hospital, meets the criteria for an acute inpatient stay, and the principal diagnosis on the hospital claim is a behavioral health diagnosis. Inpatient claims covered by a RBHA or TRBHA are not considered administrative days under subsection (A)(2) regardless of the principal diagnosis on the hospital claim.

B. Reimbursement of Administrative Days.

- 1. Administrative days under subsection (A)(1) are reimbursed at the rate the claim would have paid had the services not been provided in an inpatient hospital setting but had been provided at the appropriate level of care such as the rate paid for stays at a nursing facility.
 - 2. Administrative days under subsection (A)(2) are reimbursed at the daily rate found on the Inpatient Behavioral Health Capped Fee-For-Service Schedule meeting the criteria of "Service Description – Psychiatric Stay," regardless of revenue code.
- C. Prior authorization is required for administrative days.
- D. A hospital shall submit a claim for administrative days separate from any claim for reimbursement for the inpatient stay otherwise reimbursable under the DRG payment methodology.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 22 A.A.R. 2187, effective October 1, 2016 (Supp. 16-4). Amended by final rulemaking at 25 A.A.R. 3111, effective October 1, 2019 (Supp. 19-4).

R9-22-712.76. DRG Reimbursement: Interim Claims

- A. For inpatient stays with a length of stay greater than 29 days, a hospital may submit interim claims for each 30 day period during the inpatient stay.
- B. Hospitals shall be reimbursed for interim claims at a per diem rate of \$500 per day.
- C. Following discharge, the hospital shall void all interim claims. In such circumstances, the hospital shall submit a claim to the payer with whom the member is enrolled on the date of discharge, whether the Administration or a contractor, for the entire inpatient stay for which the final claim shall be reimbursed under the DRG payment methodology. Interim claims will be recouped.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.77. DRG Reimbursement: Admissions and Dis-

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charges on the Same Day

- A. Except as provided for in subsection (B), for any claim for inpatient services with an admission date and discharge date that are the same calendar date, the contractor or the Administration shall process the claim as an outpatient claim and the hospital shall be reimbursed under R9-22-712.10 through R9-22-712.50.
- B. Claims with an admission date and discharge date that are the same calendar date that also indicate that the member expired on the date of discharge shall be reimbursed under the DRG methodology.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.78. DRG Reimbursement: Readmissions

If a member is readmitted without prior authorization to the same hospital that the member was discharged from within 72 hours and the DRG code assigned to the claim for the prior admission has the same first three digits as the DRG code assigned to the claim for the readmission, then payment for the claim for the readmission will be disallowed only if the readmission could have been prevented by the hospital.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.79. DRG Reimbursement: Change of Ownership

The administration shall not change any of the components of the calculation of reimbursement for inpatient services using the DRG methodology based upon a change in the hospital's ownership except to the extent those components would change under the methodology had the hospital not changed ownership (e.g., updating the hospital's cost-to-charge ratio as of September 1 of each year under R9-22-712.68).

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

R9-22-712.80. DRG Reimbursement: New Hospitals

- A. DRG base payment for new hospitals. For any hospital that does not have a labor share or wage index published by CMS as described in subsection R9-22-712.62(B) because the hospital was not in operation, the DRG base rate described in subsection R9-22-712.62(B) shall be calculated as the statewide standardized amount after adjusting that amount for the labor-related share and the wage index published by CMS as described in subsection R9-22-712.62(B) that is appropriate to the location of the hospital published by CMS as described in subsection R9-22-712.62(B).
- B. Outlier calculations for new hospitals. For any hospital that does not have an operating cost-to-charge ratio listed in the impact file described in subsection R9-22-712.68(B) because the hospital was not in operation prior to the publication of the impact file, the statewide urban or rural default operating cost-to-charge ratio appropriate to the location of the hospital and the statewide capital cost-to-charge ratio shall be used to determine the unadjusted outlier add-on payment. The statewide urban or rural default operating cost-to-charge ratio and the statewide capital cost-to-charge ratio shall be based on the ratios published by CMS and updated by the Administration as described in subsection R9-22-712.68(C).

- C. In addition to the requirement of this Section, DRG reimbursement for new hospitals is determined under R9-22-712.60 through R9-22-712.79.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 23 A.A.R. 2896, effective January 1, 2018 (Supp. 17-4).

R9-22-712.81. DRG Reimbursement: Updates

In addition to the other updates provided for in Sections R9-22-712.60 through R9-22-712.80, the Administration may update the version of the APR-DRG classification system established by 3M Health Information Systems, adjust the statewide standardized amount in Section R9-22-712.62, the base payments in R9-22-712.63 and R9-22-712.64, the provider policy adjustor in R9-22-712.65, service policy adjustors in R9-22-712.66, and the fixed loss amounts and marginal cost percentages used to calculate the outlier threshold in R9-22-712.68 to the extent necessary to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available at least to the extent that such care and services are available to the general population in the geographic area. The Administration shall publish any proposed classification system on the agency's website at least 30 days prior to the effective date, to ensure a sufficient period for public comment, as required by 42 C.F.R. § 447.205. In addition, the public notice shall be available for inspection during normal business hours at 701 E. Jefferson, Phoenix, Arizona. The requirements of 42 CFR § 447.205 as of November 2, 2015 are incorporated by reference and do not include any later amendments.

Historical Note

New Section made by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 23 A.A.R. 2896, effective January 1, 2018 (Supp. 17-4).

R9-22-712.90. Reimbursement of Hospital-based Freestanding Emergency Departments

- A. "Hospital-based freestanding emergency department" (hospital-based FSED) means an outpatient treatment center, as defined in R9-10-101, that: (1) provides emergency room services under R9-10-1019, (2) is subject to the requirements of 42 C.F.R. 489.24, and (3) shares an ownership interest with a hospital, regardless of whether the outpatient treatment center operates under a hospital's single group license as described in A.R.S. § 36-422.
- B. A hospital-based FSED shall register with the Administration separately from the hospital with which an ownership interest is shared and shall obtain a separate provider identification number. The Administration shall not charge a separate provider enrollment fee for registration of a hospital-based FSED. The Administration shall accept a hospital's compliance with the provider screening and enrollment requirements of 42 CFR Part 455 as compliance by the hospital-based FSED.
- C. For dates of service on and after March 1, 2017, and except as provided in subsection (D), services provided by a hospital-based FSED for evaluation and management CPT codes 99281 through 99285 shall be reimbursed at the following percentages of the amounts otherwise reimbursable under R9-22-712.20 through R9-22-712.30. All other covered codes shall be reimbursed in accordance with R9-22-712.20 through R9-22-712.30 without a percentage reduction.

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1. 60 percent for a level 1 emergency department visit as indicated by CPT 99281.
 2. 80 percent for a level 2 emergency department visit as indicated by CPT 99282.
 3. 90 percent for a level 3 emergency department visit as indicated by CPT 99283.
 4. 100 percent for a level 4 or 5 emergency department visit as indicated by CPT codes 99284 and 99285.
- D.** A hospital-based FSED located in a city or town in a county with less than 500,000 residents, where the only hospital in the city or town operating an emergency department closed on or after January 1, 2015, shall be reimbursed under R9-22-712.20 through R9-22-712.35 using the adjustment in R9-22-712.35 associated with the nearest hospital with which the freestanding emergency department shares an ownership interest.
- E.** Services provided by an outpatient treatment center that provides emergency room services under R9-10-1019, but does not otherwise meet the criteria in subsection A, shall be reimbursed based on the non-hospital AHCCCS capped fee-for-service schedule under R9-22-710.
- F.** The Administration shall not reimburse a hospital for services provided at a hospital-based FSED if the member is admitted directly from a hospital-based FSED to a hospital with an ownership interest in the hospital-based FSED. As provided in R9-22-712.60(B), payments made for the inpatient stay using the DRG methodology shall be the sole reimbursement.
- G.** For dates of service from October 1, 2023 through September 30, 2024 (CYE 2024), the payment otherwise required for hospital-based FSED services provided by qualifying hospital-based FSEDs shall be increased by a percentage established by the Administration and shall be applied to the payment methodology as described in subsection (C). The percentage is published on the Administration's public website as part of its fee schedule, subsequent to the public notice published no later than September 1, 2023. A hospital-based FSED will qualify for an increase if it meets the criteria specified below. If a hospital-based FSED receives a DAP for CYE 2024 but fails to meet all of the requirements in subsection (G), the hospital-based FSED shall be disqualified from participating in a DAP for dates of service October 1, 2024 through September 30, 2025 (CYE 2025), if a DAP would be available at that time.
1. A outpatient treatment center designated by the Arizona Department of Health Services Division of Licensing Services as type: hospital-based freestanding emergency department will qualify for an increase if it meets the criteria in subsection (1)(a):
 - a. No later than April 30, 2023, the hospital-based FSED must submit a Letter of Intent (LOI) to AHCCCS to the following email address: AHCCCS-DAP@azahcccs.gov, indicating that they will participate in the Naloxone Distribution Program (NDP).
 - b. The LOI must contain each hospital-based FSED, including AHCCCS ID(s) and corresponding NPI(s), that the hospital requests to participate in the DAP.
 - i. No later than November 30, 2023, develop and submit a hospital-based FSED policy that meets AHCCCS/ADHS standards for a NDP.
 - ii. No later than January 1, 2024, begin distribution of Naloxone to individuals at risk of overdose as identified through the hospital-based FSEDs' policy.

Historical Note

New Section made by final rulemaking at 23 A.A.R. 22, February 11, 2017 (Supp. 16-4). Amended by final rulemaking at 29 A.A.R. 3394 (October 27, 2023), with an immediate effective date of October 4, 2023 (Supp. 23-4).

R9-22-713. Overpayment and Recovery of Indebtedness

- A.** If a contractor or a subcontracting provider receives an overpayment from the Administration or otherwise becomes indebted to the Administration, the contractor or subcontracting provider shall immediately remit the amount of the indebtedness or overpayment to the Administration for deposit in the AHCCCS fund.
- B.** If the funds described in subsection (A) are not remitted, the Administration may recover the funds paid by the Administration to a contractor or subcontracting provider through:
1. A repayment agreement executed with the Administration;
 2. Withholding or offsetting against current or future payments to be paid to the contractor or subcontracting provider; or
 3. Enforcement of, or collection against, the performance bond, financial reserve, or other financial security under A.R.S. § 36-2903.

Historical Note

Adopted as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Adopted as a permanent rule effective May 16, 1983; text of adopted rule identical to the emergency (Supp. 83-3). Former Section R9-22-713 repealed, new Section R9-22-713 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-713 renumbered and amended as Section R9-22-714, former Section R9-22-709 renumbered and amended as Section R9-22-713 effective October 1, 1985 (Supp. 85-5). Amended by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 856, effective May 5, 2007 (Supp. 07-1).

R9-22-714. Payments to Providers

- A.** Provider agreement. The Administration or a contractor shall not reimburse a covered service provided to a member unless the provider has signed a provider agreement with the Administration that establishes the terms and conditions of participation and payment under A.R.S. § 36-2904.
- B.** Provider reimbursement. The Administration or a contractor shall reimburse a provider for a service furnished to a member only if:
1. The provider personally furnishes the service to a specific member. For purposes of this Section, services personally furnished by a provider include:
 - a. Services provided by medical residents or dental students in a teaching environment; or
 - b. Services provided by a licensed or certified assistant under the general supervision of a licensed practitioner in accordance with 4 A.A.C. 24, 9 A.A.C. 16, 4 A.A.C. 43, or 4 A.A.C. 45;
 2. The provider verifies that individuals who have provided services described in subsection (B)(1) have not been placed on the List of Excluded Individuals/Entities (LEIE) maintained by the United States Department of Health and Human Services Office of the Inspector General (OIG), located at OIG's web site;
 3. The service contributes directly to the diagnosis or treatment of the member; and

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4. The service ordinarily requires performance by the type of provider seeking reimbursement.
- C. The Administration or a contractor may make a payment for covered services only:
 1. To the provider;
 2. To anyone specified in a reassignment from the provider to a government agency or reassignment by a court order;
 3. To a business agent, if the agent's compensation for the service is:
 - a. Related to the cost of processing the billing;
 - b. Not related on a percentage or other basis to the amount that is billed or collected; and
 - c. Not dependent upon collection of the payment;
 4. To the employer of the provider, if the provider is required as a condition of employment to turn over the provider's fees to the employer;
 5. To the inpatient facility in which the service is provided, if the provider has a contract under which the inpatient facility submits the claim; or
 6. To a foundation, plan, or similar organization operating an organized health care delivery system, if the provider has a contract under which the foundation, plan or similar organization submits the claim.
- D. The Administration or a contractor shall not make a payment to or through a factor, either directly or by power of attorney, for a covered service furnished to a member by a provider.
- E. Reimbursement for a pathology service. Unless otherwise specified in a contract, the Administration or a contractor shall reimburse a pathologist for a pathology service furnished to a member only if the other requirements in this Section are met and the service is:
 1. A surgical pathology service;
 2. A specific cytopathology, hematology, or blood banking pathology service that requires performance by a physician and is listed in the capped fee-for-service schedule;
 3. A clinical consultation service that:
 - a. Is requested by the member's attending physician or primary care physician,
 - b. Is related to a test result that is outside the clinically significant normal or expected range in view of the condition of the member,
 - c. Results in a written narrative report included in the member's medical record,
 - d. Requires the exercise of medical judgment by the consultant pathologist, and
 - e. Is listed in the capped fee-for-service schedule; or
 4. A clinical laboratory interpretative service that:
 - a. Is requested by the member's attending physician or primary care physician,
 - b. Results in a written narrative report included in the member's medical record,
 - c. Requires the exercise of medical judgment by the consultant pathologist, and
 - d. Is listed in the capped fee-for-service schedule.

Historical Note

Adopted as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Adopted as a permanent rule effective May 16, 1983; text of adopted rule is similar to the emergency (Supp. 83-3). Repealed effective October 1, 1983 (Supp. 83-5). Former Section R9-22-713 renumbered and amended as Section R9-22-714 effective October 1, 1985 (Supp. 85-5). Section repealed; new Section made by final rulemaking at 8 A.A.R. 424, effective January 10,

2002 (Supp. 02-1). Amended by final rulemaking at 9 A.A.R. 3800, effective October 4, 2003 (Supp. 03-3). Amended by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1).

Editor's Note: The following Section was amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General did not certify this rule. This Section was subsequently amended through the regular rulemaking process.

R9-22-715. Hospital Rate Negotiations

- A. A contractor that negotiates with hospitals for inpatient or outpatient services shall reimburse hospitals for services rendered on or after March 1, 1993, as described in A.R.S. § 36-2903.01 and this Article, or at the negotiated rate that, in the aggregate, does not exceed reimbursement levels that would have been paid under A.R.S. § 36-2903.01, and this Article. This subsection does not apply to urban hospitals described under R9-22-718. Contractors may engage in rate negotiations with a hospital at any time during the contract period.
- B. The Administration may negotiate or contract with a hospital on behalf of a contractor for discounted hospital rates and may require that the negotiated discounted rates be included in a subcontract between the contractor and hospital.

Historical Note

Adopted as an emergency effective February 23, 1983, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 83-1). Adopted as a permanent rule effective May 16, 1983; text of adopted rule identical to the emergency (Supp. 83-3). Repealed effective October 1, 1983 (Supp. 83-5). New Section R9-22-715 adopted effective October 1, 1985 (Supp. 85-5). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective January 14, 1997 (Supp. 97-1). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 11 A.A.R. 3222, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3).

Editor's Note: The following Section was amended under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council; the agency did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rules; and the Attorney General did not certify this rule. This Section was subsequently amended through the regular rulemaking process.

R9-22-716. Repealed**Historical Note**

Adopted effective October 1, 1985 (Supp. 85-5). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1). Section repealed by final rulemaking at 13 A.A.R. 662, effective April 7, 2007 (Supp. 07-1).

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R9-22-717. Repealed**Historical Note**

Adopted effective July 30, 1993 (Supp. 93-3). Amended effective September 22, 1997 (Supp. 97-3). Section repealed by final rulemaking at 11 A.A.R. 3222, effective October 1, 2005 (Supp. 05-3).

Editor's Note: The following Section was originally adopted under an exemption from the provisions of the Administrative Procedure Act which means that this rule was not reviewed by the Governor's Regulatory Review Council. The agency was required to submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and was required to hold a public hearing. It has since been amended under the regular rulemaking process.

R9-22-718. Urban Hospital Inpatient Reimbursement Program**A. Definitions.** The following definitions apply to this Section:

1. "Contractor" has the same meaning as set forth in A.R.S. § 36-2901, and includes all contractors regardless of whether the GSA's served by the contractor includes urban or rural counties.
2. "Noncontracted Hospital" means an urban hospital, including psychiatric hospitals, which does not have a contract under this Section with a contractor.
3. "Urban Hospital" means a hospital that is not a rural hospital, as defined in R9-22-712.07, and that is physically located in Maricopa or Pima County.

B. General Provisions.

1. This Section applies to an urban hospital who receives payment for inpatient hospital services under A.R.S. §§ 36-2903.01 and 36-2904.
2. AHCCCS shall operate an inpatient hospital reimbursement program under A.R.S. § 36-2905.01 and this Section.
3. Residency of the member receiving inpatient AHCCCS covered services is not a factor in determining which hospitals are required to contract with which contractors.
4. A contractor shall enter into a contract for reimbursement for inpatient AHCCCS covered services with one or more urban hospitals located in the same county as the contractor.
5. A noncontracted urban hospital shall be reimbursed for inpatient services by a contractor at 95 percent of the amount calculated as defined in A.R.S. § 36-2903.01 and this Article, unless otherwise negotiated by both parties.

C. Contract Begin Date. A contract under this Article shall cover inpatient acute care hospital services for members with hospital admissions on and after October 1, 2003.**D. Outpatient urban hospital services.** Outpatient urban hospital services, including observation days and emergency room treatments that do not result in an admission, shall be reimbursed either through an urban hospital contract negotiated between a contractor and an urban hospital, or the reimbursement rates set forth in A.R.S. § 36-2903.01. Outpatient services in an urban hospital that result in an admission shall be paid as inpatient services in accordance with this Section.**E. Urban Hospital Contract.**

1. Provisions of an urban hospital contracts. The urban hospital contract shall contain but is not limited to the following provisions:
 - a. Required provisions as described in the Request for Proposals (RFP);

- b. Dispute settlement procedures. If the AHCCCS Grievance System prescribed in A.R.S. § 36-2903.01(B) and rule is not used, then arbitration shall be used;
 - c. Arbitration procedure. If arbitration is used, the urban hospital contract shall identify:
 - i. The parties' agreement on arbitrating claims arising from the contract,
 - ii. Whether arbitration is nonbinding or binding,
 - iii. Timeliness of arbitration,
 - iv. What contract provisions may be appealed,
 - v. What rules will govern arbitrations,
 - vi. The number of arbitrators that shall be used,
 - vii. How arbitrators shall be selected, and
 - viii. How arbitrators shall be compensated.
 - d. Timeliness of claims submission and payment;
 - e. Prior authorization;
 - f. Concurrent review;
 - g. Electronic submission of claims;
 - h. Claims review criteria;
 - i. Payment of discounts or penalties such as quick-pay and slow-pay provisions;
 - j. Payment of outliers;
 - k. Claim documentation specifications under A.R.S. § 36-2904.
 - l. Treatment and payment of emergency room services; and
 - m. Provisions for rate changes and adjustments.
2. AHCCCS review and approval of urban hospital contracts:
- a. AHCCCS may review, approve, or disapprove the hospital contract rates, terms, conditions, and amendments to the contract;
 - b. The AHCCCS evaluation of each urban hospital contract shall include but not be limited to the following areas:
 - i. Availability and accessibility of services to members,
 - ii. Related party interests,
 - iii. Inclusion of required terms pursuant to this Section, and
 - iv. Reasonableness of the rates.
- F. Quick-Pay/Slow-Pay. A payment made by a contractor to a noncontracted hospital shall be subject to quick-pay discounts and slow-pay penalties under A.R.S. § 36-2904.

Historical Note

Adopted under an exemption from the provisions of the Administrative Procedure Act, effective January 29, 1997; pursuant to Laws 1996, Ch. 288, § 24 (Supp. 97-1). Amended by exempt rulemaking at 10 A.A.R. 500, effective February 1, 2004 (Supp. 04-1). Amended by exempt rulemaking at 13 A.A.R. 3190, effective October 1, 2007 (Supp. 07-3). Amended by final rulemaking at 20 A.A.R. 1956, September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 24 A.A.R. 1515, effective June 30, 2018 (Supp. 18-2).

R9-22-719. Contractor Performance Measure Outcomes

The Administration may retain a specified percentage of capitation reimbursement to distribute to contractors based on their performance measure outcomes under A.R.S. § 36-2904. The Administration shall notify contractors 60 days prior to a new contract year if this methodology is implemented. The Administration shall specify the details of the reimbursement methodology in contract.

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Historical Note

New Section made by final rulemaking at 8 A.A.R. 424, effective January 10, 2002 (Supp. 02-1).

R9-22-720. Reinsurance

- A. Reinsurance is a stop-loss program provided by the Administration to a contractor for partial reimbursement of the cost of covered services for a member with an acute medical condition when the cost of covered services exceeds a pre-determined deductible level amount within a contract year. The Administration self-insures the reinsurance program through a reduction to capitation rates. The reinsurance program also includes a catastrophic reinsurance program for members diagnosed with specific medical conditions.
- B. The Administration shall specify in contract guidelines for claims submission, processing, payment, and the types of care and services that are provided to a member whose care is covered by reinsurance.
- C. When the Administration determines that a contractor does not follow the specified guidelines for care or services and the care or services could have been provided at a lower cost according to the guidelines, the Administration shall reimburse the contractor as if the care or services had been provided as specified in the guidelines.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 3317, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 856, effective May 5, 2007 (Supp. 07-1).

R9-22-721. Behavioral Health Inpatient Facilities

“Behavioral health inpatient facility” means a health care institution, other than Arizona State Hospital, that meets the following requirements:

1. Provides continuous treatment to an individual experiencing a behavioral health issue that causes the individual to:
 - a. Have a limited or reduced ability to meet the individual’s basic physical needs;
 - b. Suffer harm that significantly impairs the individual’s judgment, reason, behavior, or capacity to recognize reality;
 - c. Be a danger to self;
 - d. Be a danger to others;
 - e. Be persistently or acutely disabled as defined in A.R.S. § 36-501; or
 - f. Be gravely disabled; and
2. Is one of the following facility types:
 - a. Psychiatric hospitals;
 - b. Mental health residential treatment centers;
 - c. Secure residential treatment centers with 17 or more beds;
 - d. Non-secure residential treatment centers with 1-16 beds;
 - e. Non-secure residential treatment centers with 17 or more beds;
 - f. Sub-acute facilities with 1-16 beds;
 - g. Sub-acute facilities with 17 or more beds.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 3120, effective October 1, 2019 (Supp. 19-4).

R9-22-722. Reserved**R9-22-723. Reserved****R9-22-724. Reserved****R9-22-725. Reserved****R9-22-726. Reserved****R9-22-727. Reserved****R9-22-728. Reserved****R9-22-729. Reserved**

Editor’s Note: Amendments to Section R9-22-730 were filed as a final exempt rulemaking. AHCCCS provided an opportunity for public comment on the amended rules under Laws 2013, 1st Special Session, Ch. 10. A proposed exempt rulemaking was published in the Arizona Administrative Register at 21 A.A.R. 1041 (Supp. 15-3).

Editor’s Note: Amendments to Section R9-22-730 were filed as a final exempt rulemaking. AHCCCS provided an opportunity for public comment on the amended rules under Laws 2013, 1st Special Session, Ch. 10. A proposed exempt rulemaking was published in the Arizona Administrative Register at 21 A.A.R. 491 (Supp. 15-2).

R9-22-730. Hospital Assessment Fund - Hospital Assessment

- A. For purposes of this Section, the following terms are defined as provided below unless the context specifically requires another meaning:
1. “2022 Medicare Cost Report” means: The Medicare Cost Report for the hospital fiscal year ending in calendar year 2022 as reported in the CMS Healthcare Provider Cost Reporting Information System (HCRIS) release dated October 7, 2023.
 2. “2022 Uniform Accounting Report” means the Uniform Accounting Report submitted to the Arizona Department of Health Services as of January 8, 2024 for the hospital’s fiscal year ending in calendar year 2022.
 3. “Quarter” means the three month period beginning January 1, April 1, July 1, and October 1 of each year.
 4. A “new hospital” means a licensed hospital that did not hold a license from the Arizona Department of Health Services prior to January 2, 2024.
 5. “Outpatient Net Patient Revenues” means an amount, calculated using data in the hospital’s 2022 Uniform Accounting Report or other data sources specified by subsection (N), that is equal to the hospital’s 2022 total net patient revenue multiplied by the ratio of the hospital’s 2022 gross outpatient revenue to the hospital’s 2022 total gross patient revenue.
- B. Beginning January 1, 2014, for each Arizona licensed hospital not excluded under subsection (I) shall be subject to an assessment payable on a quarterly basis. The assessment shall be levied against the legal owner of each hospital as of the first day of the quarter, and except as otherwise required by subsections (D), (E) and (F). For the period beginning October 1, 2024, the assessment for each hospital shall be amount equal to the sum of: (1) the number of discharges reported on the hospital’s 2022 Medicare Cost Report, excluding discharges reported on the Medicare Cost Report as “Other Long Term Care Discharges,” multiplied by the following rates appropriate to the hospital’s peer group; and (2) the amount of outpatient net patient revenues multiplied by the following rate appropriate to the hospital’s peer group:
1. \$993.50 per discharge and 1.4871% of outpatient net patient revenues for hospitals located in a county with a population less than 500,000 that are designated as type: hospital, subtype: short-term.

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2. \$993.50 per discharge and 0.6196% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: critical access hospital.
 3. \$248.50 per discharge and 0.6196% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: long term.
 4. \$248.50 per discharge and 0.6196% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: psychiatric, that reported 2,500 or more discharges on the 2022 Medicare Cost Report.
 5. \$794.75 per discharge and 1.6110% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: short-term with 20% of total licensed beds licensed as pediatric, pediatric intensive care and neonatal intensive care as reported in the hospital's 2022 Uniform Accounting Report.
 6. \$894.00 per discharge and 1.8588% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: short-term with at least 10% but less than 20% of total licensed beds licensed as pediatric, pediatric intensive care and neonatal intensive care as reported in the hospital's 2022 Uniform Accounting Report.
 7. \$198.75 per discharge and 0.4957% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: children's.
 8. \$993.50 per discharge and 2.4785% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: short-term not included in another peer group.
- C.** Peer groups for the four quarters beginning October 1 of each year are established based on hospital license type and subtype designated in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website January 2, 2024.
- D.** Notwithstanding subsection (B), psychiatric discharges from a hospital that reported having a psychiatric sub-provider in the hospital's 2022 Medicare Cost Report, are assessed a rate of \$248.50 for each discharge from the psychiatric sub-provider as reported in the 2022 Medicare Cost Report. All discharges other than those reported as discharges from the psychiatric sub-provider are assessed at the rate required by subsection (B).
- E.** Notwithstanding subsection (B), rehabilitative discharges from a hospital that reported having a rehabilitative sub-provider in the hospital's 2022 Medicare Cost Report, are assessed a rate of \$0 for each discharge from the rehabilitative sub-provider as reported in the 2022 Medicare Cost Report. All discharges other than those reported as discharges from the rehabilitative sub-provider are assessed at the rate required by subsection (B).
- F.** Notwithstanding subsection (B), for any hospital that reported more than 22,800 discharges on the hospital's 2022 Medicare Cost Report, discharges in excess of 22,800 are assessed a rate of \$99.50 for each discharge in excess of 22,800. The initial 22,800 discharges are assessed at the rate required by subsection (B).
- G.** Assessment notice. On or before the 15th day of the first month of the quarter or upon CMS approval, whichever is later, the Administration shall send to each hospital a notification that the Hospital Assessment Fund assessment invoice is available to be viewed on a secure website. The invoice shall include the hospital's peer group assignment and the assessment due for the quarter.
- H.** Assessment due date. The Hospital Assessment Fund assessment must be received by the Administration no later than:
1. The 15th day of the second month of the quarter, or
 2. In the event CMS approves the assessment after the 15th day of the first month of the quarter, 30 days after notification by the Administration that the assessment invoice is available.
- I.** Excluded hospitals. The following hospitals are excluded from the assessment based on the hospital's 2022 Medicare Cost Report and Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website for January 2, 2024:
1. Hospitals owned and operated by the state, the United States, or an Indian tribe.
 2. Hospitals designated as type: hospital, subtype: short-term that have a license number beginning "SH".
 3. Hospitals designated as type: hospital, subtype: psychiatric that reported fewer than 2,500 discharges on the 2022 Medicare Cost Report.
 4. Hospitals designated as type: hospital, subtype; rehabilitation.
 5. Hospitals designated as type: med-hospital, subtype: special hospitals.
 6. Hospitals designated as type: hospital, subtype: short-term located in a city with a population greater than one million, which on average have at least 15 percent of inpatient days for patients who reside outside of Arizona, and at least 50 percent of discharges as reported on the 2022 Medicare Cost Report are reimbursed by Medicare.
 7. Hospitals designated as type: hospital, subtype: short-term that have at least 25 percent Medicare swing beds as percentage of total Medicare days, per the 2022 Medicare Cost Report.
 8. Hospitals designated as type: hospital, subtype: short-term that are an urban public acute care hospital.
- J.** New hospitals. For hospitals that did not file a 2022 Medicare Cost Report because of the date the hospital began operations:
1. If the hospital was open on the January 2 preceding the October assessment start date, the hospital assessment will begin on October 1 following the date the hospital began operating.
 2. If the hospital began operating between January 3 and September 30, the assessment will begin on October 1 of the following calendar year.
 3. A hospital is not considered a new hospital based on a change in ownership.
 4. The assessment will be based on the discharges reported in the hospital's first Medicare Cost Report and Uniform Accounting Report, which includes 12 months-worth of data, except when any of the following apply;
 - a. If there is not a complete 12 months-worth of data available, the assessment will be based on the annualized number of discharges from the date hospital operations began through December 31 preceding the October assessment start date. The hospital shall self-report the discharge data and all other data requested by the Administration necessary to determine the appropriate assessment to the Administration no later than January preceding the assessment start date for the new hospitals. "Annualized" means divided by a ratio equal to the number of months of data divided by 12 months.

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- b. If more than 12 months of data is available, the assessment will be based on the most recent 12 months of self-reported data, as of December 31;
 - 5. For purposes of calculating subpart 4, if a new hospital shares a Medicare Identification Number with an existing hospital, the assessment amount will be based on self-reported data from the new hospital instead of the Medicare Cost Report. The data shall include the number of discharges and all other data requested by the Administration necessary to determine the appropriate assessment.
 - 6. For hospitals providing self-reported data, described in subpart 4 and 5:
 - a. Psychiatric discharges will be annualized to determine if subsections (B)(4) or (I)(3) apply to the assessment amount.
 - b. Discharges will be annualized to determine if subsection (F) applies to the assessment amount.
- K. Changes of ownership. The parties to a change of ownership shall promptly provide written notice to the Administration of a change of ownership and any agreement regarding the payment of the assessment. The assessed amount will continue at the same amount applied to the prior owner. Assessments are the responsibility of the owner of record as of the first day of the quarter; however, this Section is not intended to prohibit the parties to a change of ownership from entering into an agreement for a new owner to assume the assessment responsibility of the owner of record as of the first day of the prior quarter.
- L. Hospital closures. Hospitals that close shall pay a proportion of the quarterly assessment equal to that portion of the quarter during which the hospital operated.
- M. Required information for the inpatient assessment. For any hospital that has not filed a 2022 Medicare Cost report, or if the 2022 Medicare Cost report does not include the reliable information sufficient for the Administration to calculate the inpatient assessment, the Administration shall use data reported on the 2022 Uniform Accounting Report filed by the hospital in place of the 2022 Medicare Cost report to calculate the assessment. If the 2022 Uniform Accounting Report filed by the hospital does not include reliable information sufficient for the Administration to calculate the inpatient assessment amounts, the hospital shall provide the Administration with data specified by the Administration necessary in place of the 2022 Medicare Cost report to calculate the assessment.
- N. Required information for the outpatient assessment. For any hospital that has not filed a 2022 Uniform Accounting Report, if the 2022 Uniform Accounting Report does not include reliable information sufficient for the Administration to calculate the outpatient assessment amounts, or if the 2022 Uniform Accounting Report does not reconcile to 2022 Audited Financial Statements, the Administration shall use the data reported on 2022 Audited Financial Statements to calculate the outpatient assessment. If the 2022 Audited Financial Statements do not include the reliable information sufficient for the Administration to calculate the outpatient assessment, the Administration shall use data reported on the 2022 Medicare Cost report. If the Medicare Cost report does not include reliable information sufficient for the Administration to calculate the outpatient assessment amounts, the hospital shall provide the Administration with data specified by the Administration necessary in place of the 2022 Medicare Cost report to calculate the outpatient assessment.
- O. The Administration will review and update as necessary rates and peer groups periodically to ensure the assessment is sufficient to fund the state match obligation to cover the cost of the populations as specified in A.R.S. § 36-2901.08.
- P. Enforcement. If a hospital does not comply with this Section, the director may suspend or revoke the hospital's provider agreement. If the hospital does not comply within 180 days after the hospital's provider agreement is suspended or revoked, the director shall notify the director of the Department of Health Services who shall suspend or revoke the hospital's license.

Historical Note

New Section R9-22-730 made by exempt rulemaking at 20 A.A.R. 281, effective January 15, 2014 (Supp. 14-1).

Amended by exempt rulemaking at 20 A.A.R. 1833, effective July 1, 2014 (Supp. 14-2). Amended by final exempt rulemaking at 21 A.A.R. 637, effective April 15, 2015 (Supp. 15-2). Amended by final exempt rulemaking at 21 A.A.R. 1486, effective July 16, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 22 A.A.R. 2050, effective July 14, 2016 (Supp. 16-4). Amended by final exempt rulemaking at 23 A.A.R. 1945, effective July 1, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 24 A.A.R. 2229, effective July 10, 2018 (Supp. 18-3). Amended by final exempt rulemaking at 25 A.A.R. 1938, effective July 1, 2019 (Supp. 19-3). Amended by final exempt rulemaking at 26 A.A.R. 1702, effective July 1, 2020 (Supp. 20-3). Amended by final exempt rulemaking at 26 A.A.R. 2984, effective October 1, 2020 (Supp. 20-4). Amended by final exempt rulemaking at 27 A.A.R. 2370, effective October 1, 2021 (Supp. 21-3). Amended by final exempt rulemaking 28 A.A.R. 2213 (September 2, 2022), effective October 1, 2022 (Supp. 22-3). Amended by final exempt rulemaking at 29 A.A.R. 2204 (September 22, 2023), effective October 1, 2023 (Supp. 23-3). Amended by final exempt rulemaking at 30 A.A.R. 3057 (October 18, 2024), effective October 1, 2024 (Supp. 24-3).

R9-22-731. Health Care Investment Fund - Hospital Assessment

- A. For purposes of this Section, terms are the same as defined in A.A.C. R9-22-730 unless the context specifically requires another meaning.
- B. Beginning October 1, 2024, for each Arizona licensed hospital not excluded under subsection (I) shall be subject to an assessment payable on a quarterly basis. The assessment shall be levied against the legal owner of each hospital as of the first day of the quarter, and except as otherwise required by subsections (D), (E) and (F). For the period beginning October 1, 2024, the assessment for each hospital shall be amount equal to the sum of: (1) the number of discharges reported on the hospital's 2022 Medicare Cost Report, excluding discharges reported on the Medicare Cost Report as "Other Long Term Care Discharges," multiplied by the following rates appropriate to the hospital's peer group; and (2) the amount of outpatient net patient revenues multiplied by the following rate appropriate to the hospital's peer group:
 - 1. \$510.25 per discharge and 4.1707% of outpatient net patient revenues for hospitals located in a county with a population less than 500,000 that are designated as type: hospital, subtype: short-term.

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2. \$510.25 per discharge and 1.7378% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: critical access hospital.
 3. \$127.75 per discharge and 1.7378% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: long term.
 4. \$127.75 per discharge and 1.7378% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: psychiatric, that reported 2,500 or more discharges on the 2022 Medicare Cost Report.
 5. \$408.25 per discharge and 4.5182% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: short-term with 20% of total licensed beds licensed as pediatric, pediatric intensive care and neonatal intensive care as reported in the hospital's 2022 Uniform Accounting Report.
 6. \$459.25 per discharge and 5.2133% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: short-term with at least 10% but less than 20% of total licensed beds licensed as pediatric, pediatric intensive care and neonatal intensive care as reported in the hospital's 2022 Uniform Accounting Report.
 7. \$102.25 per discharge and 1.3902% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: children's.
 8. \$510.25 per discharge and 6.9511% of outpatient net patient revenues for hospitals designated as type: hospital, subtype: short-term not included in another peer group.
- C. Peer groups for the four quarters beginning October 1 of each year are established based on hospital license type and subtype designated in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website January 2, 2024.
- D. Notwithstanding subsection (B), psychiatric discharges from a hospital that reported having a psychiatric sub-provider in the hospital's 2022 Medicare Cost Report, are assessed a rate of \$127.75 for each discharge from the psychiatric sub-provider as reported in the 2022 Medicare Cost Report. All discharges other than those reported as discharges from the psychiatric sub-provider are assessed at the rate required by subsection (B).
- E. Notwithstanding subsection (B), rehabilitative discharges from a hospital that reported having a rehabilitative sub-provider in the hospital's 2022 Medicare Cost Report, are assessed a rate of \$0 for each discharge from the rehabilitative sub-provider as reported in the 2022 Medicare Cost Report. All discharges other than those reported as discharges from the rehabilitative sub-provider are assessed at the rate required by subsection (B).
- F. Notwithstanding subsection (B), for any hospital that reported more than 22,800 discharges on the hospital's 2022 Medicare Cost Report, discharges in excess of 22,800 are assessed a rate of \$51.25 for each discharge in excess of 22,800. The initial 22,800 discharges are assessed at the rate required by subsection (B).
- G. Assessment notice. On or before the 10th day of the first month of the quarter or upon CMS approval, whichever is later, the Administration shall send to each hospital a notification that the assessment invoice is available to be viewed on a secure website. The invoice shall include the hospital's peer group assignment and the assessment due for the quarter.
- H. Assessment due date. The assessment must be received by the Administration no later than the 10th day of the second month of the quarter.
- I. Excluded hospitals. The following hospitals are excluded from the assessment based on the hospital's 2022 Medicare Cost Report and Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website for January 2, 2024:
1. Hospitals owned and operated by the state, the United States, or an Indian tribe.
 2. Hospitals designated as type: hospital, subtype: short-term that have a license number beginning "SH".
 3. Hospitals designated as type: hospital, subtype: psychiatric that reported fewer than 2,500 discharges on the 2022 Medicare Cost Report.
 4. Hospitals designated as type: hospital, subtype; rehabilitation.
 5. Hospitals designated as type: med-hospital, subtype: special hospitals.
 6. Hospitals designated as type: hospital, subtype: short-term located in a city with a population greater than one million, which on average have at least 15 percent of inpatient days for patients who reside outside of Arizona, and at least 50 percent of discharges as reported on the 2022 Medicare Cost Report are reimbursed by Medicare.
 7. Hospitals designated as type: hospital, subtype: short-term that have at least 25 percent Medicare swing beds as percentage of total Medicare days, per the 2022 Medicare Cost Report.
 8. Hospitals designated as type: hospital, subtype: short-term that are an urban public acute care hospital.
- J. New hospitals. For hospitals that did not file a 2022 Medicare Cost Report because of the date the hospital began operations:
1. If the hospital was open on the January 2 preceding the October assessment start date, the hospital assessment will begin on October 1 following the date the hospital began operating.
 2. If the hospital began operating between January 3 and September 30, the assessment will begin on October 1 of the following calendar year.
 3. A hospital is not considered a new hospital based on a change in ownership.
 4. The assessment will be based on the discharges reported in the hospital's first Medicare Cost Report and Uniform Accounting Report, which includes 12 months-worth of data, except when any of the following apply;
 - a. If there is not a complete 12 months-worth of data available, the assessment will be based on the annualized number of discharges from the date hospital operations began through December 31 preceding the October assessment start date. The hospital shall self-report the discharge data and all other data requested by the Administration necessary to determine the appropriate assessment to the Administration no later than January preceding the assessment start date for the new hospitals. "Annualized" means divided by a ratio equal to the number of months of data divided by 12 months.
 - b. If more than 12 months of data is available, the assessment will be based on the most recent 12 months of self-reported data, as of December 31;
 5. For purposes of calculating subpart 4, if a new hospital shares a Medicare Identification Number with an existing

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hospital, the assessment amount will be based on self-reported data from the new hospital instead of the Medicare Cost Report. The data shall include the number of discharges and all other data requested by the Administration necessary to determine the appropriate assessment.

6. For hospitals providing self-reported data, described in subpart 4 and 5:
 - a. Psychiatric discharges will be annualized to determine if subsections (B)(4) or (I)(3) apply to the assessment amount.
 - b. Discharges will be annualized to determine if subsection (F) applies to the assessment amount.
- K. Changes of ownership. The parties to a change of ownership shall promptly provide written notice to the Administration of a change of ownership and any agreement regarding the payment of the assessment. The assessed amount will continue at the same amount applied to the prior owner. Assessments are the responsibility of the owner of record as of the first day of the quarter; however, this Section is not intended to prohibit the parties to a change of ownership from entering into an agreement for a new owner to assume the assessment responsibility of the owner of record as of the first day of the prior quarter.
- L. Hospital closures. Hospitals that close shall pay a proportion of the quarterly assessment equal to that portion of the quarter during which the hospital operated.
- M. Required information for the inpatient assessment. For any hospital that has not filed a 2022 Medicare Cost report, or if the 2022 Medicare Cost report does not include the reliable information sufficient for the Administration to calculate the inpatient assessment, the Administration shall use data reported on the 2022 Uniform Accounting Report filed by the hospital in place of the 2022 Medicare Cost report to calculate the assessment. If the 2022 Uniform Accounting Report filed by the hospital does not include reliable information sufficient for the Administration to calculate the inpatient assessment amounts, the hospital shall provide the Administration with data specified by the Administration necessary in place of the 2022 Medicare Cost report to calculate the assessment.
- N. Required information for the outpatient assessment. For any hospital that has not filed a 2022 Uniform Accounting Report, if the 2022 Uniform Accounting Report does not include reliable information sufficient for the Administration to calculate the outpatient assessment amounts, or if the 2022 Uniform Accounting Report does not reconcile to 2022 Audited Financial Statements, the Administration shall use the data reported on 2022 Audited Financial Statements to calculate the outpatient assessment. If the 2022 Audited Financial Statements do not include the reliable information sufficient for the Administration to calculate the outpatient assessment, the Administration all use data reported on the 2022 Medicare Cost report. If the Medicare Cost report does not include reliable information sufficient for the Administration to calculate the outpatient assessment amounts, the hospital shall provide the Administration with data specified by the Administration necessary in place of the 2022 Medicare Cost report to calculate the outpatient assessment.
- O. Enforcement. If a hospital does not comply with this section, the director may suspend or revoke the hospital's provider agreement. If the hospital does not comply within 180 days after the hospital's provider agreement is suspended or revoked, the director shall notify the director of the Depart-

ment of Health Services who shall suspend or revoke the hospital's license.

Historical Note

New Section made by final exempt rulemaking at 26 A.A.R. 2984, effective October 1, 2020 (Supp. 20-4). Amended by final rulemaking at 27 A.A.R. 2514 (October 29, 2021), with an immediate effective date of October 6, 2021 (Supp. 21-4). Amended by final exempt rulemaking at 28 A.A.R. 3351 (October 21, 2022), effective October 1, 2022 (Supp. 22-3). Amended by final rulemaking at 29 A.A.R. 3419 (October 27, 2023) with an immediate effective date of October 4, 2023 (Supp. 23-4). Amended by final exempt rulemaking at 30 A.A.R. 3061 (October 18, 2024), effective October 1, 2024 (Supp. 24-3).

ARTICLE 8. REPEALED

Article 8, consisting of R9-22-801 through R9-22-804 and Exhibit A, repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004. The subject matter of Article 8 is now in 9 A.A.C. 34 (Supp. 04-1).

R9-22-801. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-801 adopted as an emergency adoption now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-801 repealed, new Section R9-22-801 adopted effective October 29, 1985 (Supp. 85-5). Amended subsections (C), (F), (H), (I), and (K) effective October 1, 1986 (Supp. 86-5). Change of heading only effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Amended subsection (H) effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Section heading amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Amended effective December 13, 1993 (Supp. 93-4). Former Section R9-22-801 repealed, new Section R9-22-801 adopted January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

R9-22-802. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-802 adopted as an emergency adoption now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 29, 1985 (Supp. 85-5). Amended subsections (A), (B), (C) and (D) effective October 14, 1988 (Supp. 88-4). Amended effective September 29, 1992 (Supp. 92-3). Amended effective December 13, 1993 (Supp. 93-4). Former Section R9-22-802 repealed, new Section R9-22-802 adopted effective January 14, 1997 (Supp. 97-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3).

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- 3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

R9-22-803. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-803 adopted as an emergency now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Former Section R9-22-803 repealed, new Section R9-22-803 adopted effective October 1, 1983 (Supp. 83-5). Former Section R9-22-803 renumbered and amended as Section R9-22-804. Adopted effective January 31, 1986 (Supp. 86-1). Amended effective September 29, 1992 (Supp. 92-3). Former Section R9-22-803 repealed, new Section R9-22-803 adopted January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

R9-22-804. Repealed**Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-804 adopted as an emergency adoption now adopted as a permanent rule effective August 30, 1982 (Supp. 82-4). Amended effective October 1, 1983 (Supp. 83-5). Former Section R9-22-804 repealed, former Section R9-22-803 renumbered and amended as Section R9-22-804 effective October 29, 1985 (Supp. 85-5). Amended effective October 14, 1988 (Supp. 88-4). Amended subsections (B) and (C) effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective December 13, 1993 (Supp. 93-4). Former Section R9-22-804 repealed, new Section R9-22-804 adopted effective January 14, 1997 (Supp. 97-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

Exhibit A. Repealed**Historical Note**

New Exhibit adopted by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Exhibit repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

R9-22-805. Repealed**Historical Note**

Former Section R9-22-805 adopted as an emergency now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective January 31, 1986 (Supp. 86-1).

ARTICLE 9. REPEALED**R9-22-901. Repealed****Historical Note**

Adopted as an emergency effective May 20, 1982, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 82-3). Former Section R9-22-901 adopted as an emergency

adoption now adopted and amended as a permanent rule effective August 30, 1982 (Supp. 82-4). Repealed effective October 1, 1983 (Supp. 83-5). Adopted effective August 29, 1985 (Supp. 85-4). Amended effective October 1, 1986 (Supp. 86-5). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-902. Repealed**Historical Note**

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-902 renumbered and amended as Section R9-22-904, former Section R9-22-903 renumbered and amended as Section R9-22-902 effective October 1, 1986 (Supp. 86-5). Former Section R9-22-902 repealed, new Section R9-22-902 adopted effective May 30, 1989 (Supp. 89-2). Amended effective April 13, 1990 (Supp. 90-2). Amended effective September 29, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective October 26, 1993 (Supp. 93-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-903. Repealed**Historical Note**

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-903 renumbered and amended as Section R9-22-902, former Section R9-22-904 renumbered and amended as Section R9-22-903 effective October 1, 1986 (Supp. 86-5). Former Section R9-22-903 repealed, new Section R9-22-903 adopted effective May 30, 1989 (Supp. 89-2). Section repealed by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-904. Repealed**Historical Note**

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-904 renumbered and amended as Section R9-22-903, former Section R9-22-902 renumbered and amended as Section R9-22-904 effective October 1, 1986 (Supp. 86-5). Amended effective May 30, 1989 (Supp. 89-2). Section repealed by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). New Sec-

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tion made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-905. Repealed**Historical Note**

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-905 renumbered without change as Section R9-22-908, former Section R9-22-907 renumbered and amended as Section R9-22-905 effective October 1, 1986 (Supp. 86-5). Amended effective May 30, 1989 (Supp. 89-2). Section repealed by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-906. Repealed**Historical Note**

Adopted effective August 29, 1985 (Supp. 85-4). Amended effective October 1, 1986 (Supp. 86-5). Amended effective October 1, 1987 (Supp. 87-4). Amended effective May 30, 1989 (Supp. 89-2). Amended effective September 22, 1997 (Supp. 97-3). Section repealed by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-907. Repealed**Historical Note**

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-907 renumbered and amended as Section R9-22-905, former Section R9-22-908 renumbered and amended as Section R9-22-907 effective October 1, 1986 (Supp. 86-5). Amended effective May 30, 1989 (Supp. 89-2). Section repealed by final rulemaking at 5 A.A.R. 4061, effective October 8, 1999 (Supp. 99-4). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-908. Repealed**Historical Note**

Adopted effective August 29, 1985 (Supp. 85-4). Former Section R9-22-908 renumbered and amended as Section R9-22-907, former Section R9-22-905 renumbered without change as Section R9-22-908 effective October 1, 1986 (Supp. 86-5). Former R9-22-908 repealed effective May 30, 1989 (Supp. 89-2). New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

R9-22-909. Repealed**Historical Note**

New Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section

repealed by final rulemaking at 12 A.A.R. 4484, effective January 6, 2007 (Supp. 06-4).

ARTICLE 10. FIRST- AND THIRD-PARTY LIABILITY AND RECOVERIES**R9-22-1001. Definitions**

In addition to the definitions in A.R.S. §§ 36-2901, 36-2923 and 9 A.A.C. 22, Article 1, the following definitions apply to this Article:

“Absent parent” means an individual who is absent from the home and is legally responsible for providing financial and/or medical support for a dependent child.

“Cost avoid” means to deny a claim and return the claim to the provider for a determination of the amount of first- or third-party liability.

“First-party liability” means the obligation of any insurance plan or other coverage obtained directly or indirectly by a member that provides benefits directly to the member to pay all or part of the expenses for medical services incurred by AHCCCS or a member.

“Third-party” means a person, entity, or program that is, or may be, liable to pay all or part of the medical cost of injury, disease, or disability of an applicant or member.

“Third-party liability” means any individual, entity, or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished to a member under a state plan.

Historical Note

Former Section R9-22-712 renumbered and amended as Section R9-22-1001 effective October 1, 1985 (Supp. 85-5). Amended subsections (E) through (H) effective October 1, 1986 (Supp. 86-5). Amended subsections (B), (C), (E), and (F) effective December 22, 1987 (Supp. 87-4). Section repealed; new Section adopted effective November 7, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 21 A.A.R. 1237, effective July 7, 2015 (Supp. 15-3).

R9-22-1002. General Provisions

AHCCCS is the payor of last resort unless specifically prohibited by applicable state or federal law. AHCCCS is not the payor of last resort when the following entities are the third-party:

1. Indian Health Services (IHS/638), contract health,
2. Title IV-E,
3. Arizona Early Intervention Program (AZEIP),
4. Local educational agencies providing services under the Individuals with Disabilities Education Act under 34 CFR Part 300,
5. Entities and contractors of entities providing services under grants awarded as part of the HIV Health Care Services Program under 42 USC 300ff et seq., and
6. The Arizona Refugee Resettlement Program operated under 45 CFR Part 400, Subpart (G).

Historical Note

Section R9-22-529 adopted effective October 1, 1985, then renumbered as Section R9-22-1002 effective October 1, 1985 (Supp. 85-5). Amended subsections (C) and (D) effective October 1, 1986 (Supp. 86-5). Amended effective December 22, 1987 (Supp. 87-4). Amended

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under an exemption from the provisions of the Administrative Procedure Act, effective July 1, 1993 (Supp. 93-3). Section repealed; new Section adopted effective November 7, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 21 A.A.R. 1237, effective July 7, 2015 (Supp. 15-3).

R9-22-1003. Cost Avoidance

- A.** The Administration's reimbursement responsibility.
 1. The Administration shall pay no more than the difference between the Capped Fee-For-Service schedule and the amount of the third-party liability, unless Medicare is the third-party.
 2. If Medicare is the third-party that is liable, the Administration shall pay the Medicare copayment, coinsurance, and deductible regardless of the Capped Fee-For-Service Schedule, as described under 9 A.A.C. 29, Article 3.
- B.** The Contractor's reimbursement responsibility.
 1. If the contract between the contractor and the provider does not state otherwise, a contractor shall pay no more than the difference between the contracted rate and the amount of the third-party liability.
 2. If the provider does not have a contract with the contractor, a contractor shall pay no more than the difference between the Capped Fee-For-Service rate and the amount of the third-party liability.
- C.** The following parties shall take reasonable measures to identify potentially legally liable first- or third-party sources:
 1. AHCCCS, the Administration, or a contractor;
 2. A provider;
 3. A noncontracting provider; and
 4. A member.
- D.** Except as specified under subsection (E), the Administration or a contractor shall cost avoid a claim for AHCCCS covered services under Article 2 if the Administration or a contractor has established the probable existence of a liable party at the time the claim is filed. Establishing liability takes place when the Administration or the contractor receives confirmation that another party is legally responsible for payment of a health care service under Article 2.
- E.** The Administration or contractor shall pay the full amount of the claim according to the Capped-Fee-For-Service Schedule or the contracted rate as described under subsection (B), and then seek reimbursement from any liable parties if the claim is for:
 1. Prenatal care for pregnant women,
 2. Preventive pediatric services, including E.P.S.D.T. and administration of vaccines to children under the Vaccines for Children (VFC) program; or
 3. Services covered by third-party liability that is derived from an absent parent whose obligation to pay support is being enforced by the Division of Child Support Enforcement.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 3012, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 21 A.A.R. 1237, effective July 7, 2015 (Supp. 15-3).

R9-22-1004. Member Participation

A member shall cooperate in identifying potentially legally liable first- or third-parties and timely assist the Administration and a contractor, provider, or noncontracting provider in pursuing any first- or third-party who may be liable to pay for covered services.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1).

R9-22-1005. Collections

- A.** Parties that notify AHCCCS. A provider or noncontracting provider shall cooperate with AHCCCS by identifying all potential sources of first- or third-party liability and notify AHCCCS of these sources.
- B.** Parties that pursue collection or reimbursement. AHCCCS, a provider, or noncontracting provider shall pursue collection or reimbursement from all potential sources of first- or third-party liability.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1).

R9-22-1006. AHCCCS Monitoring Responsibilities

AHCCCS shall monitor first- or third-party liability payments to a provider or noncontracting provider, which include but are not limited to payments by or for:

1. Private health insurance;
2. Employment-related disability and health insurance;
3. Long-term care insurance;
4. Other federal programs not excluded by statute from recovery;
5. Court ordered or non-court ordered medical support from an absent parent;
6. State worker's compensation;
7. Automobile insurance, including underinsured and uninsured motorists insurance;
8. Court judgment or settlement from a liability insurer including settlement proceeds placed in a trust;
9. First-party probate estate recovery;
10. Adoption-related payment; or
11. A tortfeasor.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1).

R9-22-1007. Notification for Perfection, Recording, and Assignment of AHCCCS Liens

- A.** Hospital requirements. A hospital providing medical services to a member for an injury or condition resulting from circumstances reflecting the probable liability of a first- or third-party shall within 30 days after a member's discharge:
 1. Notify AHCCCS via facsimile or mail under R9-22-1008, or
 2. Mail AHCCCS a copy of the lien the hospital proposes to record or has recorded under A.R.S. § 33-932.
- B.** Provider and noncontracting provider requirements. A provider or noncontracting provider, other than a hospital, rendering medical services to a member for an injury or condition resulting from circumstances reflecting the probable liability of a first- or third-party shall notify AHCCCS via facsimile or mail under R9-22-1008 within 30 days after providing the service.

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Historical Note

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1).

R9-22-1008. Notification Information for Liens

- A.** Except as provided in subsection (B), a hospital, provider, and noncontracting provider identified in R9-22-1007 shall provide the following information to AHCCCS in writing:
1. Name of the hospital, provider or noncontracting provider;
 2. Address of the hospital, provider or noncontracting provider;
 3. Name of member;
 4. Member's Social Security Number or AHCCCS identification number;
 5. Address of member;
 6. Date of member's admission or date service is provided;
 7. Amount estimated to be due for care of member;
 8. Date of discharge, if member has been discharged;
 9. Name of county in which injuries were sustained; and
 10. Name and address of all persons, firms, and corporations and their insurance carriers identified by the member or legal representative as being liable for damages.
- B.** If the date of discharge is not known at the time the information in subsection (A) is provided, a party identified in subsection (A) shall notify AHCCCS of the date of discharge within 30 days after the member has been discharged.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 15 A.A.R. 179, effective March 7, 2009 (Supp. 09-1).

R9-22-1009. Notification of Health Insurance Information

A provider or noncontracting provider shall notify AHCCCS, in writing, of the following health insurance information within 10 days of receipt of the health insurance information:

1. Name of member,
2. Member's Social Security Number or AHCCCS identification number,
3. Insurance carrier name,
4. Insurance carrier address,
5. Policy number or insurance holder's Social Security Number,
6. Policy begin and end dates, and
7. Insurance holder's name.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1146, effective May 1, 2004 (Supp. 04-1).

ARTICLE 11. CIVIL MONETARY PENALTIES AND ASSESSMENTS**R9-22-1101. Basis for Civil Monetary Penalties and Assessments for Fraudulent Claims; Definitions**

- A.** Scope. This Article applies to prohibited acts as described under A.R.S. § 36-2918(A), and submissions of encounters to the Administration. The Administration considers a person who aids and abets a prohibited act affecting any of the AHCCCS programs or Health Care Group to be engaging in a prohibited act under A.R.S. § 36-2918(A).
- B.** Purpose. This Article describes the circumstances AHCCCS considers and the process that AHCCCS uses to determine the

amount of a penalty, assessment, or penalty and assessment as required under A.R.S. § 36-2918. This Article includes the process and time-frames used by a person to request a State Fair Hearing.

C. Definitions. The following definitions apply to this Article:

1. "Assessment" means a monetary amount that does not exceed twice the dollar amount claimed by the person for each service.
2. "Claim" means a request for payment submitted by a person for payment for a service or line item of service, including a submission of an encounter.
3. "Day" means calendar day unless otherwise specified.
4. "File" means the date that AHCCCS receives a written acceptance, request for compromise, request for a counter proposal, or a request for a State Fair Hearing as established by a date stamp on the written document or other record of receipt.
5. "Penalty" means a monetary amount, based on the number of items of service claimed or reported, that does not exceed \$2,000 times the number of line items of service.
6. "Person" means an individual or entity as described under A.R.S. § 1-215.
7. "Reason to know" or "had reason to know" means that a person, acts in deliberate ignorance of the truth or falsity of, or with reckless disregard of the truth or falsity of information. No proof of specific intent to defraud is required.

Historical Note

Adopted effective October 1, 1986 (Supp. 86-5).
Amended subsection A. effective May 30, 1989 (Supp. 89-2). Amended effective September 29, 1992 (Supp. 92-3). Amended effective June 9, 1998 (Supp. 98-2).
Amended by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1102. Determining the Amount of a Penalty and an Assessment

- A.** AHCCCS shall determine the amount of a penalty and assessment according to A.R.S. § 36-2918(B) and (C), R9-22-1104, and R9-22-1105.
- B.** AHCCCS shall include in the amount of the penalty and assessment the cost incurred by AHCCCS for conducting the following:
1. An investigation,
 2. Audit, or
 3. Inquiry.

Historical Note

Adopted effective October 1, 1986 (Supp. 86-5).
Amended effective December 13, 1993 (Supp. 93-4).
Amended effective June 9, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1103. Repealed**Historical Note**

Adopted effective October 1, 1986 (Supp. 86-5).
Amended effective December 13, 1993 (Supp. 93-4).
Amended effective June 9, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).

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Section repealed by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1104. Mitigating Circumstances

AHCCCS shall consider any of the following to be mitigating circumstances when determining the amount of penalties and assessments.

1. The following are mitigating circumstances:
 - a. All the services are of the same type,
 - b. All the dates of services occurred within six months or less,
 - c. The number of claims submitted is less than 25,
 - d. The nature and circumstances do not indicate a pattern of inappropriate claims for the services, and
 - e. The total amount claimed for the services is less than \$1,000.
2. The degree of culpability of a person who presents or causes to present a claim is a mitigating circumstance, including but not limited to, if:
 - a. Each service is the result of an unintentional and unrecognized error in the process that the person followed in presenting or in causing to present the service,
 - b. Corrective steps were taken promptly by the person after the error was discovered, and
 - c. The person had a fraud and abuse control plan that was operating effectively at the time each claim was presented or caused to be presented.
3. The financial condition of a person who presents or causes to present a claim is a mitigating circumstance if the imposition of a penalty, assessment, or penalty and assessment without reduction will render the provider incapable to continue providing services. AHCCCS shall consider the resources available to the person when determining the amount of the penalty, assessment, or penalty and assessment.
4. AHCCCS shall take into account other circumstances of a mitigating nature, if in the interest of justice, the circumstances require a reduction of the penalty, assessment, or penalty and assessment.

Historical Note

Adopted effective October 1, 1986 (Supp. 86-5). Amended effective June 9, 1998 (Supp. 98-2). Section repealed; new Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4). Amended by final rulemaking at 30 A.A.R. 925 (May 10, 2024), with an immediate effective date of April 25, 2024 (Supp. 24-2).

R9-22-1105. Aggravating Circumstances

AHCCCS shall consider any of the following to be aggravating circumstances when determining the amount of a penalty, assessment, or penalty and assessment.

1. The nature and circumstances of each claim and the circumstances under which the claim is presented or caused to be presented are aggravating circumstances if:
 - a. A person has forged, altered, recreated, destroyed, or failed to maintain records;
 - b. The person refuses to provide pertinent documentation to AHCCCS for a claim or refuses to cooperate with investigators;
 - c. The services are of several billing code types;
 - d. All the dates of services occurred within six months or greater;

- e. The number of claims submitted is greater than 25;
 - f. The nature and circumstances indicate a pattern of inappropriate claims for the services; and
 - g. The total amount claimed for the services is \$5,000 or greater.
2. The degree of culpability of a person who presents or causes to present each claim is an aggravating circumstance, including but not limited to, if:
 - a. The person knows or had reason to know that each service was not provided as claimed,
 - b. The person knows or had reason to know that no payment could be made because the person had been excluded from reimbursement by AHCCCS, or
 - c. The person knows or had reason to know that the payment would violate the terms of an agreement between the person and AHCCCS system.
 - d. The person knows or had reason to know that the payment would violate state or federal law.
 3. The prior offenses of a person who presents or causes to present each claim are an aggravating circumstance if:
 - a. At any time before the submittal of the claim the person was held criminally or civilly liable for any act, or
 - b. The person had received an administrative sanction in connection with:
 - i. A Medicaid program,
 - ii. A Medicare program, or
 - iii. Any other public or private program of reimbursement for medical services.
 4. The adverse effect on patient care that resulted, or could have resulted, from the failure to provide medically necessary care by a person in connection with a claim.
 5. AHCCCS shall take into account other circumstances of an aggravating nature, if in the interest of justice, the circumstances require an increase of the penalty, assessment, or penalty and assessment.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4). Amended by final rulemaking at 30 A.A.R. 925 (May 10, 2024), with an immediate effective date of April 25, 2024 (Supp. 24-2).

R9-22-1106. Notice of Intent

If AHCCCS imposes a penalty, assessment, or a penalty and assessment, AHCCCS shall hand deliver or send by certified mail return receipt requested or Federal Express to the person, a written Notice of Intent to impose a penalty, assessment, or a penalty and assessment. The Notice of Intent shall include:

1. The statutory basis for the penalty, assessment, or the penalty and assessment;
2. Identification of the state or federal regulation and state or federal law that AHCCCS alleges has been violated;
3. The factual basis for AHCCCS' determination that the penalty, assessment, or the penalty and assessment should be imposed;
4. The amount of the penalty, assessment, or penalty and assessment;
5. The process for the person to accept or request a compromise of the penalty, assessment, or penalty and assessment; and
6. The process for requesting a State Fair Hearing.

Historical Note

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New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1107. Reserved**R9-22-1108. Request for a Compromise**

- A. To request a compromise, the person shall file a written request with AHCCCS within 30 days from the date of receipt of the Notice of Intent. The written request for compromise shall contain the person's reasons for the reduction or modification of the penalty, assessment, or penalty and assessment.
- B. Within 30 days from the date of receipt of the request for compromise from the person, AHCCCS shall send a Notice of Compromise Decision that accepts, denies, or offers a counter proposal to the person's request for compromise. If AHCCCS offers a counter proposal the amount of the counter proposal shall represent the penalty, assessment, or penalty and assessment.
 1. If AHCCCS does not withdraw the Notice of Intent under R9-22-1112 or denies the request for compromise the original penalty, assessment, or penalty and assessment is upheld.
 2. To dispute the Compromise Decision, the person shall file a request for a State Fair Hearing under R9-22-1110 within 30 days from the date of receipt of the Notice of Compromise Decision. A failure to respond to the Notice of Compromise Decision will lead to the decision being upheld.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4). Amended by final rulemaking at 30 A.A.R. 925 (May 10, 2024), with an immediate effective date of April 25, 2024 (Supp. 24-2).

R9-22-1109. Failure to Respond to the Notice of Intent

If a person fails to respond timely to the Notice of Intent, AHCCCS shall uphold the original penalty, assessment, or penalty and assessment.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1110. Request for State Fair Hearing

- A. To request a State Fair Hearing regarding a dispute concerning a penalty, assessment, or penalty and assessment, the person shall file a written request for a State Fair Hearing with AHCCCS within 60 days from the date of the receipt of the Notice of Intent under R9-22-1106 or within 30 days from the date of receipt of the Notice of Compromise Decision under R9-22-1108, if applicable.
- B. AHCCCS shall mail a Notice of Hearing under A.R.S. § 41-1092.05 if AHCCCS receives a timely request for a State Fair Hearing from the person.
- C. AHCCCS shall mail a Director's Decision to the person no later than 30 days after the date the Administrative Law Judge sends the decision of the Office of Administrative Hearings (OAH) to AHCCCS.
- D. AHCCCS shall accept a written request for withdrawal of a hearing request if the written request for withdrawal is

received from the person before AHCCCS mails a Notice of Hearing under A.R.S. § 41-1092 et seq. If AHCCCS mailed a Notice of Hearing under A.R.S. § 41-1092 et seq., a person may withdraw the hearing request only by sending a written request for withdrawal to OAH.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1111. Issues and Burden of Proof

- A. Preponderance of evidence. In any State Fair Hearing conducted under R9-22-1110, AHCCCS shall prove by a preponderance of the evidence that a person presented or caused to be presented each claim in violation of this Article and any aggravating circumstances under R9-22-1105. A person shall bear the burden of producing and proving by a preponderance of the evidence any circumstance that would justify reducing the amount of the penalty, assessment, or penalty and assessment.
- B. Statistical sampling.
 1. In meeting the burden of proof described in subsection (A), AHCCCS may introduce the results of a statistical sampling study as evidence of the number and amount of claims that were presented or caused to be presented by the person. A statistical sampling study constitutes prima facie evidence of the number and amount of claims if computed by valid statistical methods.
 2. The burden of proof shall shift to the person to produce evidence reasonably calculated to rebut the findings of the statistical sampling study once AHCCCS has made a prima facie case as described in subsection (B)(1). AHCCCS shall be given the opportunity to rebut this evidence.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).
Amended by final rulemaking at 17 A.A.R. 2615, effective February 4, 2012 (Supp. 11-4).

R9-22-1112. Withdrawal and Continuances

AHCCCS may withdraw the Notice of Intent at any time. Prior to referring a matter to the Office of Administrative Hearings the parties may mutually agree to a continuance.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 3056, effective September 11, 2004 (Supp. 04-3).

ARTICLE 12. BEHAVIORAL HEALTH SERVICES**R9-22-1201. Definitions**

Definitions. The following definitions apply to this Article:

"Adult behavioral health therapeutic home" as defined in 9 A.A.C. 10, Article 1.

"Agency" for the purposes of this Article means a behavioral health facility, a classification of a health care institution, including a mental health treatment agency defined in A.R.S. § 36-501, that is licensed to provide behavioral health services according to A.R.S. Title 36, Chapter 4.

"Assessment" means an analysis of a patient's need for physical health services or behavioral health services to determine which services a health care institution will provide to the patient.

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“Behavior management services” means services that assist the member in carrying out daily living tasks and other activities essential for living in the community, including personal care services.

“Behavioral health therapeutic home care services” means interactions that teach the client living, social, and communication skills to maximize the client’s ability to live and participate in the community and to function independently, including assistance in the self-administration of medication and any ancillary services indicated by the client’s treatment plan, as appropriate.

“Behavioral health services” means medical services, nursing services, health-related services, or ancillary services provided to an individual to address the individual’s behavioral health issue.

“Behavioral health technician” means an individual who is not a behavioral health professional who provides behavioral health services at or for a health care institution according to the health care institution’s policies and procedures that:

If the behavioral health services were provided in a setting other than a licensed health care institution, the individual would be required to be licensed as a behavioral professional under A.R.S. Title 32, Chapter 33; and

Are provided with clinical oversight by a behavioral health professional.

“Case management” for the purposes of this Article, means services and activities that enhance treatment, compliance, and effectiveness of treatment.

“Certified psychiatric nurse practitioner” means a registered nurse practitioner who meets the psychiatric specialty area requirements under A.A.C. R4-19-505(C).

“Clinical oversight” means as described under 9 A.A.C. 10.

“Cost avoid” means to avoid payment of a third-party liability claim when the probable existence of third-party liability has been established under 42 CFR 433.139(b).

“Court-ordered evaluation” has the same meaning as “evaluation” in A.R.S. § 36-501.

“Court-ordered pre-petition screening” has the same meaning as “pre-petition screening” in A.R.S. § 36-501.

“Court-ordered treatment” means treatment provided according to A.R.S. Title 36, Chapter 5.

“Crisis services” means immediate and unscheduled behavioral health services provided to a patient to address an acute behavioral health issue affecting the patient.

“Direct supervision” has the same meaning as “supervision” in A.R.S. § 36-401.

“Emergency medical services provider” has the same meaning as in A.R.S. § 36-2201.

“Health care institution” has the same meaning as defined in A.R.S. § 36-401.

“Health care practitioner” means a:

- Physician;
- Physician assistant;
- Nurse practitioner; or

Other individual licensed and authorized by law to use and prescribe medication and devices, as defined in A.R.S. § 32-1901.

“Licensee” means the same as in 9 A.A.C. 10, Article 1.

“Medical practitioner” means a physician, physician assistant, or nurse practitioner.

“Partial care” means a day program of services provided to individual members or groups that is designed to improve the ability of a person to function in a community, and includes basic, therapeutic, and medical day programs.

“Physician assistant” means the same as in A.R.S. § 32-2501 except that when providing a behavioral health service, the physician assistant shall be supervised by an AHCCCS-registered psychiatrist.

“Psychiatrist” means a physician who meets the licensing requirements under A.R.S. § 32-1401 or a doctor of osteopathy who meets the licensing requirements under A.R.S. § 32-1800, and meets the additional requirements of a psychiatrist under A.R.S. § 36-501.

“Psychologist” means a person who meets the licensing requirements under A.R.S. §§ 32-2061 and 36-501.

“Qualified behavioral health service provider” means a behavioral health service provider that meets the requirements of R9-22-1206.

“Respite” means a period of care and supervision of a member to provide rest or relief to a family member or other person caring for the member. Respite provides activities and services to meet the social, emotional, and physical needs of the member during respite.

“TRBHA” or “Tribal Regional Behavioral Health Authority” means a Native American tribe under contract with ADHS/DBHS to coordinate the delivery of behavioral health services to eligible and enrolled members of the federally-recognized tribal nation.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-1202. ADHS, Contractor, Administration and CRS Responsibilities

- A. ADHS responsibilities. ADHS is responsible for payment of behavioral health services provided to members, except as specified under subsection (D). ADHS’ responsibility for payment of behavioral health services includes claims for inpatient hospital services, which may include physical health

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services, when the principal diagnosis on the hospital claim is a behavioral health diagnosis. Behavioral health diagnoses are identified as “mental disorders” in the latest International Classification of Diseases (ICD) code set as required by AHC-CCS claims and encounters.

- B.** ADHS/DBHS may contract with a TRBHA for the provision of behavioral health services for American Indian members. American Indian members may receive covered behavioral health services:
 1. From an IHS or tribally operated 638 facility,
 2. From a TRBHA, or
 3. From a RBHA.
- C.** Contractor responsibilities. A contractor shall:
 1. Refer a member to a RBHA under the contract terms;
 2. Provide EPSDT developmental and behavioral health screening as specified in R9-22-213;
 3. Coordinate a member’s transition of care and medical records; and
 4. Be responsible for providing covered inpatient hospital services, which may include behavioral health inpatient hospital services, when the principal diagnosis on the hospital claim is not a behavioral health diagnosis.
- D.** Administration and CRS responsibilities.
 1. The Administration shall be responsible for payment of behavioral health services provided to an ALTCS FFS or an FES member and for behavioral health services provided by IHS and tribally operated 638 facilities. The Administration is also responsible for payment of behavioral health services provided to these members during prior quarter coverage.
 2. CRS shall be responsible for payment of behavioral health services provided to members enrolled with CRS.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended to correct typographical errors, filed in the Office of the Secretary of State October 30, 2001 (Supp. 01-4). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4). Amended by final rulemaking at 21 A.A.R. 1225, effective July 7, 2015 (Supp. 15-3).

R9-22-1203. Eligibility for Covered Services

Title XIX members. A member determined eligible under A.R.S. § 36-2901(6)(a) or (g) except for the failure to meet U.S. citizenship or qualified alien status requirements, shall receive medically necessary covered services under Article 12 and Article 2.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of

State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed, new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-1204. General Service Requirements

- A.** Services. Behavioral health services include mental health, substance abuse, and physical services. Medically necessary services shall be covered and service requirements met as described under Article 2 and Article 5.
- B.** Notification to Administration for American Indians enrolled with a tribal contractor. A provider shall notify the Administration no later than 72 hours after an American Indian member enrolled with a tribal contractor presents to a behavioral health hospital for inpatient emergency behavioral health services.
- C.** Restrictions and limitations. Room and board is not a covered service unless provided in a behavioral health inpatient facility under R9-22-1205.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective January 1, 1996; filed with the Secretary of State December 22, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-1205. Scope and Coverage of Behavioral Health Services

- A.** Inpatient behavioral health services. The following inpatient services are covered subject to the limitations and exclusions in this Article and Article 2.
 1. Covered inpatient behavioral health services include all behavioral health services, medical detoxification, accommodations and staffing, supplies, and equipment, if the service is provided under the direction of a physician in a Medicare-certified:
 - a. General acute care hospital,
 - b. Inpatient psychiatric unit in a general acute care hospital, or

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- c. Behavioral health hospital.
- 2. Inpatient service limitations:
 - a. Inpatient services, other than emergency services specified in this Section, are not covered unless prior authorization is obtained.
 - b. Inpatient services and room and board are reimbursed on a per diem basis. The per diem rate includes all services, except the following licensed or certified providers may bill independently for services:
 - i. A licensed psychiatrist,
 - ii. A certified psychiatric nurse practitioner,
 - iii. A licensed physician assistant,
 - iv. A licensed psychologist,
 - v. A licensed clinical social worker,
 - vi. A licensed marriage and family therapist,
 - vii. A licensed professional counselor,
 - viii. A licensed independent substance abuse counselor, and
 - ix. A medical practitioner.
- B. Behavioral Health Inpatient facility for children. Services provided in a Behavioral Health Inpatient facility for children as defined in 9 A.A.C. 10, Article 3 are covered subject to the limitations and exclusions under this Article.
 - 1. Behavioral Health Inpatient facility for children services are not covered unless provided under the direction of a licensed physician in a licensed Behavioral Health Inpatient facility for children accredited by an AHCCCS-approved accrediting body as specified in contract.
 - 2. Covered Behavioral Health Inpatient facility for children services include room and board and treatment services for behavioral health and substance abuse conditions.
 - 3. Inpatient Behavioral Health Inpatient facility for children service limitations.
 - a. Services are not covered unless prior authorized, except for emergency services as specified in this Section.
 - b. Services are reimbursed on a per diem basis. The per diem rate includes all services, except the following licensed or certified providers may bill independently for services:
 - i. A licensed psychiatrist,
 - ii. A certified psychiatric nurse practitioner,
 - iii. A licensed physician assistant,
 - iv. A licensed psychologist,
 - v. A licensed clinical social worker,
 - vi. A licensed marriage and family therapist,
 - vii. A licensed professional counselor,
 - viii. A licensed independent substance abuse counselor, and
 - ix. A medical practitioner.
 - 4. The following may be billed independently if prescribed by a provider as specified in this Section who is operating within the scope of practice:
 - a. Laboratory services, and
 - b. Radiology services.
- C. Covered Inpatient sub-acute agency services. Services provided in a inpatient sub-acute facility as defined in 9 A.A.C. 10, Article 1 are covered subject to the limitations and exclusions under this Article.
 - 1. Inpatient sub-acute facility services are not covered unless provided under the direction of a licensed physician in a licensed inpatient sub-acute facility that is accredited by an AHCCCS-approved accrediting body.
- 2. Covered Inpatient sub-acute facility services include room and board and treatment services for behavioral health and substance abuse conditions.
- 3. Services are reimbursed on a per diem basis. The per diem rate includes all services, except the following licensed or certified providers may bill independently for services:
 - a. A licensed psychiatrist,
 - b. A certified psychiatric nurse practitioner,
 - c. A licensed physician assistant,
 - d. A licensed psychologist,
 - e. A licensed clinical social worker,
 - f. A licensed marriage and family therapist,
 - g. A licensed professional counselor,
 - h. A licensed independent substance abuse counselor, and
 - i. A medical practitioner.
- 4. The following may be billed independently if prescribed by a provider specified in this Section who is operating within the scope of practice:
 - a. Laboratory services, and
 - b. Radiology services.
- D. Behavioral health residential facility services. Services provided in a licensed behavioral health residential facility as defined in 9 A.A.C. 10, Article 1 are covered subject to the limitations and exclusions under this Article.
 - 1. Behavioral health residential facility services are not covered unless provided by a licensed behavioral health residential facility.
 - 2. Covered services include all non-prescription drugs as defined in A.R.S. § 32-1901, non-customized medical supplies, and clinical oversight or direct supervision of the behavioral health residential facility staff, whichever is applicable. Room and board are not covered services.
 - 3. The following licensed and certified providers may bill independently for services:
 - a. A licensed psychiatrist,
 - b. A certified psychiatric nurse practitioner,
 - c. A licensed physician assistant,
 - d. A licensed psychologist,
 - e. A licensed clinical social worker,
 - f. A licensed marriage and family therapist,
 - g. A licensed professional counselor,
 - h. A licensed independent substance abuse counselor, and
- E. Partial care. Partial care services are covered subject to the limitations and exclusions in this Article.
 - 1. Partial care services are not covered unless provided by a licensed and AHCCCS-registered behavioral health agency that provides a regularly scheduled day program of individual member, group, or family activities that are designed to improve the ability of the member to function in the community. Partial care services include basic, therapeutic, and medical day programs.
 - 2. Partial care services. Educational services that are therapeutic and are included in the member's behavioral health treatment plan are included in per diem reimbursement for partial care services.
- F. Outpatient services. Outpatient services are covered subject to the limitations and exclusions in this Article and Article 2.
 - 1. Outpatient services include the following:
 - a. Screening provided by a behavioral health professional or a behavioral health technician as defined in R9-22-1201;

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- b. A behavioral health assessment provided by a behavioral health professional or a behavioral health technician;
 - c. Counseling including individual therapy, group therapy, and family therapy provided by a behavioral health professional or a behavioral health technician;
 - d. Behavior management services as defined in R9-22-1201; and
 - e. Psychosocial rehabilitation services as defined in R9-22-201.
2. Outpatient service limitations.
- a. The following licensed or certified providers may bill independently for outpatient services:
 - i. A licensed psychiatrist;
 - ii. A certified psychiatric nurse practitioner;
 - iii. A licensed physician assistant as defined in R9-22-1201;
 - iv. A licensed psychologist;
 - v. A licensed clinical social worker;
 - vi. A licensed professional counselor;
 - vii. A licensed marriage and family therapist;
 - viii. A licensed independent substance abuse counselor;
 - ix. A medical practitioner; and
 - x. An outpatient treatment center or substance abuse transitional facility licensed under 9 A.A.C. 10, Article 14, that is an AHCCCS-registered provider.
 - b. A behavioral health practitioner not specified in subsections (F)(2)(a)(i) through (x), who is contracted with or employed by an AHCCCS-registered behavioral health agency shall not bill independently.
- G.** Emergency behavioral health services are covered subject to the limitations and exclusions under this Article. In order to be covered, behavioral health services shall be provided by qualified service providers under R9-22-1206. ADHS/DBHS shall ensure that emergency behavioral health services are available 24 hours per day, seven days per week in each GSA for an emergency behavioral health condition for a non-FES member as defined in R9-22-201.
- H.** Other covered behavioral health services. Other covered behavioral health services include:
- 1. Case management as defined in 9 A.A.C. 10, Article 1;
 - 2. Laboratory and radiology services for behavioral health diagnosis and medication management;
 - 3. Medication;
 - 4. Monitoring, administration, and adjustment for psychotropic medication and related medications;
 - 5. Respite care as described within subsection (J);
 - 6. Behavioral health therapeutic home care services provided by a RBHA in a professional foster home defined in 6 A.A.C. 5, Article 58 or in an adult behavioral health therapeutic home as defined in 9 A.A.C. 10, Article 1;
 - 7. Other support services to maintain or increase the member's self-sufficiency and ability to live outside an institution.
- I.** Transportation services. Transportation services are covered under R9-22-211.
- J.** Limited Behavioral Health services. Respite services are limited to no more than 600 hours per benefit year.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of

State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed, new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 5480, effective December 6, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by exempt rulemaking at 17 A.A.R. 1870, effective October 1, 2011 (Supp. 11-3). Amended by final rulemaking at 19 A.A.R. 2747, effective October 8, 2013 (Supp. 13-3). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-1206. Repealed**Historical Note**

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed, new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Repealed by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-1207. General Provisions for Payment**A. Claims submissions.**

- 1. A provider of behavioral health services shall submit a claim for non-emergency behavioral health services provided to a member to the appropriate RBHA.
- 2. A provider of behavioral health services shall submit a claim for non-inpatient emergency behavioral health services provided to a member to the appropriate RBHA.
- 3. A provider of behavioral health services shall submit a claim for non-inpatient emergency behavioral health services provided to a member enrolled in a TRBHA to the Administration.
- 4. A provider of behavioral health services shall submit a claim for non-emergency behavioral health services provided to a member enrolled in a TRBHA to the Administration.
- 5. A provider of emergency behavioral health services, that are the responsibility of ADHS/DBHS or a contractor, shall submit a claim to the entity responsible for emergency behavioral health services under R9-22-210.01(A).
- 6. A provider shall comply with the time-frames and other payment procedures in Article 7 of this Chapter, if applicable, and A.R.S. § 36-2904.
- 7. ADHS/DBHS or a contractor, whichever entity is responsible for covering behavioral health services, shall cost

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avoid any behavioral health service claims if it establishes the existence or probable existence of first-party liability or third-party liability.

- B.** Prior authorization. Payment to a provider for behavioral health services or items requiring prior authorization may be denied if a provider does not obtain prior authorization from a RBHA, ADHS/DBHS, a TRBHA, the Administration or a contractor.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Ch. 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 13 A.A.R. 836, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 20 A.A.R. 3098, effective January 4, 2015 (Supp. 14-4).

R9-22-1208. Repealed**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 179, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 11 A.A.R. 5480, effective December 6, 2005 (Supp. 05-4).

ARTICLE 13. CHILDREN'S REHABILITATIVE SERVICES (CRS)

Article 13, consisting of Sections R9-22-1301 through R9-22-1306, made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3).

Article 13, consisting of Sections R9-22-1301 through R9-22-1306, made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Exemption to promulgate rules repealed under Laws 2012, Chapter 299, Section 7 (Supp. 13-3).

Article 13, consisting of Sections R9-22-1301 through R9-22-1309, repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004. The subject matter of Article 13 is now in 9 A.A.C. 34 (Supp. 04-1).

R9-22-1301. Children's Rehabilitative Services (CRS) related Definitions

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

"Active treatment" means there is a current need for treatment of the CRS qualifying condition(s) or it is anticipated that treatment or evaluation for continuing treatment of the CRS qualifying condition(s) will be needed within the next 18 months from the last date of service for treatment of any CRS qualifying condition.

"CRS application" means a submitted form with any additional documentation required by the Administration to determine whether an individual is medically eligible for CRS.

"CRS condition" means a list of medical condition(s) in R9-22-1303 and which are referred to as covered conditions in A.R.S. § 36-2912.

"Functionally limiting" means a restriction having a significant effect on an individual's ability to perform an activity of daily living as determined by a provider.

"Medically eligible" means meeting the medical eligibility requirements of R9-22-1303.

"Redetermination" means a decision made by the Administration regarding whether a member continues to meet the requirements in R9-22-1302.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Rulemaking exemption repealed by Laws, 2012, Ch. 299, Section 7; therefore a new Section was made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 2022, effective October 1, 2015 (Supp. 15-3).

R9-22-1302. Children's Rehabilitative Services (CRS) Eligibility Requirements

Beginning October 1, 2013, an AHCCCS member who needs active treatment for one or more of the qualifying medical condition(s) in R9-22-1303 shall be given a CRS Designation. An American Indian member can choose to receive CRS services through an American Indian Health Plan or a contractor. A member enrolled in CMDP shall obtain CRS services through CMDP. The contractor shall provide covered services necessary to treat the condition(s) and other services described within the contract. The effective date of the CRS Designation shall be as specified in contract.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Rulemaking exemption repealed by Laws, 2012, Ch. 299, Section 7; therefore a new Section was made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 24 A.A.R. 2855, effective November 16, 2018 (Supp. 18-3).

R9-22-1303. Medical Eligibility

The following lists identify those medical condition(s) that do qualify for CRS services as well as those that do not qualify for CRS services. The list of condition(s) that qualify for a CRS Designation is all inclusive. The list of condition(s) that do not qualify for a CRS Designation is not an all-inclusive list.

1. Cardiovascular System
 - a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Arrhythmia,
 - ii. Arteriovenous fistula,
 - iii. Cardiomyopathy,
 - iv. Conduction defect,
 - v. Congenital heart defect other than isolated small Ventricular Septal Defects (VSD), Patent

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- Ductus Arteriosus (PDA), Atrial Septal Defects (ASD),
 - vi. Coronary artery and aortic aneurysm,
 - vii. Renal vascular hypertension,
 - viii. Rheumatic heart disease, and
 - ix. Valvular disorder.
 - b. Condition(s) not medically eligible for CRS:
 - i. Arteriovenous fistula that is not expected to cause cardiac failure or threaten loss of function;
 - ii. Benign heart murmur;
 - iii. Branch artery pulmonary stenosis;
 - iv. Essential hypertension;
 - v. Patent foramen ovale (PFO);
 - vi. Peripheral pulmonary stenosis;
 - vii. Postural orthopedic tachycardia; and
 - viii. Premature atrial, nodal or ventricular contractions that are of no hemodynamic significance.
2. Endocrine system:
- a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Addison's disease,
 - ii. Adrenogenital syndrome,
 - iii. Cystic fibrosis (including atypical cystic fibrosis),
 - iv. Diabetes insipidus,
 - v. Hyperparathyroidism,
 - vi. Hyperthyroidism,
 - vii. Hypoparathyroidism, and
 - viii. Panhypopituitarism.
 - b. Condition(s) not medically eligible for CRS
 - i. Diabetes mellitus,
 - ii. Hypopituitarism associated with a malignancy and requiring treatment of less than 90 days,
 - iii. Isolated growth hormone deficiency, and
 - iv. Precocious puberty.
3. Genitourinary system medical condition(s):
- a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Ambiguous genitalia,
 - ii. Bladder extrophy,
 - iii. Deformity and dysfunction of the genitourinary system secondary to trauma 90 days or more after the trauma occurred,
 - iv. Ectopic ureter,
 - v. Hydronephrosis, that is not resolved with antibiotics,
 - vi. Polycystic and multicystic kidneys,
 - vii. Pyelonephritis when treatment with drugs or biologicals has failed to cure or ameliorate and surgical intervention is required,
 - viii. Ureteral stricture, and
 - ix. Vesicoureteral reflux, at a grade 3 or higher.
 - b. Condition(s) not medically eligible for CRS:
 - i. Enuresis,
 - ii. Hydrocele,
 - iii. Hypospadias,
 - iv. Meatal stenosis,
 - v. Nephritis, infectious or noninfectious,
 - vi. Nephrosis,
 - vii. Phimosis, and
 - viii. Undescended testicle.
4. Ear, nose, or throat medical condition(s):
- a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Cholesteatoma,
 - ii. Congenital/Craniofacial anomaly that is functionally limiting,
 - iii. Deformity and dysfunction of the ear, nose, or throat secondary to trauma, 90 days or more after the trauma occurred,
 - iv. Mastoiditis that continues 90 days or more after the first diagnosis of the condition,
 - v. Microtia that requires multiple surgical interventions,
 - vi. Neurosensory hearing loss, and
 - vii. Significant conductive hearing loss due to an anomaly in one ear or both ears equal to or greater than a pure tone average of 30 decibels that despite medical treatment, requires a hearing aid.
 - b. Condition(s) not medically eligible for CRS:
 - i. A craniofacial anomaly that is not functionally limiting,
 - ii. Adenoiditis,
 - iii. Cranial or temporal mandibular joint syndrome,
 - iv. Hypertrophic lingual frenum,
 - v. Isolated preauricular tag or pit,
 - vi. Nasal polyp,
 - vii. Obstructive apnea,
 - viii. Perforation of the tympanic membrane,
 - ix. Recurrent otitis media,
 - x. Simple deviated nasal septum,
 - xi. Sinusitis,
 - xii. Tonsillitis, and
 - xiii. Uncontrolled salivation.
5. Musculoskeletal system medical condition(s):
- a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Achondroplasia,
 - ii. Arthrogryposis (multiple joint contractures),
 - iii. Bone infection that continues 90 days or more after the initial diagnosis,
 - iv. Chondrodysplasia,
 - v. Chondroectodermal dysplasia,
 - vi. Clubfoot,
 - vii. Collagen vascular disease, including but not limited to, ankylosis spondylitis, polymyositis, dermatomyositis, polyarteritis nodosa, psoriatic arthritis, scleroderma, rheumatoid arthritis and lupus,
 - viii. Congenital or developmental cervical spine abnormality,
 - ix. Congenital spinal deformity,
 - x. Diastrophic dysplasia,
 - xi. Enchondromatosis,
 - xii. Femoral anteversion and tibial torsion,
 - xiii. Fibrous dysplasia,
 - xiv. Hip dysplasia,
 - xv. Hypochondroplasia,
 - xvi. Joint infection that continues 90 days or more after the initial diagnosis,
 - xvii. Juvenile rheumatoid arthritis,
 - xviii. Kyphosis (Scheurmann's Kyphosis) 50 degrees or over,
 - xix. Larsen syndrome,

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- xx. Leg length discrepancy of two centimeters or more,
- xxi. Legg-Calve-Perthes disease,
- xxii. Limb amputation or limb malformation,
- xxiii. Metaphyseal and epiphyseal dysplasia,
- xxiv. Metatarsus adductus,
- xxv. Muscular dystrophy,
- xxvi. Orthopedic complications of hemophilia,
- xxvii. Osgood Schlatter's disease that requires surgical intervention,
- xxviii. Osteogenesis imperfecta,
- xxix. Rickets,
- xxx. Scoliosis when 25 degrees or greater, or when there is a need for bracing or surgery,
- xxxi. Seronegative spondyloarthropathy such as Reiters, psoriatic arthritis, and ankylosing spondylitis,
- xxxii. Slipped capital femoral epiphysis,
- xxxiii. Spinal muscle atrophy,
- xxxiv. Spondyloepiphyseal dysplasia, and
- xxxv. Syndactyly.
- b. Condition(s) not medically eligible for CRS:
 - i. Back pain with no structural abnormality,
 - ii. Benign bone tumor,
 - iii. Bunion,
 - iv. Carpal tunnel syndrome,
 - v. Deformity and dysfunction secondary to trauma or injury,
 - vi. Ehlers Danlos,
 - vii. Flat foot,
 - viii. Fracture,
 - ix. Ganglion cyst,
 - x. Ingrown toenail,
 - xi. Kyphosis under 50 degrees,
 - xii. Leg length discrepancy of less than two centimeters at skeletal maturity,
 - xiii. Polydactyly without bone involvement,
 - xiv. Popliteal cyst,
 - xv. Trigger finger, and
 - xvi. Varus and valgus deformities.
- 6. Gastrointestinal system medical condition(s):
 - a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Anorectal atresia,
 - ii. Biliary atresia,
 - iii. Cleft lip,
 - iv. Cleft palate,
 - v. Congenital atresia, stenosis, fistula, or rotational abnormalities of the gastrointestinal tract,
 - vi. Deformity and dysfunction of the gastrointestinal system secondary to trauma, 90 days or more after the trauma occurred,
 - vii. Diaphragmatic hernia,
 - viii. Gastroschisis,
 - ix. Hirschsprung's disease,
 - x. Omphalocele, and
 - xi. Tracheoesophageal fistula.
 - b. Condition(s) not medically eligible for CRS:
 - i. Celiac disease,
 - ii. Crohn's disease,
 - iii. Hernia other than a diaphragmatic hernia,
 - iv. Intestinal polyp,
 - v. Malabsorption syndrome, also known as short bowel syndrome,
 - vi. Pyloric stenosis,
 - vii. Ulcer disease, and
 - viii. Ulcerative colitis.
- 7. Nervous system medical condition(s):
 - a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Benign intracranial tumor,
 - ii. Benign intraspinal tumor,
 - iii. Central nervous system degenerative disease,
 - iv. Central nervous system malformation or structural abnormality,
 - v. Cerebral palsy,
 - vi. Craniosynostosis requiring surgery,
 - vii. Deformity and dysfunction secondary to trauma in an individual that continues 90 days or more after the incident,
 - viii. Hydrocephalus,
 - ix. Muscular dystrophy or other myopathy,
 - x. Myelomeningocele, also known as spina bifida,
 - xi. Myoneural disorder, including but not limited to, amyotrophic Lateral Sclerosis or ALS, myasthenia gravis, Eaton-Lambert syndrome, muscular dystrophy, troyer sclerosis, polymyositis, dermatomyositis, progressive bulbar palsy, polio,
 - xii. Neurofibromatosis,
 - xiii. Neuropathy/polyneuropathy, hereditary or idiopathic,
 - xiv. Residual dysfunction that continues 90 days or more after a vascular accident, inflammatory condition, or infection of the central nervous system,
 - xv. Residual dysfunction that continues 90 days or more after near drowning,
 - xvi. Residual dysfunction that continues 90 days or more after the spinal cord injury, and
 - xvii. Uncontrolled seizure disorder, in which there have been more than two seizures with documented compliance of one or more medications.
 - b. Condition(s) not medically eligible for CRS:
 - i. Central apnea secondary to prematurity,
 - ii. Febrile seizures,
 - iii. Headaches,
 - iv. Near sudden infant death syndrome,
 - v. Plagiocephaly, and
 - vi. Spina bifida occulta.
- 8. Ophthalmology:
 - a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Cataracts,
 - ii. Disorder of the iris, ciliary bodies, retina, lens, or cornea,
 - iii. Disorder of the optic nerve,
 - iv. Glaucoma,
 - v. Non-malignant enucleation and post-enucleation reconstruction, and
 - vi. Retinopathy of prematurity.
 - b. Condition(s) not medically eligible for CRS:
 - i. Astigmatism,
 - ii. Ptosis,

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- iii. Simple refraction error, and
 - iv. Strabismus.
- 9. Respiratory system medical condition(s):
 - a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. Anomaly of the larynx, trachea, or bronchi that requires surgery, and
 - ii. Nonmalignant obstructive lesion of the larynx, trachea, or bronchi.
 - b. Condition(s) not medically eligible for CRS:
 - i. Allergies,
 - ii. Asthma,
 - iii. Bronchopulmonary dysplasia,
 - iv. Chronic obstructive pulmonary disease,
 - v. Emphysema, and
 - vi. Respiratory distress syndrome.
- 10. Dermatological system medical condition(s):
 - a. CRS condition(s) that qualify for CRS medical eligibility:
 - i. A burn scar that is functionally limiting,
 - ii. A hemangioma that is functionally limiting that requires laser or surgery,
 - iii. Complicated nevi requiring multiple procedures,
 - iv. Cystic hygroma such as lymphangioma, and
 - v. Malocclusion that is functionally limiting.
 - b. Condition(s) not medically eligible for CRS:
 - i. A deformity that is not functionally limiting,
 - ii. Ectodermal dysplasia,
 - iii. Isolated malocclusion that is not functionally limiting,
 - iv. Pilonidal cyst,
 - v. Port wine stain,
 - vi. Sebaceous cyst,
 - vii. Simple nevi, and
 - viii. Skin tag.
- 11. Metabolic CRS condition(s) that qualify for CRS medical eligibility:
 - a. Amino acid or organic acidopathy,
 - b. Biotinidase deficiency,
 - c. Homocystinuria,
 - d. Inborn error of metabolism,
 - e. Maple syrup urine disease,
 - f. Phenylketonuria, and
 - g. Storage disease.
- 12. Hemoglobinopathies CRS condition(s) that qualify for CRS medical eligibility:
 - a. Sick cell anemia, and
 - b. Thalassemia.
- 13. Additional medical/behavioral condition(s) which are not medically eligible for CRS:
 - a. Allergies,
 - b. Anorexia nervosa or obesity,
 - c. Attention deficit disorder,
 - d. Autism,
 - e. Cancer,
 - f. Depression or other mental illness,
 - g. Developmental delay,
 - h. Dyslexia or other learning disabilities,
 - i. Failure to thrive,
 - j. Hyperactivity, and
 - k. Immunodeficiency, such as AIDS and HIV.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Rulemaking exemption repealed by Laws, 2012, Ch. 299, Section 7; therefore a new Section was made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 2022, effective October 1, 2015 (Supp. 15-3). Amended by final rulemaking at 24 A.A.R. 2855, effective November 16, 2018 (Supp. 18-3).

R9-22-1304. Referral and Disposition of CRS Medical Eligibility Determination

- A. To refer an individual for a CRS medical eligibility determination a person shall submit to the Administration the following information:
 - 1. CRS application;
 - 2. Documentation from a specialist who diagnosed the individual, stating the individual's diagnosis;
 - 3. Diagnostic test results that support the individual's diagnosis; and
 - 4. Documentation of the individual's need for specialized treatment of the CRS condition through medical, surgical, or therapy modalities.
- B. The Administration shall notify the CRS applicant, member or authorized representative of the outcome of the determination within 60 days of receipt of information required under subsection (A). The member may appeal the determination under Chapter 34.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Rulemaking exemption repealed by Laws, 2012, Ch. 299, Section 7; therefore a new Section was made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 21 A.A.R. 2022, effective October 1, 2015 (Supp. 15-3).

R9-22-1305. CRS Redetermination

- A. Continued eligibility for CRS services shall be redetermined by verifying active treatment status of the CRS qualifying medical condition(s) as follows:
 - 1. The contractor is responsible for notifying the AHCCCS Administration of the date when a member with a CRS Designation is no longer in active treatment for the qualifying condition(s).
 - 2. The Administration may request, at any time, that the contractor submit the medical documentation to the Administration for a CRS medical redetermination within the specified time-frames in contract.
 - 3. The Administration shall notify the member or authorized representative of the outcome of the redetermination.
- B. If the Administration determines that a member is no longer medically eligible for a CRS Designation, the Administration shall provide the member or authorized representative a written notice that informs the member that the Administration is ending the member's CRS Designation. The member may appeal the redetermination under A.A.C. Title 9, Chapter 34.

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- C. Upon reaching his or her 21st birthday, the member's CRS Designation will be ended.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Rulemaking exemption repealed by Laws, 2012, Ch. 299, Section 7; therefore a new Section was made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3). Amended by final rulemaking at 24 A.A.R. 2855, effective November 16, 2018 (Supp. 18-3).

R9-22-1306. Repealed**Historical Note**

Adopted effective September 9, 1998 (Supp. 98-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Rulemaking exemption repealed by Laws, 2012, Ch. 299, Section 7; therefore a new Section was made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3). Repealed by final rulemaking at 24 A.A.R. 2855, effective November 16, 2018 (Supp. 18-3).

R9-22-1307. Covered Services

The Administration will cover medically necessary services as described within Article 2 unless otherwise specified in contract.

Historical Note

Adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1). Section made by exempt rulemaking at 18 A.A.R. 2074, effective August 1, 2012 (Supp. 12-3). Rulemaking exemption repealed by Laws, 2012, Ch. 299, Section 7; therefore a new Section was made by final rulemaking at 19 A.A.R. 2954, effective November 10, 2013 (Supp. 13-3).

R9-22-1308. Repealed**Historical Note**

Adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

R9-22-1309. Repealed**Historical Note**

Adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 3317, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 808, effective April 3, 2004 (Supp. 04-1).

ARTICLE 14. AHCCCS MEDICAL COVERAGE FOR HOUSEHOLDS**R9-22-1401. General Information**

- A. Scope. This Article contains eligibility criteria to determine whether a household or individual is eligible for AHCCCS medical coverage. Eligibility criteria described under Article 3 applies to this Article.

- B. Definitions. In addition to definitions contained in R9-22-101 and A.R.S. § 36-2901, the words and phrases in this Article, Article 3 and Article 15 have the following meanings unless the context explicitly requires another meaning:

“Burial plot” means a space reserved in a cemetery, crypt, vault, or mausoleum for the remains of a deceased person.

“Caretaker relative” means:

A parent of a dependent child with whom the child is living;

When the dependent child does not live with a parent or the parent in the home is incapacitated, another relative of the child by blood, adoption, or marriage in the home who assumes primary responsibility for the child's care; or

A woman in her third trimester of pregnancy with no other dependent children.

“Cash assistance” means a program administered by the Department that provides assistance to needy families with dependent children under 42 U.S.C. 601 et seq.

“Dependent child” means a child under the age of 18, or if age 18 is a full-time student in secondary school or equivalent vocational or technical training, if reasonably expected to complete such school or training before turning age 19.

“MAGI – based income” means Modified Adjusted Gross Income as defined under 42 CFR 435.603(e).

“Medical expense deduction” or “MED” means the cost of the following expenses if incurred in the United States:

A medical service or supply that would be covered if provided to an AHCCCS member of any age under Articles 2 and 12 of this Chapter;

A medical service or supply that would be covered if provided to an Arizona Long-term Care System member under 9 A.A.C. 28, Articles 2 and 11;

Other necessary medical services provided by a licensed practitioner or physician;

Assistance with daily living if the assistance is documented in an individual plan of care by a nurse, social service worker, registered therapist, or dietitian under the supervision of a physician except when provided by the spouse of an applicant or the parent of a minor child;

Medical services provided in a licensed nursing home or in an alternative HCBS setting under R9-28-101;

Purchasing and maintaining an animal guide or service animal for the assistance of a member of the MED family unit under R9-22-1436; and

Health insurance premiums, deductibles, and coinsurance, if the insured is a member of the MED family unit.

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“Monthly income” means the gross countable income received or projected to be received during the month or the monthly equivalent.

“Monthly equivalent” means a monthly countable income amount established by averaging, prorating, or converting a person's income.

“Spendthrift restriction” means a legal restriction on the use of a resource that prevents a payee or beneficiary from alienating the resource.

“Tax dependent” is described under 42 CFR 435.4.

“Taxpayer” means a person who expects to file a tax return, and does not expect to be claimed as a tax dependent by another person.

“Title IV-D” means Title IV-D of the Social Security Act, 42 U.S.C. 651-669, the statutes establishing the child support enforcement and paternity program.

“Title IV-E” means Title IV-E of the Social Security Act 42 U.S.C. 670-679, the statutes establishing the foster care and adoption assistance programs.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1). Punctuation error corrected with a parenthesis added at the beginning of the definition “Caretaker” (Supp. 20-4).

R9-22-1402. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1403. Agency Responsible for Determining Eligibility

The Administration or its designee shall determine eligibility under the provisions of this Article. The Administration or its designee shall not discriminate against an applicant or member because of race, color, creed, religion, ancestry, national origin, age, sex, or physical or mental disability.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1404. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R.

294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1405. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1406. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1407. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 19 A.A.R. 3309, November 30, 2013 (Supp. 13-4). Section repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014; this Section was slated to be codified as repealed in Supp. 14-1. Due to a clerical error the Section wasn't repealed in this Chapter until Supp. 20-4.

R9-22-1408. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

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R9-22-1409. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1410. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Section repealed; new Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1411. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1412. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by exempt rulemaking at 10 A.A.R. 23, effective December 9, 2003 (Supp. 03-4). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1413. Time-frames, Reinstatement of an Application

- A.** The Administration or its designee shall complete an eligibility determination under R9-22-306(A)(1) unless:
1. The applicant is pregnant. The Administration or its designee shall complete an eligibility determination for a pregnant woman within 20 days after the application date unless additional information is required to determine eligibility; or
 2. The applicant is in a hospital as an inpatient at the time of application. Within seven days of the Administration or its designee's receipt of a signed application the Adminis-

tration or its designee shall complete an eligibility determination if the Administration or its designee does not need additional information or verification to determine eligibility.

- B.** The Administration or its designee shall reopen or reinstate eligibility of an individual who is discontinued for failure to submit the renewal form or necessary information, without requiring a new application, if the individual submits the renewal form or necessary information within 90 days after the date of discontinuance.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2). Amended by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1414. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1415. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1416. Effective Date of Eligibility

- A.** Except as provided in R9-22-303 and subsections (B), (C) and (D), the effective date of eligibility is the first day of the month that the applicant files an application if the applicant is eligible that month, or the first day of the first eligible month following the application month except for:
1. The MED program under R9-22-1439, and
 2. Eligibility for a newborn under R9-22-1429.
- B.** The effective date of eligibility for an applicant who moves into Arizona is no sooner than the date Arizona residency is established.
- C.** The effective date of eligibility for an inmate applying for medical coverage is the date the applicant no longer meets the definition of an inmate of a public institution.
- D.** The effective date of eligibility for a newborn is no sooner than the date of birth.

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New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1417. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1418. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1419. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1419.01. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1419.02. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1419.03. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1419.04. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Section repealed by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1420. Income Eligibility Criteria

- A.** Evaluation of income. In determining eligibility, the Administration or its designee shall evaluate the following types of income received by a person identified in subsection (B):
 1. Earned income, including in-kind income, before any deductions. For purposes of this Section, in-kind income means room, board, or provision for other needs in exchange for work performed. The person identified in subsection (B) shall ensure that the provider of the in-kind income establishes and verifies the monetary value of the item provided. The provider may be, but is not limited to:
 - a. A landlord who provides all or a portion of rent or utilities in exchange for services;
 - b. A store owner who gives goods such as groceries, clothes, or furniture in exchange for services; or
 - c. An individual who trades goods such as a car, tools, trailer, building material, or gasoline in exchange for services;
 2. Self-employment income under R9-22-1424, including gross business receipts minus business expenses; and
 3. Unearned income, including deemed income under R9-22-317 from the sponsor of a non-citizen applicant.
- B.** MAGI income group. The Administration or its designee shall include the following persons in the MAGI income group:
 1. When the applicant is a taxpayer include:
 - a. The applicant,
 - b. Everyone the applicant expects to claim as a tax dependent for the current year, and
 - c. The applicant's spouse, when living with the applicant.
 2. Except as provided in subsection (B)(3), when the applicant expects to be claimed as a tax dependent for the current year include:
 - a. The taxpayer claiming the applicant,
 - b. Everyone else the taxpayer expects to claim as a tax dependent,
 - c. The taxpayer's spouse when living with the taxpayer, and
 - d. The applicant's spouse, when living with the applicant.
 3. When any of the following apply, determine the persons whose income is included as described in subsection (4)(a) or (4)(b) based on the applicant's age:
 - a. The applicant expects to be claimed as a tax dependent by someone other than a spouse or natural, adopted or step-parent;
 - b. The applicant is under age 19, expects to be claimed as a tax dependent by a natural, adopted or step-parent, lives with more than one such parent and the parents do not expect to file a joint tax return; or

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- c. The applicant is under age 19 and expects to be claimed as a tax dependent by a non-custodial parent.
- 4. When the applicant is not a taxpayer, does not expect to be claimed as a tax dependent and is:
 - a. Under age 19. Include the income of the applicant and when living with the applicant, the applicant's:
 - i. Spouse;
 - ii. Natural, adopted and step-children;
 - iii. Natural, adopted and step-parents;
 - iv. Natural, adopted and step-siblings; and
 - b. Age 19 or older. Include the income of the applicant and when living with the applicant, the applicant's:
 - i. Spouse;
 - ii. Natural, adopted and step-children under age 19.
- 5. When the applicant is a pregnant woman, the Administration or its designee shall also include the number of expected babies only for the pregnant woman's income group.
- 6. When the taxpayer cannot reasonably establish that a person is the taxpayer's tax dependent, inclusion of the person in the taxpayer's MAGI income group is determined as provided in subsection (B)(4).
- C. A person whose income is counted. The Administration or its designee shall count the MAGI-based income of all members of an applicant's MAGI income group with the following exceptions:
 - 1. The income of an individual who is included in the MAGI income group of his or her natural, adoptive or step parent and is not expected to be required to file a tax return for the year in which eligibility for Medicaid is being determined, is not counted whether or not the individual files a tax return.
 - 2. The income of a tax dependent other than the taxpayer's spouse or biological, adopted or stepchild who is not expected to be required to file a tax return for the year in which eligibility for Medicaid is being determined is not counted when the tax dependent is included in the taxpayer's MAGI income group, whether or not the tax dependent files a tax return.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1421. MAGI based Income Eligibility

- A. In determining eligibility, if an individual would otherwise be ineligible under this Article due to excess income, the Administration or its designee shall subtract an amount equivalent to five percentage points of the Federal Poverty Level (FPL) from the household income.
- B. A person is eligible under this Article when:
 - 1. Subject to subsection (A), the monthly household income does not exceed the appropriate FPL;
 - 2. If ineligible under (B)(1), the household income determined in accordance with 26 CFR 1.36B-1(e) is below 100 percent FPL; or

- 3. For eligibility under R9-22-1437, the person's income during the period defined in R9-22-1437(C) does not exceed the FPL under R9-22-1437(B).

- C. The Administration or its designee shall consider the following factors when determining the income period to use to determine monthly income:
 - 1. Type of income,
 - 2. Frequency of income,
 - 3. If source of income is new or terminated, or
 - 4. Income fluctuation.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1422. Methods for Calculating Monthly Income

- A. Projecting income.
 - 1. Description. Projecting income is a method of determining the amount of income that a person will receive.
 - 2. Calculation. The Administration or its designee shall project income by:
 - a. Converting income to a monthly equivalent,
 - b. Using unconverted income, or
 - c. Prorating income to determine a monthly equivalent.
 - 3. Exclusion. When calculating projected monthly income, the Administration or its designee shall exclude an unusual variation in income under R9-22-1424(E), except for a month in which the variation is anticipated to occur.
- B. Averaged income.
 - 1. Description. Averaging income proportionally distributes the person's income received on a regular basis.
 - 2. Calculation. To average income, the Administration or its designee shall add the amount of the income and divide by the total number of pay periods. If the amount of income received per pay period fluctuates, and the fluctuation is expected to continue, the Administration or its designee shall:
 - a. Use the averaged weekly or bi-weekly amounts to convert weekly or bi-weekly income to a monthly equivalent;
 - b. Use the averaged monthly or semi-monthly amounts to project monthly income; and
 - c. Use the averaged hours worked and multiply the average by the current rate of pay. If there is a change in the rate of pay, use the new rate of pay when calculating projected income under subsection (A).
- C. Prorated income.
 - 1. Description. Prorated income evenly distributes a person's income over the period the income is intended to cover to calculate a monthly equivalent.
 - 2. Calculation. To prorate income, the Administration or its designee shall divide the total amount of the person's income received during the period by the number of months that the income is intended to cover.
- D. Converted income.

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1. Description. Converted income is income received weekly or biweekly that is changed to a monthly equivalent.
2. Calculation.
 - a. The Administration or its designee shall average the weekly or bi-weekly income amounts before converting to the monthly equivalent if the person's past income fluctuates and the fluctuation is expected to recur.
 - b. To convert income paid weekly to a monthly equivalent, the Administration or its designee shall multiply the weekly average by 4.3 weeks.
 - c. To convert income paid bi-weekly to a monthly equivalent, the Administration or its designee shall multiply the bi-weekly average by 2.15 weeks.

E. Unconverted income.

1. Description. Unconverted income is the actual amount of income received or projected to be received during a month.
2. Calculation. The Administration or its designee shall sum the actual amount of income received or projected to be received during a month.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1423. Calculations and Use of Methods Listed in R9-22-1422 Based on Frequency of Income

- A. Monthly income.** If otherwise countable income is received monthly or in a lump sum, the Administration or its designee shall use the unconverted method for calculating monthly income.
 1. Lump sum means a nonrecurring payment that serves as a complete payment.
 2. Lump sum payments include but are not limited to: rebates or credits; inheritances; insurance settlements; and payments for prior months from such sources as Social Security, Railroad Retirement, or other benefits.
 3. A lump sum payment may include a portion intended for the current month.
- B. Weekly income.** If income is received weekly, the Administration or its designee shall convert the income to a monthly equivalent under R9-22-1422(D).
- C. Bi-weekly income.** If income is received bi-weekly, the Administration or its designee shall convert the income to a monthly equivalent under R9-22-1422(D).
- D. Semi-monthly or daily income.** If income is received semi-monthly or daily, the Administration or its designee shall use the unconverted method for calculating monthly income under R9-22-1422(E).
- E. Bimonthly, quarterly, semi-annual, or annual income.** If income is received bimonthly, quarterly, semi-annually, or annually, the Administration or its designee shall prorate the income received or projected to be received under R9-22-1422(C).

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1424. Use of Methods Listed in R9-22-1423 Based on Type of Income**A. New income.**

1. Description. New income is income received from a new source during the first calendar month that the income is received from the source.
2. Calculating monthly income.
 - a. If a full month's income is received, the Administration or its designee shall use the appropriate method described in R9-22-1423 to calculate the monthly income.
 - b. If less than a full month's income is received, the Administration or its designee shall use the unconverted method to calculate the monthly income.

B. Terminated income.

1. Terminated income is income received during the last calendar month when no more income is expected to be received from that source.
2. Calculating monthly income.
 - a. If a full month's income is received, the Administration or its designee shall use the appropriate method described in R9-22-1423 to calculate the monthly income.
 - b. If less than a full month's income is received, the Administration or its designee shall use the unconverted method to calculate the monthly income.

C. Break in income.

1. Description. A break in income is a break in established frequency of income of one calendar month or more.
2. Calculating monthly income.
 - a. If a full month's income is received, the Administration or its designee shall use the appropriate method described in R9-22-1423 to calculate the monthly income.
 - b. If less than a full month's income is received, the Administration or its designee shall use the unconverted method to calculate the monthly income.

D. Contract or regular seasonal income.

1. Descriptions.
 - a. Contract income is income a person earns under a contract that specifies a length of time the contract covers, the amount of income to be paid, and the frequency of payment.
 - b. Regular seasonal income is income that fluctuates based on season or is only received during a certain season, and can reasonably be anticipated based on history or other verification.
2. Calculating monthly income.
 - a. When the contract or regular seasonal income will not fluctuate over the 12-month period beginning with the month the application or renewal is submitted, the Administration or its designee shall use the appropriate income calculation method in R9-22-1423 for the frequency of receipt.

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- b. When the contract or regular seasonal income is anticipated to fluctuate over the 12-month period beginning with the month the application or renewal is submitted, the Administration or its designee shall calculate the monthly income as follows:

- i. For a one-time contract that ends between the month the application or renewal is submitted and the end of the calendar year, divide the income that will be received from the application or renewal month through the end of the calendar year by the number of months in that period to get a monthly equivalent;
- ii. For contracts that extend into the next calendar year, contracts that are anticipated to be renewed and regular seasonal income, the Administration or its designee shall divide the income that will be received in the 12-month period beginning with the application or renewal month by 12 to get the monthly equivalent.

E. Unusual variation in the amount of income.

1. Description. Unusual variation is an amount of income that is different from the established amount received and is not projected to continue or recur.
2. Calculating monthly income.
 - a. When calculating income for the month in which an unusual variation in income occurs, the Administration or its designee shall include the unusual variation in the income calculation.
 - b. When an unusual variation in income occurs during the month, the Administration or its designee shall use the converted method for calculating monthly income if income is received weekly or bi-weekly.
 - c. When projecting income for the months following the month in which the unusual variation occurs, the Administration or its designee shall exclude the unusual variation in income from the income calculation.

F. Self-employment income.

1. Description. Self-employment income is income a person earns from the person's own trade or business less allowable expenses.
2. Calculating monthly income. The Administration or its designee shall prorate the income under R9-22-1422.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1425. Repealed

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192,

with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1426. Repealed

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1427. Eligibility Under MAGI

- A. Caretaker Relatives.** An individual is eligible for AHCCCS medical coverage as a Caretaker Relative when the individual meets the following requirements:

1. Is a caretaker relative as defined in R9-22-1401.
2. The total countable income under R9-22-1420(B) does not exceed 106 percent of the FPL for the number of people in the MAGI income group.

B. Continued medical coverage.

1. A caretaker relative eligible under subsection (A) and all dependent children eligible under subsection (D) in the caretaker relative's MAGI income group are entitled to continued AHCCCS coverage for up to 12 months if eligible under subsection (B)(1)(c)(i) and up to four months if eligible under subsection (B)(1)(c)(ii) if the MAGI income group's income exceeds the limit for the income group's size and the following conditions are met:
 - a. The caretaker relative still lives with a dependent child;
 - b. A caretaker relative in the income group received AHCCCS medical coverage under this Section for three calendar months out of the most recent six months; and
 - c. The loss of AHCCCS coverage under this Section is due to:
 - i. Increased earned income of a caretaker relative, or
 - ii. Increased spousal support.
2. An applicant may be added to the continued medical coverage under subsection (B)(1), if the applicant did not reside in the household at the time continued medical coverage under this Section was determined and the applicant is:
 - a. The spouse or dependent child of a caretaker relative receiving continued medical coverage, or
 - b. The parent of a dependent child who is receiving continued medical coverage.

- C. Pregnant Women.** A pregnant woman is eligible for AHCCCS medical coverage when the total countable income under R9-22-1420(B) does not exceed 156 percent of the FPL for the number of people in the MAGI income group. A pregnant woman who applies for AHCCCS medical coverage during the pregnancy or postpartum period and is determined eligible, remains eligible throughout the postpartum period. The postpartum period begins the day the pregnancy terminates and ends the last day of the month in which the 60th day following pregnancy termination occurs.

- D. Children.** A child less than 19 years of age is eligible for AHCCCS medical coverage when the total countable income under

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R9-22-1420(B) does not exceed the following percentage of the FPL for the number of people in the MAGI income group:

1. 147 percent for a child under one year of age,
2. 141 percent for a child age one through five years of age, or
3. 133 percent for all other persons.

E. Adults. An individual is eligible for AHCCCS medical coverage when the individual meets the following eligibility requirements:

1. Is 19 years of age or older but less than 65 years of age;
2. Is not pregnant;
3. Is not eligible for AHCCCS Medical Coverage under any other coverage group listed in 42 U.S.C. 1396a(a)(10)(A)(i);
4. Is not entitled to or enrolled for Medicare benefits under Part A or Part B;
5. The total countable income under R9-22-1420(B) does not exceed 133 percent of the FPL for the number of people in the MAGI income group; and
6. When the individual is a caretaker relative, but has income exceeding the limit in subsection (A)(2), each child under age 19 living with the individual is receiving AHCCCS medical coverage or KidsCare, or is enrolled in minimum essential coverage as defined in 42 CFR 435.4.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Section R9-22-1427 repealed; new Section R9-22-1427 made by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1428. Postpartum Extended Eligibility

- A.** Eligibility for 12-months postpartum coverage. Individuals who applied and were determined eligible while pregnant, including prior quarter months under R9-22-303(A), remain eligible through the last day of the month in which a 12-month postpartum period, beginning on the last day of the pregnancy, ends.
- B.** Copayments during the Postpartum Extended Eligibility period. Individuals eligible under this section are subject to copayments after the end of the 60-day postpartum period described in R9-22-1427.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1). New Section made by final rulemaking at 29 A.A.R. 1866 (August 25, 2023), with an immediate effective date of August 1, 2023 (Supp. 23-3).

R9-22-1429. Eligibility for a Newborn

A child born to a mother eligible for and receiving medical coverage under this Article, Article 15 of the Chapter, or 9 A.A.C. 28, is

automatically eligible for AHCCCS medical coverage for a period not to exceed 12 months. Automatic eligibility begins on the child's date of birth and ends with the last day of the month in which the child turns age one.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1). Amended by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1430. Repealed

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1431. Repealed

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 2633, effective July 10, 2007 (Supp. 07-3). Amended by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2). Amended by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1). Repealed by final rulemaking at 21 A.A.R. 1241, effective September 5, 2015 (Supp. 15-3).

R9-22-1432. Young Adult Transitional Insurance

An individual is eligible for AHCCCS medical coverage when the individual meets all of the following eligibility requirements:

1. Is 18 through 25 years of age;
2. Was in the custody of the Department of Economic Security under A.R.S. Title 8, Chapter 5 or Chapter 10 on the individual's 18th birthday;
3. Was eligible for and receiving AHCCCS Medical Coverage on the individual's 18th birthday; and
4. Is not eligible for AHCCCS Medical Coverage under 42 U.S.C. 1396a(a)(10)(A)(i)(I) - (VII).

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192,

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with an immediate effective date of January 7, 2014
(Supp. 14-1).

R9-22-1433. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1434. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Section repealed by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4).

R9-22-1435. Eligibility for a Person With Medical Expenses Whose Income is Over 100 Percent FPL

An applicant who is not eligible for AHCCCS medical coverage due to excess income may become AHCCCS eligible by deducting medical expenses from the applicant's income. This coverage is called Medical Expense Deduction (MED).

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1436. MED Family Unit

- A.** For the purpose of this Section, a child is an unmarried person under age 18.
- B.** The Department shall consider each of the following to be a family when living together:
 1. A parent and the parent's children;
 2. A married couple without children;
 3. A married couple and the children of either or both spouses;
 4. Unmarried parents who live with at least one child in common, and the parents' other children, whether in common or not; and
 5. A person without children.
- C.** If an applicant is pregnant, the family unit includes the number of unborn children.
- D.** A child of the children included in subsections (B)(1), (B)(3), or (B)(4) is considered part of the family unit when living together.
- E.** The Department shall not include a SSI-cash recipient in the MED family unit even if the SSI-cash recipient is a parent, spouse, or child.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section

repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1437. MED Income Eligibility Requirements

- A.** Income exclusions. The exclusions in R9-22-1420(C) apply to the MED family unit.
- B.** Income standard.
 1. The Department shall divide the annual FPL for the MED family unit that is in effect during each month of the income period by 12 to determine the monthly FPL.
 2. The Department shall add the monthly FPLs for the income period and multiply the resulting amount by 40 percent.
 3. Changes to the annual FPL are implemented in April of each year.
- C.** Income period. The income period is the month of application and the next two months. The Department shall add together the three months' income to establish the MED family unit's income amount.
- D.** Medical expense deduction period. The medical expense deduction period is a three-month period consisting of:
 1. For a new application, the month before the application month, the month of application, and month following the application month; or
 2. For a MED eligibility review, the last month of the prior MED eligibility period and the following two months.
- E.** The Department shall calculate the amount of countable monthly income as follows:
 1. Subtract a \$90 cost of employment allowance from the gross amount of earned income for each person whose earned income is counted;
 2. Disregard from the remaining earned income an amount billed by the provider for the care of each dependent child under age 18 or incapacitated adult member of the MED family unit if the care is for the purpose of allowing the person to work. If more than one person in the household is responsible for and billed for the care of a dependent child, the disregard may be split between the wage earners if splitting the disregard is to the benefit of the family, but shall not exceed the maximum disregards as follows:
 - a. A maximum of \$200 for a child under age two and \$175 for other dependents for a wage-earner employed full-time (86 or more hours per month); and
 - b. A maximum of \$100 for a child under age two, and \$88 for other dependents for a wage earner employed part-time (less than 86 hours a month);
 3. Add the remaining earned income for each MED family member to the unearned income of all MED family members;
 4. Compare the MED family's unit countable income amount to the income standard in subsection (B). The difference is the amount of medical expenses the family shall incur during the medical expense deduction period to become eligible;
 5. Subtract allowable medical expense deductions that were incurred by:
 - a. A member of the MED family unit;
 - b. A deceased spouse or minor child of a MED family unit if this person would have been a member of the MED unit during the MED expense deduction period;

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- c. A person who was a minor child of a MED family unit member when the expense was incurred but who is no longer a minor child; or
- d. A minor child, including a child who is a runaway, who left home before the date of application to live with someone other than a parent; and
- 6. Compare the net MED family income to the income standard listed in subsection (B).
- F. The family is eligible if the net income in subsection (E)(6) does not exceed the income standard in subsection (B).

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1438. MED Resource Eligibility Requirements

- A. Including countable resources. The Department shall include the resources not excluded that belong to and are available to members of the family of a qualified alien under A.R.S. § 36-2903.03 and the sponsor and sponsor's spouse of a person who is a qualified alien.
- B. Ownership and availability. The Department shall evaluate the ownership of resources to determine the availability of resources to a person listed in subsection (A).
 - 1. Jointly owned resources with ownership records containing the words "and" or "and/or" between the owners' names are available to each owner except if one of the owners refuses to sell. A consent to sale is not required if all owners are members of the MED family unit.
 - 2. Jointly owned resources with ownership records containing the word "or" between the owners' names are presumed to be available in full to each owner. The applicant or member may rebut the presumption by providing clear and convincing evidence of intent to establish a different type of ownership. If the presumption is rebutted, the resource is available to the owners:
 - a. Consistent with the intent of the owners, or
 - b. Based on each owner's proportionate net contribution if there is not clear and convincing evidence of a different allocation.
 - 3. The Department shall establish availability of a trust under 42 U.S.C. 1396p(d)(4)(A) or (C).
- C. Unavailability. The Department shall consider the following resources unavailable:
 - 1. Property subject to spendthrift restriction, such as:
 - a. Accounts established by the SSA, Veteran's Administration, or similar sources that mandate that the funds in the account be used for the benefit of a person not residing with the MED family unit; or
 - b. Trusts established by a will or funded solely by the income and resources of someone other than a member of the MED family unit.
 - 2. A resource being disputed in a divorce proceeding or probate matter;
 - 3. Real property located on a Native American reservation;
 - 4. A resource held by a conservator to the extent court-imposed restrictions make the resource unavailable to the applicant, member, or member of the family unit for:
 - a. Medical care,
 - b. Food,
 - c. Clothing, or
 - d. Shelter.
- D. Resource exclusion. The Department shall exclude the following resources from the calculation of resources under subsection (E):
 - 1. One burial plot for each person listed in R9-22-1436;
 - 2. Household furnishings and personal items that are necessary for day-to-day living;
 - 3. Up to \$1500 of the value of one prepaid funeral plan for each person listed in R9-22-1436 that specifically covers only funeral-related expenses as evidenced by a written contract;
 - 4. The value of one motor vehicle regularly used for transportation. If the MED family unit owns more than one vehicle, the exclusion is applied to the vehicle with the highest equity value;
 - 5. The value of a vehicle used to earn income and not used simply for transportation to and from employment;
 - 6. The value of a vehicle in which a SSI-cash recipient has an ownership interest; and
 - 7. The value of any vehicle used for medical treatment, employment, or transportation of a SSI-cash disabled child, and that is excluded by SSI for that reason.
 - 8. Funds set aside in an Individual Development Account under 6 A.A.C. 12, Article 4; and
 - 9. Any other resource specifically excluded by federal law.
- E. Calculation of resources. The Department shall determine the value of all household resources as follows:
 - 1. Calculate the total amount of countable liquid resources;
 - 2. Calculate the equity value of each countable non-liquid resource. The Department shall determine the equity value of a countable non-liquid resource by subtracting the amount of valid encumbrances on that resource from:
 - a. The market value of real property if there is no assessor's evaluation of the property,
 - b. The market value of real property if the assessor's value of the real property does not include the value of permanent structures on that property,
 - c. The assessor's full cash value if subsections (E)(2)(a) and (E)(2)(b) do not apply, and
 - d. The market value of a non-liquid resource that is not real property;
 - 3. Not assign an equity value to a resource that is less than zero; and
 - 4. Determine the MED family unit's resources by adding the totals determined in subsections (1) and (2).
- F. Resource standard to be eligible for MED. A person is not eligible for MED if the resources determined in subsection (E) exceed \$100,000 or if more than \$5,000 are liquid resources.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1439. MED Effective Date of Eligibility

- A. A MED family unit is eligible on the day the income and resource eligibility requirements are met but no earlier than the first day of the month of application. If the family unit meets the income requirements in the application month but does not meet the resource limit until the following month, the family unit's effective date of eligibility is the first day of the month following the month of application.
- B. The Department shall adjust the effective date of eligibility under subsection (A) to an earlier date if:
 - 1. A member presents verification of additional allowable medical expenses incurred on an earlier date during the medical expense deduction period that allow the member to meet the income requirements, and
 - 2. The member presents the verification within 60 days of approval of eligibility under this Section.

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- C. The Department shall not adjust an effective date of eligibility more than one time per application.
- D. The Department shall adjust the effective date no later than 30 days after the end of the 60-day period under subsection (B)(2).
- E. The Department shall deny an application and provide the applicant a denial notice when the applicant does not meet the MED requirements under this Article during the month of application or the month following the month of application.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1440. MED Eligibility Period

The Department shall approve eligibility for six months. Changes in circumstances do not affect eligibility for the first three months.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1441. Eligibility Appeals

- A. Adverse actions. An applicant or member may appeal by requesting a hearing from the Department concerning any of the following adverse actions:
 1. Complete or partial denial of eligibility under R9-22-1413;
 2. Suspension, termination, or reduction of AHCCCS medical coverage under R9-22-1415;
 3. Delay in the eligibility determination beyond the timeframes under this Article;
 4. The imposition of or increase in a premium or copayment; or
 5. The effective date of eligibility.
- B. Notice of Adverse Action. The Department shall personally deliver or send, by regular mail, a Notice of Adverse Action to the person affected by the action. For the purpose of this Section, the date of the Notice of Adverse Action shall be the date of personal delivery to the applicant or the postmark date, if mailed.
- C. Automatic change and hearing rights.
 1. An applicant or a member is not entitled to a hearing if the sole issue is a federal or state law requiring an automatic change adversely affecting some or all recipients.
 2. An applicant or a member is entitled to a hearing if a federal or state law requires an automatic change and the applicant or member timely files an appeal that alleges a misapplication of the facts to the law.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1442. Cessation of MED Coverage

The Department shall not approve any individual or family who has applied on or after May 1, 2011 as eligible for MED coverage. With respect to any applications that are pending as of May 1, 2011, the Department shall not approve any individual or family as eligible for MED coverage who has not met all eligibility requirements prior to May 1, 2011.

Historical Note

New Section made by exempt rulemaking at 17 A.A.R. 1028, effective May 1, 2011 (Supp. 11-2).

R9-22-1443. Repealed**Historical Note**

New Section made by exempt rulemaking at 17 A.A.R. 1345, effective July 8, 2011 (Supp. 11-3). Amended by exempt rulemaking at 17 A.A.R. 2624, effective July 8, 2011 (Supp. 11-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

ARTICLE 15. AHCCCS MEDICAL COVERAGE FOR PEOPLE WHO ARE AGED, BLIND, OR DISABLED**R9-22-1501. General Information**

- A. General. The Administration shall determine eligibility for AHCCCS medical coverage for the following applicants or members using the eligibility criteria and requirements in this Article and Article 3:
 1. A person who is aged, blind, or disabled and does not receive SSI cash; and
 2. A person terminated from the SSI cash program under R9-22-1505.

- B. Definitions. In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:
 1. A person who is aged, blind, or disabled and does not receive SSI cash; and
 2. A person terminated from the SSI cash program under R9-22-1505.

- B. Definitions. In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:
 1. A person who is aged, blind, or disabled and does not receive SSI cash; and
 2. A person terminated from the SSI cash program under R9-22-1505.

"Aged" means a person who is 65 years of age or older as specified in 42 U.S.C. 1382c(a)(1)(A).

"Blind" means a person who has been determined blind by the Department of Economic Security, Disability Determination Services Administration, under 42 U.S.C. 1382c(a)(2) and 42 CFR 435.530 as of October 1, 2012, which are incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.

"Disabled" means a person who has been determined disabled by the Department of Economic Security, Disability Determination Services Administration, under 42 U.S.C. 1382c(a)(3)(A) through (E) and 42 CFR 435.540 as of October 1, 2012, which are incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.

- C. Eligibility effective date.
 1. Eligibility is effective on the first day of the month that all eligibility requirements are met, including the period described under R9-22-303.
 2. The effective date of eligibility for an applicant who moves into Arizona is no sooner than the date Arizona residency is established.
 3. The effective date of eligibility for an inmate applying for medical coverage is the date the applicant no longer meets the definition of an inmate of a public institution.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Amended by exempt rulemaking at 10 A.A.R. 23, effective December 9, 2003 (Supp. 03-4). Amended by exempt rulemaking at 10

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A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, effective January 7, 2014 (Supp. 14-1). Amended by final rulemaking at 19 A.A.R. 3309, effective November 30, 2013 (Supp. 13-4). Section amended by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014; amendments to this Section were slated to be codified in Supp. 14-1 but due to a clerical error, were not published. The amendments to this Section were published in Supp. 20-4 and no additional amendments have been made to this Section since January 7, 2014 (Supp. 20-4).

R9-22-1502. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Repealed by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1503. Financial Eligibility Criteria

- A.** General income eligibility. Except as provided under subsection (B) of this rule, the Administration or its designee shall count the identified income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K.
- B.** Exceptions.
 1. In-kind support and maintenance under 42 U.S.C. 1382a(a)(2)(A) is excluded.
 2. For a person living with a spouse, the Administration or its designee calculates net income for an eligible couple under 20 CFR 416.1160 as of April 1, 2013, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments, even if the spouse is not eligible for or applying for SSI or coverage under this Article.
 3. In determining the net income of a married couple living with a child or the net income of a person who is not living with a spouse but living with a child, a child allocation is allowed as a deduction from the combined net income of the couple for each child regardless of whether the child is ineligible or eligible. For the purposes of this Section, a child means a person who is unmarried, natural or adopted, and under age 18 or under age 22 if a full-time student. Each child's allocation deduction is reduced by that child's income, including public income maintenance payments, using the methodology under 20 CFR 416.1163(b)(1) and (2) as of April 1, 2013, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
 4. In determining the income deemed available to an applicant who is a child from an ineligible parent or parents, an allocation for each eligible or ineligible child of the parent is allowed as a deduction from the parent's income under 20 CFR 416.1165(b). The child's allocation is

reduced by that child's income, including public income maintenance payments.

5. In determining the income of a person who receives an annual Title II Cost of Living Allowance (COLA) increase, the COLA amount is disregarded from January until the Administration applies the effective income limits under R9-22-1504 based on the FPL for the calendar year.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1504. Eligibility For A Person Who is Aged, Blind, or Disabled

- A.** To be eligible for AHCCCS medical coverage, an applicant shall meet the conditions of eligibility and requirements in this Article and:
 1. Meet one of the income tests described in subsection (B) or (C), or
 2. The special requirements in R9-22-1505.
- B.** The Administration shall determine whether the applicant's countable income, as described in R9-22-1503, is less than or equal to 100 percent of the SSI FBR, as adjusted annually.
- C.** The Administration shall determine whether the applicant's countable income, as described in R9-22-1503, without deducting the amount from earned income under 42 U.S.C. 1382a(b)(4)(B)(iii), is less than or equal to 100 percent FPL as adjusted annually.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4).

R9-22-1505. Eligibility for Special Groups

- A.** The following are considered special groups:
 1. A person meeting the requirements in A.R.S. § 36-2903.03 who:
 - a. Is aged, blind, or disabled under 42 CFR 435.520, 42 CFR 435.530, or 42 CFR 435.540 as of October 1, 2012, which are incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
 - b. Received SSI cash or AHCCCS medical coverage under this subsection, or subsections (A)(2), (A)(3), or (A)(4) on or before August 21, 1996;
 - c. Was residing in the United States under color of law on or before August 21, 1996; and
 - d. Meets the requirements under this Article;
 2. A disabled child (DC) under 42 U.S.C. 1396a(a)(10)(A)(i)(II). A disabled child is a child who:
 - a. Was receiving SSI cash benefits as a disabled child on August 22, 1996;

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- b. Lost SSI cash benefits effective July 1, 1997, or later, due to a disability determination under Section 211(d) of Subtitle B of P.L. 104-193;
 - c. Continues to meet the disability requirements for a child that were in effect on August 21, 1996; and
 - d. Meets the requirements under this Article;
- 3. A disabled adult child (DAC), under 42 U.S.C. 1383c(c) who:
 - a. Was determined disabled by the Social Security Administration before attaining the age of 22 years,
 - b. Became entitled to or received an increase in child's insurance benefits under Title II of the Act on the basis of blindness or disability,
 - c. Was terminated from SSI cash benefits due to entitlement to or an increase in income under Title II of the Act,
 - d. Meets the requirements under this Article, and
 - e. Is 18 years of age or older;
- 4. A disabled widow or widower (DWW) under 42 U.S.C. 1383c(b) and (d) who:
 - a. Is blind or disabled,
 - b. Is ineligible for Medicare Part A benefits,
 - c. Received SSI cash benefits the month before Title II of the Act benefit payments began,
 - d. Meets the requirements under this Article;
 - e. Is at least 50 years of age but under age 65; and
 - f. Is unmarried.
- 5. Under 42 CFR 435.135, a person who:
 - a. Is aged, blind, or disabled;
 - b. Receives benefits under Title II of the Act;
 - c. Received SSI cash benefits in the past;
 - d. Received SSI cash benefits and Title II of the Social Security Act benefits concurrently for at least one month anytime after April 1977;
 - e. Became ineligible for SSI cash benefits while receiving SSI and benefits under Title II of the Act concurrently; and
 - f. Meets the requirements under this Article.
- B. Income for special groups.**
 - 1. Except as provided in subsection (B)(2), income eligibility is determined using the income criteria in R9-22-1503.
 - 2. Exceptions to income for special groups.
 - a. For a person in the DAC coverage group under subsection (A)(3), the applicant's Title II of the Social Security Act benefits are disregarded in determining income eligibility under 42 U.S.C. 1383c(c).
 - b. For a person in the DWW coverage group, under subsection (A)(4), the applicant's Title II of the Social Security Act benefits are disregarded in determining income eligibility under 42 U.S.C. 1383c(b) and (d).
 - c. For an applicant or member in the coverage group under subsection (A)(5), the portion of the applicant's or member's Title II of the Social Security Act benefits attributed to cost-of-living adjustments received by the applicant since the effective date of SSI ineligibility is disregarded in determining income eligibility under 42 CFR 435.135.
- C. 100 percent FBR.** As a condition of eligibility for all special groups, countable income shall be equal to or less than 100 percent of the SSI FBR, as adjusted annually.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 11 A.A.R. 4942, effective December 31, 2005 (Supp. 05-4). Amended by final rulemaking at 20 A.A.R. 192, with an immediate effective date of January 7, 2014 (Supp. 14-1).

R9-22-1506. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1507. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1508. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

ARTICLE 16. HOSPITAL PRESUMPTIVE ELIGIBILITY**R9-22-1601. General Eligibility Requirements**

- A.** Notwithstanding Article 3, a qualified hospital may determine Hospital Presumptive Eligibility (HPE), on the basis of preliminary information, that an individual is eligible for AHCCCS medical coverage during the presumptive eligibility period described in this section, if the individual is a United States citizen or eligible qualified alien, and the individual is:
 - 1. Pregnant with gross household income that does not exceed 156% of the FPL;
 - 2. An adult who meets the requirements of R9-22-1427(E);
 - 3. A caretaker relative as defined in R9-22-1401(B) with gross household income that does not exceed 106% of the FPL;
 - 4. Under age 19 with gross household income that does not exceed the limit set in R9-22-1427(D) for the child's age;
 - 5. A woman screened for breast or cervical cancer by an Arizona program of the National Breast and Cervical Cancer Early Detection Program who meets the requirements of R9-22-2003(A); or
 - 6. A former foster care child who meets the requirements of R9-22-1432.
- B.** Definitions. In addition to definitions contained in R9-22-101 and A.R.S. § 36-2901, the words and phrases in this Article have the following meanings unless the context explicitly requires another meaning: "Qualified hospital" means a hospital that has signed an agreement with the Administration to process HPE applications and has not been disqualified.
- C.** Application Process:
 - 1. Right to apply. A person may apply for presumptive eligibility for AHCCCS medical coverage by submitting an Administration-approved application to the qualified hospital.

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2. Application. To initiate the application process, the qualified hospital will accept an application from the applicant, an adult who is in the applicant's household, as defined in 42 CFR 435.603(f), or family, as defined in section 36B(d)(1) of the Internal Revenue Service (IRS) Code, an authorized representative, or if the applicant is a minor or incapacitated, someone acting responsibly for the applicant by submitting a written or online application under 42 CFR 435.907.
- D. To establish presumptive eligibility, an applicant must complete and submit an AHCCCS-approved presumptive eligibility application signed under penalty of perjury to a qualified hospital. The applicant must attest to the name(s), relationship(s), and income of all persons in the household. In addition, the applicant must provide and attest to the following information regarding each household member on whose behalf AHCCCS medical coverage is sought:
 1. The individual's date of birth;
 2. Whether the individual is pregnant;
 3. Whether the individual has been determined eligible for Breast and Cervical Cancer Treatment Program, described under Article 20;
 4. Whether the individual is a former foster child, described under R9-22-1432;
 5. The U.S. citizenship status or eligible qualified alien status under A.R.S. 36-2903.03 of the individual; and
 6. The individual's permanent and mailing addresses;
 7. The individual's Arizona residency status; and
 8. Whether the individual has Medicare coverage.
- E. Presumptive eligibility begins on the date the hospital determines an individual's presumptive eligibility and ends with the earlier of:
 1. In the case of an individual on whose behalf an application has been submitted to AHCCCS or its designee under Article 3, the day on which AHCCCS or its designee makes a determination on that application; or
 2. In the case of an individual on whose behalf an application has not been submitted to AHCCCS or its designee under Article 3, on the last day of the following month in which the determination of presumptive eligibility was made by the qualified hospital.
- F. An individual may not be determined presumptively eligible more often than once every two years.
- G. Coverage and reimbursement of services.
 1. The Administration shall provide coverage of medically necessary services described under Article 2 to persons determined eligible for HPE on a fee-for-service basis.
 2. Providers shall submit claims for services provided to persons determined eligible for HPE to the Administration as described under Article 7.
- H. A member may withdraw from HPE coverage by notifying the Administration or its designee.
- I. Upon determining an individual presumptively eligible, the qualified hospital shall:
 1. Notify the applicant at the time a determination regarding presumptive eligibility is made, in writing and orally if appropriate, of the determination for each individual on whose behalf presumptive eligibility was requested and the effective date of the presumptive eligibility;
 2. Provide the applicant with a regular AHCCCS-approved application form and inform the applicant that the applicant may file an application for Medicaid with the Administration or its designee;
3. Notify AHCCCS of the presumptive eligibility determination;
4. Notify the applicant at the time the determination is made that presumptive eligibility ends with the earlier of:
 - a. In the case of an individual on whose behalf an application has been submitted to AHCCCS or its designee under Article 3, the day on which AHCCCS or its designee makes a determination on that application; or
 - b. In the case of an individual on whose behalf an application has not been submitted to AHCCCS or its designee under Article 3, on the last day of the following month in which the determination of presumptive eligibility was made by the qualified hospital.
- J. A determination by a qualified hospital that an individual is not presumptively eligible is not appealable under Chapter 34. If a qualified hospital denies an individual presumptive eligibility, the individual may apply for coverage by submitting an application to the Administration or its designee.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4). New Section made by final rulemaking at 20 A.A.R. 3436, effective January 1, 2015 (Supp. 14-4).

R9-22-1602. Expired**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

R9-22-1603. Expired**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

R9-22-1604. Expired**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

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expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

R9-22-1617. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1618. Expired**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

R9-22-1619. Expired**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). New Section made by exempt rulemaking at 12 A.A.R. 3892, effective October 1, 2006 (Supp. 06-3). Section expired under A.R.S. § 41-1056(E) at 17 A.A.R. 2384, effective October 31, 2011 (Supp. 11-4).

R9-22-1620. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1621. Reserved**R9-22-1622. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1623. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1624. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1625. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1626. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1627. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1628. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1629. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1630. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1631. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1632. Reserved**R9-22-1633. Repealed****Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1634. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

R9-22-1635. Reserved

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R9-22-1636. Repealed**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Section repealed by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3).

ARTICLE 17. ENROLLMENT**R9-22-1701. Enrollment-Related Definitions**

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

“Annual enrollment choice” means the annual opportunity for a person to change contractors.

“Auto-assignment algorithm” or “Algorithm” means a formula used by the Administration to assign to a contractor a member who did not make a timely choice under R9-22-1702.

“CMDP” means Comprehensive Medical and Dental Program.

“Disenrollment” means the discontinuance of a person’s entitlement to receive covered services from a contractor of record.

“Enrollment” means the process by which an eligible person becomes a member of a contractor’s plan.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended to correct a typographical error, filed in the Office of the Secretary of State October 30, 2001 (Supp. 01-4). Amended by exempt rulemaking at 7 A.A.R. 5701, effective December 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 4588, effective October 12, 2004 (Supp. 04-4). Section repealed; new Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

R9-22-1702. Enrollment of a Member with an AHCCCS Contractor

A. General enrollment requirements. The Administration shall enroll a member with a contractor as described in this Section, unless the member has pre-selected a contractor on the application:

1. Except as provided in subsections (A)(3), (A)(5), and (C), a member who is determined to be eligible under this Chapter and resides in an area served by more than one contractor, may choose an available contractor serving the member’s GSA within 30 days from the date of notice of enrollment. A Native American member may select IHS or another available contractor.
2. If the member does not make a choice under subsection (A)(1), the Administration shall immediately auto-assign the member to:
 - a. IHS if the member is a Native American living on a reservation,
 - b. A contractor based on family continuity, or
 - c. A contractor by using the auto-assignment algorithm.
3. If the member’s period of ineligibility and disenrollment from the contractor of record is for a period of less than

90 days, the Administration shall enroll the member with the member’s most recent contractor of record, if available, except if:

- a. The member no longer resides in the contractor’s GSA;
 - b. The contractor’s contract is suspended or terminated;
 - c. The member was previously enrolled with CMDP but at the time of re-enrollment the member is not a foster care child;
 - d. The member chooses another contractor or chooses IHS, if available to the member, during the annual enrollment choice period; or
 - e. The member was previously enrolled with a contractor but at the time of re-enrollment the member is a foster care child.
4. When the member’s disenrollment period is more than 90 days, the member may select a contractor as described in subsection (A)(1).
 5. The Administration shall not enroll a member with a contractor if a member:
 - a. Is eligible for the FESP under R9-22-1419;
 - b. Is eligible for less than 30 days from the date the Administration receives notification of a member’s eligibility, except for a member who is enrolled with CMDP or IHS;
 - c. Is eligible only for a retroactive period of eligibility, except for a member who is enrolled with CMDP or IHS; or
 - d. Resides in an area not served by a contractor.
- B.** Fee-for-service coverage. A member not enrolled with a contractor under subsection (A)(5) shall obtain covered medical services from an AHCCCS-registered provider on a fee-for-service basis under Article 7.
- C.** Foster care child. The Administration shall enroll a member with CMDP if the member is a foster care child under A.R.S. § 8-512.
- D.** Family Planning Services Extension Program. A member eligible for the Family Planning Services Extension Program under R9-22-1431, shall remain enrolled with the member’s contractor of record or IHS.
- E.** Contractor or IHS enrollment change for a member.
1. The Administration shall change a member’s enrollment if the member requests a change to an available contractor or IHS during an annual enrollment period. A Native American may change from an available contractor to IHS or from IHS to an available contractor at any time.
 2. The Administration shall approve a change in enrollment for any member if the change is a result of the final outcome of a grievance under 9 A.A.C. 34.
 3. A member may choose a different contractor if the member moves into a GSA not served by the current contractor or if the contractor is no longer available. If the member does not select a contractor, the Administration shall auto-assign the member as provided in subsection (A)(2).
 4. The Administration shall provide the member 60-day advance notice of the member’s option to change plans by the member’s annual enrollment date.
 5. A member may disenroll from a plan if:
 - a. The member moves out of the GSA;
 - b. The plan does not, because of moral or religious objections, cover the service a member seeks; or

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- c. The member needs related services to be performed at the same time; not all related services are available within the network; and the member's primary care provider or another provider determines that receiving the services separately would subject the member to unnecessary risk.
- 6. For exceptions to this Article, the Administration shall approve a change for an enrolled member as determined by the Director.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

R9-22-1703. Effective Date of Enrollment with a Contractor

- A. Effective date of enrollment. A member's date of enrollment is the date enrollment action is taken by the Administration. However, if a plan change occurs for an annual enrollment choice, the effective date is the month of the member's enrollment anniversary date.
- B. Financial liability of the contractor. The contractor shall be financially liable for an enrolled member's care as specified in contract.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

R9-22-1704. Newborn Enrollment

- A. General.
 - 1. The Administration shall enroll a newborn child of an eligible mother with an available contractor or IHS, based on the mother's enrollment.
 - 2. The Administration shall auto-assign a newborn child of an eligible mother who is not enrolled with a contractor or IHS or who is enrolled with CMDP. When a mother enrolled in CMDP has a newborn and the newborn is surrendered to Administration on Children, Youth and Families (ACYF), the newborn is then enrolled with CMDP.
 - 3. The Administration shall notify the mother of the right to choose a different contractor for her newborn child. The mother may make her choice within 30 days from the date of notice of enrollment.
- B. Financial liability for newborns. The contractor shall be financially liable for the medical care of a newborn as specified in contract.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 294, effective January 8, 1999 (Supp. 99-1). Amended by final rulemaking at 6 A.A.R. 2435, effective June 9, 2000 (Supp. 00-2). Amended by exempt rulemaking at 7 A.A.R. 4593, effective October 1, 2001 (Supp. 01-3). Amended to correct a typographical error, filed in the Office of the Secretary of State October 30, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

R9-22-1705. Guaranteed Enrollment Period

- A. General. Except for members enrolled with IHS or CMDP, the Administration shall provide a guaranteed enrollment period for a one-time period that begins on the effective date of the member's initial enrollment with a contractor and ends on the last day of the fifth full calendar month after the date of the member's initial enrollment.
- B. Exceptions to guaranteed period. The Administration shall not grant a guaranteed enrollment period or shall terminate a guaranteed enrollment period as provided in subsection (C), if the member:
 - 1. Did not meet the conditions of eligibility when initially enrolled with the contractor;
 - 2. Except as provided in 9 A.A.C. 22, Article 12, is an inmate of a public institution as defined in 42 CFR 435.1010;
 - 3. Dies;
 - 4. Moves out-of-state;
 - 5. Voluntarily withdraws from the AHCCCS program;
 - 6. Is adopted; or
 - 7. Has whereabouts that are unknown.
- C. Disenrollment effective date. The Administration shall terminate any guaranteed enrollment period to which the member is not entitled effective on:
 - 1. The date the member is admitted to a public institution under subsection (B);
 - 2. The member's date of death;
 - 3. The last day of the month in which the Administration receives notification that a member moved out-of-state;
 - 4. The date the Administration receives written notification of the member's voluntary withdrawal from the AHCCCS program;
 - 5. The last day of the month in which the Administration receives notification that a member's adoption proceedings are finalized; or
 - 6. The last day of the month in which the Administration receives notification that a member's whereabouts are unknown.
- D. Retroactive adjustments. The Administration shall adjust the member's eligibility and enrollment retroactively under subsection (C).

Historical Note

New Section made by final rulemaking at 14 A.A.R. 1598, effective May 31, 2008 (Supp. 08-2).

ARTICLE 18. PROVIDER EXCLUSION RULES**R9-22-1801. Definitions**

"Administration" has the meaning defined in A.R.S. § 36-2901.

"Affiliation" has the meaning defined in 42 C.F.R. § 424.502.

"Managing employee" has the meaning defined in 42 C.F.R. § 455.101.

"Member" has the meaning defined in A.R.S. § 36-2901.

"Person with an ownership or control interest" has the meaning defined in 42 C.F.R. § 455.101 and 42 C.F.R. § 455.102.

"System" has the meaning defined in A.R.S. § 36-2901.

Historical Note

Section made by emergency rulemaking at 29 A.A.R. 1577 (July 14, 2023), with an immediate effective date of

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July 3, 2023; effective for 180 days (Supp. 23-3). Emergency renewed at 30 A.A.R. 69 (January 12, 2024), with an immediate effective date of December 21, 2023; effective for 180 days (Supp. 23-4). New Section made by final rulemaking at 30 A.A.R. 1977 (May 31, 2024), effective June 26, 2024; AHCCCS was granted an earlier effective date one day before the renewed emergency was due to expire to maintain continuity of administering this Section (Supp. 24-2).

R9-22-1802. Basis for Exclusion

- A.** In addition to such grounds for exclusion set for in subsections A and B of A.R.S. § 36-2930.05, the Administration, in its sole discretion, may exclude:
- Any individual or entity which has failed to comply with any requirement, term, or condition set forth in any agreement with the Administration;
 - Any individual or entity which has failed to remit any indebtedness or overpayment as required by A.A.C. R9-22-713;
 - Any entity which has a managing employee or any entity with a person with an ownership or control interest that:
 - Has failed to remit any indebtedness or overpayment as required by A.A.C. R9-22-713;
 - Has an affiliation with an organization which has failed to remit any indebtedness or overpayment as required by A.A.C. R9-22-713;
 - Any individual or any entity with a managing employee or a person with an ownership or control interest that has been convicted of a criminal offense which the Administration, in its sole discretion, determines may represent an undue risk of fraud, waste, or abuse of the system or an undue risk of harm to members;
 - Any individual or entity who employs any person to furnish items or services who has been excluded from participation in the system pursuant to A.R.S. § 36-2930.05;
 - Any individual who is or was a managing employee or a person with an ownership or control interest who participated in, condoned, or was willfully ignorant of any action or failure to act of an entity which was or could have been the basis for exclusion of the entity;
 - Any individual who was an organizer, leader, manager, or supervisor of any entity activity which was or could have been the basis for exclusion of the entity; or
 - Any individual or entity in order to protect the health of members.
- B.** The delineation of grounds for exclusion herein does not exclude any other basis for exclusion pursuant to A.R.S. § 36-2930.05(C).

Historical Note

Section made by emergency rulemaking at 29 A.A.R. 1577 (July 14, 2023), with an immediate effective date of July 3, 2023; effective for 180 days (Supp. 23-3). Emergency renewed at 30 A.A.R. 69 (January 12, 2024), with an immediate effective date of December 21, 2023; effective for 180 days (Supp. 23-4). New Section made by final rulemaking at 30 A.A.R. 1977 (May 31, 2024), effective June 26, 2024; AHCCCS was granted an earlier effective date one day before the renewed emergency was due to expire to maintain continuity of administering this Section (Supp. 24-2).

R9-22-1803. Period of Exclusion

- A.** Pursuant to A.R.S. § 36-2930.05 and 42 C.F.R. § 1002.210, any exclusion from participation in the system shall be for such period as determined in the discretion of the Administration, but in no event shall such period be less than five years.
- B.** In determining the period of exclusion, the Administration, in its sole discretion, may consider aggravating and mitigating factors set forth in any provision of Code of Federal Regulations Chapter 42 part 1001, Subpart C or part 1003.

Historical Note

Section made by emergency rulemaking at 29 A.A.R. 1577 (July 14, 2023), with an immediate effective date of July 3, 2023; effective for 180 days (Supp. 23-3). Emergency renewed at 30 A.A.R. 69 (January 12, 2024), with an immediate effective date of December 21, 2023; effective for 180 days (Supp. 23-4). New Section made by final rulemaking at 30 A.A.R. 1977 (May 31, 2024), effective June 26, 2024; AHCCCS was granted an earlier effective date one day before the renewed emergency was due to expire to maintain continuity of administering this Section (Supp. 24-2).

R9-22-1804. Appeal of Exclusion

- A.** Any exclusion of an individual or entity pursuant to A.R.S. § 36-2930.05 is an appealable agency action subject to the Uniform Administrative Appeals Procedures, A.R.S. § 41-1092, et seq.
- B.** The Administration shall set forth in the notice of an appealable agency action required by A.R.S. § 41-1092.03 the period of exclusion and the earliest date on which AHCCCS will consider a request for reinstatement.

Historical Note

Section made by emergency rulemaking at 29 A.A.R. 1577 (July 14, 2023), with an immediate effective date of July 3, 2023; effective for 180 days (Supp. 23-3). Emergency renewed at 30 A.A.R. 69 (January 12, 2024), with an immediate effective date of December 21, 2023; effective for 180 days (Supp. 23-4). New Section made by final rulemaking at 30 A.A.R. 1977 (May 31, 2024), effective June 26, 2024; AHCCCS was granted an earlier effective date one day before the renewed emergency was due to expire to maintain continuity of administering this Section (Supp. 24-2).

R9-22-1805. Reinstatement of Participation

- A.** If the period of exclusion has expired, an individual or entity may apply for reinstatement of participation in the system by submission of the following:
- An application for participation as a provider.
 - Information to demonstrate reasonable assurances that the type of actions that formed the basis for the original exclusion have not recurred and will not recur.
 - Such other information as may be requested by the Administration.
- B.** In making the reinstatement determination, the Administration may consider:
- Conduct of the individual or entity occurring prior to the date of the exclusion, if not known to the Administration at the time of the exclusion;
 - Conduct of the individual or entity after the date of the exclusion;
 - Whether all fines and all debts due and owing (including overpayments) to any Federal, State, or local government that relate to Medicare, Medicaid, and all other Federal health care programs have been paid;

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4. Whether the individual or entity otherwise qualifies for participation in the system;
5. Whether reinstatement is in the best interest of the system;
6. Such other information as deemed relevant by the Administration.

Historical Note

Section made by emergency rulemaking at 29 A.A.R. 1577 (July 14, 2023), with an immediate effective date of July 3, 2023; effective for 180 days (Supp. 23-3). Emergency renewed at 30 A.A.R. 69 (January 12, 2024), with an immediate effective date of December 21, 2023; effective for 180 days (Supp. 23-4). New Section made by final rulemaking at 30 A.A.R. 1977 (May 31, 2024), effective June 26, 2024; AHCCCS was granted an earlier effective date one day before the renewed emergency was due to expire to maintain continuity of administering this Section (Supp. 24-2).

R9-22-1806. Denial of Reinstatement

- A. If an application for reinstatement is denied, the Administration shall give written notice to the requesting individual or entity.
- B. Within 30 days of the date on the notice of denial of reinstatement, the excluded individual or entity may submit documentary evidence and written argument against the continued exclusion.
- C. After evaluating any additional evidence submitted by the excluded individual or entity (or at the end of the 30-day period if none is submitted), the Administration will send written notice either confirming the denial and indicating that a subsequent request for reinstatement will not be considered until at least one year after the date of the denial or approving the request for reinstatement of participation.
- D. Any notice confirming a denial of reinstatement is an appealable agency action subject to the Uniform Administrative Appeals Procedures, A.R.S. § 41-1092, et seq.

Historical Note

Section made by emergency rulemaking at 29 A.A.R. 1577 (July 14, 2023), with an immediate effective date of July 3, 2023; effective for 180 days (Supp. 23-3). Emergency renewed at 30 A.A.R. 69 (January 12, 2024), with an immediate effective date of December 21, 2023; effective for 180 days (Supp. 23-4). New Section made by final rulemaking at 30 A.A.R. 1977 (May 31, 2024), effective June 26, 2024; AHCCCS was granted an earlier effective date one day before the renewed emergency was due to expire to maintain continuity of administering this Section (Supp. 24-2).

ARTICLE 19. FREEDOM TO WORK

Article 19, consisting of Sections R9-22-1901 through R9-22-1922, made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

R9-22-1901. General Freedom to Work Requirements

Under 42 U.S.C. 1396a(a)(10)(A)(ii)(XV) and (XVI), the Administration shall determine eligibility for AHCCCS medical services, under Article 2 of this Chapter, using the eligibility criteria and requirements under this Article for an applicant or member who is:

1. At least 16 years of age, but less than 65 years of age,
2. Employed, and
3. Not income eligible under A.R.S. § 36-2901(6)(a).

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

R9-22-1902. General Administration Requirements

The Administration shall comply with the confidentiality rule under R9-22-512(C).

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1903. Application for Coverage

- A. A person may apply by submitting an application to an Administration office.
- B. The application date is the date the application is received at an Administration office or outstation location approved by the Director as described under R9-22-1406(A).
- C. The provisions in R9-22-302 apply to this Section.
- D. The applicant or representative who files the application may withdraw the application for coverage either orally or in writing. An applicant withdrawing an application shall receive a denial notice under R9-22-1904.
- E. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 45 days.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 5123, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 30 A.A.R. 2674 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

R9-22-1904. Notice of Approval or Denial

The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the action, and:

1. If approved, the notice shall contain:
 - a. The effective date of eligibility,
 - b. The amount the person shall pay, and
 - c. An explanation of the person's hearing rights specified in 9 A.A.C. 34.
2. If denied, R9-22-307 applies.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 30 A.A.R. 2674 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

R9-22-1905. Reporting and Verifying Changes

An applicant or member shall report and verify changes, as described under R9-22-306, to the Administration.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 30 A.A.R. 2674 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

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R9-22-1906. Actions that Result from a Redetermination or Change

The processing of a redetermination or change shall result in one of the following actions:

1. No change in eligibility or premium,
2. Discontinuance of eligibility if a condition of eligibility is no longer met,
3. A change in premium amount, or
4. A change in the coverage group under which a person receives AHCCCS medical coverage.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

R9-22-1907. Notice of Adverse Action Requirements

- A. The requirements under R9-22-312 apply.
- B. Advance notice of a change in eligibility or premium amount. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (C), advance notice shall be issued whenever an adverse action is taken to discontinue eligibility, or increase the premium amount.
- C. Exceptions from advance notice. A notice shall be issued to the member to discontinue eligibility no later than the effective date of action if:
 1. A member provides a clearly written statement, signed by that member, that services are no longer wanted.
 2. A member provides information that requires termination of eligibility or reduction of services, indicates that the member understands that this must be the result of supplying that information, and the member signs a written statement waiving advance notice;
 3. A member cannot be located and mail sent to the member's last known address has been returned as undeliverable subject to reinstatement of discontinued services under 42 CFR 431.231(d);
 4. A member has been admitted to a public institution where a person is ineligible for coverage;
 5. A member has been approved for Medicaid in another state; or
 6. The Administration receives information confirming the death of a member.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 30 A.A.R. 2674 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

R9-22-1908. Request for Hearing

An applicant or member may request a hearing under 9 A.A.C. 34.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1909. Conditions of Eligibility

An applicant or member shall meet the following conditions to qualify for the Freedom to Work program:

1. Furnish a valid Social Security Number (SSN);
2. Be a resident of Arizona;

3. Be a citizen of the United States, or meet requirements for a qualified alien under A.R.S. § 36-2903.03(B);
4. Be at least 16 years of age, but less than 65 years of age;
5. Have countable income that does not exceed 250 percent of FPL. The Administration shall count the income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:
 - a. The unearned income of the applicant or member shall be disregarded,
 - b. The income of a spouse or other family member shall be disregarded, and
 - c. The deduction for a minor child shall not apply;
6. Comply with the member responsibility provisions under R9-22-306.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1). Section repealed; new Section made by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 30 A.A.R. 2674 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

R9-22-1910. Prior Quarter Eligibility

A person may be made eligible during a prior quarter period when applying for the Freedom to Work program, as described under Article 3.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1). New Section made by final rulemaking at 19 A.A.R. 3309, effective November 30, 2013 (Supp. 13-4).

R9-22-1911. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1912. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1913. Premium Requirements

- A. As a condition of eligibility, an applicant or member shall:
 1. Pay the premium required under subsection (B).
 2. Not have any unpaid premiums for more than one month's premium amount.
- B. The Administration shall process premiums under 9 A.A.C. 31, R9-31-1409 through R9-31-1419 with the following exceptions:
 1. A member who has countable income:
 - a. Under \$500, the monthly premium payment shall be \$0.
 - b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.

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2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 30 A.A.R. 2674 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

R9-22-1914. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1915. Institutionalized Person

- A. A person is not eligible for AHCCCS medical coverage if the person is:
1. An inmate of a public institution if federal financial participation (FFP) is not available, or
 2. Age 22 through age 64 and is residing in an ICF/IID except when allowed under the Administration's Section 1115 Demonstration Project or allowed under a managed care contract approved by CMS.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 30 A.A.R. 2674 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

R9-22-1916. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1917. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1918. Additional Eligibility Criteria for the Basic Coverage Group

- An applicant or member shall meet the following eligibility criteria:
1. Disabled. As a condition of eligibility, an applicant or member shall be disabled. Disabled means a person who has been determined disabled by the Department of Economic Security, Disability Determination Services Administration, under 42 U.S.C. 1382c(a)(3)(A) through (E), except employment activity, earnings, and substantial gainful activity shall not be considered in determining whether the individual meets the definition of disability.
 2. Employed. As a condition of eligibility, an applicant or member shall be employed. Employed means that an applicant or member is paid for working and Social Security or Medicare taxes are paid on the applicant or member's work.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

R9-22-1919. Additional Eligibility Criteria for the Medically Improved Group

As a condition of eligibility for the Medically Improved Group, a member shall:

1. Be employed. Under this Section, employed means an individual who:
 - a. Earns at least the minimum wage and works at least 40 hours per month, or
 - b. Has gross monthly earnings at least equal to those earned by an individual who is earning the minimum wage working 40 hours per month.
2. Cease to be eligible for medical coverage under R9-22-1918 or a similar Basic Coverage Group program administered by another state because the member, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be disabled; and
3. Continues to have a severe medically determinable impairment, as determined under 42 U.S.C. 1396d(v)(1).

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 30 A.A.R. 2674 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

R9-22-1920. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 220, effective March 7, 2009 (Supp. 09-1).

R9-22-1921. Enrollment

The Administration shall enroll members under Article 17 of this Chapter. If a member has not paid a required premium, the Administration shall not grant a guaranteed enrollment period.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4).

R9-22-1922. Redetermination of Eligibility

- A. Redetermination. Except as provided in subsection (B), the Administration shall complete a redetermination of eligibility at least once a year.
- B. Change in circumstance. The Administration shall complete a redetermination of eligibility if there is a change in the member's circumstances, including a change in disability or employment that may affect eligibility.
- C. Medical Improvement. If a member is no longer disabled under R9-22-1918, the Administration shall determine if the member is eligible under other coverage groups including the medically improved group.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 95, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 30 A.A.R. 2674 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

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ARTICLE 20. BREAST AND CERVICAL CANCER TREATMENT PROGRAM**R9-22-2001. Breast and Cervical Cancer Treatment Program Related Definitions**

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

“AZ-NBCCEDP” means the Arizona programs of the National Breast and Cervical Cancer Early Detection Program. AZ-NBCCEDP provides breast and cervical cancer screening and diagnosis in Arizona.

“Cryotherapy” means the destruction of abnormal tissue using an extremely cold temperature.

“LEEP” means the loop electrosurgical excision procedure that passes an electric current through a thin wire loop.

“Peer-reviewed study” means that, prior to publication, a medical study has been subjected to the review of medical experts who:

- Have expertise in the subject matter of the study,
- Evaluate the science and methodology of the study,
- Are selected by the editorial staff of the publication, and
- Review the study without knowledge of the identity or qualifications of the author.

“WWHP” means the Well Women Healthcheck Program administered by the Arizona Department of Health Services. The WWHP is one of the programs within AZ-NBCCEDP that provides breast and cervical cancer screening and diagnosis.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

R9-22-2002. General Requirements

- A. Confidentiality. The Administration shall maintain the confidentiality of a woman’s records and shall not disclose a woman’s financial, medical, or other confidential information except as allowed under R9-22-512.
- B. Covered services. A woman who is eligible under this Article receives all medically necessary services under Articles 2 and 12 of this Chapter.
- C. Choice of health plan. A woman who is eligible under this Article shall be enrolled with a contractor under Article 17 of this Chapter.
- D. A Native American woman who receives services through Indian Health Service (IHS) or through a tribal health program qualifies for services provided under this Article if all eligibility requirements are met.
- E. A woman qualified under this Article shall pay co-pays as described in R9-22-711.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

R9-22-2003. Eligibility Criteria

- A. General. To be eligible under this Article, a woman shall meet the requirements of this Article and:
 1. Be screened for breast and cervical cancer through AZ-NBCCEDP;

2. Be less than 65 years of age;
3. Be ineligible for Title XIX under Articles 14 and 15 in this Chapter;
4. Receive a positive screen under subsection (A)(1), a confirmed diagnosis through AZ-NBCCEDP, and need treatment for breast cancer or cervical cancer, including a pre-cancerous cervical lesion, as specified in R9-22-2004;
5. Not be covered under creditable coverage as specified in Section 2701(c) of the Public Health Services Act, 42 U.S.C. 300gg(c). For purposes of this Article, IHS or Tribal health coverage is not considered creditable coverage as specified in 42 U.S.C. 1396a(a)(10)(A)(ii), as amended by the Native American Breast and Cervical Cancer Treatment Technical Amendment Act of 2002; and
6. Meet the requirements under R9-22-1417 and R9-22-1418.

B. Ineligible woman. A woman is ineligible under this Article if the woman:

1. Is an inmate of a public institution and federal financial participation (FFP) is not available,
2. Is at least age 21 but less than age 65 and resides in an Institution for Mental Disease (IMD) as defined in R9-22-112, except if allowed under the Administration’s Section 1115 waiver, or
3. No longer meets an eligibility requirement under this Article.

C. Metastasized cancer. The AHCCCS Chief Medical Officer may continue a woman’s eligibility under this Article if a metastasized cancer is found in another part of the woman’s body and that metastasized cancer is a known or a presumed complication of the breast or cervical cancer as determined by the treating physician.**D. Reoccurrence of cancer. A woman shall have eligibility reestablished after eligibility under this Article ends if the woman is screened under the AZ-NBCCEDP program and additional breast cancer or cervical cancer, including a pre-cancerous cervical lesion, is found.****E. Ineligible male. A male is precluded from receiving screening and diagnostic services under the AZ-NBCCEDP program and is ineligible under this Article.****Historical Note**

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

R9-22-2004. Treatment

- A. Breast cancer. Coverage for treatment for breast cancer under this Article shall conclude on the last provider visit for the specific treatment of the cancer or at the end of hormonal therapy for the cancer, whichever is later. For purposes of this subsection treatment means:
 1. Lumpectomy or surgical removal of breast cancer;
 2. Chemotherapy;
 3. Radiation therapy; and
 4. A treatment for breast cancer that, as determined by the AHCCCS Chief Medical Officer, is considered the standard of care as supported by a peer-reviewed study published in a medical journal.
- B. Pre-cancerous cervical lesion. Coverage for treatment for a pre-cancerous cervical lesion under this Article, including moderate or severe cervical dysplasia or carcinoma in situ, shall conclude on the last provider visit for specific treatment

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for the pre-cancerous lesion. For purposes of this subsection treatment means:

1. Conization;
2. LEEP;
3. Cryotherapy; and
4. A treatment for pre-cancerous cervical lesion that, as determined by the AHCCCS Chief Medical Officer, is considered the standard of care as supported by a peer-reviewed study published in a medical journal.

C. Cervical cancer. Coverage for treatment for cervical cancer under this Article shall conclude on the last provider visit for the specific treatment for the cancer. For purposes of this subsection treatment means:

1. Surgery;
2. Radiation therapy;
3. Chemotherapy; and
4. A treatment for cervical cancer that, as determined by the AHCCCS Chief Medical Officer, is considered the standard of care as supported by a peer-reviewed study published in a medical journal.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

R9-22-2005. Application Process

- A. Application.** A woman may apply for eligibility under this Article by submitting a complete application as specified in R9-22-1406.
- B. Submitting the application.** The woman may complete and submit an application at the time of the AZ-NBCCEDP screening. The AZ-NBCCEDP staff may mail or fax the application directly to the Administration.
- C. Date of application.** The date of the application is the date of the diagnostic procedure that results in a positive diagnosis for breast cancer or cervical cancer, including a pre-cancerous cervical lesion.
- D. Responsibility of a woman who is applying or who is a member.** A woman who is applying or who is a member shall:
 1. Provide medical insurance information, including any changes in medical insurance; and
 2. Inform the Administration about a change in address, residence, and alienage status.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

R9-22-2006. Approval, Denial, or Discontinuance of Eligibility

- A. Eligibility determination.** The Administration shall determine eligibility under this Article and send the notice under subsection (B) or (C) within seven days of receiving a complete application.
- B. Approval.** If a woman meets all the eligibility requirements in this Article, the Administration shall provide the woman with an approval notice. The approval notice shall contain:
 1. The name of the eligible woman, and
 2. The effective date of eligibility.
- C. Denial.** If the Administration denies eligibility, the Administration shall provide the woman with a denial notice. The denial notice shall contain:

1. The name of the ineligible woman,
2. The specific reason why the woman is ineligible,
3. The legal citations supporting the reason for the denial,
4. The location where the woman can review the legal citations, and
5. Information regarding the woman's appeal and request for hearing rights.

D. Discontinuance.

1. Except as specified in subsection (D)(2), if a woman no longer meets an eligibility requirement under this Article, the Administration shall provide the woman a Notice of Action no later than 10 days before the effective date of the discontinuance.
2. The Administration may mail the Notice of Action no later than the effective date of the discontinuance if the Administration:
 - a. Receives a written statement from the woman voluntarily withdrawing from AHCCCS,
 - b. Receives information confirming the death of the woman,
 - c. Receives returned mail with no forwarding address from the post office and the woman's whereabouts are unknown, or
 - d. Receives information confirming that the woman has been approved for Title XIX services outside the state of Arizona.
3. The Notice of Action shall contain the:
 - a. Name of the ineligible woman,
 - b. Effective date of the discontinuance,
 - c. Specific reason why the woman is discontinued,
 - d. Legal citations supporting the reason for the discontinuance,
 - e. Location where the woman can review the legal citations, and
 - f. Information regarding the woman's appeal and request for hearing rights.

E. Request for hearing. A woman who is denied, or discontinued for the Breast and Cervical Cancer Treatment Program may request a hearing under Chapter 34.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).

R9-22-2007. Effective and End Date of Eligibility

- A. Eligibility is effective on the first day of the month that all eligibility requirements are met, including the period described under R9-22-303.**
- B. The end date of eligibility:**
 1. For breast cancer, is 12 months after the last provider visit for a treatment specified in R9-22-2004 for the cancer or at the end of hormonal therapy for the cancer, whichever is later.
 2. For pre-cancerous cervical lesion, is four months after the last provider visit for a treatment specified in R9-22-2004 for the pre-cancerous lesion.
 3. For cervical cancer, is 12 months after the last provider visit for a treatment specified in R9-22-2004 for the cancer.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 5814, effective December 6, 2001 (Supp. 01-4). Section repealed; new Section made by final rulemaking at 12

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CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ADMINISTRATION

A.A.R. 4488, effective January 6, 2007 (Supp. 06-4).
Section amended by final rulemaking at 19 A.A.R. 3309,
effective November 30, 2013 (Supp. 13-4).

R9-22-2008. Redetermination of Eligibility

- A.** Redetermination. Except as provided in subsection (B), the Administration shall redetermine eligibility at least once a year. If a woman continues to meet the requirements of eligibility for the Breast and Cervical Cancer Treatment Program under this Article, the Administration shall notify the woman of continued eligibility. A woman is not required to be screened for breast and cervical cancer through AZ-NBC-CEDP at redetermination.
- B.** Change in circumstance. The Administration shall complete a redetermination of eligibility if there is a change in the woman's circumstances that may affect eligibility, including a change in treatment.

Historical Note

New Section made by final rulemaking at 12 A.A.R.
4488, effective January 6, 2007 (Supp. 06-4).

ARTICLE 21. TRAUMA AND EMERGENCY SERVICES FUND

Article 21, consisting of Sections R9-22-2101 through R9-22-2103, made by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3).

R9-22-2101. General Provisions

- A.** A.R.S. § 36-2903.07 establishes the Administration as the authority to administer the Trauma and Emergency Services Fund.
- B.** The Administration shall distribute 90% of monies from the trauma and emergency services fund to a level I trauma center, as defined in subsection (F) of this Section, for unrecovered trauma center readiness costs as defined in subsection (F) of this Section. Reimbursement is limited to no more than the amount of unrecovered trauma center readiness costs as determined in subsections (D) and (E) of this Section. Unexpended funds may be used to reimburse unrecovered emergency room costs under subsection (C) of this Section.
- C.** The Administration shall distribute 10% of monies from the trauma and emergency services fund, for unrecovered emergency services costs, to a hospital having an emergency department, using criteria under R9-22-2103. Reimbursement is limited to no more than the amount of unrecovered emergency services costs as determined in R9-22-2103. The Administration may distribute more than 10% of the monies for unrecovered emergency room costs when there are unexpended monies under subsection (B) of this Section.
- D.** The Administration shall distribute a reporting tool and guidelines to level I trauma centers to determine, on an annual basis, the unrecovered trauma center readiness costs for level I trauma centers as defined in subsection (F) of this Section. The reporting time-frame is July 1 of the prior year through June 30 of the reporting year. A level I trauma center shall submit the requested data and a copy of the most recently completed uniform accounting report under A.R.S. § 36-125.04 to the Administration no later than October 31 of each reporting year.
- E.** When a level I trauma center closes in a county where there are one or more level I trauma center(s) remaining in operation, the following shall occur:
1. The closing level I trauma center shall submit the requested data under subsection (D) of this Section for

the months of the reporting time-frame in which it met the definition of a level I trauma center, and

2. The data under subsection (D) of this Section, which is submitted by the closing level I trauma center, shall be added to the remaining level I trauma center(s) in that county for the current reporting time-frame only.
- F.** In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:
1. "Level I trauma center" means any acute care hospital designated by the Arizona Department of Health Services as a level I trauma center, a provisional level I trauma center, a pediatric level I trauma center or an initial level I trauma center.
 2. "Unrecovered trauma center readiness costs" means losses incurred treating trauma patients:
 - a. Determined in accordance with Generally Accepted Accounting Principles,
 - b. Based on both clinical and professional costs incurred by a level I trauma center necessary for the provision of level I trauma care, and
 - c. Based on administrative and overhead costs directly associated with providing level I trauma care.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R.
4001, effective October 19, 2003 (Supp. 03-3). Amended
by final rulemaking at 24 A.A.R. 2855, effective November 16, 2018 (Supp. 18-3).

R9-22-2102. Distribution of Trauma and Emergency Services Fund: Level I Trauma Centers

- A.** On or after November 1, 2003, the Administration shall distribute monies, under R9-22-2101(B), to level I trauma centers using monies available in the trauma and emergency services fund at the time of payment. The Administration shall take into consideration the proportion of those hospitals' trauma case volume. The Administration shall:
1. Recalculate the November 2003 payments in July 2004 using the formula in subsection (B) of this Section;
 2. Recoup November 2003 overpayments by reducing the July 2004 distributions under subsection (C) as appropriate; and
 3. Redistribute recouped funds, with the July 2004 payment, to level I trauma centers underpaid in November 2003.
- B.** On or after January 31 of each year, the Administration shall distribute monies, under R9-22-2101(B), to level I trauma centers using monies available in the trauma and emergency services fund at the time of payment. The Administration shall determine each hospital's unrecovered trauma center readiness costs for the current fiscal year using data from the most recent reporting year as provided under R9-22-2101(D) and (E). The proportion of each hospital's share of the fund for unrecovered trauma center readiness costs is determined after considering:
1. The professional, clinical, administrative, and overhead costs directly associated with providing level I trauma care, and
 2. The volume and acuity of trauma care provided by each hospital.
- C.** On or after July 31 of each year, the Administration shall distribute monies to level I trauma centers using monies, under R9-22-2101(B), available in the trauma and emergency services fund at the time of payment according to the proportions calculated and used for the January payments in the same year, under subsection (B) of this Section.

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM - ADMINISTRATION

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3).

R9-22-2103. Distribution of Trauma and Emergency Services Fund: Emergency Services

On or after June 30 of each year, the Administration shall distribute monies available in the trauma and emergency services fund at the time of payment as follows:

1. As allocated under R9-22-2101(C),
2. To hospitals that had an emergency department from July 1 through June 30 of the prior year, and
3. On a pro rata share of each hospital's cost of uncompensated emergency care as a percentage of the total statewide cost of uncompensated emergency care provided by hospitals under subsection (2) as reported in the uniform accounting reports to the Arizona Department of Health Services under A.R.S. § 36-125.04.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 4001, effective October 19, 2003 (Supp. 03-3). Amended by exempt rulemaking at 18 A.A.R. 1748, effective July 1, 2012 (Supp. 12-2).

R9-22-2104. Additional Trauma and Emergency Services Payments under the Section 1115 Waiver

- A. Notwithstanding R9-22-2101(D), for the reporting years ending June 30, 2011 and June 30, 2012, the Administration shall distribute an amount equal to the balance of the Trauma and Emergency Services fund in the following manner:
1. Ninety percent of the amount shall be distributed to Level I trauma centers based upon each center's pro rata share of each center's acuity-adjusted volume as a percentage of the total acuity-adjusted volume for all centers in the state. The acuity-adjusted volume is calculated by multiplying the Injury Severity Score employed by trauma.org by the number of trauma cases at that level treated at the center during the reporting year. Hospitals shall report trauma scores and case volume on a worksheet prescribed by the Administration.
 2. Ten percent of the amount shall be distributed proportionately to hospitals that had an emergency department from July 1 through June 30 of the reporting year based the pro rata share of each hospital's cost of emergency care as a percentage of the total statewide cost of emergency care provided by hospitals as reported on the Worksheet B,

column 27, line 61 of the hospital's most current Medicare Cost Report as of January 31 following the end of each reporting year.

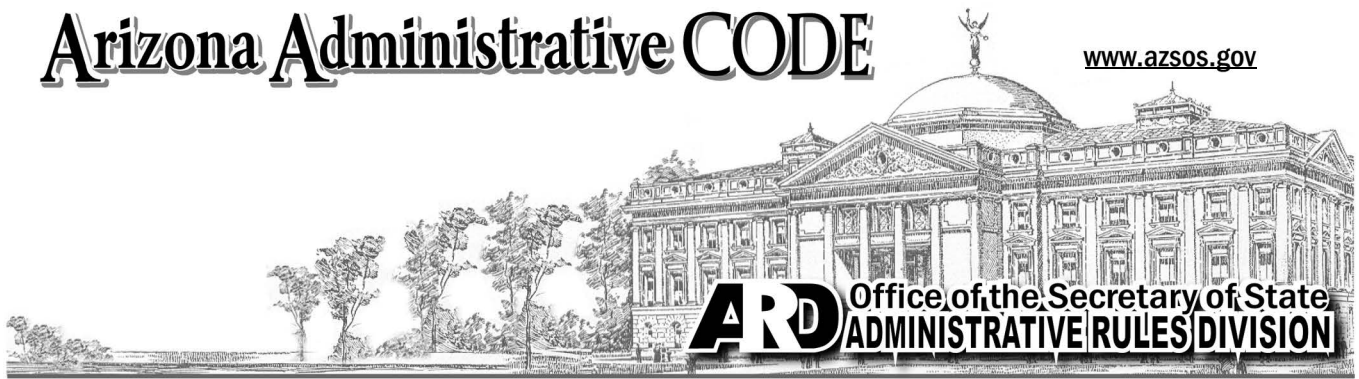
- B. For the reporting years ending June 30, 2011 and June 30, 2012, the Administration shall distribute an amount equal to the federal financial participation made available under the section 1115 waiver for the purpose of making payments for unrecovered trauma and emergency services as follows:
1. Thirty percent of such funds to a Level I trauma center, in amounts calculated in the same manner as described in subsection (A)(1) of this Section, for any unrecovered trauma center readiness costs not reimbursed under subsection (A) of this Section;
 2. Thirty percent of such funds to a hospital having an emergency department from July 1 through June 30 of the reporting year, in amounts calculated in the same manner as described in subsection (A)(2) of this Section, for any unrecovered emergency services costs not reimbursed under subsection (A) of this Section; and
 3. Forty percent of such funds to rural hospitals, as defined in R9-22-718 that are not Level 1 trauma centers as defined in R9-22-2101(F), having an emergency department from July 1 through June 30 of the reporting year, in amounts calculated in the same manner as described in subsection (A)(2) of this Section, for any unrecovered emergency services costs not reimbursed under subsections (A) and (B)(2) of this Section.
- C. For the reporting years ending June 30, 2011 and June 30, 2012, payments made under this Article shall not be made in an amount that results in aggregate payments to the hospital by the Administration and contractors exceeding of the upper payment limit for the hospital services as calculated in accordance with 42 CFR 447.
- D. For the reporting years ending June 30, 2011 and June 30, 2012, to ensure compliance with subsection (C), payments under this Article shall be reconciled to the federal fiscal year that is two years subsequent to the payment.
- E. Any payments that are determined under subsection (D) to exceed the limit in subsection (C) shall be distributed as described in this Article to hospitals that have not received payments in excess of the limit in subsection (C).

Historical Note

New Section made by exempt rulemaking at 18 A.A.R. 1748, effective July 1, 2012 (Supp. 12-2).

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CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

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

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

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of July 1, 2024 through September 30, 2024

[Table 5.1.](#) [Arizona Scope of Practice Skills 29](#)

Questions about these rules? Contact:

Department: Arizona Department of Health Services
Bureau of Emergency Medical Services and
Trauma System

Address: 150 N. 18th Ave., Suite 540
Phoenix, AZ 85007-3248

Website: <https://www.azdhs.gov>

Name: Rachel Garcia, Bureau Chief

Telephone: (602) 364-3150

Email: Rachel.Garcia@azdhs.gov

The release of this Chapter in Supp. 24-3 replaces Supp. 24-1, 1-112 pages.

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

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

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

THE ADMINISTRATIVE CODE

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

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

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

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

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

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

RULE HISTORY

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

AUTHENTICATION OF PDF CODE CHAPTERS

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

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

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

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

EXEMPTIONS FROM THE APA

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

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

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

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

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

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

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Administrative Rules Division

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TITLE 9. HEALTH SERVICES

CHAPTER 25. DEPARTMENT OF HEALTH SERVICES - EMERGENCY MEDICAL SERVICES

Authority: A.R.S. §§ 36-136(F) and 36-2209(A) et seq.

Supp. 24-3

Editor's Note: Article 5 consisting of Sections R9-25-501 through R9-25-508 were recodified from Sections in Article 8 effective September 21, 2004 (Supp. 04-3). The Sections recodified from Article 8 were originally made or amended under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6).

Editor's Note: The Office of the Secretary of State publishes all Chapters on white paper.

Editor's Note: This Chapter contains rules which were adopted, amended, and repealed under an exemption from the provisions of the Administrative Procedure Act (A.R.S. Title 41, Chapter 6) pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Governor's Regulatory Review Council for review; the Department did not submit notice of proposed rulemaking to the Secretary of State for publication in the Arizona Administrative Register; and the Department was not required to hold public hearings on these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper.

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Article 5 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

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R9-25-515.	Repealed

ARTICLE 6. STROKE CARE

Article 6, consisting of new Sections R9-25-601 and R9-25-602 made by exempt rulemaking effective April 5, 2013 (Supp. 13-1).

Article 6 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Article 6, consisting of Sections R9-25-601 through R9-25-616 and Exhibits L through Q through S, adopted effective October 15, 1996 (Supp. 96-4).

Section	
R9-25-601.	Definitions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))
R9-25-602.	Emergency Stroke Care Protocols (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))
R9-25-603.	Repealed

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R9-25-716.	Repealed	46
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ARTICLE 8. AIR AMBULANCE REGISTRATION

Article 8, consisting of R9-25-801 through R9-25-808, recodified to Article 5 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Article 8, consisting of R9-25-801, R9-25-802, Exhibits 1 through 4, and R9-25-803 Exhibit 1, recodified from A.A.C. R9-13-1501, R9-13-1502, Exhibits 1 through 4, and R9-13-1503 Exhibit 1; originally filed under an exemption from the provisions of A.R.S. Title 41, Chapter 6 (Supp. 98-1).

Article 8, consisting of Section R9-25-805 and Exhibits 1 through 3, adopted effective May 19, 1997, under an exemption from the provisions of A.R.S. Title 41, Chapter 6; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2).

Section		
R9-25-801.	Requirement, Eligibility, and Application for an Initial or Renewal Certificate of Registration for an Air Ambulance (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, 36-2232(A)(11), and 36-2240(4))	46
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ARTICLE 9. GROUND AMBULANCE CERTIFICATE OF NECESSITY

Article 9, consisting of Sections R9-25-901 through R9-25-912, adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

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R9-25-902.	Application for an Initial Certificate of Necessity (Authorized by A.R.S. §§ 36-2201(11)(h), 36-2204, 36-2232, 36-2233, 36-2234, 36-2236(A), 36-2240)	Table 10.2.	Minimum Equipment and Supplies for Ground Ambulance Vehicles (Authorized by A.R.S. § 36-2202(A)(5))	82
R9-25-903.	Application for Renewal of a Certificate of Necessity (Authorized by A.R.S. §§ 36-2233, 36-2235, 36-2238, 36-2240, 36-2242)			
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R9-25-905.	Application for Amendment of a Certificate of Necessity (Authorized by A.R.S. §§ 36-2232, 36-2240, 36-2247)			
R9-25-906.	Determining Public Necessity (Authorized by A.R.S. § 36-2233(F))			
R9-25-907.	Determining Response Times, Priority for Responses, and Compliance with Specified Times (Authorized by A.R.S. §§ 36-2232, 36-2233, 36-2236)			
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Exhibit B.	Renumbered			

ARTICLE 10. GROUND AMBULANCE VEHICLE REGISTRATION

Article 10, consisting of Sections R9-25-1001 through R9-25-1006, adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

Section	
R9-25-1001.	Initial and Renewal Application for a Certificate of Registration (Authorized by A.R.S. §§ 36-2212, 36-2232, 36-2240)
R9-25-1002.	Term and Transferability of Certificates of Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 41-1092.11)
R9-25-1003.	Changes Affecting Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2238, and 36-2247)
R9-25-1004.	Ground Ambulance Vehicle Inspections (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2232(A)(11), and 36-2241)
R9-25-1005.	Minimum Standards for Ground Ambulance Vehicles (Authorized by A.R.S. §§ 36-2202(A)(5), 36-2232(C)(5))

ARTICLE 11. GROUND AMBULANCE SERVICE RATES AND CHARGES; CONTRACTS

Editor's Note: Article 11 introductory paragraph from Supp. 01-1 was inadvertently removed in Supp. 23-1. The Article introductory paragraph has been reinstated (Supp. 23-2).

Article 11, consisting of Sections R9-25-1101 through R9-25-1110, adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

Section	
R9-25-1101.	Establishing Initial General Public Rates (Authorized by A.R.S. §§ 36-2232, 36-2239)
R9-25-1102.	Application for Adjustment of General Public Rates (Authorized by A.R.S. §§ 36-2234, 36-2239)
R9-25-1103.	Application for a Contract Rate or Range of Rates Less than General Public Rates (A.R.S. §§ 36-2234(I) and (K), 36-2239)
R9-25-1104.	Ground Ambulance Service Contracts (A.R.S. §§ 36-2232, 36-2234(M))
R9-25-1105.	Application for Provision of Subscription Service or to Establish a Subscription Service Rate (A.R.S. § 36-2232(A)(1))
R9-25-1106.	Rate of Return Setting Considerations (A.R.S. §§ 36-2232, 36-2239)
R9-25-1107.	Rate Calculation Factors (A.R.S. § 36-2232)
R9-25-1108.	Implementation of Rates and Charges (A.R.S. §§ 36-2232, 36-2239)
R9-25-1109.	Charges (A.R.S. §§ 36-2232, 36-2239(D))
R9-25-1110.	Invoices (A.R.S. §§ 36-2234, 36-2239)

ARTICLE 12. TIME-FRAMES FOR DEPARTMENT APPROVALS

Article 12, consisting of Section R9-25-1201, Table 1, and Exhibits A and B, adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).

Section	
R9-25-1201.	Time-frames (Authorized by A.R.S. §§ 36-2235, 41-1072 through 41-1079)
Table 12.1.	Time-frames (in days)
Table 1.	Renumbered
Exhibit A.	Recodified
Exhibit B.	Recodified

ARTICLE 13. TRAUMA CENTERS AND TRAUMA REGISTRIES

Article 13, consisting of Section R9-25-1301 through R9-25-1315, Table 1 and Exhibit I, made by final rulemaking at 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4).

Section	
R9-25-1301.	Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))
R9-25-1302.	Eligibility for Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

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ARTICLE 14. REPEALED

Article 14, consisting of Sections R9-25-1401 through R9-25-1406 and Table 1, made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4).

Section		
R9-25-1401.	Repealed	111
R9-25-1402.	Repealed	111
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R9-25-1405.	Repealed	112
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ARTICLE 1. GENERAL

R9-25-101. Definitions (Authorized by A.R.S. §§ 36-2201, 36-2202, 36-2204, and 36-2205)

In addition to the definitions in A.R.S. § 36-2201, the following definitions apply in this Chapter, unless otherwise specified:

1. "Administer" or "administration" means to directly apply or the direct application of an agent to the body of a patient by injection, inhalation, ingestion, or any other means and includes adjusting the administration rate of an agent.
2. "AEMT" has the same meaning as "advanced emergency medical technician" in A.R.S. § 36-2201.
3. "Agent" means a chemical or biological substance that is administered to a patient to treat or prevent a medical condition.
4. "ALS" has the same meaning as "advanced life support" in A.R.S. § 36-2201.
5. "ALS base hospital" has the same meaning as "advanced life support base hospital" in A.R.S. § 36-2201.
6. "Applicant" means a person requesting certification, licensure, approval, or designation from the Department under this Chapter.
7. "BLS" has the same meaning as "basic life support" in A.R.S. § 36-2201.
8. "Chain of custody" means the transfer of physical control of and accountability for an item from one individual to another individual, documented to indicate the:
 - a. Date and time of the transfer,
 - b. Integrity of the item transferred, and
 - c. Signatures of the individual relinquishing and the individual accepting physical control of and accountability for the item.
9. "Chief administrative officer" means:
 - a. For a hospital, the same as in A.A.C. R9-10-101; and
 - b. For a training program, an individual assigned to act on behalf of the training program by the body organized to govern and manage the training program.
10. "Clinical training" means experience and instruction in providing direct patient care in a health care institution.
11. "Controlled substance" has the same meaning as in A.R.S. § 32-1901.
12. "Course" means didactic instruction and, if applicable, hands-on practical skills training, clinical training, or field training provided by a training program to prepare an individual to become or remain an EMCT.
13. "Course session" means an offering of a course, during a period of time designated by a training program certificate holder, for a specific group of students.
14. "Current" means up-to-date and extending to the present time.
15. "Day" means a calendar day.
16. "Document" or "documentation" means signed and dated information in written, photographic, electronic, or other permanent form.
17. "Drug" has the same meaning as in A.R.S. § 32-1901.
18. "Electronic signature" has the same meaning as in A.R.S. § 44-7002.
19. "EMCT" has the same meaning as "emergency medical care technician" in A.R.S. § 36-2201.
20. "EMT" has the same meaning as "emergency medical technician" in A.R.S. § 36-2201.
21. "EMT-I(99)" means an individual, other than a Paramedic, who:
 - a. Was certified as an EMCT by the Department before January 28, 2013 to perform ALS, and
 - b. Has continuously maintained the certification.
22. "EMS" has the same meaning as "emergency medical services" subsections (17)(a) through (d) in A.R.S. § 36-2201.
23. "Field training" means emergency medical services experience and training outside of a health care institution or a training program facility.
24. "General hospital" has the same meaning as in A.A.C. R9-10-101.
25. "Health care institution" has the same meaning as in A.R.S. § 36-401.
26. "Hospital" has the same meaning as in A.A.C. R9-10-101.
27. "In use" means in the immediate physical possession of an EMCT and readily accessible for potential imminent administration to a patient.
28. "Infusion pump" means a device approved by the U.S. Food and Drug Administration that, when operated mechanically, electrically, or osmotically, releases a measured amount of an agent into a patient's circulatory system in a specific period of time.
29. "Interfacility transport" means an ambulance transport of a patient from one health care institution to another health care institution.
30. "IV" means intravenous.
31. "Locked" means secured with a key, including a magnetic, electronic, or remote key, or combination so that opening is not possible except by using the key or entering the combination.
32. "Medical direction" means administrative medical direction or on-line medical direction.
33. "Medical record" has the same meaning as in A.R.S. § 36-2201.
34. "Minor" means an individual younger than 18 years of age who is not emancipated.
35. "Monitor" means to observe the administration rate of an agent and the patient's response to the agent and may include discontinuing administration of the agent.
36. "On-line medical direction" means emergency medical services guidance or information provided to an EMCT by a physician through two-way voice communication.
37. "Patient" means an individual who is sick, injured, or wounded and who requires medical monitoring, medical treatment, or transport.
38. "Pediatric" means pertaining to a child.
39. "Person" has the same meaning as in A.R.S. § 1-215 and includes governmental agencies.
40. "Physician assistant" has the same meaning as in A.R.S. § 32-2501.
41. "Practical nurse" has the same meaning as in A.R.S. § 32-1601.
42. "Practicing emergency medicine" means acting as an emergency medicine physician in a hospital emergency department.
43. "Prehospital incident history report" has the same meaning as in A.R.S. § 36-2220.
44. "Refresher challenge examination" means a test given to an individual to assess the individual's knowledge, skills, and competencies compared with the national education standards established for the applicable EMCT classification level.

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45. "Refresher course" means a course intended to reinforce and update the knowledge, skills, and competencies of an individual who has previously met the national educational standards for a specific level of EMS personnel.
46. "Registered nurse" has the same meaning as in A.R.S. § 32-1601.
47. "Registered nurse practitioner" has the same meaning as in A.R.S. § 32-1601.
48. "Scene" means the location of the patient to be transported or the closest point to the patient at which an ambulance can arrive.
49. "Special hospital" has the same meaning as in A.A.C. R9-10-101.
50. "STR skill" means "Specialty Training Requirement skill," a medical treatment, procedure, or technique or administration of a medication for which an EMCT needs specific training beyond the training required in 9 A.A.C. 25, Article 4 in order to perform or administer.
51. "Transfer of care" means to relinquish to the control of another person the ongoing medical treatment of a patient.
52. "Transport agent" means an agent that an EMCT at a specified level of certification is authorized to administer only during interfacility transport of a patient for whom the agent's administration was started at the sending health care institution.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4).
Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-102. Individuals to Act for a Person Regulated Under This Chapter (Authorized by A.R.S. § 36-2202)

When a person regulated under this Chapter is required by this Chapter to provide information on or sign an application form or other document, the following individual shall satisfy the requirement on behalf of the person regulated under this Chapter:

1. If the person regulated under this Chapter is an individual, the individual; or
2. If the person regulated under this Chapter is a business organization, political subdivision, government agency, or tribal government, the individual who the business organization, political subdivision, government agency, or tribal government has designated to act on behalf of the business organization, political subdivision, government agency, or tribal government and who:
 - a. Is a U.S. citizen or legal resident, and
 - b. Has an Arizona address.

Historical Note

New Section made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

ARTICLE 2. MEDICAL DIRECTION; ALS BASE HOSPITAL CERTIFICATION**R9-25-201. Administrative Medical Direction (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-****2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (D))**

- A. An emergency medical services provider or ambulance service shall:
 1. Except as specified in subsection (B) or (C), designate a physician as administrative medical director who meets one of the following:
 - a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties;
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine;
 - c. Has emergency medicine certification issued by the American Osteopathic Board of Emergency Medicine;
 - d. Has emergency medicine certification issued by the American Board of Physician Specialties;
 - e. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
 - f. Is an emergency medicine physician in an emergency department located in Arizona and has current certification in:
 - i. Advanced emergency cardiac life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association;
 - ii. Advanced emergency trauma life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American College of Surgeons; and
 - iii. Pediatric advanced emergency life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association;
 2. If the emergency medical services provider or ambulance service designates a physician as administrative medical director according to subsection (A)(1), notify the Department in writing:
 - a. Of the identity and qualifications of the designated physician within 10 days after designating the physician as administrative medical director; and
 - b. Within 10 days after learning that a physician designated as administrative medical director is no longer qualified to be an administrative medical director; and
 3. Maintain for Department review:
 - a. A copy of the policies, procedures, protocols, and documentation required in subsection (E); and
 - b. Either:
 - i. The name, email address, telephone number, and qualifications of the physician providing administrative medical direction on behalf of the emergency medical services provider or ambulance service; or
 - ii. If the emergency medical services provider or ambulance service provides administrative medical direction through an ALS base hospital or a centralized medical direction communications center, a copy of a written agreement with the ALS base hospital or centralized medical direction communications center documenting

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- that the administrative medical director is qualified under subsection (A)(1).
- B.** Except as provided in R9-25-502(A)(3), if an emergency medical services provider or ambulance service provides only BLS, the emergency medical services provider or ambulance service is not required to have an administrative medical director.
- C.** If an emergency medical services provider or ambulance service provides administrative medical direction through an ALS base hospital or a centralized medical direction communications center, the emergency medical services provider or ambulance service shall ensure that the ALS base hospital or centralized medical direction communications center designates a physician as administrative medical director who meets one of the requirements in subsections (A)(1)(a) through (f).
- D.** An emergency medical services provider or ambulance service may provide administrative medical direction through an ALS base hospital certified according to R9-25-203(C), if the emergency medical services provider or ambulance service:
1. Uses the ALS base hospital for administrative medical direction only for patients who are children, and
 2. Has a written agreement for the provision of administrative medical direction with an ALS base hospital that meets the requirements in R9-25-203(B)(1) or a centralized medical direction communications center.
- E.** An emergency medical services provider or an ambulance service shall ensure that:
1. An EMCT receives administrative medical direction as required by A.R.S. Title 36, Chapter 21.1 and this Chapter;
 2. Protocols are established, documented, and implemented by an administrative medical director, consistent with A.R.S. Title 36, Chapter 21.1 and this Chapter, that include:
 - a. A communication protocol for:
 - i. How and from what sources an EMCT requests and receives on-line medical direction,
 - ii. When and how an EMCT notifies a health care institution of the EMCT's intent to transport a patient to the health care institution, and
 - iii. What procedures an EMCT follows in the event of a communications equipment failure;
 - b. A triage protocol for:
 - i. How an EMCT assesses and prioritizes the medical condition of a patient,
 - ii. How an EMCT selects a health care institution to which a patient may be transported,
 - iii. How a patient is transported to the health care institution, and
 - iv. When on-line medical direction is required;
 - c. A treatment protocol for:
 - i. How an EMCT performs a medical treatment on a patient or administers an agent to a patient, and
 - ii. When on-line medical direction is required while an EMCT is providing treatment; and
 - d. A protocol for the transfer of information to the emergency receiving facility for:
 - i. What information is required to be communicated to emergency receiving facility staff concurrent with the transfer of care and by what method, including the condition of the patient, the treatment provided to the patient, and the patient's response to the treatment;
 - ii. What information is required to be documented on a prehospital incident history report; and
 - iii. The time-frame, which is associated with the transfer of care, for completion and submission of a prehospital incident history report;
3. Policies and procedures are established, documented, and implemented by an administrative medical director, consistent with A.R.S. Title 36, Chapter 21.1 and this Chapter, that:
- a. Are consistent with an EMCT's scope of practice, as specified in Table 5.1;
 - b. Cover:
 - i. Medical recordkeeping;
 - ii. Medical reporting, including to whom and by what method medical reporting is accomplished;
 - iii. Completion and submission of prehospital incident history reports;
 - iv. Obtaining, storing, transferring, and disposing of agents to which an EMCT has access including methods to:
 - (1) Identify individuals authorized by the administrative medical director to have access to agents,
 - (2) Maintain chain of custody for controlled substances, and
 - (3) Minimize potential degradation of agents due to temperature extremes;
 - v. Administration, monitoring, or assisting in patient self-administration of an agent;
 - vi. Monitoring and evaluating an EMCT's compliance with treatment protocols, triage protocols, and communications protocols specified in subsection (E)(2);
 - vii. Monitoring and evaluating an EMCT's compliance with medical recordkeeping, medical reporting, and prehospital incident history report requirements;
 - viii. Monitoring and evaluating an EMCT's compliance with policies and procedures for agents to which the EMCT has access;
 - ix. Monitoring and evaluating an EMCT's competency in performing skills authorized for the EMCT by the EMCT's administrative medical director and within the EMCT's scope of practice, as specified in Table 5.1;
 - x. Ongoing education, training, or remediation necessary to maintain or enhance an EMCT's competency in performing skills within the EMCT's scope of practice, as specified in Table 5.1;
 - xi. The process by which administrative medical direction is withdrawn from an EMCT; and
 - xii. The process for reinstating an EMCT's administrative medical direction; and
 - c. Include a quality assurance process to evaluate the effectiveness of the administrative medical direction provided to EMCTs;
4. Protocols in subsection (E)(2) and policies and procedures in subsection (E)(3) are reviewed annually by the administrative medical director and updated as necessary;
5. Requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter are reviewed annually by the administrative medical director; and

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6. The Department is notified in writing no later than ten days after the date:
 - a. Administrative medical direction is withdrawn from an EMCT; or
 - b. An EMCT's administrative medical direction is reinstated.
- F. An administrative medical director for an emergency medical services provider or ambulance service shall ensure that:
 1. An EMCT for whom the administrative medical director provides administrative medical direction:
 - a. Has access to at least the minimum supply of agents required for the highest level of service to be provided by the EMCT, consistent with requirements in Article 5 of this Chapter;
 - b. Administers, monitors, or assists in patient self-administration of an agent according to the requirements in policies and procedures; and
 - c. Has access to a copy of the policies and procedures required in subsection (F)(2) while on duty for the emergency medical services provider or ambulance service;
 2. Policies and procedures for agents to which an EMCT has access:
 - a. Specify that an agent is obtained only from a person:
 - i. Authorized by law to prescribe the agent, or
 - ii. Licensed under A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; and 4 A.A.C. 23 to dispense or distribute the agent;
 - b. Cover chain of custody and transfer procedures for each supply of agents, requiring an EMCT for whom the administrative medical director provides administrative medical direction to:
 - i. Document the name and the EMCT certification number or employee identification number of each individual who takes physical control of the supply of agents;
 - ii. Document the time and date that each individual takes physical control of the supply of agents;
 - iii. Inspect the supply of agents for expired agents, deteriorated agents, damaged or altered agent containers or labels, and depleted, visibly adulterated, or missing agents upon taking physical control of the supply of agents;
 - iv. Document any of the conditions in subsection (F)(2)(b)(iii);
 - v. Notify the administrative medical director of a depleted, visibly adulterated, or missing controlled substance;
 - vi. Obtain a replacement for each affected agent in subsection (F)(2)(b)(iii) for which the minimum supply is not present; and
 - vii. Record each administration of an agent on a prehospital incident history report;
 - c. Cover mechanisms for controlling inventory of agents and preventing diversion of controlled substances; and
 - d. Include that an agent is kept inaccessible to all individuals who are not authorized access to the agent by policies and procedures required under subsection (E)(3)(b)(iv)(1) and, when not being administered, is:
 - i. Secured in a dry, clean, washable receptacle;
 - ii. While on a motor vehicle or aircraft registered to the emergency medical services provider or ambulance service, secured in a manner that restricts movement of the agent and the receptacle specified in subsection (F)(2)(d)(i); and
 - iii. If a controlled substance, in a hard-shelled container that is difficult to breach without the use of a power cutting tool and:
 - (1) Locked inside a motor vehicle or aircraft registered to the emergency medical services provider or ambulance service,
 - (2) Otherwise locked and secured in such a manner as to deter misappropriation, or
 - (3) On the person of an EMCT authorized access to the agent;
 3. The Department is notified in writing within 10 days after the administrative medical director receives notice, as required subsection (F)(2)(b)(v), that any quantity of a controlled substance is depleted, visibly adulterated, or missing; and
 4. Except when the emergency medical services provider or ambulance service obtains all agents from an ALS base hospital pharmacy, which retains ownership of the agents, agents to which an EMCT has access are obtained, stored, transferred, and disposed of according to policies and procedures; A.R.S. Title 36, Chapter 27; A.R.S. Title 32, Chapter 18; 4 A.A.C. 23; and requirements of the U.S. Drug Enforcement Administration.
- G. An administrative medical director may delegate responsibilities to an individual as necessary to fulfill the requirements in this Section, if the individual is:
 1. Another physician,
 2. A physician assistant,
 3. A registered nurse practitioner,
 4. A registered nurse,
 5. A Paramedic, or
 6. An EMT-I(99).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-201 renumbered to R9-25-207; new R9-25-201 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section R9-25-201 renumbered from R9-25-202 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

R9-25-202. On-line Medical Direction (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5), (6), and (7), 36-2204.01, and 36-2205(A) and (D))

- A. In this Section, "physician" means an individual licensed:
 1. According to A.R.S. Title 32, Chapter 13 or 17; or
 2. When working in a health care institution operating under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation, by a similar licensing board in another state.
- B. An emergency medical services provider or ambulance service shall:
 1. Except as provided in R9-25-203(C)(3), ensure that a physician provides on-line medical direction to EMCTs on behalf of the emergency medical services provider or ambulance service only if the physician meets one of the following:

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- a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties;
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine;
 - c. Has emergency medicine certification issued by the American Osteopathic Board of Emergency Medicine;
 - d. Has emergency medicine certification issued by the American Board of Physician Specialties;
 - e. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association; or
 - f. Is an emergency medicine physician in an emergency department located in Arizona and has current certification that meets the requirements in R9-25-201(A)(1)(f)(i) through (iii);
2. For each physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service, maintain for Department review either:
 - a. The name, email address, telephone number, and qualifications of the physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service; or
 - b. If the emergency medical services provider or ambulance service provides on-line medical direction through an ALS base hospital or a centralized medical direction communications center, a copy of a written agreement with the ALS base hospital or centralized medical direction communications center documenting that the physician providing on-line medical direction is qualified under subsection (B)(1);
 3. Ensure that the on-line medical direction provided to an EMCT on behalf of the emergency medical services provider or ambulance service is consistent with:
 - a. The EMCT's scope of practice, as specified in Table 5.1; and
 - b. Communication protocols, triage protocols, treatment protocols, and protocols for prehospital incident history reports, specified in R9-25-201(E)(2); and
 4. Ensures that a physician providing on-line medical direction on behalf of the emergency medical services provider or ambulance service relays on-line medical direction only through one of the following individuals, under the supervision of the physician and consistent with the individual's scope of practice:
 - a. Another physician,
 - b. A physician assistant,
 - c. A registered nurse practitioner,
 - d. A registered nurse,
 - e. A Paramedic, or
 - f. An EMT-I(99).
- C.** An emergency medical services provider or ambulance service may provide on-line medical direction through an ALS base hospital certified according to R9-25-203(C), if the emergency medical services provider or ambulance service:
1. Uses the ALS base hospital for on-line medical direction only for patients who are children, and
 2. Has an additional written agreement for the provision of on-line medical direction with an ALS base hospital that meets the requirements in R9-25-203(B)(1) or a centralized medical direction communications center.
- D.** An emergency medical services provider or ambulance service shall ensure that the emergency medical services provider or ambulance service, or an ALS base hospital or a centralized medical direction communications center providing on-line medical direction on behalf of the emergency medical services provider or ambulance service, has:
1. Operational and accessible communication equipment that will allow on-line medical direction to be given to an EMCT;
 2. A written plan for alternative communications with an EMCT in the event of a disaster, communication equipment breakdown or repair, power outage, or malfunction; and
 3. A physician qualified under subsection (B)(1) available to give on-line medical direction to an EMCT 24 hours a day, seven days a week.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-202 renumbered to R9-25-208; new R9-25-202 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-202 renumbered to Section R9-25-201; new Section R9-25-202 renumbered from R9-25-203 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

Exhibit A. Repealed**Historical Note**

Exhibit A adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-203. ALS Base Hospital General Requirements (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5), (6), and (7))

- A.** A person shall not operate as an ALS base hospital without certification from the Department.
- B.** The Department shall certify an ALS base hospital if the applicant:
1. Is:
 - a. Licensed as a general hospital under 9 A.A.C. 10, Article 2; or
 - b. A facility operated as a hospital in this state by the United States federal government or by a sovereign tribal nation;
 2. Maintains at least one current written agreement described in A.R.S. § 36-2201(4);
 3. Has not been decertified as an ALS base hospital by the Department within five years before submitting the application;
 4. Submits an application that is complete and compliant with the requirements in this Article; and
 5. Has not knowingly provided false information on or with an application required by this Article.
- C.** The Department may certify as an ALS base hospital a special hospital, which is licensed under 9 A.A.C. 10, Article 2 and provides surgical services and emergency services only to children, if the applicant:
1. Meets the requirements in subsection (B)(2) through (5);

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2. Provides administrative medical direction or on-line medical direction only for patients who are children; and
3. Ensures that:
 - a. Administrative medical direction is provided by a physician who meets the requirements in R9-25-201(A)(1); and
 - b. On-line medical direction is provided by a physician who meets one of the following:
 - i. Meets the requirements in R9-25-202(B)(1),
 - ii. Has board certification in pediatric emergency medicine from either the American Board of Pediatrics or the American Board of Emergency Medicine, or
 - iii. Is board eligible in pediatric emergency medicine.
- D. An ALS base hospital certificate is valid only for the name and address listed by the Department on the certificate.
- E. At least every 36 months after certification, the Department shall assess an ALS base hospital to determine ongoing compliance with the requirements of this Article.
- F. The Department may inspect an ALS base hospital according to A.R.S. § 41-1009:
 1. As part of the substantive review time-frame required in A.R.S. §§ 41-1072 through 41-1079; or
 2. As necessary to determine compliance with the requirements of this Article.
- G. If the Department determines that an ALS base hospital is not in compliance with the requirements in this Article, the Department may:
 1. Take an enforcement action as described in R9-25-207; or
 2. Require that an ALS base hospital submit to the Department, within 15 days after written notice from the Department, a corrective action plan to address issues of compliance that do not directly affect the health or safety of a patient that:
 - a. Describes how each identified instance of non-compliance will be corrected and reoccurrence prevented, and
 - b. Includes a date for correcting each instance of non-compliance that is appropriate to the actions necessary to correct the instance of non-compliance.
- c. The name, email address, and telephone number of the applicant's chief administrative officer's designee if the chief administrative officer will not be the liaison between the ALS base hospital and the Department;
- d. Whether the applicant is applying for certification of a:
 - i. General hospital licensed under 9 A.A.C. 10, Article 2;
 - ii. Special hospital licensed under 9 A.A.C. 10, Article 2, that provides surgical services and emergency services only to children; or
 - iii. Facility operating as a federal or tribal hospital;
- e. The name of each emergency medical services provider or ambulance service for which the applicant has a proposed written agreement described in A.R.S. § 36-2201(4) to provide administrative medical direction or on-line medical direction;
- f. The name, address, email address, and telephone number of each administrative medical director;
- g. The name of each physician providing on-line medical direction;
- h. Attestation that the applicant meets the requirements in R9-25-202(D);
- i. Attestation that the applicant will comply with all requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter;
- j. Attestation that all information required as part of the application has been submitted and is true and accurate; and
- k. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature;
2. A copy of the applicant's current hospital license issued under 9 A.A.C. 10, Article 2, if applicable; and
3. A copy of each executed written agreement described in A.R.S. § 36-2201(4), including all attachments and exhibits.
- B. The Department shall approve or deny an application under this Section according to Article 12 of this Chapter.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-203 renumbered to Section R9-25-202; new Section R9-25-203 renumbered from R9-25-207 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

R9-25-204. Application Requirements for ALS Base Hospital Certification (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5))

- A. An applicant for ALS base hospital certification shall submit to the Department an application, including:
 1. The following information in a Department-provided format:
 - a. The applicant's name, address, and telephone number;
 - b. The name, email address, and telephone number of the applicant's chief administrative officer;

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-204 renumbered to R9-25-209; new R9-25-204 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-204 repealed; new Section R9-25-204 renumbered from R9-25-208 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

R9-25-205. Changes Affecting an ALS Base Hospital Certificate (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(5) and (6))

- A. No later than 30 days after the date of a change in the name listed on the ALS base hospital certificate, an ALS base hospital certificate holder shall notify the Department of the change, in a Department-provided format, including:
 1. The current name of the ALS base hospital;
 2. The ALS base hospital's certificate number;
 3. The new name and the effective date of the name change;
 4. Documentation supporting the name change;

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5. Documentation of compliance with the requirements in A.A.C. R9-10-109(A), if applicable;
 6. Attestation that all information submitted to the Department is true and correct; and
 7. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- B.** No later than 48 hours after changing the information provided according to R9-25-204(A)(1)(e) by terminating, adding, or amending a written agreement required in R9-25-203(B)(2), an ALS base hospital certificate holder shall notify the Department of the change, including:
1. The following information in a Department-provided format:
 - a. The name of the ALS base hospital;
 - b. The ALS base hospital's certificate number; and
 - c. As applicable, the name of the emergency medical services provider or ambulance service for which the ALS base hospital:
 - i. Has a newly executed or amended written agreement described in A.R.S. § 36-2201(4), or
 - ii. Is no longer providing administrative medical direction or on-line medical direction under a written agreement described in A.R.S. § 36-2201(4); and
 2. If applicable, a copy of the newly executed or amended written agreement described in A.R.S. § 36-2201(4), including all attachments and exhibits.
- C.** No later than 10 days after the date of a change in an administrative medical director provided according to R9-25-204(A)(1)(f), an ALS base hospital certificate holder shall notify the Department of the change, in a Department-provided format, including:
1. The name of the ALS base hospital,
 2. The ALS base hospital's certificate number,
 3. The name of the new administrative medical director and the effective date of the change,
 4. Attestation that the new administrative medical director meets the requirements in R9-25-201(A)(1),
 5. Attestation that all information submitted to the Department is true and correct, and
 6. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- D.** No later than 30 days after the date of a change in the address listed on an ALS base hospital certificate or a change in ownership, as defined in A.A.C. R9-10-101, an ALS base hospital certificate holder shall submit to the Department an application required in R9-25-204(A).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section R9-25-205 repealed; new Section R9-25-205 renumbered from R9-25-209 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

R9-25-206. ALS Base Hospital Authority and Responsi-

bilities (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), 36-2204(5) and (6), 36-2208(A), and 36-2209(A)(2))

- A.** An ALS base hospital certificate holder shall:
1. Have the capability of providing both administrative medical direction and on-line medical direction;
 2. Provide administrative medical direction and on-line medical direction to an EMCT according to:
 - a. A written agreement described in A.R.S. § 36-2201(4);
 - b. The requirements in R9-25-201 for administrative medical direction; and
 - c. The requirements in R9-25-202 for on-line medical direction;
 3. Ensure that personnel are available to provide administrative medical direction and on-line medical direction; and
 4. Establish, document, and implement policies and procedures, consistent with A.R.S. Title 36, Chapter 21.1 and this Chapter, that include a quality assurance process to evaluate the effectiveness of the on-line medical direction provided to EMCTs.
- B.** An ALS base hospital certificate holder shall notify in writing:
1. The Department no later than 24 hours after:
 - a. Ceasing to meet a requirement in R9-25-203(B)(1) or (2); or
 - b. For a special hospital, ceasing to be licensed under 9 A.A.C. 10, Article 2, as a special hospital or to meet the requirement in R9-25-203(B)(2); and
 2. Each emergency medical services provider or ambulance service with which the ALS base hospital has a current written agreement to provide administrative medical direction or on-line medical direction no later than seven days before ceasing to provide administrative medical direction or on-line medical direction or as specified in the written agreement, whichever is earlier.
- C.** An ALS base hospital may act as a training program without training program certification from the Department, if the ALS base hospital:
1. Is eligible for training program certification as provided in R9-25-301(C); and
 2. Complies with the requirements in R9-25-301(D), R9-25-302, R9-25-303(B), (C), and (F), and R9-25-304 through R9-25-306.
- D.** If an ALS base hospital's pharmacy provides all of the agents for an emergency medical services provider or ambulance service, and the ALS base hospital owns the agents provided, the ALS base hospital's certificate holder shall ensure that:
1. Except as stated in subsections (D)(2) and (3), the policies and procedures for agents to which an EMCT has access that are established by the administrative medical director for the emergency medical services provider or ambulance service comply with requirements in R9-25-201(F)(2);
 2. The emergency medical services provider or ambulance service requires an EMCT for the emergency medical services provider or ambulance service to notify the pharmacist in charge of the hospital pharmacy of a missing, visibly adulterated, or depleted controlled substance; and
 3. The pharmacist in charge of the hospital pharmacy notifies the Department, as specified in R9-25-201(F)(3), of a missing, visibly adulterated, or depleted controlled substance.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Amended effective November 30, 1998; filed in the

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Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Former R9-25-206 renumbered to R9-25-210; new R9-25-206 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-206 repealed; new Section R9-25-206 renumbered from R9-25-210 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

The following Exhibit was repealed under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit this change to the Secretary of State's Office for publication in the Arizona Administrative Register as proposed rules; the Department did not submit the change to the Governor's Regulatory Review Council for review; and the Department was not required to hold public hearings on the repealing of this Exhibit (Supp. 98-4).

Exhibit B. Repealed**Historical Note**

Exhibit B adopted effective October 15, 1996 (Supp. 96-4). Repealed effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4).

R9-25-207. ALS Base Hospital Enforcement Actions (Authorized by A.R.S. §§ 36-2201, 36-2202(A)(3) and (A)(4), and 36-2204(7))

A. Except as provided in subsection (C), the Department may take an action listed in subsection (B) against an ALS base hospital certificate holder who:

1. Does not meet the certification requirements:
 - a. In R9-25-203(B)(1) or (2); or
 - b. For a special hospital, in R9-25-203(B)(2) and being licensed under 9 A.A.C. 10, Article 2, as a special hospital;
2. Violates the requirements in A.R.S. Title 36, Chapter 21.1 or 9 A.A.C. 25;
3. Does not submit a corrective action plan, as provided in R9-25-203(G)(2), that is acceptable to the Department;
4. Does not complete a corrective action plan submitted according to R9-25-203(G)(2); or
5. Knowingly or negligently provides false documentation or information to the Department.

B. The Department may take the following action against an ALS base hospital certificate holder:

1. After notice is provided according to A.R.S. Title 41, Chapter 6, Article 10, issue a letter of censure,
2. After notice is provided according to A.R.S. Title 41, Chapter 6, Article 10, issue an order of probation,
3. After notice and an opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10, suspend the ALS base hospital certificate, or
4. After notice and an opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10, decertify the ALS base hospital.

C. An ALS base hospital operated as a hospital in this state by the United States federal government or by a sovereign tribal nation is under federal or tribal government jurisdiction.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-207 repealed; new R9-25-207 renumbered from R9-25-201 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-207 renumbered to Section R9-25-203; new Section R9-25-207 renumbered from Section R9-25-211 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 25 A.A.R. 953, effective July 1, 2019 (Supp. 19-2).

R9-25-208. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-208 repealed; new R9-25-208 renumbered from R9-25-202 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-208 renumbered to Section R9-25-204 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-209. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-209 repealed; new R9-25-209 renumbered from R9-25-204 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-209 renumbered to Section R9-25-205 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-210. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-210 repealed; new R9-25-210 renumbered from R9-25-206 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-210 renumbered to Section R9-25-206 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-211. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Former R9-25-211 repealed; new R9-25-211 renumbered from R9-25-213 and amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-211 renumbered to Section R9-25-207 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-212. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-213. Renumbered

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Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section renumbered to R9-25-211 by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

ARTICLE 3. TRAINING PROGRAMS**R9-25-301. Application for Certification (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))**

- A.** To apply for certification as a training program, an applicant shall submit an application to the Department, in a Department-provided format, including:
1. The applicant's name, address, and telephone number;
 2. The name, telephone number, and email address of the applicant's chief administrative officer;
 3. The name of each course the applicant plans to provide;
 4. Attestation that the applicant has the equipment and facilities that meet the requirements established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references for the courses specified in subsection (A)(3);
 5. The name, telephone number, and email address of the training program medical director;
 6. The name, telephone number, and email address of the training program director;
 7. Attestation that the applicant will comply with all requirements in A.R.S. Title 36, Chapter 21.1 and 9 A.A.C. 25;
 8. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 9. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- B.** An applicant may submit to the Department a copy of an accreditation report if the applicant is currently accredited by a national accrediting organization.
- C.** The Department shall certify a training program if the applicant:
1. Has not operated a training program that has been decertified by the Department within five years before submitting the application,
 2. Submits an application that is complete and compliant with requirements in this Article, and
 3. Has not knowingly provided false information on or with an application required by this Article.
- D.** The Department:
1. Shall assess a training program at least once every 24 months after certification to determine ongoing compliance with the requirements of this Article; and
 2. May inspect a training program according to A.R.S. § 41-1009:
 - a. As part of the substantive review time-frame required in A.R.S. §§ 41-1072 through 41-1079, or
 - b. As necessary to determine compliance with the requirements of this Article.
- E.** The Department shall approve or deny an application under this Article according to Article 12 of this Chapter.
- F.** A training program certificate is valid only for the name of the training program certificate holder and the courses listed by the Department on the certificate and may not be transferred to another person.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 3487, with an immediate effective date of December 4, 2018 (Supp. 18-4).

R9-25-302. Administration (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A.** A training program certificate holder shall ensure that a training program medical director:
1. Is a physician or exempt from physician licensing requirements under A.R.S. §§ 32-1421(A)(7) or 32-1821(3);
 2. Meets one of the following:
 - a. Has emergency medicine certification issued by a member board of the American Board of Medical Specialties,
 - b. Has emergency medical services certification issued by the American Board of Emergency Medicine,
 - c. Has completed an emergency medicine residency training program accredited by the Accreditation Council for Graduate Medical Education or approved by the American Osteopathic Association, or
 - d. Is an emergency medicine physician in an emergency department located in Arizona and has current certification that meets the requirements in R9-25-201(A)(1)(d)(i) through (iii); and
 3. Before the start date of a course session, reviews the course content outline and final examinations to ensure consistency with the national educational standards for the applicable EMCT classification level.
- B.** A training program certificate holder shall ensure that a training program director:
1. Is one of the following:
 - a. A physician with at least two years of experience providing emergency medical services as a physician;
 - b. A doctor of allopathic medicine or osteopathic medicine licensed in another state or jurisdiction with at least two years of experience providing emergency medical services as a doctor of allopathic medicine or osteopathic medicine;
 - c. An individual who meets the definition of registered nurse in A.R.S. § 32-1601 with at least two years of experience providing emergency medical services as a registered nurse;
 - d. A physician assistant with at least two years of experience providing emergency medical services as a physician assistant; or
 - e. An EMCT with at least two years of experience at that classification of EMCT, only for courses to prepare an individual for certification or recertification at the same or lower level of EMCT;
 2. Has completed 24 hours of training related to instructional methodology including:

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- a. Organizing and preparing materials for didactic instruction, clinical training, field training, and skills practice;
- b. Preparing and administering tests and practical examinations;
- c. Using equipment and supplies;
- d. Measuring student performance;
- e. Evaluating student performance;
- f. Providing corrective feedback; and
- g. Evaluating course effectiveness;
- 3. Supervises the day-to-day operation of the courses offered by the training program;
- 4. Supervises and evaluates the lead instructor for a course session;
- 5. Monitors the training provided by all preceptors providing clinical training or field training; and
- 6. Does not participate as a student in a course session, take a refresher challenge examination, or receive a certificate of completion for a course given by the training program.
- C. A training program certificate holder shall:
 - 1. Maintain with an insurance company authorized to transact business in this state:
 - a. A minimum single claim professional liability insurance coverage of \$500,000, and
 - b. A minimum single claim general liability insurance coverage of \$500,000 for the operation of the training program; or
 - 2. Be self-insured for the amounts in subsection (C)(1).
- D. A training program certificate holder shall ensure that policies and procedures are:
 - 1. Established, documented, and implemented covering:
 - a. Student enrollment, including verification that a student has proficiency in reading at the 9th grade level and meets all course admission requirements;
 - b. Maintenance of student records and medical records, including compliance with all applicable state and federal laws governing confidentiality, privacy, and security; and
 - c. For each course offered:
 - i. Student attendance requirements, including leave, absences, make-up work, tardiness, and causes for suspending or expelling a student for unsatisfactory attendance;
 - ii. Grading criteria, including the minimum grade average considered satisfactory for continued enrollment and standards for suspending or expelling a student for unsatisfactory grades;
 - iii. Administration of final examinations; and
 - iv. Student conduct, including causes for suspending or expelling a student for unsatisfactory conduct;
 - 2. Reviewed annually and updated as necessary; and
 - 3. Maintained on the premises and provided to the Department at the Department's request.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19

A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-303. Changes Affecting a Training Program Certificate (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A. No later than 10 days after a change in the name, address, or email address of the training program certificate holder listed on a training program certificate, the training program certificate holder shall notify the Department of the change, in a Department-provided format, including:
 - 1. The current name, address, and email address of the training program certificate holder;
 - 2. The certificate number for the training program;
 - 3. The new name, new address, or new email address and the date of the name, address, or email address change;
 - 4. If applicable, attestation that the training program certificate holder has insurance required in R9-25-302(C) that is valid for the new name or new address;
 - 5. Attestation that all information submitted to the Department is true and correct; and
 - 6. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- B. No later than 10 days after a change in the training program medical director or training program director, a training program certificate holder shall notify the Department, in a Department-provided format, including:
 - 1. The name and address of the training program certificate holder;
 - 2. The certificate number for the training program;
 - 3. The name, telephone number, and email address of the new training program medical director or training program director and the date of the change; and
 - 4. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- C. A training program certificate holder that intends to add a course shall submit to the Department a request for approval, in a Department-provided format, including:
 - 1. The name and address of the training program certificate holder;
 - 2. The certificate number for the training program;
 - 3. The name, telephone number, and email address of the applicant's chief administrative officer;
 - 4. The name of each course the training program certificate holder plans to add;
 - 5. Attestation that the training program certificate holder has the equipment and facilities that meet the requirements established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references for the courses specified in subsection (C)(4);
 - 6. Attestation that all information required as part of the request is true and accurate; and
 - 7. The signature or electronic signature of the applicant's chief administrative officer or the chief administrative officer's designated representative and date of signature or electronic signature.
- D. For notification made under subsection (A) of a change in the name or address of a certificate holder, the Department shall issue an amended certificate to the training program certificate holder that incorporates the new name or address but retains the date on the current certificate.

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- E. The Department shall approve or deny a request for the addition of a course in subsection (C) according to Article 12 of this Chapter.
- F. A training program certificate holder shall not conduct a course until an amended certificate is issued by the Department.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 3487, with an immediate effective date of December 4, 2018 (Supp. 18-4).

R9-25-304. Course and Examination Requirements (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1), (2), and (3))

- A. For each course provided, a training program director shall ensure that:
 - 1. The required equipment and facilities established for the course are available for use;
 - 2. The following are prepared and provided to course applicants before the start date of a course session:
 - a. A description of requirements for admission, course content, course hours, course fees, and course completion, including whether the course prepares a student for:
 - i. A national certification organization examination for the specific EMCT classification level,
 - ii. A statewide standardized certification test under the state certification process, or
 - iii. Recertification at a specific EMCT classification level;
 - b. A list of books, equipment, and supplies that a student is required to purchase for the course;
 - c. Notification of eligibility for the course as specified in R9-25-305(B), (D)(1) and (2), or (F)(1) and (2), as applicable;
 - d. Notification of any specific requirements for a student to begin any component of the course, including, as applicable:
 - i. Prerequisite knowledge, skill, and abilities;
 - ii. Physical examinations;
 - iii. Immunizations;
 - iv. Documentation of freedom from infectious tuberculosis;
 - v. Drug screening; and
 - vi. The ability to perform certain physical activities; and
 - e. The policies for the course on student attendance, grading, student conduct, and administration of final examinations, required in R9-25-302(D)(1)(c)(i) through (iv);
 - 3. Information is provided to assist a student to:
 - a. Register for and take an applicable national certification organization examination;
 - b. Complete application forms for registration in a national certification organization; and
 - c. Complete application forms for certification under 9 A.A.C. 25, Article 4;
 - 4. A lead instructor is assigned to each course session who:
 - a. Is one of the following:
 - i. A physician with at least two years of experience providing emergency medical services;
 - ii. A doctor of allopathic medicine or osteopathic medicine licensed in another state or jurisdiction with at least two years of experience providing emergency medical services;
 - iii. An individual who meets the definition of registered nurse in A.R.S. § 32-1601 with at least two years of experience providing emergency medical services;
 - iv. A physician assistant with at least two years of experience providing emergency medical services; or
 - v. An EMCT with at least two years of experience at that classification of EMCT, only for courses to prepare an individual for certification or recertification at the same or lower EMCT classification level;
 - b. Has completed training related to instructional methodology specified in R9-25-302(B)(2);
 - c. Except as provided in subsection (A)(4)(d), is available for student-instructor interaction during all course hours established for the course session; and
 - d. Designates an individual who meets the requirements in subsections (A)(4)(a) and (b) to be present and act as the lead instructor when the lead instructor is not present; and
 - 5. Clinical training and field training are provided:
 - a. Under the supervision of a preceptor who has at least two years of experience providing emergency medical services and is one of the following:
 - i. An individual licensed in this or another state or jurisdiction as a doctor of allopathic medicine or osteopathic medicine;
 - ii. An individual licensed in this or another state or jurisdiction as a registered nurse;
 - iii. An individual licensed in this or another state or jurisdiction as a physician assistant; or
 - iv. An EMCT, only for courses to prepare an individual for certification or recertification at the same or lower EMCT classification level;
 - b. Consistent with the clinical training and field training requirements established for the course; and
 - c. If clinical training or field training are provided by a person other than the training program certificate holder, under a written agreement with the person providing the clinical training or field training that includes a termination clause that provides sufficient time for a student to complete the training upon termination of the written agreement.
- B. A training program director may combine the students from more than one course session for didactic instruction.
- C. For a final examination or refresher challenge examination for each course offered, a training program director shall ensure that:
 - 1. The final examination or refresher challenge examination for the course is completed onsite at the training program or at a facility used for course instruction;
 - 2. Except as provided in subsection (D), the final examination or refresher challenge examination for a course includes a:
 - a. Written test:

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- i. With one absolutely correct answer, two incorrect answers, and one distractor, none of which is "all of the above" or "none of the above";
- ii. With 150 multiple-choice questions for the:
 - (1) Final examination for a refresher course, or
 - (2) Refresher challenge examination for a course;
- iii. That covers the learning objectives of the course with representation from all topics covered by the course; and
- iv. That requires a passing score of 75% or higher in no more than three attempts for a final examination and no more than one attempt for a refresher challenge examination; and
- b. Comprehensive practical skills test:
 - i. Evaluating the student's technical proficiency in skills consistent with the national education standards for the applicable EMCT classification level, and
 - ii. Reflecting the skills necessary to pass a national certification organization examination at the applicable EMCT classification level;
- 3. The identity of each student taking the final examination or refresher challenge examination is verified;
- 4. A student does not receive verbal or written assistance from any other individual or use notes, books, or documents of any kind as an aid in taking the examination;
- 5. A student who violates subsection (C)(4) is not permitted to complete the examination or to receive a certificate of completion for the course or refresher challenge examination; and
- 6. An instructor who allows a student to violate subsection (C)(4) or assists a student in violating subsection (C)(4) is no longer permitted to serve as an instructor.
- D.** A training program director shall ensure that a standardized certification test for a student under the state certification process includes:
 - 1. A written test that meets the requirements in subsection (C)(2)(a); and
 - 2. Either:
 - a. A comprehensive practical skills test that meets the requirements in subsection (C)(2)(b), or
 - b. An attestation of practical skills proficiency on a Department-provided form.
- E.** A training program director shall ensure that:
 - 1. A student is allowed no longer than six months after the date of the last day of classroom instruction for a course session to complete all course requirements,
 - 2. There is a maximum ratio of four students to one preceptor for the clinical training portion of a course, and
 - 3. There is a maximum ratio of one student to one preceptor for the field training portion of a course.
- F.** A training program director shall:
 - 1. For a student who completes a course, issue a certificate of completion containing:
 - a. Identification of the training program,
 - b. Identification of the course completed,
 - c. The name of the student who completed the course,
 - d. The date the student completed all course requirements,
 - e. Attestation that the student has met all course requirements, and
 - f. The signature or electronic signature of the training program director and the date of signature or electronic signature; and
- 2. For an individual who passes a refresher challenge examination, issue a certificate of completion containing:
 - a. Identification of the training program,
 - b. Identification of the refresher challenge examination administered,
 - c. The name of the individual who passed the refresher challenge examination,
 - d. The date or dates the individual took the refresher challenge examination,
 - e. Attestation that the individual has passed the refresher challenge examination, and
 - f. The signature or electronic signature of the training program director and the date of signature or electronic signature.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-305. Supplemental Requirements for Specific Courses (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A.** Except as specified in subsection (B), a training program certificate holder shall ensure that a certification course offered by the training program:
 - 1. Covers knowledge, skills, and competencies comparable to the national education standards established for a specific EMCT classification level;
 - 2. Prepares a student for:
 - a. A national certification organization examination for the specific EMCT classification level, or
 - b. A standardized certification test under the state certification process;
 - 3. Has no more than 24 students enrolled in each session of the course; and
 - 4. Has a minimum course length of:
 - a. For an EMT certification course, 130 hours;
 - b. For an AEMT certification course, 244 hours, including:
 - i. A minimum of 100 contact hours of didactic instruction and practical skills training, and
 - ii. A minimum of 144 contact hours of clinical training and field training; and
 - c. For a Paramedic certification course, 1000 hours, including:
 - i. A minimum of 500 contact hours of didactic instruction and practical skills training, and
 - ii. A minimum of 500 contact hours of clinical training and field training.
- B.** A training program director shall ensure that, for an AEMT certification course or a Paramedic certification course, a student has one of the following:
 - 1. Current certification from the Department as an EMT or higher EMCT classification level,
 - 2. Documentation of completion of prior training in an EMT course or a course for a higher EMCT classification level

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- provided by a training program certified by the Department or an equivalent training program, or
3. Documentation of current registration in a national certification organization at the EMT classification level or higher EMCT classification level.
- C. A training program director shall ensure that for a course to prepare an EMT-I(99) for Paramedic certification:
1. A student has current certification from the Department as an EMT-I(99);
 2. The course covers the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references;
 3. The minimum course length is 600 hours, including:
 - a. A minimum of 220 contact hours of didactic instruction and practical skills training, and
 - b. A minimum of 380 contact hours of clinical training and field training; and
 4. A minimum of 60 contact hours of training in anatomy and physiology are completed by the student:
 - a. As a prerequisite to the course,
 - b. As preliminary instruction completed at the beginning of the course session before the didactic instruction required in subsection (C)(3)(a) begins, or
 - c. Through integration of the anatomy and physiology material with the units of instruction required in subsection (C)(3).
- D. A training program director shall ensure that for an EMT refresher course:
1. A student has one of the following:
 - a. Current certification from the Department as an EMT or higher EMCT classification level,
 - b. Documentation of completion of prior training in an EMT course or a course for a higher EMCT classification level provided by a training program certified by the Department or an equivalent training program,
 - c. Documentation of current registration in a national certification organization at the EMT classification level or higher EMCT classification level, or
 - d. Documentation from a national certification organization requiring the student to complete the EMT refresher course to be eligible to apply for registration in the national certification organization;
 2. A student has documentation of current certification in adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs;
 3. The EMT refresher course cover the knowledge, skills, and competencies in the national education standards established at the EMT classification level;
 4. No more than 32 students are enrolled in each session of the course; and
 5. The minimum course length is 24 contact hours.
- E. A training program authorized to provide an EMT refresher course may administer a refresher challenge examination covering materials included in the EMT refresher course to an individual eligible for admission into the EMT refresher course.
- F. A training program director shall ensure that for an ALS refresher course:
1. A student has one of the following:
 - a. Current certification from the Department as an AEMT, EMT-I(99), or Paramedic;
 - b. Documentation of completion of a prior training course, at the AEMT classification level or higher, provided by a training program certified by the Department or an equivalent training program;
 - c. Documentation of current registration in a national certification organization at the AEMT or Paramedic classification level; or
 - d. Documentation from a national certification organization requiring the student to complete the ALS refresher course to be eligible to apply for registration in the national certification organization;
 2. A student has documentation of current certification in:
 - a. Adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs, and
 - b. For a student who has current certification as an EMT-I(99) or higher level of EMCT classification, advanced emergency cardiac life support;
 3. The ALS refresher course covers:
 - a. For a student who has current certification as an AEMT or documentation of completion of prior training at an AEMT classification level, the knowledge, skills, and competencies in the national education standards established for an AEMT;
 - b. For a student who has current certification as an EMT-I(99), the knowledge, skills, and competencies established according to A.R.S. § 36-2204 for an EMT-I(99) as of the effective date of this Section and available through the Department at www.azdhs.gov/ems-regulatory-references; and
 - c. For a student who has current certification as a Paramedic or documentation of completion of prior training at a Paramedic classification level, the knowledge, skills, and competencies in the national education standards established for a Paramedic;
 4. No more than 32 students are enrolled in each session of the course; and
 5. The minimum course length is 48 contact hours.
- G. A training program authorized to provide an ALS refresher course may administer a refresher challenge examination covering materials included in the ALS refresher course to an individual eligible for admission into the ALS refresher course.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1). Amended by final expedited rulemaking at 24 A.A.R. 3487, with an immediate effective date of December 4, 2018 (Supp. 18-4).

Exhibit F.**Repealed**

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Historical Note

Exhibit F adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-306. Training Program Notification and Record-keeping (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A.** At least 10 days before the start date of a course session, a training program certificate holder shall submit to the Department the following information in a Department-provided format:
1. Identification of the training program;
 2. Identification of the course;
 3. The name of the training program medical director;
 4. The name of the training program director;
 5. The name of the course session's lead instructor;
 6. The course session start date and end date;
 7. The physical location at which didactic training and practical skills training will be provided;
 8. The days of the week and times of each day during which didactic training and practical skills training will be provided;
 9. The number of clock hours of didactic training and practical skills training;
 10. If applicable, the number of hours of clinical training and field training included in the course session;
 11. The date, start time, and location of the final examination for the course;
 12. Attestation that the lead instructor is qualified under R9-25-304(A)(4)(a); and
 13. The name and signature of the chief administrative officer or program director and the date signed.
- B.** The Department shall review the information submitted according to subsection (A) and, within five days after receiving the information:
1. Approve a course session, issue an identifying number to the course session, and notify the training program certificate holder of the approval and identifying number; or
 2. Disapprove a course session that does not comply with requirements in this Article and notify the training program certificate holder of the disapproval.
- C.** A training program certificate holder shall ensure that:
1. No later than 10 days after the date a student completes all course requirements, the training program director submits to the Department the following information in a Department-provided format:
 - a. Identification of the training program;
 - b. The name of the training program director;
 - c. Identification of the course and the start date and end date of the course session completed by the student;
 - d. The name, date of birth, and mailing address of the student who completed the course;
 - e. The date the student completed all course requirements;
 - f. The score the student received on the final examination;
 - g. Attestation that the student has met all course requirements;
 - h. Attestation that all information submitted is true and accurate; and
 - i. The signature of the training program director and the date signed; and
 2. No later than 10 days after the date an individual passes a refresher challenge examination administered by the training program, the training program director submits to the Department the following information in a Department-provided format:
 - a. Identification of the training program;
 - b. Identification of the:
 - i. Refresher challenge examination administered, and
 - ii. Course for which the refresher challenge examination substitutes;
 - c. The name of the training program medical director;
 - d. The name of the training program director;
 - e. The name, date of birth, and mailing address of the individual who passed the refresher challenge examination;
 - f. The date and location at which the refresher challenge examination was administered;
 - g. The score the individual received on the refresher challenge examination;
 - h. Attestation that the individual:
 - i. Met the requirements for taking the refresher challenge examination, and
 - ii. Passed the refresher challenge examination;
 - i. Attestation that all information submitted is true and accurate; and
 - j. The name and signature of the training program director and the date signed.
- D.** A training program certificate holder shall ensure that:
1. A record is established for each student enrolled in a course session, including:
 - a. The student's name and date of birth;
 - b. A copy of the student's enrollment agreement or contract;
 - c. Identification of the course in which the student is enrolled;
 - d. The start date and end date for the course session;
 - e. Documentation supporting the student's eligibility to enroll in the course;
 - f. Documentation that the student meets prerequisites for the course, established as specified in R9-25-304(A)(2)(d)(i);
 - g. The student's attendance records;
 - h. The student's clinical training records, if applicable;
 - i. The student's field training records, if applicable;
 - j. The student's grades;
 - k. Documentation of the final examination for the course, including:
 - i. A copy of each scored written test attempted or completed by the student, and
 - ii. All forms used as part of the comprehensive practical skills test attempted or completed by the student; and
 - l. A copy of the student's certificate of completion required in R9-25-304(F)(1);
 2. A student record required in subsection (D)(1) is maintained for at least three years after the end date of a student's course session and provided to the Department at the Department's request;
 3. A record is established for each individual to whom a refresher challenge examination is administered, including:
 - a. The individual's name and date of birth;
 - b. Identification of the refresher challenge examination administered to the individual;

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- c. Documentation supporting the individual's eligibility for a refresher challenge examination;
 - d. The date the refresher challenge examination was administered;
 - e. Documentation of the refresher challenge examination, including:
 - i. A copy of the scored written test attempted or completed by the individual, and
 - ii. All forms used as part of the comprehensive practical skills test attempted or completed by the individual; and
 - f. A copy of the individual's certificate of completion required in R9-25-304(F)(2); and
4. A record required in subsection (D)(3) is maintained for at least three years after the date the refresher challenge examination was administered and provided to the Department at the Department's request.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 553, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). R9-25-306 repealed; new Section R9-25-306 renumbered from R9-25-316 and amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-307. Training Program Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A. The Department may take an action listed in subsection (B) against a training program certificate holder who:
 - 1. Violates the requirements in A.R.S. Title 36, Chapter 21.1 or 9 A.A.C. 25; or
 - 2. Knowingly or negligently provides false documentation or information to the Department.
- B. The Department may take the following action against a training program certificate holder:
 - 1. After notice is provided according to A.R.S. Title 41, Chapter 6, Article 10, issue:
 - a. A letter of censure, or
 - b. An order of probation; or
 - 2. After notice and opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10:
 - a. Suspend the training program certificate, or
 - b. Decertify the training program.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3). New Section R9-25-307 renumbered from R9-25-317 and amended by exempt rulemaking at 19 A.A.R. 282,

effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit H. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-308. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-309. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 553, effective March 5, 2005 (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-310. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-311. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

Exhibit D. Repealed**Historical Note**

Exhibit D adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit C. Repealed**Historical Note**

Exhibit C adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R.

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5372, effective January 3, 2004 (Supp. 03-4).

Exhibit E. Repealed**Historical Note**

Exhibit E adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-312. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-313. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-314. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-315. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-316. Renumbered**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). R9-25-316 renumbered to R9-25-306 by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-317. Renumbered**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). R9-25-317 renumbered to R9-25-307 by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

R9-25-318. Repealed**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section made by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

tive January 28, 2013 (Supp. 13-1).

Exhibit A. Repealed**Historical Note**

New Exhibit made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Exhibit A repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

Exhibit B. Expired**Historical Note**

New Exhibit made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Exhibit B expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3).

Exhibit C. Repealed**Historical Note**

New Exhibit made by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 3014, effective October 6, 2007 (Supp. 07-3). Exhibit C repealed by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1).

ARTICLE 4. EMCT CERTIFICATION

Article 4 repealed; new Article 4 made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-401. EMCT General Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H) and 36-2204(1), (6), and (7))

- A.** Except as provided in R9-25-404(E) and R9-25-405, an individual shall not act as an EMCT unless the individual has current certification or recertification from the Department.
- B.** An EMCT shall act as an EMCT only:
 - 1. As authorized under the EMCT's scope of practice as specified in Article 5 of this Chapter; and
 - 2. For an EMCT required to have medical direction according to A.R.S. Title 36, Chapter 21.1 and R9-25-502, as authorized by the EMCT's administrative medical director under:
 - a. Treatment protocols, triage protocols, and communication protocols approved by the EMCT's administrative medical director as specified in R9-25-201(E)(2); and
 - b. Medical recordkeeping, medical reporting, and pre-hospital incident history report requirements approved by the EMCT's administrative medical director as specified in R9-25-201(E)(3)(b).
- C.** Except as provided in A.R.S. § 36-2211, the Department shall certify or re-certify an individual as an EMCT for a period of two years.
- D.** An individual whose EMCT certificate is expired shall not apply for recertification, except as provided in R9-25-404(A).
- E.** The Department shall comply with the confidentiality requirements in A.R.S. §§ 36-2220(E) and 36-2245(M).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

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Amended by final rulemaking at 13 A.A.R. 1713, effective June 30, 2007 (Supp. 07-2). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-402. EMCT Certification and Recertification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H) and 36-2204(1), (6), and (7))

A. The Department shall not certify an EMCT if the applicant:

1. Is currently:
 - a. Incarcerated for a criminal conviction,
 - b. On parole for a criminal conviction,
 - c. On supervised release for a criminal conviction, or
 - d. On probation for a criminal conviction;
2. Within 10 years before the date of filing an application for certification required by this Article, has been convicted of any of the following crimes, or any similarly defined crimes in this state or in any other state or jurisdiction, unless the conviction has been absolutely discharged, expunged, or vacated:
 - a. 1st or 2nd degree murder;
 - b. Attempted 1st or 2nd degree murder;
 - c. Sexual assault;
 - d. Attempted sexual assault;
 - e. Sexual abuse of a minor;
 - f. Attempted sexual abuse of a minor;
 - g. Sexual exploitation of a minor;
 - h. Attempted sexual exploitation of a minor;
 - i. Commercial sexual exploitation of a minor;
 - j. Attempted commercial sexual exploitation of a minor;
 - k. Molestation of a child;
 - l. Attempted molestation of a child; or
 - m. A dangerous crime against children as defined in A.R.S. § 13-705;
3. Within five years before the date of filing an application for certification required by this Article, has been convicted of a misdemeanor involving moral turpitude or a felony in this state or any other state or jurisdiction, other than a misdemeanor involving moral turpitude or a felony listed in subsection (A)(2), unless the conviction has been absolutely discharged, expunged, or vacated;
4. Within five years before the date of filing an application for certification required by this Article, has had EMCT certification or recertification revoked in this state or certification, recertification, or licensure at an EMCT classification level revoked in any other state or jurisdiction; or
5. Knowingly provides false information in connection with an application required by this Article.

B. The Department shall not re-certify an EMCT, if:

1. While certified, the applicant has been convicted of a crime listed in subsection (A)(2), or any similarly defined crimes in this state or in any other state or jurisdiction, unless the conviction has been absolutely discharged, expunged, or vacated; or
2. The applicant knowingly provides false information in connection with an application required by this Article.

C. The Department shall make probation a condition of EMCT certification if, within two years before the date of filing an application under R9-25-403, an applicant has been convicted of a misdemeanor in this state or in any other state or jurisdiction, involving:

1. Possession, use, administration, acquisition, sale, manufacture, or transportation of an intoxicating liquor, dangerous drug, or narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated; or
2. Driving or being in physical control of a vehicle while under the influence of an intoxicating liquor, a dangerous drug, or a narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated.

D. Except as provided in subsection (E), the Department shall make probation a condition of EMCT recertification if an applicant:

1. Is currently:
 - a. Incarcerated for a criminal conviction,
 - b. On parole for a criminal conviction,
 - c. On supervised release for a criminal conviction, or
 - d. On probation for a criminal conviction; or
2. Within five years before the date of filing an application under R9-25-404, has been convicted of a misdemeanor involving moral turpitude or a felony in this state or any other state or jurisdiction, other than those listed in subsection (A)(2), unless the conviction has been absolutely discharged, expunged, or vacated.

E. As specified in R9-25-409, the Department may make probation a condition of EMCT recertification if an applicant, within two years before the date of filing an application under R9-25-404, has been convicted of a misdemeanor in this state or in any other state or jurisdiction, involving:

1. Possession, use, administration, acquisition, sale, manufacture, or transportation of an intoxicating liquor, dangerous drug, or narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated; or
2. Driving or being in physical control of a vehicle while under the influence of an intoxicating liquor, a dangerous drug, or a narcotic drug, as defined in A.R.S. § 13-3401, unless the conviction has been absolutely discharged, expunged, or vacated.

F. If the Department makes probation a condition of EMCT certification or recertification, the Department shall fix the period and terms of probation that will:

1. Protect the public health and safety, and
2. Rehabilitate and educate the applicant.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-403. Application Requirements for EMCT Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (H) and 36-2204(1) and (6))

A. An individual may apply for initial EMCT certification if:

1. The individual is at least 18 years of age;
2. The individual complies with the requirements in A.R.S. § 41-1080;
3. The individual is not ineligible under R9-25-402; and
4. One of the following applies to the individual:

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- a. The individual has not previously applied for certification from the Department or has withdrawn an application for certification;
 - b. An application for certification submitted by the individual was denied by the Department two or more years before the present date;
 - c. Except as provided in R9-25-404(A)(2) or (3), the individual's certification as an EMCT is expired;
 - d. The individual's certification as an EMCT was revoked by the Department five or more years before the present date; or
 - e. The individual has current certification as an EMCT and is applying for certification at a different classification level of EMCT.
- B.** An applicant for initial EMCT certification shall submit to the Department an application in a Department-provided format, including:
- 1. A form containing:
 - a. The applicant's name, address, telephone number, email address, date of birth, gender, and Social Security number;
 - b. The level of EMCT certification being requested;
 - c. Responses to questions addressing the applicant's criminal history according to R9-25-402(A)(1) through (3) and (C);
 - d. Whether the applicant has within the five years before the date of the application had:
 - i. EMCT certification or recertification revoked in Arizona; or
 - ii. Certification, recertification, or licensure at an EMCT classification level revoked in another state or jurisdiction;
 - e. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 - f. The applicant's signature or electronic signature and date of signature;
 - 2. For each affirmative response to a question addressing the applicant's criminal history required in subsection (B)(1)(c), a detailed explanation on a Department-provided form and supporting documentation;
 - 3. For each affirmative response to subsection (B)(1)(d), a detailed explanation on a Department-provided form and supporting documentation;
 - 4. If applicable, a copy of certification, recertification, or licensure at an EMCT classification level issued to the applicant in another state or jurisdiction;
 - 5. A copy of one of the following for the applicant:
 - a. U.S. passport, current or expired;
 - b. Birth certificate;
 - c. Naturalization documents; or
 - d. Documentation of legal resident alien status; and
 - 6. One of the following:
 - a. Either:
 - i. A certificate of completion showing that within two years before the date of the application, the applicant completed statewide standardized training; and
 - ii. A statewide standardized certification test; or
 - b. Documentation of current registration in a national certification organization at the applicable or higher level of EMCT classification.
- B.** The Department shall approve or deny an application for initial EMCT certification according to Article 12 of this Chapter.
- C.** If the Department denies an application for initial EMCT certification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-403 repealed; new Section R9-25-403 renumbered from Section R9-25-404 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-404. Application Requirements for EMCT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), (B), and (H) and 36-2204(1), (4), and (6))

- A.** An individual may apply for recertification at the same level of EMCT certification held or at a lower level of EMCT certification:
- 1. Within 90 days before the expiration date of the individual's current EMCT certification;
 - 2. Within the 30-day period after the expiration date of the individual's EMCT certification, as provided in subsection (E); or
 - 3. Within the extension time period granted under R9-25-405.
- B.** To apply for recertification, an applicant shall submit to the Department an application, in a Department-provided format, including:
- 1. A form containing:
 - a. The applicant's name, address, telephone number, email address, date of birth, and Social Security number;
 - b. The applicant's current certification number;
 - c. Responses to questions addressing the applicant's criminal history according to R9-25-402(B), (D), and (E);
 - d. Whether the applicant has within the five years before the date of the application had:
 - i. EMCT certification or recertification revoked in Arizona; or
 - ii. Certification, recertification, or licensure at an EMCT classification level revoked in another state or jurisdiction;
 - e. An indication of the level of EMCT certification held currently or within the past 30 days and of the level of EMCT certification for which recertification is requested;
 - f. Attestation that all information required as part of the application has been submitted and is true and accurate; and
 - g. The applicant's signature or electronic signature and date of signature;
 - 2. For each affirmative response to a question addressing the applicant's criminal history required in subsection (B)(1)(c), a detailed explanation on a Department-provided form and supporting documentation;
 - 3. For an affirmative response to subsection (B)(1)(d), a detailed explanation on a Department-provided form; and

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4. For an application submitted within 30 days after the expiration date of EMCT certification, a nonrefundable certification extension fee of \$150.
- C. In addition to the application in subsection (B), an applicant for EMCT recertification shall submit one of the following to the Department:
 1. A certificate of course completion issued by the training program director under R9-25-304(F) showing that within two years before the date of the application, the applicant completed either the applicable refresher course or applicable refresher challenge examination;
 2. Documentation of current registration in a national certification organization at the applicable or higher level of EMCT classification; or
 3. Attestation on a Department-provided form that the applicant:
 - a. Has documentation of current certification in adult, pediatric, and infant cardiopulmonary resuscitation through instruction consistent with American Heart Association recommendations for emergency cardiovascular care by EMCTs;
 - b. For EMT-I(99) recertification or Paramedic recertification, has documentation of current certification in advanced emergency cardiac life support;
 - c. Has documentation of having completed within the previous two years the following number of hours of continuing education in topics that are consistent with the content of the applicable refresher course:
 - i. For EMT recertification, a minimum of 24 hours;
 - ii. For AEMT recertification, EMT-I(99) recertification, or Paramedic recertification, a minimum of 48 hours; and
 - iii. Included in the hours required in subsections (C)(3)(c)(i) or (ii), as applicable, a minimum of 5 hours in pediatric emergency care; and
 - d. For EMT recertification, has functioned in the capacity of an EMT for at least 240 hours during the previous two years.
- D. An applicant who submits an attestation under subsection (C)(3) shall maintain the applicable documentation for at least three years after the date of the application.
- E. If an individual submits an application for recertification, with a certification extension fee, within 30 days after the expiration date of the individual's EMCT certification, the individual:
 1. Was authorized to act as an EMCT during the period between the expiration date of the individual's EMCT certification and the date the application was submitted, and
 2. Is authorized to act as an EMCT until the Department makes a final determination on the individual's application for recertification.
- F. If an individual does not submit an application for recertification before the expiration date of the individual's EMCT certification or, with a certification extension fee, within 30 days after the expiration date of the individual's EMCT certification, the individual:
 1. Is not an EMCT,
 2. Was not authorized to act as an EMCT during the 30-day period after the expiration date of the individual's EMCT certification, and
 3. May submit an application to the Department for initial EMCT certification according to R9-25-403.
- G. The Department shall approve or deny an application for recertification according to Article 12 of this Chapter.
- H. If the Department denies an application for recertification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.
- I. The Department may deny, based on failure to meet the standards for recertification in A.R.S. Title 36, Chapter 21.1 and this Article, an application submitted with a certification extension fee.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-404 renumbered to R9-25-403; new Section R9-25-404 renumbered from Section R9-25-406 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-405. Extension to File an Application for EMCT Recertification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H) and 36-2204(1), (4), (5), and (7))

- A. Before the expiration of a current certificate, an EMCT who is unable to meet the recertification requirements in R9-25-404 because of personal or family illness, military service, or authorized federal or state emergency response deployment may apply to the Department in writing for an extension of time to file for recertification by submitting:
 1. The following information in a Department-provided format:
 - a. The EMCT's name, address, telephone number, and email address;
 - b. The EMCT's current certification number;
 - c. The reason for requesting the extension; and
 - d. The EMCT's signature or electronic signature and date of signature; and
 2. For an exemption based on military service or authorized federal or state emergency response deployment, a copy of the EMCT's military orders or documentation of authorized federal or state emergency response deployment.
- B. The Department may grant an extension of time to file for recertification:
 1. For personal or family illness, for no more than 180 days; or
 2. For each military service or authorized federal or state emergency response deployment, for the term of service or deployment plus 180 days.
- C. An individual applying for or granted an extension of time to file for recertification:
 1. Remains certified according to A.R.S. § 41-1092.11 during the extension period, and
 2. Shall submit an application for recertification according to R9-25-404.
- D. An individual who does not meet the recertification requirements in R9-25-404 within the extension period or has the application for recertification denied by the Department:
 1. Is not an EMCT, and
 2. May submit an application to the Department for initial EMCT certification according to R9-25-403.
- E. The Department shall approve or deny a request for an extension to file for EMCT recertification according to Article 12 of this Chapter.

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- F. If the Department denies a request for an extension to file for EMCT recertification, the applicant may request a hearing according to A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-405 repealed; new Section R9-25-405 renumbered from Section R9-25-407 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-406. Requirements for Downgrading of Certification (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), and (H) and 36-2204(1) and (6))

An individual who holds current EMCT certification at a classification level higher than EMT and who is not under investigation according to A.R.S. § 36-2211 may apply for:

1. Continued certification at a lower EMCT classification level for the remainder of the certification period by submitting to the Department:
 - a. A written request containing:
 - i. The EMCT's name, address, email address, telephone number, date of birth, and Social Security number;
 - ii. The lower EMCT classification level requested;
 - iii. Attestation that the applicant has not committed an act or engaged in conduct that would warrant revocation of a certificate under A.R.S. § 36-2211;
 - iv. Attestation that all information submitted is true and accurate; and
 - v. The applicant's signature or electronic signature and date of signature; and
 - b. Either:
 - i. A written statement from the EMCT's administrative medical director attesting that the EMCT is able to perform at the lower EMCT classification level requested; or
 - ii. If applying for continued certification as an EMT, an Arizona EMT refresher certificate of completion or an Arizona EMT refresher challenge examination certificate of completion signed by the training program director designated for the Arizona EMT refresher course; or
2. Recertification at a lower EMCT classification level according to R9-25-404.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by final rulemaking at 13 A.A.R. 1713, effective June 30, 2007 (Supp. 07-2). Amended by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Section R9-25-406 renumbered to Section R9-25-404; new Section R9-25-406 renumbered from Section R9-25-408 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R.

268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-407. Notification Requirements (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), and (A)(4), 36-2204(1) and (6), and 36-2211)

- A. No later than 30 days after the date an EMCT's name legally changes, the EMCT shall submit to the Department:
 1. A completed form provided by the Department containing:
 - a. The name under which the EMCT is currently certified by the Department;
 - b. The EMCT's address, telephone number, and Social Security number; and
 - c. The EMCT's new name; and
 2. Documentation showing that the name has been legally changed.
- B. No later than 30 days after the date an EMCT's address or email address changes, the EMCT shall submit to the Department a completed form provided by the Department containing:
 1. The EMCT's name, telephone number, and Social Security number; and
 2. The EMCT's new address or email address.
- C. An EMCT shall notify the Department in writing no later than 10 days after the date the EMCT:
 1. Is incarcerated or is placed on parole, supervised release, or probation for any criminal conviction;
 2. Is convicted of:
 - a. A crime specified in R9-25-402(A)(2),
 - b. A misdemeanor involving moral turpitude,
 - c. A felony in this state or any other state or jurisdiction, or
 - d. A misdemeanor specified in R9-25-402(E);
 3. Has registration revoked or suspended by a national certification organization; or
 4. Has certification, recertification, or licensure at an EMCT classification level revoked or suspended in another state or jurisdiction.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-407 renumbered to Section R9-25-405; new Section R9-25-407 renumbered from Section R9-25-409 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-408. Unprofessional Conduct; Physical or Mental Incompetence; Gross Incompetence; Gross Negligence (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H), 36-2204(1), (6), and (7), and 36-2211)

- A. For purposes of A.R.S. § 36-2211(A)(1), unprofessional conduct is an act or omission made by an EMCT that is contrary to the recognized standards or ethics of the Emergency Medical Technician profession or that may constitute a danger to the health, welfare, or safety of a patient or the public, including:
 1. Impersonating an EMCT of a higher level of certification or impersonating a health professional as defined in A.R.S. § 32-3201;
 2. Permitting or allowing another individual to use the EMCT's certification for any purpose;

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3. Aiding or abetting an individual who is not certified according to this Chapter in acting as an EMCT or in representing that the individual is certified as an EMCT;
 4. Engaging in or soliciting sexual relationships, whether consensual or non-consensual, with a patient while acting as an EMCT;
 5. Physically or verbally harassing, abusing, threatening, or intimidating a patient or another individual while acting as an EMCT;
 6. Making false or materially incorrect entries in a medical record or willful destruction of a medical record;
 7. Failing or refusing to maintain adequate records on a patient;
 8. Soliciting or obtaining monies or goods from a patient by fraud, deceit, or misrepresentation;
 9. Aiding or abetting an individual in fraud, deceit, or misrepresentation in meeting or attempting to meet the application requirements for EMCT certification or EMCT recertification contained in this Article, including the requirements established for:
 - a. Completing and passing a course provided by a training program; and
 - b. The national certification organization examination process and national certification organization registration process;
 10. Providing false information or making fraudulent or untrue statements to the Department or about the Department during an investigation conducted by the Department;
 11. Being incarcerated or being placed on parole, supervised release, or probation for any criminal conviction;
 12. Being convicted of a misdemeanor identified in R9-25-402(E), which has not been absolutely discharged, expunged, or vacated;
 13. Having national certification organization registration revoked or suspended by the national certification organization for material noncompliance with national certification organization rules or standards; and
 14. Having certification, recertification, or licensure at an EMCT classification level revoked or suspended in another state or jurisdiction.
- B.** Under A.R.S. § 36-2211, physical or mental incompetence of an EMCT is the EMCT's lack of physical or mental ability to provide emergency medical services as required under this Chapter.
- C.** Under A.R.S. § 36-2211 gross incompetence or gross negligence is an EMCT's willful act or willful omission of an act that is made in disregard of an individual's life, health, or safety and that may cause death or injury.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section R9-25-408 renumbered to Section R9-25-406; new Section R9-25-408 renumbered from Section R9-25-410 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-409. Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(2), (A)(3), (A)(4), (A)(6), and (H), 36-2204(1), (6),

and (7), and 36-2211)

- A.** If the Department determines that an applicant or EMCT is not in substantial compliance with applicable laws and rules, under A.R.S. §§ 36-2204 or 36-2211, the Department may:
1. Take the following action against an applicant or EMCT:
 - a. After notice is provided according to A.R.S. § 36-2211 and, if applicable, A.R.S. Title 41, Chapter 6, Article 10, issue:
 - i. A decree of censure to the EMCT, or
 - ii. An order of probation to the EMCT; or
 - b. After notice and opportunity to be heard is provided according to A.R.S. Title 41, Chapter 6, Article 10:
 - i. Deny an application,
 - ii. Suspend the EMCT's certificate, or
 - iii. Revoke the EMCT's certificate; and
 2. Assess civil penalties against the EMCT.
- B.** In determining which action in subsection (A) is appropriate, the Department shall consider:
1. Prior disciplinary actions;
 2. The time interval since a prior disciplinary action, if applicable;
 3. The applicant's or EMCT's motive;
 4. The applicant's or EMCT's pattern of conduct;
 5. The number of offenses;
 6. Whether the applicant or EMCT failed to comply with instructions from the Department;
 7. Whether interim rehabilitation efforts were made by the applicant or EMCT;
 8. Whether the applicant or EMCT refused to acknowledge the wrongful nature of the misconduct;
 9. Whether the applicant or EMCT made timely and good-faith efforts to rectify the consequences of the misconduct;
 10. The submission of false evidence, false statements, or other deceptive practices during an investigation or disciplinary process;
 11. The vulnerability of a patient or other victim of the applicant's or EMCT's conduct, if applicable; and
 12. How much control the applicant or EMCT had over the processes or situation leading to the misconduct.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-409 renumbered to Section R9-25-407; new Section R9-25-409 renumbered from Section R9-25-411 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1).

R9-25-410. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-410 renumbered to Section R9-25-408 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-411. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section

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repealed; new Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Section R9-25-411 renumbered to Section R9-25-409 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit I. Repealed**Historical Note**

Exhibit I adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit J. Repealed**Historical Note**

Exhibit J adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit K. Repealed**Historical Note**

Exhibit K adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-412. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3).

ARTICLE 5. MEDICAL DIRECTION PROTOCOLS

Article 5, consisting of R9-25-501 through R9-25-508, recodified from Article 8 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Article 5 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-501. Definitions

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article, unless otherwise specified:

1. "ALS skill" means a medical treatment, procedure, or technique or administration of a medication that is indicated by a check mark in Table 5.1 under AEMT, EMT-I(99), or Paramedic, but not under EMT.
2. "Immunizing agent" means an immunobiologic recommended by the Advisory Committee on Immunization Practices of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-501 recodified from R9-25-801 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Section R9-25-501 repealed; new Section R9-25-501 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-502. Scope of Practice for EMCTs

- A. An EMCT shall perform a medical treatment, procedure, or technique or administer a medication only:
 1. If the skill is within the EMCT's scope of practice skills, as specified in Table 5.1;
 2. For an ALS skill:
 - a. If authorized for the EMCT by the EMCT's administrative medical director; and
 - b. If the EMCT is able to receive on-line medical direction;
 3. For a STR skill:
 - a. If the EMCT has documentation of having completed training specific to the skill that is consistent with the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references;
 - b. If authorized for the EMCT by the EMCT's administrative medical director; and
 - c. If the EMCT is able to receive on-line medical direction;
 4. If the medication is listed as an agent in a table of agents, established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references, that the EMCT's administrative medical director may authorize the EMCT to administer, monitor, or assist a patient in self-administration based on the classification for which the EMCT is certified;
 5. If the EMCT is authorized to administer the medication by the:
 - a. EMCT's administrative medical director, if applicable; or
 - b. If the EMCT is an EMT with no administrative medical director, emergency medical services provider or ambulance service by which the EMCT is employed or for which the EMCT volunteers; and
 6. In a manner consistent with standards described in R9-25-408 and, if applicable, with the training in 9 A.A.C. 25, Article 3.
- B. An administrative medical director:
 1. Shall:
 - a. Ensure that an EMCT has completed training in administration or monitoring of an agent before authorizing the EMCT to administer or monitor the agent;
 - b. Ensure that an EMCT has competency in an ALS skill before authorizing the EMCT to perform the ALS skill;
 - c. Before authorizing an EMCT to perform a STR skill, ensure that the EMCT has:
 - i. Completed training specific to the skill, consistent with the knowledge, skills, and competencies established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references; and
 - ii. Demonstrated competency in the skill;
 - d. Periodically thereafter assess an EMCT's competency in an authorized ALS skill and STR skill, according to policies and procedures required in R9-25-201(E)(3)(b)(ix), to ensure continued competency;
 - e. Document the EMCT's:

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- i. Completion of training in administration or monitoring of an agent required in subsection (B)(1)(a),
 - ii. Competency in performing an ALS skill required in subsection (B)(1)(b),
 - iii. Specific training required in subsection (B)(1)(c)(i) and competency required in subsection (B)(1)(c)(ii); and
 - iv. Periodic reassessment required in subsection (B)(1)(d); and
 - f. Maintain documentation of an EMCT's completion of training in administration or monitoring of an agent and competency in performing an authorized ALS skill or STR skill; and
2. May authorize an EMCT to perform all of the ALS skills in Table 5.1 for the applicable level of EMCT or restrict the EMCT to a subset of the ALS skills in Table 5.1 for the applicable level of EMCT.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-502 recodified from R9-25-802 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking

at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by exempt rulemaking at 24 A.A.R. 2955, effective September 27, 2018 (Supp. 18-3).

Table 1. Repealed**Historical Note**

Table 1 adopted by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 13 A.A.R. 578, effective January 31, 2007 (Supp. 07-1). Historical note added to Table 1; amended by exempt rulemaking 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Amended by exempt rulemaking at 15 A.A.R. 234, effective January 2, 2009 (Supp. 09-1). Amended by exempt rulemaking at 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Amended by exempt rulemaking at 15 A.A.R. 234, effective January 2, 2009 (Supp. 09-1). Amended by exempt rulemaking at 16 A.A.R. 2116, effective October 15, 2010 (Supp. 10-4). Amended by exempt rulemaking at 18 A.A.R. 102, effective January 1, 2012 (Supp. 11-4). Table 1 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

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Table 5.1. Arizona Scope of Practice Skills**KEY:**

✓ = Arizona Scope of Practice skill

STR = Special Training Required skill

* = With training in R9-25-505

A. Airway/Ventilation/Oxygenation		EMR	EMT	AEMT	EMT-I (99)	Paramedic	Paramedic with Critical Care Endorsement
1.	Airway - nasal	-	✓	✓	✓	✓	✓
2.	Airway - oral	✓	✓	✓	✓	✓	✓
3.	Airway - supraglottic		STR	✓	✓	✓	✓
4.	Airway obstruction - dislodgement by direct laryngoscopy	-	-	-	✓	✓	✓
5.	Airway obstruction - manual dislodgement techniques	✓	✓	✓	✓	✓	✓
6.	Automated transport ventilator	-	-	STR	✓	✓	✓
7.	Transport ventilator with advanced modes	-	-	-	-	-	✓
8.	Bag-valve-mask (BVM)	✓	✓	✓	✓	✓	✓
9.	BiPAP	-	-	-	-	✓	✓
10.	CPAP	-	STR	✓	✓	✓	✓
11.	Chest decompression - needle	-	-	-	✓	✓	✓
12.	Chest tube placement - assist only	-	-	-	-	✓	✓
13.	Chest tube monitoring and management	-	-	-	-	✓	✓
14.	Chest tube placement and management	-	-	-	-	-	✓
15.	Finger thoracostomy	-	-	-	-	-	✓
16.	Cricothyrotomy	-	-	-	-	✓	✓
17.	End tidal CO2 monitoring and interpretation of waveform capnography	-	STR	✓	✓	✓	✓
18.	Gastric decompression - NG tube	-	-	-	✓	✓	✓
19.	Gastric decompression - OG tube	-	-	-	✓	✓	✓
20.	Head-tilt chin lift	✓	✓	✓	✓	✓	✓
21.	Intubation - endotracheal	-	-	-	✓	✓	✓
22.	Intubation - nasotracheal	-	-	-	-	✓	✓
23.	Jaw-thrust	✓	✓	✓	✓	✓	✓
24.	Medication Assisted Intubation (paralytics)	-	-	-	-	STR	✓
25.	Mouth-to-barrier	✓	✓	✓	✓	✓	✓
26.	Mouth-to-mask	✓	✓	✓	✓	✓	✓
27.	Mouth-to-mouth	✓	✓	✓	✓	✓	✓
28.	Mouth-to-nose	✓	✓	✓	✓	✓	✓
29.	Mouth-to-stoma	✓	✓	✓	✓	✓	✓
30.	Oxygen therapy - high flow nasal cannula	-	-	-	-	✓	✓
31.	Oxygen therapy - humidifiers	-	✓	✓	✓	✓	✓
32.	Oxygen therapy - nasal cannula	✓	✓	✓	✓	✓	✓
33.	Oxygen therapy - non-rebreather mask	✓	✓	✓	✓	✓	✓
34.	Oxygen therapy - partial rebreather mask	-	✓	✓	✓	✓	✓
35.	Oxygen therapy - simple face mask	-	✓	✓	✓	✓	✓
36.	Oxygen therapy - Venturi mask	-	✓	✓	✓	✓	✓
37.	Pulse oximetry	-	✓	✓	✓	✓	✓
38.	Suctioning - upper airway	✓	✓	✓	✓	✓	✓
39.	Suctioning - tracheobronchial of an intubated patient	-	-	✓	✓	✓	✓
B. Cardiovascular/Circulation		EMR	EMT	AEMT	EMT-I (99)	Paramedic	Paramedic with Critical Care Endorsement
1.	Cardiac monitoring - 12-lead ECG (interpretive)	-	-	-	✓	✓	✓
2.	Cardiac monitoring - 12-lead ECG acquisition and transmission	-	✓	✓	✓	✓	✓
3.	Cardiopulmonary resuscitation	✓	✓	✓	✓	✓	✓
4.	Cardioversion - electrical	-	-	-	✓	✓	✓
5.	Defibrillation - automated/semi-automated	✓	✓	✓	✓	✓	✓
6.	Defibrillation - manual	-	-	-	✓	✓	✓
7.	Hemorrhage control - direct pressure	✓	✓	✓	✓	✓	✓
8.	Hemorrhage control - tourniquet	✓	✓	✓	✓	✓	✓

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9.	Hemorrhage control - wound packing	✓	✓	✓	✓	✓	✓
10.	Mechanical CPR device	✓	✓	✓	✓	✓	✓
11.	Telemetric monitoring devices and transmission of clinical data, including video data	-	✓	✓	✓	✓	✓
12.	Transcutaneous pacing	-	-	-	✓	✓	✓
13.	Transvenous cardiac pacing - monitoring and maintenance	-	-	-	✓	✓	✓
14.	Hemodynamic monitoring - invasive (central and arterial)	-	-	-	-	-	✓
15.	ICP (Increased Intracranial Pressure) monitoring	-	-	-	-	-	✓
16.	Circulatory augmentation device monitoring and management (Intra-arterial balloon pump, Impella, etc.)	-	-	-	-	-	✓
17.	Ventricular Assist Device (VAD) - monitoring and management	-	-	-	-	-	✓
C. Splinting/Spinal Motion Restriction/Patient Restraint		EMR	EMT	AEMT	EMT-I (99)	Paramedic	Paramedic with Critical Care Endorsement
1.	Cervical collar	✓	✓	✓	✓	✓	✓
2.	Long spine board	-	✓	✓	✓	✓	✓
3.	Manual cervical stabilization	✓	✓	✓	✓	✓	✓
4.	Seated spinal motion restriction (KED, etc.)	-	✓	✓	✓	✓	✓
5.	Extremity stabilization - manual	✓	✓	✓	✓	✓	✓
6.	Extremity splinting	✓	✓	✓	✓	✓	✓
7.	Splint-traction	-	✓	✓	✓	✓	✓
8.	Mechanical patient restraint	-	✓	✓	✓	✓	✓
9.	Emergency moves for endangered patients	✓	✓	✓	✓	✓	✓
D. Medication Administration - routes/agent types		EMR	EMT	AEMT	EMT-I (99)	Paramedic	Paramedic with Critical Care Endorsement
1.	Aerosolized/nebulized	-	✓	✓	✓	✓	✓
2.	Endotracheal tube	-	-	-	✓	✓	✓
3.	Inhaled	-	✓	✓	✓	✓	✓
4.	Intradermal	-	-	-	-	✓	✓
5.	Intramuscular		STR	✓	✓	✓	✓
6.	Intramuscular - autoinjector	✓	✓	✓	✓	✓	✓
7.	Intranasal	-	✓	✓	✓	✓	✓
8.	Intranasal - unit dose, premeasured	✓	✓	✓	✓	✓	✓
9.	Intraosseous - initiation, pediatric or adult	-	-	✓	✓	✓	✓
10.	Intravenous	-	-	✓	✓	✓	✓
11.	Mucosal/Sublingual	-	✓	✓	✓	✓	✓
12.	Nasogastric	-	-	-	-	✓	✓
13.	Oral	-	✓	✓	✓	✓	✓
14.	Rectal	-	-	-	-	✓	✓
15.	Subcutaneous	-	-	✓	✓	✓	✓
16.	Topical	-	-	-	-	✓	✓
17.	Transdermal	-	-	-	-	✓	✓
18.	Use/monitoring of infusion pump for agent administration during interfacility transports	-	-	-	STR	STR	✓
19.	Use/monitoring of agents specified in <i>Table 3-Special Agents Eligible for Administration and Monitoring</i> , established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references	-	-	-	STR	STR	✓
20.	Epinephrine anaphylaxis-prepared kit; only for anaphylaxis when no auto-injector is available	-	STR	✓	✓	✓	✓
21.	Immunizations	-	-	-	✓*	✓*	✓*
22.	Thrombolytics	-	-	-	-	-	✓
E. IV Initiation/Maintenance Fluids		EMR	EMT	AEMT	EMT-I (99)	Paramedic	Paramedic with Critical Care Endorsement
1.	Access indwelling catheters and implanted central IV ports	-	-	-	-	✓	✓
2.	Central line - monitoring	-	-	-	-	✓	✓
3.	Intraosseous - initiation, pediatric or adult	-	-	✓	✓	✓	✓

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4.	Intravenous access	-	STR	✓	✓	✓	✓
5.	Intravenous initiation - peripheral	-	STR	✓	✓	✓	✓
6.	Intravenous- maintenance of medicated IV fluids	-	-	-	✓	✓	✓
7.	Intravenous- maintenance of nonmedicated IV fluids	-	STR	✓	✓	✓	✓
8.	Initiation and maintenance of blood product transfusion	-	-	-	-	-	✓
9.	Intravenous initiation - ultrasound guided IV in a hospital setting	-	-	-	-	STR	✓
F. Miscellaneous		EMR	EMT	AEMT	EMT-I (99)	Paramedic	Paramedic with Critical Care Endorsement
1.	Assisted delivery (childbirth)	✓	✓	✓	✓	✓	✓
2.	Assisted complicated delivery (childbirth)	-	✓	✓	✓	✓	✓
3.	Blood chemistry analysis	-	-	-	-	✓	✓
4.	Blood glucose monitoring	-	✓	✓	✓	✓	✓
5.	Blood pressure - automated	-	✓	✓	✓	✓	✓
6.	Blood pressure - manual	✓	✓	✓	✓	✓	✓
7.	Eye irrigation	✓	✓	✓	✓	✓	✓
8.	Eye irrigation hands-free irrigation using sterile eye irrigation device	-	-	-	-	✓	✓
9.	Urinary catheterization	-	STR	STR	STR	STR	✓
10.	Venous blood sampling	-	STR	✓	✓	✓	✓
11.	Arterial blood sampling	-	-	-	-	-	✓
12.	Point of care and laboratory sampling and interpretation	-	-	-	-	-	✓
13.	External fetal monitoring	-	-	-	-	-	✓
14.	Neonatal Isolette monitoring	-	-	-	-	-	✓
15.	Ultrasound	-	-	-	-	-	✓

Historical Note

Table 5.1 made by exempt rulemaking at 19 A.A.R. 282, effective January 28, 2013 (Supp. 13-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final exempt rulemaking, pursuant to Laws 2014, Ch. 233, § 5 at 20 A.A.R. 3554, effective January 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking, pursuant to Laws 2015, Ch. 222, § 3, at 21 A.A.R. 3241, effective November 24, 2015 (Supp. 15-4). Amended by final exempt rulemaking at 23 A.A.R. 1161, effective April 19, 2017 (Supp. 17-2). Amended by exempt rulemaking at 24 A.A.R. 2955, effective September 27, 2018 (Supp. 18-3). Amended by exempt rulemaking at 27 A.A.R. 1385, with an immediate effective date of August 9, 2021 (Supp. 21-3). Amended by exempt rulemaking at 28 A.A.R. 3321 (October 14, 2022), with an immediate effective date of September 22, 2022 (Supp. 22-3). Subsection (B)(10) question marks corrected to check marks as published at 28 A.A.R. 3321 (Supp. 24-1). Amended by exempt rulemaking at 30 A.A.R. 3009 (October 11, 2024), with a delayed effective date of December 31, 2024 (Supp. 24-3).

Table 5.2. Repealed**Historical Note**

Table 5.2 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final exempt rulemaking, pursuant to Laws 2014, Ch. 233, § 5 at 20 A.A.R. 3554, effective January 1, 2015 (Supp. 14-4). Amended by final exempt rulemaking, pursuant to Laws 2015, Ch. 222, § 3, at 21 A.A.R. 3241, effective November 24, 2015 (Supp. 15-4). Amended by final exempt rulemaking at 23 A.A.R. 1161, effective April 19, 2017 (Supp. 17-2). Amended by final exempt rulemaking at 23 A.A.R. 1161, effective April 19, 2017 (Supp. 17-2). Repealed by exempt rulemaking at 24 A.A.R. 2955, effective September 27, 2018 (Supp. 18-3).

Table 5.3. Repealed**Historical Note**

Table 5.3 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Repealed by exempt rulemaking at 24 A.A.R. 2955, effective September 27, 2018 (Supp. 18-3).

Table 5.4. Repealed**Historical Note**

Table 5.4 made by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Repealed by exempt rulemaking at 24 A.A.R. 2955, effective September 27, 2018 (Supp. 18-3).

R9-25-503. Testing of Medical Treatments, Procedures, Medications, and Techniques that May Be Administered or Performed by an EMCT

- A. Under A.R.S. § 36-2205, the Department may authorize the testing and evaluation of a medical treatment, procedure, technique, practice, medication, or piece of equipment for possible use by an EMCT or an emergency medical services provider.
- B. Before authorizing any test and evaluation according to subsection (A), the Department director shall approve the test and evaluation according to subsections (C), (D), (E).
- C. The Department director shall consider approval of a test and evaluation conducted according to subsection (A), only if a written request for testing and evaluation:
 1. Is submitted to the Department director from:
 - a. The Department,
 - b. A state agency other than the Department,
 - c. A political subdivision of this state,
 - d. An EMCT,

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- e. An emergency medical services provider;
- f. An ambulance service, or
- g. A member of the public; and
- 2. Includes:
 - a. A cover letter, signed and dated by the individual making the request;
 - b. An identification of the person conducting the test and evaluation;
 - c. An identification of the medical treatment, procedure, technique, practice, medication, or piece of equipment to be tested and evaluated;
 - d. An explanation of the reasons for and the benefits of the test and evaluation;
 - e. The scope of the test and evaluation, including the:
 - i. Projected number of individuals, EMCTs, emergency medical services providers, or ambulance services involved; and
 - ii. Proposed length of time required to complete the test and evaluation; and
 - f. The methodology to be used to evaluate the test's and evaluation's findings.
- D. The Department director shall approve a test and evaluation if:
 - 1. The test and evaluation does not pose a threat to the public health, safety, or welfare;
 - 2. The test is necessary to evaluate the safest and most current advances in medical treatments, procedures, techniques, practices, medications, or equipment; and
 - 3. The medical treatment, procedure, technique, practice, medication, or piece of equipment being tested and evaluated may:
 - a. Reduce or eliminate the use of outdated or obsolete medical treatments, procedures, techniques, practices, medications, or equipment;
 - b. Improve patient care; or
 - c. Benefit the public's health, safety, or welfare.
- E. Within 180 days after receiving a written request for testing and evaluation that contains all of the information in subsection (C), the Department director shall send written notification of approval or denial of the test and evaluation to the individual making the request.
- F. Upon completion of a test and evaluation authorized by the Department director, the person conducting the test and evaluation shall submit a written report to the Department director that includes:
 - 1. An identification of the test and evaluation;
 - 2. A detailed evaluation of the test; and
 - 3. A recommendation regarding future use of the medical treatment, procedure, technique, practice, medication, or piece of equipment tested and evaluated.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-503 recodified from R9-25-803 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 13 A.A.R. 578, effective January 31, 2007 (Supp. 07-1). Amended by exempt rulemaking at 14 A.A.R. 3491, effective August 14, 2008 (Supp. 08-3). Section R9-25-503 renumbered to R9-25-505; new Section R9-25-503 renumbered from R9-25-506 and amended by exempt rulemaking at 19 A.A.R.

4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 1. Repealed**Historical Note**

New Exhibit 1 recodified from Article 8, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Amended by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Amended by exempt rulemaking at 11 A.A.R. 3177, effective September 1, 2005 (Supp. 05-3). Exhibit 1 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

Exhibit 2. Repealed**Historical Note**

New Exhibit 2 recodified from Article 8, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Exhibit 2 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

Exhibit 3. Repealed**Historical Note**

Exhibit made by exempt rulemaking at 11 A.A.R. 1438, effective March 25, 2005 (Supp. 05-1). Exhibit 3 repealed by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4).

R9-25-504. Protocol for Selection of a Health Care Institution for Transport

- A. Except as provided in subsection (B), an EMCT shall transport a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number to:
 - 1. An emergency receiving facility, or
 - 2. A special hospital that is physically connected to an emergency receiving facility.
- B. Under A.R.S. §§ 36-2205(D) and 36-2232(F), an EMCT who responds to a call made to 9-1-1 or a similar public emergency dispatch number may refer, advise, or transport the patient at the scene to a health care institution other than a health care institution specified in subsection (A), if the EMCT determines that:
 - 1. The patient's condition does not pose an immediate threat to life or limb, based on medical direction; and
 - 2. The health care institution is the most appropriate for the patient, based on the following:
 - a. The patient's:
 - i. Medical condition,
 - ii. Choice of health care institution, and
 - iii. Health care provider;
 - b. The location of the health care institution and the emergency medical resources available at the health care institution; and
 - c. A determination by the administrative medical director that the health care institution is able to accept and capable of treating the patient.
- C. Before initiating transport of a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number, an EMCT, emergency medical services provider, or ambulance service shall:
 - 1. Notify, by radio or telephone communication, a health care institution that is not an emergency receiving facility

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of the EMCT's intent to transport the patient to the health care institution; and

2. Receive confirmation of the willingness of the health care institution to accept the patient.
- D.** An EMCT transporting a patient accessing emergency medical services through a call to 9-1-1 or a similar public emergency dispatch number to a health care institution that is not an emergency receiving facility shall transfer care of the patient to a designee authorized by:
 1. A physician,
 2. A registered nurse practitioner,
 3. A physician assistant, or
 4. A registered nurse.
- E.** An emergency medical services provider or an ambulance service that implements this rule shall make available for Department review and inspection written records relating to the transport of a patient under subsections (B), (C), and (D).

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-504 recodified from R9-25-804 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Amended by exempt rulemaking at 14 A.A.R. 3124, effective July 9, 2008 (Supp. 08-3). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final exempt rulemaking, pursuant to Laws 2014, Ch. 233, § 5 at 20 A.A.R. 3554, effective January 1, 2015 (Supp. 14-4).

R9-25-505. Protocol for an EMT-I(99) or a Paramedic to Become Eligible to Administer an Immunizing Agent

- A.** An EMT-I(99) or a Paramedic may be authorized by the EMT-I(99)'s or Paramedic's administrative medical director to administer an immunizing agent if the EMT-I(99) or Paramedic completes training that:
 1. Includes:
 - a. Basic immunology and the human immune response;
 - b. Mechanics of immunity, adverse effects, dose, and administration schedule of available immunizing agents;
 - c. Response to an emergency situation, such as an allergic reaction, resulting from the administration of an immunization;
 - d. Routes of administration for available immunizing agents;
 - e. A description of the individuals to whom an EMCT may administer an immunizing agent; and
 - f. The requirements in 9 A.A.C. 6, Article 7 related to:
 - i. Obtaining written consent for administration of an immunizing agent,
 - ii. Providing immunization information and written immunization records, and
 - iii. Recordkeeping and reporting;
 2. Requires the EMT-I(99) or Paramedic to demonstrate competency in the subject matter listed in subsection (A)(1); and
 3. Is approved by the EMT-I(99)'s or Paramedic's administrative medical director based upon a determination that the training meets the requirements in subsections (A)(1) and (A)(2).
- B.** An administrative medical director of an EMT-I(99) or a Paramedic who completes the training required in subsection (A)

shall maintain for Department review and inspection written evidence that the EMT-I(99) or Paramedic has completed the training required in subsection (A), including at least:

1. The name of the training,
2. The date the training was completed, and
3. A signed and dated attestation from the administrative medical director that the training is approved.
- C.** Before administering an immunizing agent to an individual, an EMT-I(99) or a Paramedic shall:
 1. Receive written consent consistent with the requirements in 9 A.A.C. 6, Article 7;
 2. Provide immunization information and written immunization records consistent with the requirements in 9 A.A.C. 6, Article 7; and
 3. Provide documentary proof of immunity to the individual consistent with the requirements in 9 A.A.C. 6, Article 7.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-505 recodified from R9-25-805 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-505 repealed; new Section R9-25-505 renumbered from R9-25-503 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 1. Repealed**Historical Note**

New Exhibit 1 recodified from Article 8, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Exhibit 1 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 2. Repealed**Historical Note**

New Exhibit 2 recodified from Article 8, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Exhibit 2 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-506. Renumbered**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-506 recodified from R9-25-806 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-506 renumbered to R9-25-503 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-507. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-507 recodified from R9-25-807 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-507 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-508. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Sub-

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section (A)(2) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-1). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New R9-25-508 recodified from R9-25-808 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). Section R9-25-508 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-509. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Section repealed by exempt rulemaking at 13 A.A.R. 3038, effective October 6, 2007 (Supp. 07-3).

R9-25-510. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 1502, effective April 1, 2005 (Supp. 05-1). Amended by exempt rulemaking at 11 A.A.R. 2379, effective June 8, 2005 (Supp. 05-2). Section R9-25-510 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit P. Repealed**Historical Note**

Exhibit P adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-511. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (C) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-3). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 11 A.A.R. 4982, effective November 1, 2005 (Supp. 05-4). Section R9-25-511 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-512. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Subsection (A) corrected to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-1). Subsection (A) corrected again to reflect adopted rules on file with the Office of the Secretary of State, effective October 15, 1996 (Supp. 97-3). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 13 A.A.R. 27, effective January 6, 2007 (Supp. 06-4). Section repealed by exempt rulemaking at 16 A.A.R. 2116, effective October

15, 2010 (Supp. 10-4).

R9-25-513. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 13 A.A.R. 3038, effective October 6, 2007 (Supp. 07-3). R9-25-513 repealed by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-514. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-515. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

ARTICLE 6. STROKE CARE

Article 6, consisting of new Sections R9-25-601 and R9-25-602, made by exempt rulemaking effective April 5, 2013 (Supp. 13-1).

Article 6 repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-601. Definitions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article, unless otherwise specified:

1. "Acute stroke-ready hospital" means a hospital that is certified by a national stroke center certification organization as meeting national stroke care standards for the initial assessment, diagnosis, stabilization, and either:
 - a. Transfer of a stroke patient to a primary stroke center or comprehensive stroke center, or
 - b. Care of a stroke patient with input from the staff of a primary stroke center or comprehensive stroke center.
2. "Comprehensive stroke center" means a hospital that is certified by a national stroke center certification organization as meeting national stroke care standards for the assessment, diagnosis using advanced imaging devices, and treatment of stroke patients with complex cases of ischemic stroke, caused by the loss of the blood supply to a part of the brain, or hemorrhagic stroke, caused by bleeding into a part of the brain.
3. "Council" means the emergency medical services council established under A.R.S. § 36-2203.
4. "Health care provider" means an individual licensed according to A.R.S. Title 32, Chapter 13, 15, 17, 19, 25, or 34.
5. "Local EMS coordinating system" means the same as in A.R.S. § 36-2210.
6. "National stroke care standards" means criteria for the assessment and treatment of stroke that are consistent

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with guidelines established by the American Heart Association/American Stroke Association, an organization that focuses on reducing the impact of stroke.

7. "National stroke center certification organization" means an entity:
 - a. Such as:
 - i. The Joint Commission;
 - ii. The Healthcare Facilities Accreditation Program;
 - iii. Det Norske Veritas Healthcare, Inc.; or
 - iv. The American Heart Association/American Stroke Association;
 - b. That assesses the compliance of a hospital with national stroke care standards; and
 - c. That documents hospitals that meet national stroke care standards.
8. "Primary stroke center" means a hospital that is certified by a national stroke center certification organization as meeting national stroke care standards for the assessment, diagnosis, and treatment of stroke patients.
9. "Stroke patient" means an individual who has signs or symptoms of a stroke and is receiving assessment or treatment for a stroke.
10. "Transport" means the same as in A.A.C. R9-10-101.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 19 A.A.R. 643, effective April 5, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1728, effective July 1, 2017 (Supp. 17-2).

R9-25-602. Emergency Stroke Care Protocols (Authorized by A.R.S. §§ 36-2202(A)(3) and (4) and 36-2204(1) and (3))

- A. The council shall:
 1. Establish emergency stroke care protocols, and
 2. Support the adoption of emergency stroke care protocols by emergency medical services providers through local EMS coordinating systems.
- B. The council shall ensure that emergency stroke care protocols:
 1. Are developed and implemented in coordination with:
 - a. Local EMS coordinating systems,
 - b. National organizations that focus on heart disease and stroke,
 - c. Emergency medical services providers, and
 - d. Health care providers;
 2. Include procedures for the pre-hospital assessment and treatment of stroke patients, which may include education about identifying stroke patients who may have an emergent large vessel occlusion, the blockage of a large blood vessel that causes an individual to have an ischemic stroke;
 3. Provide for transport of stroke patients to the most appropriate emergency receiving facility, consistent with A.R.S. § 36-2205(E), taking into account the:
 - a. Needs of a stroke patient;
 - b. Availability of resources in urban areas, suburban areas, rural areas, and wilderness areas;
 - c. Capability of an emergency receiving facility to practice telemedicine, as defined in A.R.S. § 36-3601, with specialists in stroke care;
 - d. Location of emergency receiving facilities that:
 - i. Are:
 - (1) Acute stroke-ready hospitals,
 - (2) Primary stroke centers, or
 - (3) Comprehensive stroke centers; and
 - ii. Participate in quality improvement activities, including the submission of data on stroke care provided by the emergency receiving facility that may be compiled on a statewide basis;

- e. Capability of an emergency receiving facility that is not a primary stroke center or comprehensive stroke center to stabilize a stroke patient before initiating a transfer to a primary stroke center or comprehensive stroke center;
 - f. Capability of an emergency receiving facility that is not a primary stroke center or comprehensive stroke center to stabilize and admit a stroke patient; and
 - g. Distance and duration of transport;
4. Are consistent with national stroke care standards; and
 5. Are based on data on stroke care from:
 - a. National organizations that focus on heart disease and stroke;
 - b. U.S. Department of Transportation, National Highway Traffic Safety Administration; and
 - c. Statewide data on stroke care, as available.
- C. The council shall review and update, as necessary, the emergency stroke care protocols in subsection (A) after seeking input from:
1. Local EMS coordinating systems,
 2. National organizations that focus on heart disease and stroke,
 3. Nonprofit organizations that focus on the development of stroke systems of care,
 4. Emergency medical services providers, and
 5. Health care providers.

Historical Note

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). New Section made by exempt rulemaking at 19 A.A.R. 643, effective April 5, 2013 (Supp. 13-1). Amended by final rulemaking at 23 A.A.R. 1728, effective July 1, 2017 (Supp. 17-2).

R9-25-603. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-604. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-605. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-606. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective

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January 3, 2004 (Supp. 03-4).

2004 (Supp. 03-4).

R9-25-607. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-608. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-609. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit R. Repealed**Historical Note**

Exhibit R adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-610. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-611. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-612. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-613. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-614. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

R9-25-615. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3,

R9-25-616. Repealed**Historical Note**

Adopted effective October 15, 1996 (Supp. 96-4). Section repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit S. Repealed**Historical Note**

Exhibit S adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit G. Repealed**Historical Note**

Exhibit G adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit L. Repealed**Historical Note**

Exhibit L adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit M. Repealed**Historical Note**

Exhibit M adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit N. Repealed**Historical Note**

Exhibit N adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit O. Repealed**Historical Note**

Exhibit O adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

Exhibit Q. Repealed**Historical Note**

Exhibit Q adopted effective October 15, 1996 (Supp. 96-4). Exhibit repealed by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4).

ARTICLE 7. AIR AMBULANCE SERVICE LICENSING**R9-25-701. Definitions (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)**

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article and in Article 8 of this Chapter, unless otherwise specified:

1. "Air ambulance" means an aircraft that is an "ambulance" as defined in A.R.S. § 36-2201.
2. "Air ambulance service" means an ambulance service that uses an air ambulance.

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3. "Application packet" means the information, applicable fees, and documents required by the Department when making a decision for:
 - a. Licensing an air ambulance service, or
 - b. Issuing a certificate of registration for an air ambulance.
4. "Base location" means a physical location at which a person houses an air ambulance or equipment and supplies used for the operation of an air ambulance service or provides administrative or other support for the operation of an air ambulance service.
5. "CAMTS" means the Commission on Accreditation of Medical Transport Systems, formerly known as the Commission on Accreditation of Air Medical Services.
6. "Certificate holder" means a person who holds a current and valid certificate of registration for an air ambulance.
7. "Change of ownership" means a transfer of controlling legal or controlling equitable interest and authority in an air ambulance service.
8. "Critical care" means pertaining to a patient who has an illness or injury acutely impairing one or more organ systems, such that the conditions are life-threatening and require constant monitoring to avoid deterioration of the patient's condition.
9. "Estimated time of arrival" means the number of minutes from the time that an air ambulance service agrees to perform a mission to the time that an air ambulance arrives at the scene.
10. "Interfacility" means between two health care institutions.
11. "Interfacility maternal transport" means an interfacility transport of a woman:
 - a. Whose pregnancy is considered by a physician to be high risk,
 - b. Who is in need of critical care services related to the pregnancy, and
 - c. Who is being transferred to a medical facility that has the specialized perinatal and neonatal resources and capabilities necessary to provide an appropriate level of care.
12. "Interfacility neonatal transport" means an interfacility transport of an infant who is 28 days of age or younger and who is in need of critical care services.
13. "Licensed respiratory care practitioner" has the same meaning as in A.R.S. § 32-3501.
14. "Licensee" means a person who holds a current and valid license from the Department to operate an air ambulance service.
15. "Medical team" means personnel whose main function on a mission is the medical care of the patient being transported.
16. "Mission" means a transport event that involves an air ambulance service's sending an air ambulance to a patient's location to provide transport of the patient from one location to another, whether or not transport of the patient is actually provided.
17. "Mission level" means critical care services or ALS services, based on the staffing and the services provided by the air ambulance service.
18. "Mission type" means an emergency medical services transport, interfacility transport, interfacility maternal transport, or interfacility neonatal transport provided by an air ambulance service.
19. "On-line medical guidance" means emergency medical services direction or information provided to a non-EMCT medical team member by a physician through two-way voice communication.
20. "Operate an air ambulance service" means to use an air ambulance:
 - a. To transport a patient from a location in this state to another location in this state,
 - b. From a base location in this state, or
 - c. To transport a patient from a location in this state to a location outside of this state more than once per month.
21. "Owner" means a person that holds a controlling legal or equitable interest and authority in a business organization.
22. "Personnel" means individuals who work for an air ambulance service, with or without compensation, whether as employees, contractors, or volunteers.
23. "Premises" means each physical location of air ambulance service operations and includes all equipment and records at each location.
24. "Proficiency in neonatal resuscitation" means current and valid certification in neonatal resuscitation obtained through completing a nationally recognized training program such as the American Academy of Pediatrics and American Heart Association NRP: Neonatal Resuscitation Program.
25. "Regularly" means at recurring, fixed, or uniform intervals.
26. "Subspecialization" means:
 - a. For a physician board certified by a specialty board approved by the American Board of Medical Specialties, subspecialty certification;
 - b. For a physician board certified by a specialty board approved by the American Osteopathic Association, attainment of either a certification of special qualifications or a certification of added qualifications; and
 - c. For a physician who has completed an accredited residency program, completion of at least one year of training pertaining to the specified area of medicine.
27. "Two-way voice communication" means that two individuals are able to convey information back and forth to each other orally, either directly or through a third-party relay.
28. "Valid" means that a license, certification, or other form of authorization is in full force and effect and not suspended.
29. "Working day" means the period between 8:00 a.m. and 5:00 p.m. on a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-702. Applicability (A.R.S. §§ 36-2202(A)(4) and 36-2217)

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This Article and Article 8 of this Chapter do not apply to persons and vehicles exempted from the provisions of A.R.S. Title 36, Chapter 21.1 as provided in A.R.S. § 36-2217(A).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1).

R9-25-703. Requirement and Eligibility for a License (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2215)

- A. A person shall not operate an air ambulance service in this state unless the person has a current and valid air ambulance service license and, except as provided in A.R.S. § 36-2212(C), a current and valid certificate of registration for an air ambulance as required under Article 8 of this Chapter.
- B. To be eligible to obtain an air ambulance service license, an applicant shall:
 1. Have applied for a certificate of registration, issued by the Department under Article 8 of this Chapter, for each aircraft to be used as an air ambulance by the air ambulance service;
 2. Possess a copy of a current and valid registration, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4, for each aircraft to be used as an air ambulance by the air ambulance service;
 3. Have current and valid liability insurance coverage for the air ambulance service that complies with A.R.S. § 36-2215 and that has at least the following liability limits:
 - a. \$1 million for injuries to or death of any one person arising out of any one incident or accident;
 - b. \$3 million for injuries to or death of more than one person in any one incident or accident; and
 - c. \$500,000 for damage to property arising from any one incident or accident;
 4. Have current and valid malpractice insurance coverage for the air ambulance service that complies with A.R.S. § 36-2215 and that has a maximum liability limit of at least \$1 million per occurrence; and
 5. Comply with all applicable requirements of this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
- C. To maintain eligibility for an air ambulance service license, a licensee shall meet the requirements of subsections (B)(2) through (5) and hold a current and valid certificate of registration, issued by the Department under Article 8 of this Chapter, for each aircraft used as an air ambulance in Arizona by the air ambulance service.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-704. Application and Licensing Process (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215)

- A. An applicant for an initial license shall submit an application packet to the Department, including:
 1. The following information in a Department-provided format:
 - a. The applicant's name; mailing address; email address; fax number, if any; and telephone number;

- b. The names of all other business organizations operated by the applicant related to the air ambulance service;
 - c. The physical and mailing addresses to be used for the air ambulance service, if different from the applicant's mailing address;
 - d. The name, title, address, email address, and telephone number of the applicant's statutory agent or the individual designated by the applicant to accept service of process and subpoenas for the air ambulance service;
 - e. The name, title, address, email address, and telephone number of the individual acting on behalf of the applicant according to R9-25-102;
 - f. If the applicant is a business organization:
 - i. The type of business organization; and
 - ii. The name; address; email address; telephone number; and fax number, if any, of the individual who is to serve as the primary contact for information regarding the application;
 - g. The name and Arizona license number for the physician who is to serve as the administrative medical director for the air ambulance service;
 - h. The intended hours of operation for the air ambulance service;
 - i. The intended schedule of rates for the air ambulance service;
 - j. Which of the following mission types is to be provided:
 - i. Emergency medical services transports,
 - ii. Interfacility transports,
 - iii. Interfacility maternal transports, or
 - iv. Interfacility neonatal transports;
 - k. Which of the following mission levels is to be provided:
 - i. Critical care, or
 - ii. Advanced life support;
 - l. Whether the applicant plans to use fixed-wing or rotor-wing aircraft for the air ambulance service;
 - m. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - n. Attestation that the applicant will comply with all applicable requirements in this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1;
 - o. Attestation that the information provided in the application packet, including the information in the accompanying documents, is accurate and complete; and
 - p. The signature of the applicant and the date signed;
2. Documentation for the individual specified according to subsection (A)(1)(e) that complies with A.R.S. § 41-1080;
 3. A copy of the business organization's articles of incorporation, articles of organization, or partnership documents, if applicable;
 4. For each aircraft to be used as an air ambulance by the air ambulance service:
 - a. An application for registration that includes all of the information and documents required under R9-25-801(B); and

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- b. A copy of a current and valid registration, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4;
 5. A certificate of insurance establishing that the applicant has current and valid liability insurance coverage for the air ambulance service as required under R9-25-703(B)(3);
 6. A certificate of insurance establishing that the applicant has current and valid malpractice insurance coverage for the air ambulance service as required under R9-25-703(B)(4);
 7. A list of each entity that or physician who is to provide on-line medical direction to EMCTs of the air ambulance service, including:
 - a. For each entity, such as an ALS base hospital, centralized medical direction communications center, or physician group practice, the name, mailing address, email address, and telephone number of the entity; or
 - b. For each physician who is to provide on-line medical direction, the name, professional license number, mailing address, email address, and telephone number for the physician; and
 8. If the applicant holds current CAMTS accreditation for the air ambulance service, a copy of the current CAMTS accreditation report.
- B. No more than 30 days before the expiration date of the current license, a licensee shall submit to the Department a renewal application packet including:
 1. The information required in subsection (A)(1), in a Department-provided format;
 2. The documents required in subsections (A)(5), (6), (7), and, if applicable, (8); and
 3. For each aircraft used or to be used as an air ambulance by the air ambulance service:
 - a. Either:
 - i. A copy of a current and valid certificate of registration issued by the Department under Article 8 of this Chapter, or
 - ii. An application packet for registration that includes all of the information and documents required under R9-25-801(B); and
 - b. A copy of a current and valid registration, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4.
- C. Unless an applicant or licensee documents current CAMTS accreditation, as provided in subsection (A)(8), or is applying for an initial license because of a change of ownership as described in R9-25-710(D), the Department shall conduct an inspection, as required under A.R.S. § 36-2214(B) and R9-25-711, during the substantive review period for the application for a license.
- D. The Department shall review each application packet as described in Article 12 of this Chapter, and:
 1. Approve the application;
 2. Approve the application with a corrective action plan, as specified in R9-25-711(G)(2); or
 3. Deny the application.
- E. The Department may deny an application if an applicant or licensee:
 1. Fails to meet the eligibility requirements of R9-25-703(B);
 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 3. Fails or has failed to comply with any provision in this Article or Article 2 or 8 of this Chapter;
 4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3) and requests a denial as permitted under R9-25-1201(E).

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-705. Minimum Standards for Operations as an Air Ambulance Service (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

- A. A licensee shall ensure that the air ambulance service:
 1. Maintains eligibility for licensure as required under R9-25-703(C);
 2. Makes a good faith effort to communicate information about its hours of operation to the general public through print media, broadcast media, the Internet, or other means;
 3. Makes the air ambulance service's schedule of rates available to any individual upon request and, if requested, in writing;
 4. Provides an accurate estimated time of arrival to the person requesting transport at the time that transport is requested and provides an amended estimated time of arrival to the person requesting transport if the estimated time of arrival changes;
 5. Except as provided in subsection (B), only transports patients for whom the air ambulance service has the resources to provide appropriate medical care;
 6. Does not perform interfacility transport of a patient unless:
 - a. The transport is initiated by the sending health care institution, and
 - b. The destination health care institution confirms that a bed is available for the patient;
 7. Ensures that the protocol for the transfer of information to be communicated to emergency receiving facility staff concurrent with the transfer of care, required in R9-25-201(E)(2)(d)(i), includes:
 - a. The date and time the call requesting service was received by the air ambulance service;
 - b. The unique number used by the air ambulance service to identify the mission;
 - c. The name of the air ambulance service;
 - d. The number or other identifier of the air ambulance used for the mission;
 - e. The following information about the patient:
 - i. The patient's name;
 - ii. The patient's date of birth or age, as available;
 - iii. The principal reason for requesting services for the patient;
 - iv. The patient's medical history, including any chronic medical illnesses, known allergies to medications, and medications currently being taken by the patient;

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- v. The patient's level of consciousness at initial contact and when reassessed;
- vi. The patient's pulse rate, respiratory rate, oxygen saturation, and systolic blood pressure at initial contact and when reassessed;
- vii. The results of an electrocardiograph, if available;
- viii. The patient's glucose level at initial contact and when reassessed, if applicable;
- ix. The patient's level of responsiveness score, as applicable, at initial contact and when reassessed;
- x. The results of the patient's neurological assessment, if applicable; and
- xi. The patient's pain level at initial contact and when reassessed; and
- f. Any procedures or other treatment provided to the patient at the scene or during transport, including any agents administered to the patient;
- 8. Creates a prehospital incident history report, in a Department-provided format, for each patient that includes the following information:
 - a. The name and identification number of the air ambulance service;
 - b. Information about the software for the storage and submission of the prehospital incident history report;
 - c. The unique number assigned to the mission;
 - d. The unique number assigned to the patient;
 - e. Information about the response to the call requesting service, including:
 - i. The mission level requested;
 - ii. Information obtained by the person providing direction for response to the request;
 - iii. Information about the air ambulance assigned to the mission;
 - iv. Information about the medical team responding to the call requesting service;
 - v. The priority assigned to the response; and
 - vi. Response delays, as applicable;
 - f. Whether patient care was transferred from another EMS provider or ambulance service and, if so, identification of the EMS provider or ambulance service;
 - g. The date and time that:
 - i. The call requesting service was received;
 - ii. The request was received by the person coordinating transport;
 - iii. The air ambulance service received the transport request;
 - iv. The air ambulance left for the patient's location;
 - v. The air ambulance arrived at the patient's location;
 - vi. The medical team in the air ambulance arrived at the patient's side;
 - vii. Transfer of the patient's care occurred at a location other than the destination, if applicable;
 - viii. The air ambulance departed the patient's location;
 - ix. The air ambulance arrived at the destination;
 - x. Transfer of the patient's care occurred at the destination;
 - xi. The air ambulance was available to take another mission;
 - h. Information about the patient, including:
 - i. The patient's first and last name;
 - ii. The address of the patient's residence;
 - iii. The county of the patient's residence;
 - iv. The country of the patient's residence;
 - v. The patient's gender, race, ethnicity, and age;
 - vi. The patient's estimated weight;
 - vii. The patient's date of birth; and
 - viii. If the patient has an alternate residence, the address of the alternate residence;
 - i. The primary method of payment for services and anticipated level of payment;
 - j. Information about the scene, including:
 - i. Specific information about the location of the scene;
 - ii. Whether the air ambulance was first on the scene;
 - iii. The number of patients at the scene;
 - iv. Whether the scene was the location of a mass casualty incident; and
 - v. If the scene was the location of a mass casualty incident, triage information;
 - k. Information about the reason for requesting service for the patient, including:
 - i. The date and time of onset of symptoms and when the patient was last well;
 - ii. Information about the complaint;
 - iii. The patient's symptoms;
 - iv. The results of the medical team's initial assessment of the patient;
 - v. If the patient was injured, information about the injury and the cause of the injury;
 - vi. If the patient experienced a cardiac arrest, information about the etiology of the cardiac arrest and subsequent treatment provided; and
 - vii. For an interfacility transport, the reason for the transport;
 - l. Information about any specific barriers to providing care to the patient;
 - m. Information about the patient's medical history, including:
 - i. Known allergies to medications,
 - ii. Surgical history,
 - iii. Current medications, and
 - iv. Alcohol or drug use;
 - n. Information about the patient's current medical condition, including the information in subsections (A)(7)(e)(v) through (xi) and the time and method of assessment;
 - o. Information about agents administered to the patient, including the dose and route of administration, time of administration, and the patient's response to the agent;
 - p. If not specifically included under subsection (A)(8)(k), (m)(iv), (n), or (o), the information required in A.A.C. R9-4-602(A);
 - q. Information about any procedures performed on the patient and the patient's response to the procedure;
 - r. Whether the patient was transported and, if so, information about the transport;
 - s. Information about the destination of the transport, including the reason for choosing the destination;
 - t. Whether patient care was transferred to another EMS provider or ambulance service and, if so, identification of the EMS provider or ambulance service;

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- u. Unless patient care was transferred to another EMS provider or ambulance service, information about:
 - i. Whether the destination facility was notified that the patient being transported has a time-sensitive condition and the time of notification;
 - ii. The disposition of the patient at the destination; and
 - iii. The disposition of the mission;
 - v. Any other narrative information about the patient, care received by the patient, or transport; and
 - w. The name and certification level of the medical team member providing the information;
9. Creates a record for each mission that includes:
- a. Mission date;
 - b. Mission level;
 - c. Mission type;
 - d. Staffing of the mission;
 - e. Aircraft type—fixed-wing aircraft or rotor-wing aircraft;
 - f. Name of the person requesting the transport;
 - g. Time of receipt of the transport request;
 - h. The estimated time of arrival, as provided according to subsection (A)(4);
 - i. Departure time to the patient's location;
 - j. Address of the patient's location;
 - k. Arrival time at the patient's location;
 - l. Departure time to the destination health care institution;
 - m. Name and address of the destination health care institution;
 - n. Arrival time at the destination health care institution;
 - o. Either the:
 - i. Unique reference number used by the air ambulance service to identify the patient, or
 - ii. Unique call number used by the air ambulance service to identify the specific mission; and
 - p. Aircraft tail number for the air ambulance used on the mission;
10. Establishes, documents, and, if necessary, implements a plan to address and minimize potential issues of patient health and safety due to the air ambulance service terminating operations at a physical address used for the air ambulance service that:
- a. Is developed in conjunction with hospitals near the physical address used for the air ambulance service and other persons who may be adversely affected by the air ambulance service terminating operations;
 - b. Includes notification by the air ambulance service of the persons in subsection (A)(10)(a) of the intent to terminate operations, at least 30 calendar days before the termination of operations; and
 - c. Includes temporary measures that will be used until alternate methods may be arranged for patient transport that address patient health and safety;
11. Establishes, documents, and implements a quality improvement program, as specified in policies and procedures, through which:
- a. Data related to initial patient assessment, patient care, transport services provided, and patient status upon arrival at the destination are:
 - i. Collected continuously;
 - ii. For the information required in subsection (A)(8), submitted to the Department, in a Department-provided format and within 48 hours after the date of a mission, for quality improvement purposes; and
 - iii. If the air ambulance service is notified that the submission of information to the Department according to subsection (A)(11)(a)(ii) was unsuccessful, corrected and resubmitted within seven days after notification;
 - b. Continuous quality improvement processes are developed to identify, document, and evaluate issues related to the provision of services, including:
 - i. Care provided to patients with time-sensitive conditions;
 - ii. Transport or documentation, and
 - iii. Patient status upon arrival at the destination;
 - c. A committee consisting of the administrative medical director, the individual managing the air ambulance service or designee, and other employees as appropriate:
 - i. Review the data in subsection (A)(11)(a) and any issues identified in subsection (A)(11)(b) on at least a quarterly basis; and
 - ii. Implement activities to improve performance when deviations in patient care, transport, or documentation are identified; and
 - d. The activities in subsection (A)(11)(c) are documented, consistent with A.R.S. §§ 36-2401, 36-2402, and 36-2403; and
12. Beginning within 12 months after the effective date of this Section, establish and maintain a method to electronically document patient information and treatment that is capable of being transferred.
- B.** An air ambulance service may transport a patient for whom the air ambulance does not have the resources to provide appropriate medical care:
- 1. In a rescue situation in which:
 - a. An individual's life, limb, or health is imminently threatened;
 - b. The threat may be reduced or eliminated by removing the individual from the situation to a location in which medical services may be provided; and
 - c. There is no other practical means of transport, including another air ambulance service, available; or
 - 2. For an interfacility transport of a patient if:
 - a. The sending health care institution provides medically appropriate life support measures, staff, and equipment to sustain the patient during the interfacility transport; and
 - b. Each staff member provided by the sending health care institution has completed training in the subject areas listed in R9-25-707(A) before participating in the interfacility transport.
- C.** If an air ambulance service completes a mission under subsection (B) for which the air ambulance service does not have the resources to provide appropriate medical care, the licensee shall ensure that the air ambulance service creates a record within five working days after the mission, including:
- 1. The information required under subsection (A)(8),
 - 2. The manner in which the air ambulance service deviated from subsection (A)(5), and
 - 3. The justification for operating under subsection (B).
- D.** If an air ambulance service uses a single-member medical team as authorized under R9-25-706(B) and (C), the licensee

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shall ensure that the air ambulance service creates a record within five working days after the mission, including:

1. The information required under subsection (A)(9),
2. The name and qualifications of the individual comprising the single-member medical team, and
3. The justification for using a single-member medical team.

E. If an air ambulance service completes a critical care interfacility transport mission under conditions permitted in R9-25-802(F), the licensee shall ensure that the air ambulance service creates a record within five working days after the mission, including:

1. The information required under subsection (A)(9),
2. A description of the life-support equipment used on the mission,
3. A list of the equipment and supplies required in R9-25-802(C) that were removed from the air ambulance for the mission, and
4. The justification for conducting the mission as permitted under R9-25-802(F).

F. A licensee shall ensure that an individual does not serve on the medical team for an interfacility maternal transport unless the air ambulance service's medical director has verified and attested in writing to the individual's having the proficiencies described in R9-25-706(A)(2).

G. A licensee shall ensure that an individual does not serve on the medical team for an interfacility neonatal transport unless the air ambulance service's medical director has verified and attested in writing to the individual's having the proficiencies described in R9-25-706(A)(3).

H. A licensee shall ensure that the air ambulance service:

1. Retains each document required to be created or maintained under this Article or Article 2 or 8 of this Chapter for at least three years after the last event recorded in the document, and
2. Produces each document for Department review upon request.

I. A licensee shall ensure that, while on a mission, two-way voice communication is available:

1. Between and among personnel on the air ambulance, including the pilot; and
2. Between personnel on the air ambulance and the following persons on the ground:
 - a. Personnel;
 - b. Physicians providing on-line medical direction or on-line medical guidance to medical team members; and
 - c. For a rotor-wing air ambulance mission:
 - i. Emergency medical services providers, and
 - ii. Law enforcement agencies.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-705 repealed; new Section R9-25-705 renumbered from R9-25-710 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-706. Minimum Standards for Mission Staffing (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

A. A licensee shall ensure that, except as provided in subsection (B):

1. Each critical care mission is staffed by a medical team of at least two individuals with the following qualifications:
 - a. For a critical care interfacility transport mission:
 - i. A physician or registered nurse; and
 - ii. Another physician, another registered nurse, a Paramedic, or a licensed respiratory care practitioner; and
 - b. For a critical care mission that is an emergency medical services transport:
 - i. A physician or registered nurse; and
 - ii. A Paramedic or another registered nurse;
2. Each interfacility maternal transport mission is staffed by a medical team that:
 - a. Complies with the requirements for a critical care mission medical team in subsection (A)(1); and
 - b. Has the following additional qualifications:
 - i. Proficiency in advanced emergency cardiac life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association;
 - ii. Proficiency in neonatal resuscitation; and
 - iii. Proficiency in stabilization and transport of the pregnant patient;
3. Each interfacility neonatal transport mission is staffed by a medical team that:
 - a. Complies with the requirements for a critical care mission medical team in subsection (A)(1); and
 - b. Has the following additional qualifications:
 - i. Proficiency in pediatric advanced emergency life support that includes didactic instruction and a practical skills test, consistent with training recognized by the American Heart Association; and
 - ii. Proficiency in neonatal resuscitation and stabilization of the neonatal patient; and
4. Each advanced life support mission is staffed by a medical team of at least two individuals with the following qualifications:
 - a. For an advanced life support mission that is an emergency medical services transport:
 - i. A physician, registered nurse, or Paramedic; and
 - ii. Another Paramedic or another registered nurse;
 - b. For an advanced life support interfacility transport mission:
 - i. A physician, registered nurse, or Paramedic; and
 - ii. Another Paramedic, a licensed respiratory care practitioner, or another registered nurse.

B. If the pilot on a mission using a rotor-wing air ambulance determines, in accordance with the air ambulance service's written guidelines required under subsection (C)(1), that the weight of a second medical team member could potentially compromise the performance of the rotor-wing air ambulance and the safety of the mission, and the use of a single-member medical team is consistent with the on-line medical direction or on-line medical guidance received as required under subsection (C)(2), an air ambulance service may use a single-member medical team consisting of an individual with the following qualification:

1. For a critical care mission, a physician or registered nurse; and

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2. For an advanced life support mission, a physician, registered nurse, or Paramedic.
- C. A licensee shall ensure that:
 1. Each air ambulance service rotor-wing pilot is provided with written guidelines to use in determining when the weight of a second medical team member could potentially compromise the performance of a rotor-wing air ambulance and the safety of a mission, including the conditions of density altitude and weight that warrant the use of a single-member medical team;
 2. The following are done, without delay, after an air ambulance service rotor-wing pilot determines that the weight of a second medical team member could potentially compromise the performance of a rotor-wing air ambulance and the safety of a mission:
 - a. The pilot communicates that information to the medical team,
 - b. The medical team obtains on-line medical direction or on-line medical guidance regarding the use of a single-member medical team, and
 - c. The medical team proceeds in compliance with the on-line medical direction or on-line medical guidance;
 3. A single-member medical team has the knowledge and medical equipment to perform one-person cardiopulmonary resuscitation;
 4. The patient care provided by each single-member medical team, including consideration of each patient's status upon arrival at the destination health care institution, is reviewed through the quality improvement processes in R9-25-705(A)(11)(b) and (c); and
 5. A single-member medical team is used only when no other transport team is available that would be more appropriate for delivering the level of care that a patient requires.
- D. A licensee shall ensure that the air ambulance service creates and maintains for each personnel member a file containing documentation of the personnel member's qualifications, including, as applicable, licenses, certifications, and training records.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-706 renumbered to R9-25-710; new Section R9-25-706 renumbered from R9-25-711 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by exempt rulemaking at 28 A.A.R. 3681 (December 2, 2022), with an immediate effective date of November 8, 2022 (Supp. 22-4).

R9-25-707. Minimum Standards for Training (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)

- A. A licensee shall ensure that each medical team member completes training in the following subjects before serving on a mission:
 1. Aviation terminology;
 2. Physiological aspects of flight;
 3. Patient loading and unloading;
 4. Safety in and around the aircraft;
 5. In-flight communications;
 6. Use, removal, replacement, and storage of the medical equipment installed on the aircraft;
 7. In-flight emergency procedures;
 8. Emergency landing procedures; and

9. Emergency evacuation procedures.

- B. A licensee shall ensure that the air ambulance service documents each medical team member's completion of the training required under subsection (A), including the name of the medical team member, each training component completed, and the date of completion.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-707 renumbered to R9-25-709; new Section R9-25-707 renumbered from R9-25-713 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-708. Minimum Standards for Medical Control (Authorized by A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), and 36-2213)

- A. A licensee shall ensure that:
 1. The air ambulance service has an administrative medical director who:
 - a. Meets the qualifications in subsection (B);
 - b. Supervises and evaluates the quality of medical care provided by medical team members;
 - c. Ensures the competency and current qualifications of all medical team members;
 - d. Except as provided in subsections (A)(3) and (4), ensures that:
 - i. Each EMCT medical team member receives medical direction as required under Article 2 of this Chapter; and
 - ii. Each non-EMCT medical team member receives medical guidance through written treatment protocols and according to subsection (C); and
 - e. Approves, ensures implementation of, and annually reviews treatment protocols to be followed by medical team members;
 2. The administrative medical director reviews data related to patient care and transport services provided, documentation, and patient status upon arrival at destination that are collected through the quality management program in R9-25-705(A)(11);
 3. For an interfacility maternal transport mission, on-line medical direction or on-line medical guidance provided to medical team member is provided by a physician who meets the qualifications of subsection (B)(2)(b)(i);
 4. For an interfacility neonatal transport mission, on-line medical direction or on-line medical guidance provided to medical team member is provided by a physician who meets the qualifications of subsection (B)(2)(b)(ii);
- B. An administrative medical director shall:
 1. Be a physician; and
 2. Comply with one of the following:
 - a. If the air ambulance service provides emergency medical services transports, meet the qualifications of R9-25-201(A)(1); or
 - b. If the air ambulance service does not provide emergency medical services transports, meet the qualifications of R9-25-201(A)(1) or one of the following:
 - i. If the air ambulance service provides interfacility maternal transport missions, have board certification or have completed an accredited residency program in one of the following specialty areas:

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- (1) Obstetrics and gynecology, with subspecialization in critical care medicine or maternal and fetal medicine; or
 - (2) Pediatrics, with subspecialization in neonatal-perinatal medicine;
 - ii. If the air ambulance service provides interfacility neonatal transport missions, have board certification or have completed an accredited residency program in one of the following specialty areas:
 - (1) Obstetrics and gynecology, with subspecialization in maternal and fetal medicine; or
 - (2) Pediatrics, with subspecialization in neonatal-perinatal medicine, neonatology, pediatric critical care medicine, or pediatric intensive care; or
 - iii. If neither subsection (B)(2)(b)(i) or (ii) applies, have board certification or have completed an accredited residency program in one of the following specialty areas:
 - (1) Anesthesiology, with subspecialization in critical care medicine;
 - (2) Internal medicine, with subspecialization in critical care medicine;
 - (3) If the air ambulance service transports only pediatric patients, pediatrics, with subspecialization in pediatric critical care medicine or pediatric emergency medicine; or
 - (4) If the air ambulance service transports only surgical patients, surgery, with subspecialization in surgical critical care.
- C. An administrative medical director shall ensure that each non-EMCT medical team member receives on-line medical guidance provided by:
 - 1. The administrative medical director;
 - 2. Another physician designated by the administrative medical director; or
 - 3. If the medical guidance needed exceeds the administrative medical director's area of expertise, a consulting specialty physician.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-708 renumbered to R9-25-711; new Section R9-25-708 renumbered from R9-25-715 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-709. Changes Affecting a License (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2213)

- A. At least 30 days before the date of a change in an air ambulance service's name, the licensee shall send the Department written notice of the name change.
- B. At least 90 days before an air ambulance service ceases to operate, the licensee shall send the Department written notice of the intention to cease operating, effective on a specific date, and the licensee's intention to relinquish the air ambulance service's license as of that date.
- C. Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:
 - 1. For a notice described in subsection (A), issue an amended license that incorporates the name change but retains the expiration date of the current license; and
 - 2. For a notice described in subsection (B), send the licensee written confirmation of the voluntary relinquishment of the air ambulance service's license, with an effective date consistent with the written notice.

- D. A licensee shall notify the Department in writing at least 30 calendar days before:
 - 1. Changing the physical address used for the air ambulance service, as provided according to R9-25-704(A)(1)(c); or
 - 2. Terminating operations at a physical address used for the air ambulance service, as provided according to R9-25-704(A)(1)(c).

- E. A licensee shall notify the Department in writing within one working day after:
 - 1. A change in the air ambulance service's eligibility for licensure under R9-25-703(B) or (C);
 - 2. A change in the business organization information most recently submitted to the Department according to R9-25-704(A)(1)(f);
 - 3. A change in the air ambulance service's CAMTS accreditation status, including a copy of the air ambulance service's new CAMTS accreditation report, if applicable;
 - 4. A change in the air ambulance service's hours of operation, as specified according to R9-25-704(A)(1)(h);
 - 5. A change in the air ambulance service's schedule of rates, as specified according to R9-25-704(A)(1)(i); or
 - 6. A change in the mission types provided, as specified according to R9-25-704(A)(1)(j).

- F. If the Department receives a notice specified in subsection (E)(6), the Department:
 - 1. Shall reissue a license for the air ambulance service reflecting the change, but retaining the expiration date on the original license; and
 - 2. May conduct an inspection according to R9-25-711.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-709 renumbered to R9-25-712; new Section R9-25-709 renumbered from R9-25-707 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-710. Term and Transferability of License (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, and 41-1092.11)

- A. The Department shall issue an initial license:
 - 1. When based on current CAMTS accreditation, with a term beginning on the date of issuance of the initial license and ending on the expiration date of the CAMTS accreditation upon which licensure is based; and
 - 2. When based on Department inspection, with a term beginning on the date of issuance of the initial license and ending three years later.
- B. The Department shall issue a renewal license with a term beginning on the day after the expiration date shown on the previous license and ending:
 - 1. When based on current CAMTS accreditation, on the expiration date of the CAMTS accreditation upon which licensure is based; and
 - 2. When based on Department inspection, three years after the effective date of the renewal license.

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- C. If a licensee submits an application packet for renewal as described in R9-25-704(B), the current license does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- D. At least 30 days before an anticipated change of ownership:
 1. A licensee wanting to transfer an air ambulance service license shall submit a letter to the Department that contains:
 - a. A request that the air ambulance service license be transferred,
 - b. The name and license number of the currently licensed air ambulance service, and
 - c. The name of the person to whom the air ambulance service license is to be transferred; and
 2. The person to whom the license is to be transferred shall submit to the Department an application packet that complies with R9-25-704(A).
- E. A new owner shall not operate an air ambulance service in this state until:
 1. The new owner complies with requirements in Articles 7 and 8 of this Chapter, and
 2. The Department has issued an air ambulance service license to the new owner.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). R9-25-710 renumbered to R9-25-705; new Section R9-25-710 renumbered from R9-25-706 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-711. Inspections and Investigations (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, and 36-2214)

- A. Except as provided in subsections (D) and (E), the Department shall inspect an air ambulance service, as required under A.R.S. § 36-2214(B), before issuing an initial or renewal license and as necessary to determine compliance with this Article, Articles 2 and 8 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
- B. A Department inspection may include the air ambulance service's premises, records, and equipment, and each air ambulance used by the air ambulance service.
- C. If the Department receives written or verbal information alleging a violation of this Article, Article 2 or 8 of this Chapter, or A.R.S. Title 36, Chapter 21.1, the Department shall conduct an investigation.
 1. The Department may conduct an inspection as part of an investigation.
 2. A licensee shall allow the Department to inspect the air ambulance service's premises, records, and equipment, and each air ambulance and to interview personnel as part of an investigation.
- D. Except as provided in subsection (C), the Department shall not conduct an inspection of an air ambulance service before issuing an initial or renewal license if an applicant or licensee provides documentation of current CAMTS certification as part of the application packet according to R9-25-704(A)(8).
- E. When an application for an air ambulance service license is submitted along with a transfer request due to a change of ownership, the Department shall determine whether an inspection is necessary based upon the potential impact to public health, safety, and welfare.

F. The Department shall conduct each inspection in compliance with A.R.S. § 41-1009.

G. If the Department determines that an air ambulance service is not in compliance with the requirements in this Article, Article 2 or 8 of this Chapter, or A.R.S. Title 36, Chapter 21.1, the Department may:

1. Take an enforcement action as described in R9-25-712; or
2. Require that the air ambulance service submit to the Department, within 15 days after written notice from the Department, a corrective action plan to address issues of compliance that do not directly affect the health or safety of a patient that:
 - a. Describes how each identified instance of non-compliance will be corrected and reoccurrence prevented, and
 - b. Includes a date for correcting each instance of non-compliance that is appropriate to the actions necessary to correct the instance of non-compliance.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). R9-25-711 renumbered to R9-25-706; new Section R9-25-711 renumbered from R9-25-708 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-712. Enforcement Actions (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), 36-2213, 36-2214, 36-2215, 41-1092.03, and 41-1092.11(B))

- A. The Department may take an action listed in subsection (B) against an air ambulance service that:
 1. Fails to meet the eligibility requirements of R9-25-703;
 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 3. Fails or has failed to comply with any provision in this Article or Article 2 or 8 of this Chapter;
 4. Does not submit a corrective action plan, as provided in R9-25-711(G)(2), that is acceptable to the Department;
 5. Does not complete a corrective action plan submitted according to R9-25-711(G)(2); or
 6. Knowingly or negligently provides false documentation or false or misleading information to the Department or to a patient, third-party payor, or other person billed for service.
- B. The Department may take the following actions against an air ambulance service:
 1. Except as provided in subsection (B)(3), after notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, suspend:
 - a. The air ambulance service license, or
 - b. The certificate of registration of an aircraft to be used as an air ambulance by the air ambulance service;
 2. After notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, revoke:
 - a. The air ambulance service license, or

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- b. The certificate of registration of an aircraft to be used as an air ambulance by the air ambulance service; and
 - 3. As permitted under A.R.S. § 41-1092.11(B), if the Department determines that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in the Department's order, immediately suspend:
 - a. The air ambulance service license pending proceedings for revocation or other action, or
 - b. The certificate of registration of an aircraft to be used as an air ambulance by the air ambulance service pending proceedings for revocation or other action.
- C. In determining whether to take action under subsection (B), the Department shall consider:
 - 1. The severity of each violation relative to public health and safety;
 - 2. The number of violations relative to the transport volume of the air ambulance service;
 - 3. The nature and circumstances of each violation;
 - 4. Whether each violation was corrected and, if so, the manner of correction; and
 - 5. The duration of each violation.

Historical Note

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3). New Section R9-25-712 renumbered from R9-25-709 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-713. Renumbered**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-713 renumbered to R9-25-707 by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-714. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-715. Renumbered**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Section R9-25-715 renumbered to R9-25-708 by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-716. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Repealed by final

rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-717. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-718. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

ARTICLE 8. AIR AMBULANCE REGISTRATION

Article 8, consisting of R9-25-801 through R9-25-808, recodified to Article 5 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Editor's Note: Article 8, consisting of Sections R9-25-801 through R9-25-803 and Exhibits, was recodified from A.A.C. R9-13-1501 through R9-13-1503. These recodified Sections were originally filed under an exemption from A.R.S. Title 41, Chapter 6. Refer to the historical notes in 9 A.A.C. 13 for adoption dates (Supp. 98-1).

Article 8, consisting of Section R9-25-805 and Exhibits 1 through 3, was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to A.R.S. § 36-2205(C). Exemption from A.R.S. Title 41, Chapter 6 means that the Department did not submit these rules to the Secretary of State's Office for publication in the Arizona Administrative Register; the Department did not submit the rules to the Governor's Regulatory Review Council for review; and the Department was not required to hold public hearings on this Section. Under A.R.S. § 36-2205(D) a person may petition the Director to amend an adopted protocol pursuant to A.R.S. § 41-1033 (Supp. 97-2).

R9-25-801. Requirement, Eligibility, and Application for an Initial or Renewal Certificate of Registration for an Air Ambulance (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, 36-2232(A)(11), and 36-2240(4))

- A. To be eligible to obtain a certificate of registration for an air ambulance, an applicant shall:
 - 1. Ensure that the aircraft is not currently registered with the Department by another air ambulance service;
 - 2. Hold a current and valid air ambulance service license issued under Article 7 of this Chapter;
 - 3. Possess a copy of a current and valid registration for the air ambulance, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4; and
 - 4. Comply with all applicable requirements of this Article, Articles 2 and 7 of this Chapter, and A.R.S. Title 36, Chapter 21.1.
- B. An applicant for an initial or renewal certificate of registration for an air ambulance shall submit an application packet to the Department, including:
 - 1. The following information in a Department-provided format:

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- a. The applicant's name; mailing address; email address; fax number, if any; and telephone number;
- b. The names of all other business organizations operated by the applicant related to the use of an air ambulance;
- c. The physical address of the applicant, if different from the mailing address;
- d. If applicable, the number of the applicant's air ambulance service license;
- e. The name, title, address, email address, and telephone number of the individual acting on behalf of the applicant according to R9-25-102;
- f. The name, address, telephone number, and email address of the owner of the air ambulance, if different from the applicant;
- g. Whether the air ambulance is a fixed-wing or rotor-wing aircraft;
- h. The number of engines on the air ambulance;
 - i. The manufacturer's name;
 - j. The model name of the air ambulance;
 - k. The year the air ambulance was manufactured;
 - l. The serial number of the air ambulance;
 - m. The tail number of the air ambulance;
 - n. The aircraft colors, including fuselage, stripe, and lettering;
 - o. A description of any insignia, monogram, or other distinguishing characteristics of the aircraft's appearance;
 - p. The address at which the air ambulance is usually based;
 - q. The address in Arizona at which the air ambulance will be available for inspection;
 - r. The name and telephone number of the individual to contact to arrange for inspection, if the inspection is preannounced;
 - s. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - t. Attestation that the information provided in the application packet, including the information in the accompanying documents, is accurate and complete; and
 - u. The dated signature of the applicant;
2. A copy of a current and valid registration for the air ambulance, issued by the Arizona Department of Transportation under A.R.S. Title 28, Chapter 25, Article 4; and
3. Unless the applicant uses or intends to use the aircraft as an air ambulance only as a volunteer not-for-profit service, the following fees:
 - a. A \$50 registration fee, as required under A.R.S. § 36-2212(D); and
 - b. A \$200 annual regulatory fee, as required under A.R.S. § 36-2240(4).
- C. The Department requires submission of a separate application and the fees in subsection (B)(3) for each air ambulance.
- D. Except as provided in A.R.S. § 36-2232(A)(11), the Department shall inspect each air ambulance according to R9-25-805(A) and (B) to determine compliance with the provisions of A.R.S. Title 36, Chapter 21.1 and this Article:
 1. Within 30 calendar days before issuing an initial certificate of registration; and
 2. At least every 12 months thereafter, before issuing a renewal certificate of registration.
- E. The Department shall review and approve or deny each application as described in Article 12 of this Chapter.
- F. If the Department approves the application and sends the applicant the written notice of approval, specified in R9-25-1201(C)(5), the Department shall issue the certificate of registration to the applicant:
 1. For an applicant with a current and valid air ambulance service license issued under Article 7 of this Chapter, within five working days after the date on the written notice of approval; and
 2. For an applicant that does not have a current and valid air ambulance service license issued under Article 7 of this Chapter, when the air ambulance service license is issued.
- G. The Department may deny a certificate of registration for an air ambulance if the applicant:
 1. Fails to meet the eligibility requirements of subsection (A);
 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 3. Fails or has failed to comply with any provision in this Article or Article 2 or 7 of this Chapter;
 4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3) and requests a denial as permitted under R9-25-1201(E).

Historical Note

R9-25-801 recodified from A.A.C. R9-13-1501 (Supp. 98-1). Amended by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-501 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-801 repealed; new Section R9-25-801 renumbered from R9-25-802 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-802. Minimum Standards for an Air Ambulance (Authorized by A.R.S. §§ 36-2202(A)(3), (4), and (5); 36-2209(A)(2); and 36-2212)

- A. An applicant or certificate holder shall ensure that an air ambulance has:
 1. A climate control system to prevent temperature extremes that would adversely affect patient care;
 2. If a fixed-wing air ambulance, pressurization capability;
 3. Interior lighting that allows for patient care and monitoring without interfering with the pilot's vision;
 4. For each place where a patient may be positioned, at least one electrical power outlet or other power source that is capable of operating all electrically powered medical equipment without compromising the operation of any electrical aircraft equipment;
 5. A back-up source of electrical power or batteries capable of operating all electrically powered life-support equipment for at least one hour;
 6. An entry that allows for patient loading and unloading without rotating a patient and stretcher more than 30 degrees about the longitudinal axis or 45 degrees about the lateral axis and without compromising the operation

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- of monitoring systems, intravenous lines, or manual or mechanical ventilation;
7. A configuration that allows each medical team member sufficient access to each patient to begin and maintain treatment modalities, including complete access to the patient's head and upper body for effective airway management;
 8. A configuration that allows for rapid exit of personnel and patients, without obstruction from stretchers and medical equipment;
 9. A configuration that protects the aircraft's flight controls, throttles, and communications equipment from any intentional or accidental interference from a patient or equipment and supplies;
 10. A padded interior or an interior that is clear of objects or projections in the head strike envelope;
 11. An installed self-activating emergency locator transmitter;
 12. A voice communications system that:
 - a. Is capable of air-to-ground communication, and
 - b. Allows the flight crew and medical team members to communicate with each other during flight;
 13. Interior patient compartment wall and floor coverings that are:
 - a. Free of cuts or tears,
 - b. Made from non-absorbent material,
 - c. Capable of being disinfected, and
 - d. Maintained in a sanitary manner; and
 14. If a rotor-wing air ambulance, the following:
 - a. A searchlight that:
 - i. Has a range of motion of at least 90 degrees vertically and 180 degrees horizontally,
 - ii. Is capable of illuminating a landing site, and
 - iii. Is located so that the pilot can operate the searchlight without removing the pilot's hands from the aircraft's flight controls;
 - b. Restraining devices that can be used to prevent a patient from interfering with the pilot or the aircraft's flight controls; and
 - c. A light to illuminate the tail rotor.
- B.** An applicant or certificate holder shall ensure that:
1. Except as provided in subsections (D), (E), and (F), each air ambulance has the equipment and supplies required in subsection (C) for each mission for which the air ambulance is used; and
 2. The equipment and supplies on an air ambulance are secured, stored, and maintained in a manner that prevents hazards to personnel and patients.
- C.** An applicant or certificate holder shall ensure that an air ambulance used for an advanced life support mission or critical care mission has the following equipment and supplies:
1. The following ventilation and airway equipment and supplies:
 - a. Portable and fixed suction apparatus, with wide-bore tubing, rigid pharyngeal curved suction tip, tonsillar and flexible suction catheters, 5F-14F;
 - b. Portable and fixed oxygen equipment, with variable flow regulators;
 - c. Oxygen administration equipment, including: tubing; non-rebreathing masks (adult and pediatric sizes); and nasal cannulas (adult and pediatric sizes);
 - d. Bag-valve mask, with hand-operated, self-reexpanding bag (adult size), with oxygen reservoir/accumulator; mask (adult, pediatric, infant, and neonate sizes); and valve;
 - e. Airways, oropharyngeal (adult, pediatric, and infant sizes);
 - f. Laryngoscope handle, adult and pediatric, with, if applicable, extra batteries and bulbs;
 - g. Laryngoscope blades, sizes 0, 1, and 2, straight; sizes 3 and 4, straight and curved;
 - h. Endotracheal tube cuff pressure manometer;
 - i. Endotracheal tubes, sizes 2.5-5.0 mm cuffed or uncuffed and 6.0-8.0 mm cuffed;
 - j. Stylettes for Endotracheal tubes, adult and pediatric;
 - k. Airways, nasal (adult, pediatric, and infant sizes), one each in French sizes 16 to 34;
 - l. One type of supraglottic airway device, adult and pediatric;
 - m. 10 mL straight-tip syringes;
 - n. Small volume nebulizer or nebulizers and aerosol masks, adult and pediatric;
 - o. Magill forceps, adult and pediatric;
 - p. Nasogastric tubes, sizes 5F and 8F, Salem sump sizes 14F and 18F;
 - q. End-tidal CO₂ detectors, quantitative;
 - r. Portable automatic ventilator with positive end expiratory pressure; and
 - s. In-line viral/bacterial filter;
2. The following monitoring and defibrillation equipment and supplies:
- a. Portable, battery-operated monitor/defibrillator, with:
 - i. Tape write-out/recorder,
 - ii. Defibrillator pads,
 - iii. Adult and pediatric paddles or hands-free patches,
 - iv. ECG leads,
 - v. Adult and pediatric chest attachment electrodes, and
 - vi. Capability to provide electrical discharge below 25 watt-seconds; and
 - b. Transcutaneous cardiac pacemaker, either stand-alone unit or integrated into monitor/defibrillator;
3. For rotor wing aircraft only, the following immobilization devices and supplies:
- a. Cervical collars, rigid, adjustable or in an assortment of adult and pediatric sizes;
 - b. Head immobilization device, either firm padding or another commercial device;
 - c. Lower extremity (femur) traction device, including lower extremity, limb support slings, padded ankle hitch, padded pelvic support, and traction strap; and
 - d. Upper and lower extremity immobilization splints;
4. The following bandages:
- a. Burn pack, including standard package, clean burn sheets;
 - b. Dressings, including:
 - i. Sterile multi-trauma dressings (various large and small sizes);
 - ii. Abdominal pads, 10" x 12" or larger; and
 - iii. 4" x 4" gauze sponges;
 - c. Gauze rolls, sterile (4" or larger);
 - d. Elastic bandages, non-sterile (4" or larger);
 - e. Occlusive dressing, sterile, 3" x 8" or larger; and

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- f. Adhesive or self-adhesive tape, including various sizes (1" or larger) hypoallergenic and various sizes (1" or larger) adhesive or self-adhesive;
5. The following obstetrical equipment and supplies:
 - a. Separate sterile obstetrical kit, including:
 - i. Towels,
 - ii. 4" x 4" dressing,
 - iii. Umbilical tape,
 - iv. Sterile scissors or other cutting utensil,
 - v. Bulb suction,
 - vi. Clamps for cord,
 - vii. Sterile gloves,
 - viii. Blankets, and
 - ix. A head cover; and
 - b. An alternate portable patient heat source or two heat packs;
6. The following infection control equipment and supplies, including the availability of latex-free:
 - a. Eye protection (full peripheral glasses or goggles, face shield);
 - b. Masks, at least as protective as a National Institute for Occupational Safety and Health-approved N-95 respirator, which are fit-tested;
 - c. Gloves, non-sterile;
 - d. Jumpsuits or gowns;
 - e. Shoe covers;
 - f. Disinfectant hand wash, commercial antimicrobial (towelette, spray, or liquid);
 - g. Disinfectant solution for cleaning equipment;
 - h. Standard sharps containers;
 - i. Disposable red trash bags; and
 - j. Protective facemasks or cloth face coverings for patients;
7. The following injury prevention equipment:
 - a. Appropriate restraints, such as seat belts or, if applicable, child safety restraints, for patient, personnel, and family members;
 - b. For rotor wing aircraft only, safety vest or other garment with reflective material for each personnel member;
 - c. Fire extinguisher, either disposable with an indicator of a full charge or with a current inspection tag;
 - d. Hazardous material reference guide; and
 - e. Hearing protection for patient and personnel;
8. The following vascular access equipment and supplies:
 - a. Intravenous administration equipment, with fluid in bags;
 - b. Antiseptic solution (alcohol wipes and povidone-iodine wipes);
 - c. Intravenous pole or roof hook;
 - d. Intravenous catheters 14G-24G;
 - e. Intraosseous needles, adult and pediatric sizes;
 - f. Venous tourniquet;
 - g. One of each of the following types of intravenous solution administration sets:
 - i. A set with blood tubing,
 - ii. A set capable of delivering 60 drops per cc, and
 - iii. A set capable of delivering 10 or 15 drops per cc;
 - h. Intravenous arm boards, adult and pediatric;
 - i. IV pump or pumps (minimum of 3 infusion lines); and
 - j. IV pressure bag;
9. The agents, specified in a table of agents established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references, that an administrative medical director has authorized for use, based on the EMCT classification of the medical team; and
10. The following miscellaneous equipment and supplies:
 - a. Sphygmomanometer (infant, pediatric, and adult regular and large sizes);
 - b. Stethoscope;
 - c. Pediatric equipment sizing reference guide;
 - d. Thermometer with low temperature capability;
 - e. Heavy bandage or paramedic scissors for cutting clothing, belts, and boots;
 - f. Cold packs;
 - g. Flashlight (1) with extra batteries or recharger, as applicable;
 - h. Blankets;
 - i. Sheets;
 - j. Disposable emesis bags or basins;
 - k. For fixed wing aircraft only, a disposable bedpan;
 - l. For fixed wing aircraft only, a disposable urinal;
 - m. Properly secured patient transport system;
 - n. Lubricating jelly (water soluble);
 - o. Glucometer or blood glucose measuring device with reagent strips;
 - p. Pulse oximeter with pediatric and adult probes;
 - q. Automatic blood pressure monitor; and
 - r. A commercially available trauma arterial tourniquet.
- D. An applicant or certificate holder shall ensure that an air ambulance used for an interfacility maternal transport mission has:
 1. The equipment and supplies in subsection (C); and
 2. The following:
 - a. A Doppler fetal heart monitor;
 - b. Unless use is not indicated for the patient as determined through on-line medical direction or on-line medical guidance provided as described in R9-25-708(A)(3), an external fetal heart and tocographic monitor with printer capability;
 - c. Tocolytic and anti-hypertensive medications;
 - d. Advanced emergency cardiac life support equipment and supplies; and
 - e. Neonatal resuscitation equipment and supplies.
- E. An applicant or certificate holder shall ensure that an air ambulance used for an interfacility neonatal transport mission has:
 1. The equipment and supplies in subsection (C); and
 2. The following:
 - a. A transport incubator with:
 - i. Battery and inverter capabilities,
 - ii. An infant safety restraint system, and
 - iii. An integrated neonatal-capable pressure ventilator with oxygen-air supply and blender;
 - b. An invasive automatic blood pressure monitor;
 - c. A neonatal monitor or monitors with heart rate, respiratory rate, temperature, non-invasive blood pressure, and pulse oximetry capabilities;
 - d. Neonatal-specific drug concentrations and doses;
 - e. Thoracostomy supplies;
 - f. Neonatal resuscitation equipment and supplies;
 - g. A neonatal size cuff (size 2, 3, or 4) for use with an automatic blood pressure monitor; and
 - h. A neonatal probe for use with a pulse oximeter.

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- F. A certificate holder may conduct a critical care interfacility transport mission using an air ambulance that does not have all of the equipment and supplies required in subsection (C) if:
1. Care of the patient to be transported necessitates use of life-support equipment that, because of its size or weight or both, makes it unsafe or impossible for the air ambulance to carry all of the equipment and supplies required in subsection (C), as determined by the certificate holder based upon:
 - a. The individual aircraft's capabilities,
 - b. The size and weight of the equipment and supplies required in subsection (C) and of the additional life-support equipment,
 - c. The composition of the required medical team, and
 - d. Environmental factors such as density altitude;
 2. The certificate holder ensures that, during the mission, the air ambulance has the equipment and supplies necessary to provide an appropriate level of medical care for the patient and to protect the health and safety of the personnel on the mission; and
 3. The certificate holder ensures that the air ambulance is not used for another mission until the air ambulance has all of the equipment and supplies required in subsection (C).

Historical Note

R9-25-802 recodified from A.A.C. R9-13-1502 (Supp. 98-1). Section repealed; new Section made by exempt rulemaking at 7 A.A.R. 4092, effective September 1, 2001 (Supp. 01-3). Amended by exempt rulemaking at 8 A.A.R. 931, effective February 15, 2002 (Supp. 02-1). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-502 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-802 renumbered to R9-25-801; new Section R9-25-802 renumbered from R9-25-807 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

Exhibit 1. Repealed**Historical Note**

Section R9-25-802, Exhibit 1 recodified from A.A.C. R9-13-1502, Exhibit 1 (Supp. 98-1). Exhibit 1 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

Exhibit 2. Repealed**Historical Note**

Section R9-25-802, Exhibit 2 recodified from A.A.C. R9-13-1502, Exhibit 2 (Supp. 98-1). Exhibit 2 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

Exhibit 3. Repealed**Historical Note**

Section R9-25-802, Exhibit 3 recodified from A.A.C. R9-13-1502, Exhibit 3 (Supp. 98-1). Exhibit 3 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

Exhibit 4. Repealed**Historical Note**

Section R9-25-802, Exhibit 4 recodified from A.A.C. R9-13-1502, Exhibit 4 (Supp. 98-1). Exhibit 4 repealed by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4).

R9-25-803. Changes Affecting Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), and 36-2212)

- A. At least 30 days before the date of a change in a certificate holder's name, the certificate holder shall send the Department written notice of the name change.
- B. No later than 10 days after a certificate holder ceases to use an aircraft as an air ambulance, the certificate holder shall send the Department written notice of the date that the certificate holder ceased to use the aircraft as an air ambulance and of the certificate holder's intention to relinquish the certificate of registration for the use as an air ambulance as of that date.
- C. Within 30 days after the date of receipt of a notice described in subsection (A) or (B), the Department shall:
1. For a notice described in subsection (A), issue an amended certificate of registration that incorporates the name change but retains the expiration date of the current certificate of registration; and
 2. For a notice described in subsection (B):
 - a. Void the certificate of registration for the air ambulance; and
 - b. Send the certificate holder written confirmation of the voluntary relinquishment of the certificate of registration, with an effective date that corresponds to the written notice.
- D. A certificate holder shall notify the Department in writing within one working day after a change in the certificate holder's eligibility to hold a certificate of registration for an air ambulance under R9-25-801(A).
- E. Upon receiving a notification required in subsection (D), the Department:
1. Shall revoke the certificate for the aircraft used as an air ambulance; and
 2. If the air ambulance is the only aircraft used as an air ambulance by an air ambulance service, may revoke the license of the air ambulance service.

Historical Note

Section R9-25-803 recodified from A.A.C. R9-13-1503, (Supp. 98-1). Section repealed; new Section adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Section recodified to R9-25-503 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-803 renumbered to R9-25-804; new Section R9-25-803 renumbered from R9-25-804 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

Exhibit 1. Recodified**Historical Note**

Section R9-25-803, Exhibit 1 "EMT-P Drug List" and

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“EMT-I Drug List” recodified from A.A.C. R9-13-1503, Exhibit 1 “EMT-P Drug List” and “EMT-I Drug List” (Supp. 98-1). Exhibit 1 repealed; new Exhibit 1 adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4).

Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 1507, effective May 1, 2000 (Supp. 00-1). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 3762, effective October 1, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 1654, effective March 30, 2001 (Supp. 01-1). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 9 A.A.R. 1703, effective May 15, 2003 (Supp. 03-2). Exhibit 1 recodified to Article 5, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Exhibit 2. Recodified**Historical Note**

Exhibit 2 adopted effective November 30, 1998; filed in the Office of the Secretary of State November 24, 1998, under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) (Supp. 98-4). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 1507, effective May 1, 2000 (Supp. 00-1). Amended under an exemption from the provisions of the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C) at 6 A.A.R. 3762, effective October 1, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 1199, effective February 13, 2001 (Supp. 01-1). Amended by exempt rulemaking at 8 A.A.R. 2625, effective June 1, 2002 (Supp. 02-2). Exhibit 2 recodified to Article 5, Exhibit 2 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

R9-25-804. Term and Transferability of Certificate of Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 41-1092.11)

- A. The Department shall issue an initial certificate of registration:
 1. With a term of one year from date of issuance of the initial certificate of registration; or
 2. If requested by the applicant, with a term shorter than one year that allows for the Department to conduct annual inspections of all of the applicant’s air ambulances at one time.
- B. The Department shall issue a renewal certificate of registration with a term of one year from the expiration date on the previous certificate of registration.
- C. If a certificate holder submits an application for renewal as described in R9-25-801 before the expiration date of the current certificate of registration, the current certificate of registration does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- D. A certificate of registration is not transferable from one person to another.
- E. If there is a change in the ownership of an aircraft used as an air ambulance or the person who can legally use the aircraft as an air ambulance, the new owner or person who can legally

use the aircraft as an air ambulance shall apply for and obtain a new certificate of registration before using the aircraft as an air ambulance in this state.

Historical Note

New Section made by exempt rulemaking at 7 A.A.R. 4888, effective November 1, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-504 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-804 renumbered to R9-25-803; new Section R9-25-804 renumbered from R9-25-803 and amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final expedited rulemaking 29 A.A.R. 1461 (June 30, 2023), with an immediate effective date of June 6, 2023 (Supp. 23-2).

R9-25-805. Inspections (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 36-2232(A)(11))

- A. Except as provided in R9-25-711(C), an applicant or a certificate holder shall make an air ambulance available for inspection within Arizona within 10 working days after a request by the Department.
- B. The Department shall conduct each inspection in compliance with A.R.S. § 41-1009.
- C. As permitted under A.R.S. § 36-2232(A)(11), upon a certificate holder’s request and at the certificate holder’s expense, the annual inspection of an air ambulance required for renewal of a certificate of registration may be conducted by a Department-approved inspection facility.

Historical Note

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-505 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

Exhibit 1. Recodified**Historical Note**

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Exhibit 1 recodified to Article 5, Exhibit 1 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Exhibit 2. Recodified**Historical Note**

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Exhibit 2 recodified to Article 5, Exhibit 2

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at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

Exhibit 3. Repealed**Historical Note**

Adopted under an exemption from the Administrative Procedure Act pursuant to A.R.S. § 36-2205(C), effective May 19, 1997; filed in the Office of the Secretary of State May 21, 1997 (Supp. 97-2). Exhibit repealed by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4).

R9-25-806. Repealed**Historical Note**

New Section made by exempt rulemaking at 7 A.A.R. 4895, effective October 5, 2001 (Supp. 01-4). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-506 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

R9-25-807. Renumbered**Historical Note**

New Section made by exempt rulemaking at 8 A.A.R. 2633, effective June 1, 2002 (Supp. 02-2). Amended by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-507 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3). New Section made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Section R9-25-807 renumbered to R9-25-802 by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

Table 8.1. Repealed**Historical Note**

New Table 8.1 renumbered from Table 1 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Table 8.1 amended by final expedited rulemaking at 24 A.A.R. 3487, with an immediate effective date of December 4, 2018 (Supp. 18-4). Table 8.1, Minimum Equipment and Supplies Required on Air Ambulances, by Mission Level and Aircraft Type, repealed by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2).

Table 1. Renumbered**Historical Note**

New Table 1 made by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Table 1 renumbered to Table 8.1 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

R9-25-808. Recodified**Historical Note**

New Section made by exempt rulemaking at 10 A.A.R. 239, effective January 3, 2004 (Supp. 03-4). Section recodified to R9-25-508 at 10 A.A.R. 4192, effective September 21, 2004 (Supp. 04-3).

ARTICLE 9. GROUND AMBULANCE CERTIFICATE OF NECESSITY**R9-25-901. Definitions (Authorized by A.R.S. § 36-2202 (A))**

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in Articles 9, 10, 11, and 12 unless otherwise specified:

1. "Accounting period" means a continuous 12-month span of time used by an applicant or a certificate holder for purposes of planning, budgeting, or annual financial reporting to the Department.
2. "Adjustment" means a modification, correction, or alteration to a rate or charge.
3. "ALS base rate" means the monetary amount set by the Department for a certificate holder to bill a patient according to A.R.S. § 36-2239(F).
4. "Ambulance response" means EMS provided by a ground ambulance service.
5. "Ambulance Revenue and Cost Report" means the information required in R9-25-909, which records and reports the financial activities of an applicant or a certificate holder.
6. "Application packet" means the information, applicable fees, and documents required by the Department when making a decision for certification, licensure, or approval of a request.
7. "Back-up agreement" means a written arrangement, which may include one of the following, between a certificate holder and a neighboring or overlapping certificate holder to allow one of the certificate holders to provide ambulance response or transport within the other certificate holder's service area on a limited basis when the certificate holder's ambulances are temporarily not able to provide needed services in the certificate holder's service area:
 - a. A mutual aid agreement, or
 - b. A Memorandum of Understanding.
8. "BLS base rate" means the monetary amount set by the Department for a certificate holder to bill a patient according to A.R.S. § 36-2239(G).
9. "Certificate holder" means a person to whom the Department issues a certificate of necessity.
10. "Certificate of registration" means an authorization issued by the Department to a certificate holder to operate a ground ambulance vehicle.
11. "Change of ownership" means a transfer of controlling legal or controlling financial interest and authority in a ground ambulance service, as demonstrated according to R9-25-904(A)(1).
12. "Charge" means the monetary amount billed for disposable supplies, medical supplies, medication, and oxygen-related costs used in providing care to a patient.
13. "Chassis" means the part of a ground ambulance vehicle consisting of all base components, including front and rear suspension, exhaust system, brakes, engine, engine hood or cover, transmission, front and rear axles, front fenders, drive train and shaft, fuel system, engine air intake and filter, accelerator pedal, steering wheel, tires, heating and cooling system, battery, and operating controls and instruments.
14. "Controlling person" means an individual who:
 - a. Owns at least a 20% interest in the business organization that operates or is applying to operate as a ground ambulance service;

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- b. If an applicant or certificate holder is a partnership, is a general partner or is a limited partner who holds at least 20% of the voting rights of the partnership;
 - c. If an applicant or certificate holder is a corporation, association, or limited liability company, is the president, chief executive officer, or incorporator, or an individual who owns or controls at least 20% of the voting securities; or
 - d. Is responsible for the overall day-to-day management and operation of the ground ambulance service.
- 15. "Contract rate or range of rates" means the monetary amount established by the Department according to R9-25-1103.
 - 16. "Convalescent transport" means a ground ambulance service's response to a request for ambulance response or transport that is:
 - a. Not an interfacility transport, and
 - b. Pre-arranged to occur at a specific time.
 - 17. "Critical care rate" means the monetary amount that is set by the Department for a certificate holder to bill a patient for critical care services.
 - 18. "Critical care services" means care provided during an interfacility transport to a patient who has an illness or injury acutely or chronically impairing one or more organ systems, such that the conditions are life-threatening and require constant monitoring to avoid deterioration of the patient's condition.
 - 19. "Dispatch" means the direction to a certificate holder or an emergency medical services provider to respond to a call for ambulance response or transport.
 - 20. "Driver's compartment" means the part of a ground ambulance vehicle that contains the controls and instruments for operation of the ground ambulance vehicle.
 - 21. "Financial statements" means an applicant's balance sheet, annual income statement, and annual cash flow statement, or corresponding documents if applicable to the type of business organization, prepared according to the conventions, and rules and procedures for accounting, including broad and specific guidelines, established by the Financial Accounting Standards Board or the Governmental Accounting Standards Board.
 - 22. "Frame" means the structural foundation on which a ground ambulance vehicle chassis is constructed.
 - 23. "General public rate" means the monetary amount set by the Department for a certificate holder to bill a patient for critical care services, ALS services, BLS services, mileage, standby waiting, or according to a subscription service contract.
 - 24. "Generally accepted accounting principles" means the conventions, and rules and procedures for accounting, including broad and specific guidelines, established by the Financial Accounting Standards Board.
 - 25. "Gross revenue" means the total monetary amount billed by a certificate holder during an accounting period, prior to any deductions, for providing ambulance response or transport.
 - 26. "Ground ambulance service" means an ambulance service that operates on land.
 - 27. "Ground ambulance service contract" means a written agreement between a certificate holder and a person for the provision of ambulance response or transport.
 - 28. "Ground ambulance vehicle" means a motor vehicle, defined in A.R.S. § 28-101, specifically designed to carry ambulance attendants and patients on land.
 - 29. "Level of service" means critical care services, ALS services, or BLS services, based on the type of ambulance attendants and the services provided by the ground ambulance service.
 - 30. "Major defect" means a condition that exists on a ground ambulance vehicle that makes the ground ambulance vehicle unsafe to use for providing transport.
 - 31. "Mileage rate" means the monetary amount set by the Department for a certificate holder to bill for transport of a patient for each mile traveled during the transport.
 - 32. "Minor defect" means a condition that exists on a ground ambulance vehicle that may cause the ground ambulance vehicle to become unsafe to use for providing transport if allowed to continue.
 - 33. "Out-of-service" means a ground ambulance vehicle cannot be operated for transport.
 - 34. "Patient compartment" means the part of a ground ambulance vehicle that is intended to hold a patient during transport.
 - 35. "Priority" means whether a response mode to a dispatch, on the basis of the information available to the certificate holder, is:
 - a. Emergent, that is, an immediate response is required due to a patient's perceived condition; or
 - b. Non-emergent, that is, a response is required at a time appropriate to a patient's perceived condition.
 - 36. "Public necessity" means that a need exists within an identified population and service area for all or part of the services proposed by an applicant or determined by the Department.
 - 37. "Response time" means the difference between the time a certificate holder receives:
 - a. A 9-1-1 or similar system dispatch and the time the certificate holder's first ground ambulance vehicle arrives at the scene; or
 - b. A request for an interfacility transport of a patient with a time-critical condition and the time the certificate holder's ground ambulance vehicle arrives at the health care institution to provide transport.
 - 38. "Scene locality" means:
 - a. An urban area, a geographic region delineated as an urbanized area by the United States Department of Commerce, Bureau of the Census;
 - b. A suburban area, a geographic region within a 10-mile radius of an urban area that has a population density equal to or greater than 1,000 residents per square mile;
 - c. A rural area, a geographic region with a population of less than 40,000 residents that is not a suburban area; or
 - d. A wilderness area, a geographic region that has a population density of less than one resident per square mile.
 - 39. "Scheduled transport" means to convey a patient at a pre-arranged time by a ground ambulance vehicle for which an immediate dispatch and response is not necessary.
 - 40. "Service area" means the geographical boundary designated on a certificate of necessity using the criteria in A.R.S. § 36-2233(I).
 - 41. "Standby waiting rate" means the monetary amount set by the Department for a certificate holder to bill a patient

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when a ground ambulance vehicle is required to wait in excess of 15 minutes to load or unload the patient, unless the excess delay is caused by the ground ambulance vehicle or the ambulance attendants on the ground ambulance vehicle.

42. "Subscription service" means the provision of ambulance response or transport by a certificate holder to a group of individuals within the certificate holder's service area who contracted with the certificate holder for coverage to provide ambulance response or transport and the allocation of annual costs among the group of individuals.
43. "Subscription service contract" means a written agreement for subscription service.
44. "Subscription service rate" means the monetary amount set by the Department for a certificate holder to bill to a person for coverage under a subscription service contract.
45. "Third-party payor" means a person, other than a patient, who is financially responsible for the payment, in whole or in part, of a patient's billed general public rates and charges for ambulance response or transport provided to the patient by a ground ambulance service.
46. "Time-critical condition" means a patient's illness or injury, such as ST Elevated Myocardial Infarction, stroke, trauma that meets the criteria in R9-25-1308(H)(6)(b)(i), or hemodynamic instability, for which research has shown that a transport to a specialized health care institution or a higher level of care improves patient outcomes.
47. "Time-sensitive condition" means a patient's illness or injury for which, in the opinion of one of the following, a delay in the patient receiving appropriate medical services may result in harm to the patient:
 - a. For an interfacility transport, a physician, physician assistant, or registered nurse practitioner providing medical services to the patient; and
 - b. For a transport that results from a 9-1-1 or similar system dispatch, an EMCT or the physician providing on-line medical direction for the patient.
48. "Transport" means the conveyance of one or more patients in a ground ambulance vehicle from the point of patient pick-up to a specified destination.
49. "Type of service" means an interfacility transport, a convalescent transport, or a transport that results from a 9-1-1 or similar system dispatch, which is provided by a ground ambulance service.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).
Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-902. Application for an Initial Certificate of Necessity (Authorized by A.R.S. §§ 36-2201(11)(h), 36-2204, 36-2232, 36-2233, 36-2234, 36-2236(A), 36-2240)

- A. An applicant for an initial certificate of necessity shall submit to the Department an application packet that includes:
 1. The following information in a Department-provided format:
 - a. The legal business or corporate name, mailing address, physical address if different from the mailing address, telephone number, facsimile number if

- any, and email address of the ground ambulance service;
- b. Any other names by which the applicant is known;
- c. If the applicant is a:
 - i. Governmental entity, the type of governmental entity; or
 - ii. Business organization:
 - (1) The type of business organization, and
 - (2) Whether the business organization is proprietary or non-profit;
- d. A list of all business organizations or governmental entities affiliated with the applicant, if applicable, including for each:
 - i. The legal name;
 - ii. The type of business organization, if applicable; and
 - iii. Whether the relationship to the applicant is as a:
 - (1) Parent organization,
 - (2) Subordinate organization,
 - (3) Subsidiary organization,
 - (4) Member organization, or
 - (5) Business organization related to an ambulance service, ambulance response, or transport for which a controlling person of the applicant is also a controlling person of the business organization;
- e. The name, title, address, email address, and telephone number of the following:
 - i. Each applicant and individual responsible for managing the ground ambulance service,
 - ii. The individual acting for the applicant according to R9-25-102,
 - iii. The individual to contact to access the ground ambulance service's records required in R9-25-908(B), and
 - iv. The statutory agent for the ground ambulance service or the individual designated by the applicant to accept service of process and subpoenas for the ground ambulance service;
- f. The name, address, email address, and telephone number of the person providing dispatch for the ground ambulance service;
- g. The address, hours of operation, and, if available, telephone number of each suboperation station located within the proposed service area;
- h. Whether the applicant has a proposed deployment plan for the ground ambulance vehicles in subsection (A)(1)(m), including:
 - i. Whether the purchase and deployment of additional ground ambulance vehicles are planned for the first 12 months following the applicant receiving a certificate of necessity;
 - ii. Whether additional purchases and further deployment of additional ground ambulance vehicles are planned for the second 12-month-period following the applicant receiving a certificate of necessity; and
 - iii. Whether ground ambulance vehicles will be deployed based on knowledge of the level of service, types of service provided, and locations of calls;

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- i. Whether the applicant has a plan for participating in the implementation of a political subdivision's emergency preparedness plan;
 - j. A list of EMS providers in surrounding service areas with whom the applicant has a back-up agreement or from whom the applicant has a letter of support;
 - k. A description of the communication equipment to be used in each ground ambulance vehicle and suboperation station;
 - l. If applicable, a description of traffic preemption equipment that the applicant plans to use to facilitate movement of a ground ambulance vehicle through traffic;
 - m. For each ground ambulance vehicle proposed to be used by the ground ambulance service, the manufacturer's name, the year the ground ambulance vehicle was manufactured, and, if available, the current mileage;
 - n. The number of ambulance attendants and the type of licensure, certification, or registration for each attendant;
 - o. The proposed hours of operation for the ground ambulance service;
 - p. The type of service;
 - q. The level of service;
 - r. If the applicant plans to provide ALS services or critical care services, a description of how the applicant plans to provide administrative medical direction according to R9-25-201 and on-line medical direction according to R9-25-202, including, as applicable:
 - i. The name, address, and telephone number of the base hospital or centralized medical direction communications center for the ground ambulance service;
 - ii. The name, address, professional license number, and telephone number of the physician providing administrative medical direction; and
 - iii. The name, address, professional license number, and telephone number of the physician or group of physicians providing on-line medical direction;
 - s. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - t. Attestation that the applicant is familiar with the requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter and will comply with applicable statutes and rules in any matter relating to or affecting the ground ambulance service;
 - u. Attestation that any information or documents submitted to the Department are true and correct; and
 - v. The signature of the individual acting for the applicant according to R9-25-102 and the date signed;
2. The following information about the proposed service area:
- a. The square miles within the proposed service area;
 - b. Whether a ground ambulance service currently operates in all or part of the proposed service area and, if so, a list of the ground ambulance services currently operating in the proposed service area;
 - c. The population demographics within the proposed service area;
 - d. Any changes in the population since the last national census;
 - e. Any change in the population demographics since the last national census;
 - f. The medical needs of the population within the proposed service area;
 - g. The number of anticipated requests for each type of service and level of service in the proposed service area, including the basis for the estimate;
 - h. The available routes of travel within the proposed service area;
 - i. The anticipated average mileage per transport within the proposed service area, including the basis for the estimate;
 - j. The geographic features and environmental conditions within the proposed service area;
 - k. The available medical and emergency medical resources within the proposed service area;
 - l. The geographic distribution of health care institutions within and surrounding the service area to which and from which the ground ambulance service may be transporting patients;
 - m. A statement of the proposed general public rates for services provided within the proposed service area;
 - n. A statement of the proposed charges;
 - o. The proposed response times and a compliance percentage, for each scene locality in the proposed service area and priority that will be assigned by the applicant to a response; and
 - p. If planning to provide interfacility transports within the proposed service area:
 - i. The response times and compliance percentages for the interfacility transport of a patient with a time-critical condition for each scene locality; and
 - ii. Either:
 - (1) A plan for complying with the requirements in R9-25-908(E)(3)(c) that demonstrates how quality patient care will be provided, including to patients with a time-sensitive condition; or
 - (2) A plan and justification for a standard different from that in R9-25-908(E)(3)(c);
3. A plan to provide temporary ambulance response or transport service to the proposed service area for a limited time when the applicant is unable to provide ambulance response or transport service to the proposed service area, including the criteria for the person providing dispatch to implement the plan;
4. Copies of the back-up agreements supporting the plan in subsection (A)(3) or letters of support specified according to subsection (A)(1)(j);
5. A plan for orientation and on-going training of employees;
6. If applicable, a copy of a plan for implementing deployment of ground ambulance vehicles as specified in subsection (A)(1)(h), including the timeframe, if applicable, for the purchase and deployment of additional ground ambulance vehicles during the first 12 months after receiving a certificate of necessity;
7. Whether the applicant or the individual acting for the applicant according to R9-25-102:
- a. Has ever been convicted of a felony or a misdemeanor involving moral turpitude,

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- b. Has ever had a license or certificate of necessity for a ground ambulance service suspended or revoked by any state or political subdivision, or
 - c. Has ever operated a ground ambulance service without the required certification or licensure in this or any other state;
- 8. A description of the proposed service area by any method specified in A.R.S. § 36-2233(E) and global positioning system data, in a Department-specified format, that would allow a map to be created that illustrates the proposed service area;
- 9. Documentation for the individual specified according to subsection (A)(1)(e)(ii) that complies with A.R.S. § 41-1080;
- 10. A copy of the business organization's articles of incorporation, articles of organization, or partnership documents, if applicable;
- 11. A copy of an organizational chart, illustrating both:
 - a. The relationships in subsection (A)(1)(d) with two levels of supervision; and
 - b. At least three levels of supervision of key individuals operating the ground ambulance service, including the individuals listed in subsection (A)(1)(e)(i) through (iii);
- 12. A projected Ambulance Revenue and Cost Report covering the first consecutive 12 months of operation, as specified in R9-25-909(A);
- 13. A written explanation of why the applicant believes there is a public need for the applicant to receive an initial certificate of necessity, including:
 - a. A summary of how the applicant plans to address the factors in subsection (A)(2) to ensure the provision of quality patient care,
 - b. Justification for the proposed level of service,
 - c. Justification for proposed response times or compliance percentage, and
 - d. Supporting documentation;
- 14. If available, any study or statistical analysis that examines the need for ground ambulance service within a service area or proposed service area that:
 - a. Considers the current or proposed service area's medical, fire, and police services; and
 - b. Was created for or adopted by:
 - i. A political subdivision, or
 - ii. A local emergency medical services coordinating system under A.R.S. § 36-2210(1);
- 15. A summary of the applicant's financial history, including:
 - a. Documentation of capital resources and financial reserves, if applicable, that is available for the establishment and operation of the ground ambulance service; and
 - b. A plan for coverage of expected and unexpected expenses, including the source and amount of funding for cash flow from the date the ground ambulance service commences operation until the date cash flow covers monthly expenses, with supporting documentation;
- 16. If the applicant is intending to bill for services, the method and plan for the applicant to bill for services;
- 17. A list of all actual or anticipated purchase agreements or lease agreements to be used in connection with the ground ambulance service, including the monetary amount and duration of each agreement, for:
 - a. Real estate,
 - b. Ground ambulance vehicles, or
 - c. Equipment exceeding \$10,000;
- 18. Documentation supporting the estimate of the number of transports to be provided, as shown in the Ambulance Revenue and Cost Report, including any proposed ground ambulance service contract under A.R.S. § 36-2232(A)(1) or 36-2234(M);
- 19. If the applicant is requesting to establish general public rates, the information and documents specified in R9-25-1101(A);
- 20. If the applicant is proposing charges to patients under R9-25-1109, the information required in R9-25-1109(A);
- 21. Any subscription service contract under A.R.S. § 36-2232(A)(1) and R9-25-1105;
- 22. If using a contracted person to provide dispatch, a copy of the contract;
- 23. If the applicant is planning to provide ALS services or critical care services:
 - a. A copy of each current written contract for providing administrative medical direction,
 - b. A copy of each current written contract for providing on-line medical direction, and
 - c. Proof of professional liability insurance for personnel providing ALS services or critical care services required in R9-25-908(A)(1)(a)(iii);
- 24. A certificate of insurance or documentation of self-insurance required in A.R.S. § 36-2237(A) and R9-25-908(A)(1)(a)(i) and (ii);
- 25. A surety bond if required under A.R.S. § 36-2237(B);
- 26. The resume or other description of experience and qualification to operate a ground ambulance service of the individuals specified according to subsection (A)(11)(b);
- 27. If applicable, a copy of the applicant's plan for participating in the implementation of a political subdivision's emergency preparedness plan according to subsection (A)(1)(h), including as applicable:
 - a. Mass casualty protocols;
 - b. The provision of ambulance response and transport in the event of a local, state-wide, or national emergency;
 - c. Description of the applicant's experience in disaster response command and control structure; and
 - d. Special situations in the proposed service area that need to be taken into consideration; and
- 28. Any other documents, exhibits, or statements that the applicant believes may assist the Director in evaluating the application or any other information or documents needed by the Director to clarify incomplete or ambiguous information or documents, such as:
 - a. The quality improvement process, as required in R9-25-908(K)(2);
 - b. A plan to collect and submit electronic patient care reports consistent with R9-25-908(K)(2)(a);
 - c. A plan to adopt clinical guidelines and operating procedures, consistent with national and state guidelines;
 - d. If applicable, a plan to initiate guideline-based pre-arrival instructions for all callers accessing 9-1-1 or a similar system for assistance;
 - e. Evidence of regular attendance and participation in meetings of the emergency medical services council, established according to A.R.S. § 36-2203, or a regional emergency medical and trauma services system, established according to A.R.S. § 36-2210;

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- f. Evidence of participation in a community-level injury prevention program; or
 - g. Documentation demonstrating that the service model will be cost effective.
- B.** In addition to the information and documents specified in subsection (A), applicant for an initial certificate of necessity shall submit the \$100 application filing fee for an initial certificate of necessity.
- C.** The Department shall approve or deny an application under this Section according to A.R.S. § 36-2233 and Article 12 of this Chapter.
- D.** The Department may approve an application with special limitations or conditions, based on the best interest of the public.
- E.** If the Department approves an application and sends the applicant the written notice of approval, specified in R9-25-1201(C)(5), the Department shall issue the certificate of necessity to the applicant, consistent with A.R.S. §§ 36-2233(E) and 36-2234(A):
1. After the applicant has submitted to the Department for each ground ambulance vehicle to be operated by the ground ambulance service:
 - a. An application for registration of the ground ambulance vehicle that includes all of the information required according to R9-25-1001(B)(1);
 - b. A copy of a current and valid motor vehicle registration for the ground ambulance vehicle, issued according to A.R.S. Title 28, Chapter 7, Article 2, or similar statutes in another state; and
 - c. Unless the applicant intends to operate the ground ambulance vehicle only as a volunteer not-for-profit service, the following fees for each ground ambulance vehicle to be registered:
 - i. A \$50 registration fee, as required under A.R.S. § 36-2212(D); and
 - ii. A \$200 ambulance operation fee, as required under A.R.S. § 36-2240(3); and
 2. When the certificate of registration for the first ground ambulance vehicle to be operated by the ground ambulance service is issued.
- F.** The Department may deny an application according to A.R.S. § 36-2233 if an applicant:
1. Fails to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 2. Fails to comply with any provision in this Article or Article 2, 10, or 11 of this Chapter;
 3. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 4. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3) and requests a denial as permitted under R9-25-1201(E).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).
 Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-903. Application for Renewal of a Certificate of Necessity (Authorized by A.R.S. §§ 36-2233, 36-2235, 36-2238, 36-2240, 36-2242)

- A.** An applicant for a renewal of a certificate of necessity shall submit to the Department, not less than 30 days before the

expiration date of the certificate of necessity, an application packet that includes:

1. The following information in a Department-provided format:
 - a. The identifying number on the applicant's current certificate of necessity;
 - b. The legal business or corporate name, address, telephone number, and facsimile number of the ground ambulance service;
 - c. Any other names by which the applicant is known;
 - d. The names of all other business organizations operated by the applicant related to the ground ambulance service;
 - e. The name, title, address, email address, and telephone number of the following:
 - i. Each applicant and individual responsible for managing the ground ambulance service,
 - ii. The individual acting for the applicant according to R9-25-102,
 - iii. The individual to contact to access the ground ambulance service's records required in R9-25-908(B), and
 - iv. The statutory agent for the ground ambulance service or the individual designated by the applicant to accept service of process and subpoenas for the ground ambulance service;
 - f. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - g. Attestation that the applicant has analyzed response times according to R9-25-908(G)(2) and, if applicable, performance of interfacility transports of patients with no time-critical condition according to R9-25-908(H)(1);
 - h. Attestation that the applicant is familiar with the requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter and will comply with applicable statutes and rules in any matter relating to or affecting the ground ambulance service;
 - i. Attestation that the certificate holder, except as provided in R9-25-908(G)(4), R9-25-908(H)(3), or R9-25-908(K)(1)(c), has and is continuing to meet the conditions of the certificate of necessity;
 - j. Attestation that any information or documents submitted to the Department are true and correct; and
 - k. The signature of the applicant or the applicant's designated representative and the date signed;
2. Proof of continuous insurance coverage or a statement of continuing self-insurance, including a copy of the current certificate of insurance or current statement of self-insurance required in R9-25-908(A);
3. Proof of continued coverage by a surety bond if required under A.R.S. § 36-2237(B);
4. A copy of the list of current charges required in R9-25-1109;
5. A list of all certificate holders with which the applicant has back-up agreements;
6. If an instance of noncompliance has been identified, a corrective action plan or documentation specified in R9-25-908(G)(4), R9-25-908(H)(3), or R9-25-908(K)(1)(c), as applicable, if not already submitted to the Department; and
7. \$50 application filing fee.

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- B.** A certificate holder who fails to file a timely application for renewal of the certificate of necessity according to A.R.S. § 36-2235 and this Section, shall:
1. Cease operations at 12:01 a.m. on the date the certificate of necessity expires;
 2. If planning to continue operating as a ground ambulance service, file an initial certificate of necessity application according to R9-25-902; and
 3. Not resume operations without receiving a new certificate of necessity from the Department.
- C.** The Department shall review an application packet under this Section according to A.R.S. §§ 36-2233 and 36-2235 and Article 12 of this Chapter, and:
1. Approve the application;
 2. Approve the application with a corrective action plan, as specified in subsection (A)(6);
 3. Approve the application with special limitations or conditions; or
 4. Deny the application.
- D.** The Department may deny an application according to A.R.S. § 36-2235 if an applicant:
1. Fails to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 2. Fails to comply with any provision in this Article or Article 2, 10, or 11 of this Chapter;
 3. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 4. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3) and requests a denial as permitted under R9-25-1201(E).
- E.** If a certificate holder submits an application for renewal according to subsection (A), the current certificate of necessity does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- F.** If a certificate holder does not intend to apply for renewal of a certificate of necessity, the certificate holder shall:
1. At least 90 days before the expiration date of the certificate of necessity, send the Department written notice of the certificate holder's intention to cease operating, effective on the expiration date; and
 2. Not discontinue service, except as provided in A.R.S. § 36-2238.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section R9-25-903 renumbered to R9-25-906; new Section R9-25-903 renumbered from R9-25-904 and amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).
- R9-25-904. Transfer of a Certificate of Necessity (Authorized by A.R.S. §§ 36-2232, 36-2233, 36-2236(A) and (B), 36-2238)**
- A.** A certificate holder shall request that a certificate of necessity be transferred if:
1. There is an anticipated change of ownership, which is considered to occur when:
 - a. In the case of ownership by a sole proprietor, 20% or more interest or a beneficial interest is sold or transferred;
 - b. In the case of ownership by a partnership or a private corporation, 20% or more of the stock, interest, or beneficial interest is sold or transferred; or
 - c. The controlling influence changes to the extent that the management and control of the ground ambulance service is significantly altered, as determined according to subsection (B);
 2. The certificate holder and another certificate holder plan to execute a ground ambulance service contract for the provision of ambulance response or transport by one of the certificate holder's ground ambulance service in a portion of the other certificate holder's service area, except as part of a backup agreement; or
 3. There is a change in the type of business organization.
- B.** The Department shall consider the following when determining whether a controlling influence in the ground ambulance service is changing to the extent that the management and control of the ground ambulance service has altered significantly:
1. Whether there has been or will be a change in who manages or controls the day-to-day operations of one or more ground ambulance vehicles operated by the ground ambulance service, including whether the certificate holder has entered into or intends to enter into a contract or an agreement with another person or entity to supervise or manage all or a part of the ground ambulance service;
 2. Whether there has been or will be a change in who manages or controls staffing and personnel decisions for one or more ground ambulance vehicles operated by the ground ambulance service;
 3. Whether there has been or will be a change in the operating policies and procedures for one or more ground ambulance vehicles operated by the ground ambulance service;
 4. Whether there has been or will be a change in who pays the operating expenses or who receives the operating revenue;
 5. Whether there has been or will be a change in the policy holder on the insurance coverage of one or more ground ambulance vehicles operated by the ground ambulance service;
 6. Whether there has been or will be a change in ownership, management, or control of the supplies, equipment, and materials for one or more ground ambulance vehicles operated by the ground ambulance service;
 7. Whether there has been or will be a change in the risk or liability attendant to the operation of one or more ground ambulance vehicles operated by the ground ambulance service;
 8. Whether there has been or will be a change in who manages or controls the strategic or long-term planning of the ground ambulance service;
 9. Whether the certificate holder has changed or intends to change affiliations, such as a parent company or a subsidiary owned or operated by the certificate holder, from that specified according to R9-25-902(A)(1)(d); and
 10. Other information related to the management and control of the ground ambulance service that the Department deems relevant.
- C.** When requesting a transfer of a certificate of necessity:
1. A certificate holder wanting to transfer the certificate of necessity shall submit the following information to the Department in a written format:

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- a. The name and certificate of necessity number of the certificate holder;
- b. A request that the certificate of necessity be transferred, including the rationale for the transfer;
- c. Whether the transfer is due to a change of ownership or to a change in the type of business organization; and
- d. If the transfer is due to a change of ownership, the name of the person to whom the certificate of necessity is to be transferred; and
- 2. The person identified in subsection (C)(1)(d) or the individual acting according to R9-25-102 for the new type of business organization shall submit to the Department:
 - a. The information and documents specified in R9-25-902(A)(1), (3) through (7), (9) through (12), (15) through (18), and (22) through (29);
 - b. The \$50 application filing fee for a transfer of a certificate of necessity, as required under A.R.S. § 36-2240(3); and
 - c. A description of any planned amendments to the certificate of necessity during the next 12 months.
- D. In deciding whether to transfer a certificate of necessity is in the public's best interest, the Director shall consider the following:
 - 1. The information required in subsections (C)(2)(a) and (c);
 - 2. Whether the person specified according to subsection (C)(1)(d) is fit and proper;
 - 3. Whether there is a public need for the transfer to take place:
 - a. Based on a possible gap in service or unmet needs in the service area; and
 - b. To ensure consistent service provision, efficiency, cost-effectiveness, and the health and safety of individuals in the service area;
 - 4. Whether the person specified according to subsection (C)(1)(d) demonstrates the ability to provide quality patient care; and
 - 5. Other matters determined by the Director or the applicant to be relevant to the determination of public necessity.
- E. The Department shall approve or deny an application under this Section according to A.R.S. § 36-2233 and Article 12 of this Chapter.
- F. If the Department approves an application for a transfer and sends the person in subsection (C)(1)(d) the written notice of approval, specified in R9-25-1201(C)(5), the Department shall issue the certificate of necessity to the person in subsection (C)(1)(d):
 - 1. After the person in subsection (C)(1)(d) has submitted to the Department for each ground ambulance vehicle to be operated by the ground ambulance service:
 - a. An application for registration of the ground ambulance vehicle that includes all of the information required according to R9-25-1001(B)(1);
 - b. A copy of a current and valid motor vehicle registration for the ground ambulance vehicle, issued according to A.R.S. Title 28, Chapter 7, Article 2, or similar statutes in another state; and
 - c. Unless the person in subsection (C)(1)(d) intends to operate the ground ambulance vehicle only as a volunteer not-for-profit service, the following fees for each ground ambulance vehicle to be registered:
 - i. A \$50 registration fee, as required under A.R.S. § 36-2212(D); and
 - ii. A \$200 ambulance operation fee, as required under A.R.S. § 36-2240(3); and
 - 2. When the certificate of registration for the first ground ambulance vehicle to be operated by the ground ambulance service is issued.
- G. The Department may deny an application under this Section if an applicant:
 - 1. Fails to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 - 2. Fails to comply with any provision in this Article or Article 2, 10, or 11 of this Chapter;
 - 3. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 - 4. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3) and requests a denial as permitted under R9-25-1201(E).
- H. If the Department denies the transfer of a certificate of necessity, the certificate holder shall not discontinue service, except as provided in A.R.S. § 36-2238.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). R9-25-904 renumbered to R9-25-903; new Section R9-25-904 made by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-905. Application for Amendment of a Certificate of Necessity (Authorized by A.R.S. §§ 36-2232, 36-2240, 36-2247)

- A. A certificate holder requesting to amend the certificate of necessity due to a change in the legal name of the ground ambulance service shall submit to the Department:
 - 1. The certificate of necessity number for the ground ambulance service;
 - 2. The name of the ground ambulance services on the certificate of necessity;
 - 3. The new legal name of the ground ambulance service;
 - 4. The name, title, address, email address, and telephone number of an individual whom the Department may contact about the requested amendment;
 - 5. Documentation demonstrating that the change in the name of the ground ambulance service does not constitute a change of ownership; and
 - 6. If applicable, documentation showing the new legal name of the ground ambulance service on:
 - a. Documentation of insurance coverage required according to R9-25-908(A), and
 - b. Coverage by a surety bond if required under A.R.S. § 36-2237(B).
- B. A certificate holder requesting to amend the certificate of necessity for a reason other than a change in subsection (A) shall submit to the Department:
 - 1. The following information in a Department-provided format:
 - a. The certificate of necessity number for the ground ambulance service;
 - b. The name and address of the ground ambulance service on the certificate of necessity;
 - c. The name, title, address, email address, and telephone number of an individual whom the Department may contact about the requested amendment;
 - d. A description of the requested change and the rationale for the change;

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- e. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - f. Attestation that the applicant is familiar with the requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter and will comply with applicable statutes and rules in any matter relating to or affecting the ground ambulance service;
 - g. Attestation that the certificate holder will meet the conditions of a modified certificate of necessity, including billing only those rates and charges approved and set by the Director;
 - h. Attestation that any information or documents submitted to the Department are true and correct; and
 - i. The signature of the applicant or the applicant's designated representative and the date signed;
2. For a change in the legal address of the ground ambulance service:
 - a. The new legal address of the ground ambulance service; and
 - b. If applicable, documentation showing the new legal address of the ground ambulance service on documentation of insurance coverage required according to R9-25-908(A);
 3. For a change in the hours of service:
 - a. The current and proposed new hours of service,
 - b. The date on which the applicant plans to implement the change,
 - c. Information about the effect the requested change is expected to have on patients,
 - d. Information about the effect the requested change is expected to have on other EMS providers or ground ambulance services in or around the service area, and
 - e. Information about the financial effect the requested change is expected to have on the ground ambulance service;
 4. For a change in the level of service to be provided:
 - a. If planning to begin providing critical care services or ALS services:
 - i. A description of how the certificate holder plans to provide administrative medical direction according to R9-25-201 and on-line medical direction according to R9-25-202,
 - ii. A copy of a current written contract for providing administrative medical direction,
 - iii. A copy of a current written contract for providing on-line medical direction, and
 - iv. Proof of professional liability insurance for personnel providing ALS services or critical care services as required in R9-25-908(A)(1)(a)(iii);
 - b. If planning to begin providing only BLS services:
 - i. A description of the rationale for stopping the provision of ALS services or critical care services,
 - ii. An acknowledgement that another emergency medical services provider may be granted a certificate of necessity to provide ALS services or critical care services in the service area to meet the needs of patients, and
 - iii. A plan for rendezvousing with another ground ambulance service providing ALS services or critical care services, if applicable, for patients requiring more than BLS services, including the identification of the other ground ambulance service;
 5. For a change in the type of service to be provided:
 - a. If planning to begin providing interfacility transports of patients with a time-critical condition:
 - i. An estimate of the number of transports to be provided;
 - ii. The names of the health care institutions anticipated to be the source or destination of the transports;
 - iii. The proposed response times and compliance percentages for the interfacility transport of a patient with a time-critical condition;
 - iv. A justification for the response time or compliance percentage that demonstrates how quality patient care will be provided; and
 - v. Whether another ground ambulance service is currently providing interfacility transports of patients with a time-critical condition in the service area and, if so, the name of the other ground ambulance service and the anticipated financial impact on the other ground ambulance service if the change is approved;
 - b. If planning to begin providing interfacility transports of patients who do not have a time-critical condition or convalescent transports:
 - i. An estimate of the number of transports to be provided;
 - ii. The names of the health care institutions anticipated to be the source or destination of the transports;
 - iii. Either:
 - (1) A plan for complying with the requirements in R9-25-908(E)(3)(c) that demonstrates how quality patient care will be provided, including to patients with a time-sensitive condition; or
 - (2) A plan and justification for a standard different from that in R9-25-908(E)(3)(c);
 - iv. If the certificate holder is requesting to amend the certificate of necessity according to A.R.S. § 36-2234.01, the information required according to A.R.S. § 36-2234.01(B)(1) and (2); and
 - v. Whether another ground ambulance service is currently providing interfacility transports or convalescent transports in the service area and, if so, the name of the other ground ambulance service and the anticipated financial impact on the other ground ambulance service if the change is approved;
 - c. If planning to begin providing ambulance response or transport requested through 9-1-1 or a similar system:

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- i. An estimate of the number of transports to be provided;
- ii. The names of the health care institutions anticipated to be the destination of the transports;
- iii. The proposed response times or compliance percentage;
- iv. A justification for the response times or compliance percentage that demonstrates how quality patient care will be provided; and
- v. Whether another ground ambulance service is currently providing ambulance response or transport requested through 9-1-1 or a similar system in the service area and, if so, the name of the other ground ambulance service and the anticipated financial impact on the other ground ambulance service if the change is approved;
- d. Information about the effect the requested change is expected to have on patients, including how the requested change will result in quality patient care;
- e. Information about the effect the requested change is expected to have on health care institutions within and surrounding the service area to which and from which the ground ambulance service would be transporting patients;
- f. Information about the effect the requested change is expected to have on other EMS providers or ground ambulance service in or around the service area;
- g. Information about the financial effect the requested change is expected to have on the ground ambulance service; and
- h. If the planned change will result in new or revised back-up agreements, a copy of the new or revised back-up agreement;
- 6. Except as specified in subsection (D), for a change in the service area:
 - a. A description of the current service area and the proposed service area by any method specified in A.R.S. § 36-2233(E) and global positioning system data that would allow a map to be created that illustrates the current service area and the proposed service area;
 - b. The following information about the proposed service area to be used by the Director in assessing the need for the proposed change:
 - i. The square miles within the proposed service area;
 - ii. The population demographics within the proposed service area;
 - iii. The change in the population demographics since the last national census;
 - iv. The medical needs of the population within the proposed service area;
 - v. The number of anticipated requests for each type of service and level of service in the proposed service area;
 - vi. The available routes of travel within the proposed service area;
 - vii. The geographic features and environmental conditions within the proposed service area;
 - viii. Whether a ground ambulance service currently operates in all or part of the proposed service area and if so, where;
 - ix. The available medical and emergency medical resources within the proposed service area;
 - x. The geographic distribution of health care institutions within and surrounding the proposed service area to which and from which the ground ambulance service would be transporting patients; and
 - xi. The proposed response times and compliance percentage, for each scene locality and priority that will be assigned by the applicant to a response;
- c. Information about the effect the requested change is expected to have on patients, including how the requested change will result in quality patient care;
- d. Information about the effect the requested change is expected to have on health care institutions within and surrounding the proposed service area to which and from which the ground ambulance service would be transporting patients;
- e. Information about the effect the requested change is expected to have on EMS providers in the proposed service area that do not provide transport;
- f. Information about the financial effect the requested change is expected to have on the ground ambulance service;
- g. Whether the applicant has a proposed deployment plan for the ground ambulance vehicles registered under Article 10 of this Chapter to the applicant, including:
 - i. Whether suboperation stations will be used or whether ground ambulance vehicles will be deployed based on experience with the level and types of calls; and
 - ii. If suboperation stations will be used, where the applicant plans to locate suboperation stations within the applicant's proposed service area;
- h. Whether the applicant has a plan for participating in the implementation of a political subdivision's emergency preparedness plan;
- i. A list of EMS providers in surrounding service areas with whom the applicant has a back-up agreement or from whom the applicant has a letter of support; and
- j. Any other information specified in R9-25-906 that the applicant believes relevant to a determination of the public necessity for the change in the service area;
- 7. For a change in the ground ambulance service's response times for ambulance response or transport requested through 9-1-1 or a similar system or for an interfacility transport of a patient with a time-critical condition:
 - a. A description of the ground ambulance service's current response times and compliance percentage;
 - b. The results of the analysis of response time performance required in R9-25-908(G)(2);
 - c. The requested response times or compliance percentage, including a justification for each response time;
 - d. Information about the effect the requested change is expected to have on patients, including applicable information in subsections (B)(6)(b) and (c);
 - e. Information about the effect the requested change is expected to have on health care institutions within and surrounding the service area to which and from

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- which the ground ambulance service would be transporting patients;
- f. Information about the effect the requested change is expected to have on EMS providers in the service area that do not provide transport; and
 - g. Information about the financial effect the requested change is expected to have on the ground ambulance service;
8. For a change in the plan for complying with the requirements in R9-25-908(E)(3)(c), or with a standard different from that in R9-25-908(E)(3)(c), that demonstrates how quality patient care will be provided, including to patients with a time-sensitive condition:
 - a. A description of the ground ambulance service's current plan;
 - b. The results of the analysis of the performance required in R9-25-908(H)(2);
 - c. The requested standard if different from that in R9-25-908(E)(3)(c);
 - d. Information about the effect the requested change is expected to have on patients, including applicable information in subsections (B)(6)(b) and (c);
 - e. Information about the effect the requested change is expected to have on health care institutions within and surrounding the service area to which and from which the ground ambulance service would be transporting patients; and
 - f. Information about the financial effect the requested change is expected to have on the ground ambulance service;
 9. For a change in the special limitations or conditions on the ground ambulance service's certificate of necessity:
 - a. A description of the special limitations or conditions on the ground ambulance service's certificate of necessity;
 - b. The requested change to the special limitations or conditions on the ground ambulance service's certificate of necessity, including a justification for each change and how the change is in the best interest of the public;
 - c. Information about the effect the requested change is expected to have on patients, including how the requested change will result in quality patient care;
 - d. Information about the effect the requested change is expected to have on health care institutions within and surrounding the service area to which and from which the ground ambulance service would be transporting patients;
 - e. Information about the effect the requested change is expected to have on EMS providers in the service area that do not provide transport; and
 - f. Information about the financial effect the requested change is expected to have on the ground ambulance service;
 10. Information required in R9-25-1102 and R9-25-1109(B), as applicable, related to the change, including any change in:
 - a. The proposed general public rates for services provided, or
 - b. The proposed charges;
 11. If applicable, letters of support for the change;
 12. Any other information or documentation demonstrating the public necessity for the change or otherwise justifying the change;
 13. Any other information or documents requested by the Director to clarify incomplete or ambiguous information or documents;
 14. Any documents, exhibits, or statements that the amending certificate holder wishes to submit to assist the Director in evaluating the proposed amendment; and
 15. The \$50 application filing fee.
- C. A certificate holder subject to special limitations or conditions that are not displayed on the certificate holder's certificate of necessity may request, according to subsections (B)(1) and (9), to have the special limitations or conditions modified if the special limitations or conditions were the result of a final decision of the Director, established according to A.R.S. § 41-1092.08(F), issued before January 1, 2024.
 - D. If a certificate of necessity was granted to a certificate holder under A.R.S. § 36-2233(I)(2), the certificate holder shall notify the Department of a change in the service area within 30 calendar days after the change is finalized and include:
 1. The following information in a Department-provided format:
 - a. The certificate of necessity number for the ground ambulance service,
 - b. The name and address of the ground ambulance service on the certificate of necessity,
 - c. A description of the change and the reason for the change,
 - d. The effective date of the change,
 - e. Attestation that the information or documents submitted to the Department are true and correct, and
 - f. The signature of the certificate holder's designated representative and the date signed;
 2. A description of the current service area and the proposed service area by any method specified in A.R.S. § 36-2233(E) and global positioning system data that would allow a map to be created that illustrates the current service area and the proposed service area; and
 3. Documentation establishing that the change in service area is under A.R.S. § 36-2233(E)(2).
 - E. The Department shall approve or deny an application under subsection (B) or (C) according to A.R.S. § 36-2233, Article 12 of this Chapter, and, if applicable, R9-25-1106 and R9-25-1107.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-906. Determining Public Necessity (Authorized by A.R.S. § 36-2233(F))

- A. In determining public necessity for an initial or amended certificate of necessity, the Director shall consider the following to ensure quality patient care:
 1. The following information, as proposed by the applicant for the service area:
 - a. Proposed response times or compliance percentage,
 - b. The priority that may be assigned by an applicant or a certificate holder to a response, and
 - c. The percentage of time the actual response time for a run is or is anticipated to be compliant with the proposed response times during a 12-month period;
 2. Whether issuing the certificate of necessity is in the public's best interest:

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- a. Based on a possible gap in service or unmet needs in the service area; and
 - b. To ensure consistent service provision, efficiency, cost-effectiveness, and the health and safety of individuals in the service area;
 3. The information in R9-25-902(A)(1) through (4), (6), (8), (12) through (14), and (19) through (22);
 4. If applicable, the information in subsection (B); and
 5. Other matters determined by the Director or the applicant to be relevant to the determination of public necessity.
- B.** In deciding whether issuing a certificate of necessity to more than one ground ambulance service for the same service area or overlapping service areas is in the public's best interest, the Director shall consider the following in addition to the information in subsections (A)(1) through (3):
1. The existence of another ground ambulance service providing ambulance response or transport to all or part of the service area, including the level of service and type of service being provided;
 2. The current response times and compliance percentages achieved for requests made through 9-1-1 or a similar system in all or part of the service area;
 3. If applicable, the current response times and compliance percentages achieved for interfacility transports for patients with a time-critical condition in all or part of the service area;
 4. If applicable, the applicant's plans to provide interfacility transports for patients with no time-critical condition in all or part of the service area in compliance with R9-25-908(E)(3);
 5. The applicant's plans for implementation, taking into consideration the stability and consistency of service provision;
 6. If available, information or data that demonstrates the inability of the other certificate holder to provide services in all or part of the service area;
 7. How the applicant plans to interact with the ground ambulance service currently providing services in all or part of the service area, including the information in R9-25-908(E)(1)(a), (b), and (c);
 8. The availability of emergency medical services in all or part of the service area;
 9. The financial impact on certificate holders whose service area includes all or part of the service area in the requested certificate of necessity;
 10. The demonstrated need for additional 9-1-1 or similarly dispatched transport, convalescent transport, or interfacility transport, as applicable, including:
 - a. Whether a study or statistical analysis demonstrating need has been created for or adopted by the applicant, a political subdivision within the current or proposed service area, or a local emergency medical services coordinating system under A.R.S. § 36-2210 that:
 - i. Examines whether another ground ambulance service is necessary within the service area or proposed service area to provide ambulance response or transport; and
 - ii. Takes into account the current or proposed service area's medical, fire, and police services and the other ground ambulance service;
 - b. If a study or statistical analysis in subsection (B)(11)(a) exists, the content of the study or statistical analysis demonstrating need; and
 - c. Information received by the Department from a political subdivision, a health care institution, an elected official, or another interested party, as described in A.R.S. § 36-2233(D), indicating a need;
 11. For an application for additional 9-1-1 or similarly dispatched transport, the difference between the current response times in the service area for 90% compliance and the response times for 90% compliance proposed by the applicant; and
 12. Whether a certificate holder for the service area has demonstrated noncompliance with requirements in this Article, Articles 2, 10, or 11 of this Chapter, or A.R.S. Title 36, Chapter 21.1.
- C.** The Department may periodically assess whether there have been changes in public necessity associated with a certificate of necessity, to include ensuring quality patient care.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). R9-25-906 renumbered to R9-25-907; new Section R9-25-906 renumbered from R9-25-903 and amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-907. Determining Response Times, Priority for Responses, and Compliance with Specified Times (Authorized by A.R.S. §§ 36-2232, 36-2233, 36-2236)

- A.** The Department may periodically assess whether the following parameters, as associated with a certificate of necessity, are appropriate to ensure quality patient care:
1. Response times, consistent with A.R.S. §§ 36-2232(A)(4) and 36-2236(E);
 2. The priority to be assigned by a certificate holder to a response;
 3. The percentage of time that the actual response time for a run is compliant with the response times for the certificate of necessity during a 12-month period;
 4. If applicable, the plan for complying with the requirements in R9-25-908(E)(3)(c), or with a standard different from that in R9-25-908(E)(3)(c), that demonstrates how quality patient care will be provided, including to patients with a time-sensitive condition; and
 5. If applicable, the percentage of time that the certificate holder is compliant with the standards in the plan in subsection (A)(4) during a 12-month period.
- B.** In determining response times, the priority to be assigned by a certificate holder to a response, and the percentage of time the actual response time for a run is compliant with the proposed response times during a 12-month period for all or part of a service area or proposed service area, the Director may consider the following:
1. Differences in scene locality, if applicable;
 2. The response times and compliance percentages of other ground ambulance services in similar scene localities, as determined by historical response time data;
 3. The population density and demographics in the service area or proposed service area;
 4. The geographic features and environmental conditions within the service area or proposed service area;
 5. The geographic distribution of health care institutions within and surrounding the service area or proposed service area to which and from which the ground ambulance service would be transporting patients;

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6. Requirements of a 9-1-1 or similar dispatch system for all or part of the service area;
 7. Requirements in a contract approved by the Department between a ground ambulance service and a political subdivision or health care institution;
 8. Whether the certificate holder provides interfacility transports of patients with a time-critical condition and, if so:
 - a. The geographic distribution of health care institutions in the service area, and
 - b. The anticipated volumes of 9-1-1 dispatches and of interfacility transports;
 9. The basis for prioritization for the dispatch of a ground ambulance vehicle or an emergency medical services provider;
 10. Information from a political subdivision, a health care institution, an elected official, or another interested party, as described in A.R.S. § 36-2233(D), in the service area that was received by the Department about the request; and
 11. Other information submitted according to R9-25-902(A)(2) and (14) or R9-25-905(B), as applicable; and
 12. Other matters determined by the Director to be relevant to a determination of response times and compliance percentage, for each scene locality and priority that will be assigned by the applicant to a response.
- C.** The Department may:
1. Develop a set of uniform standards for response times based on historical response time data:
 - a. By using the scene locality of a service area or proposed service area, and
 - b. Considering the response time for 90 percent of runs;
 2. Compare the actual performance of a ground ambulance service to the applicable uniform standard developed according to subsection (C)(1);
 3. Establish response times based on the applicable uniform standard and the factors specified in subsection (B); and
 4. Take enforcement action, if appropriate, against a certificate holder based on response-time performance compared with the uniform standard, taking into consideration the factors in subsection (B).
- D.** In determining compliance with the standards in the plan in subsection (A)(4) during a 12-month period, the Director may consider the following:
1. The information submitted according to R9-25-902(A)(2) and (14) or R9-25-905(B), as applicable;
 2. The geographic distribution of health care institutions in the service area and the anticipated volumes of interfacility transports and 9-1-1 dispatches;
 3. Requirements in a contract approved by the Department between a ground ambulance service and health care institution;
 4. The basis for prioritization for the dispatch of a ground ambulance vehicle according to procedures established by the certificate holder's medical direction authority;
 5. Information from a political subdivision, a health care institution, an elected official, or another interested party, as described in A.R.S. § 36-2233(D), in the service area that was received by the Department about the request; and
 6. Other matters determined by the Director to be relevant to a determination of compliance with the standards in the plan in subsection (A)(4).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section R9-25-907 repealed; new Section R9-25-907 renumbered from R9-25-906 and amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-908. Operations (Authorized by A.R.S. §§ 36-2204.02, 36-2211, 36-2224, 36-2232, 36-2233, 36-2237, 36-2241)

A. Insurance: A certificate holder shall:

1. Either:
 - a. Maintain with an insurance company authorized to transact business in this state:
 - i. A minimum single occurrence automobile liability insurance coverage of \$1,000,000 for ground ambulance vehicles;
 - ii. A minimum single occurrence professional liability insurance coverage for the ground ambulance service of \$1,000,000; and
 - iii. If the certificate holder provides ALS services or critical care services, a minimum single occurrence professional liability insurance coverage for personnel of the ground ambulance service providing ALS services or critical care services of \$1,000,000; or
 - b. Be self-insured for the amounts in subsection (A)(1)(a); and
2. Submit to the Department within seven days after renewal of the insurance coverage in subsection (A)(1)(a) or a change in how the insurance coverage in subsection (A)(1)(a) or (b) is obtained:
 - a. A copy of the certificate of insurance in subsection (A)(1)(a); or
 - b. Documentation of self-insurance according to subsection (A)(1)(b).

B. Record Retention: According to A.R.S. § 36-2241, a certificate holder shall maintain the following records for the Department's review and inspection:

1. The certificate holder's financial statements;
2. All federal and state income tax records;
3. All employee-related expense reports and payroll records;
4. All bank statements and documents used to reconcile accounts;
5. All documents establishing the depreciation of assets, such as schedules or accounting records on ground ambulance vehicles, equipment, office furniture, and other plant and equipment assets subject to depreciation;
6. All prehospital history incident reports, as specified in subsection (J)(1);
7. All patient billing and reimbursement records;
8. All dispatch records, as specified in subsection (J)(2);
9. All policies and procedures required by this Article or Article 2, 10, or 11 of this Chapter;
10. All plans required by this Article or Article 2, 10, or 11 of this Chapter;
11. Documentation of the analysis of response time performance according to subsection (G)(2);
12. Documentation of the analysis of performance of interfacility transports of patients with no time-critical condition, including patients with a time-sensitive condition, according to subsection (H)(1);
13. Documentation of notification to the Department of instances of noncompliance according to subsection (K)(1)(c);

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14. All back-up agreements, contracts, grants, and financial assistance records related to ground ambulance vehicles, ambulance response, and transport;
 15. All written complaints about the ground ambulance service; and
 16. Information about destroyed or otherwise irretrievable records in a file including:
 - a. A list of each record destroyed or otherwise irretrievable,
 - b. A description of the circumstances under which each record became destroyed or otherwise irretrievable, and
 - c. The date each record was destroyed or became otherwise irretrievable.
- C. Staffing:** A certificate holder shall ensure that:
1. If a ground ambulance vehicle is marked with a level of service, the ground ambulance vehicle is staffed to provide the level of service identified;
 2. An administrative medical director for the ground ambulance service complies with requirements in R9-25-201(F) and R9-25-502(B);
 3. Policies and procedures are established, implemented, and maintained that cover:
 - a. Job descriptions, duties, and qualifications, including required skills and knowledge for EMCTs and other employees; and
 - b. Orientation and in-service education for EMCTs and other employees;
 4. An EMCT employed by the ground ambulance service:
 - a. Is assigned patient care duties consistent with the EMCT's scope of practice and the administrative medical director's evaluation of the EMCT's skills and capabilities;
 - b. Complies with the protocols required in R9-25-201(E)(2);
 - c. Receives training on the policies and procedures required in R9-25-201(E)(3)(b); and
 - d. Receives ongoing education, training, or remediation consistent with the policies and procedures required in R9-25-201(E)(3)(b)(x); and
 5. Staffing of ground ambulance vehicles:
 - a. For the provision of BLS or ALS, is consistent with A.R.S. § 36-2239; and
 - b. Effective January 1, 2025, for critical care services, includes at least one:
 - i. Paramedic with an additional endorsement, indicating additional training and authorization from the Department to provide critical care services; or
 - ii. Registered nurse.
- D. Communications and Advertising:** A certificate holder shall ensure that the ground ambulance service:
1. Makes a good faith effort to communicate information:
 - a. About its hours of operation to the general public through print media, broadcast media, the Internet, or other means; and
 - b. About resource availability and deployment to other EMS providers in overlapping and surrounding service areas;
 2. Does not advertise that the ground ambulance service:
 - a. Provides a type of service or level of service other than what is granted in the certificate of necessity,
 - b. Operates in the service area other than what is granted in the certificate of necessity, or
 - c. In a manner that circumvents the use of 9-1-1 or another similarly designated emergency telephone number;
3. Establishes, implements, and maintains the protocol for providing information to emergency receiving facility staff concurrent with the transfer of care, required in R9-25-201(E)(2)(d)(i), which includes:
- a. The date and time the dispatch was received by the ground ambulance service;
 - b. The unique number used by the ground ambulance service to identify the run;
 - c. The name of the ground ambulance service;
 - d. The number or other identifier of the ground ambulance vehicle used for the run;
 - e. The following information about the patient:
 - i. The patient's name;
 - ii. The patient's date of birth or age, as available;
 - iii. The principal reason for requesting services for the patient;
 - iv. The patient's medical history, including any chronic medical illnesses, known allergies to medications, and medications currently being taken by the patient;
 - v. The patient's level of consciousness at initial contact and when reassessed;
 - vi. The patient's pulse rate, respiratory rate, oxygen saturation, and systolic blood pressure at initial contact and when reassessed;
 - vii. The results of an electrocardiograph, if available;
 - viii. The patient's glucose level at initial contact and when reassessed, if applicable;
 - ix. The patient's level of responsiveness score, as applicable, at initial contact and when reassessed;
 - x. The results of the patient's neurological assessment, if applicable; and
 - xi. The patient's pain level at initial contact and when reassessed; and
 - f. Any procedures or other treatment provided to the patient at the scene or during transport, including any agents administered to the patient; and
4. Establishes, implements, and maintains a protocol for providing information to another certificate holder, ambulance service, EMS provider, or health care institution concurrent with the transfer of care, which includes the information in subsections (D)(3)(c), (d), (e), and (f).
- E. Dispatch and Scheduling:** A certificate holder shall ensure that:
1. A contract or other agreement, including internal policies and procedures, to provide dispatch exists and includes:
 - a. Information about other certificate holders with which the certificate holder has a back-up agreement;
 - b. The process and parameters under which a ground ambulance vehicle of another certificate holder will be dispatched to respond to a call to which a ground ambulance vehicle of the certificate holder cannot respond;
 - c. Except as specified in subsection (E)(2), for an area within the certificate holder's service area that overlaps with another certificate holder's service area, that the nearest ground ambulance vehicle to the patient's location, under either certificate holder that

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can provide the necessary level of service, will be directed to respond to a call made through 9-1-1 or a similar dispatch system; and

- d. If the entity providing dispatch is external to the ground ambulance service, a requirement that the certificate holder receive a copy of each dispatch made under the contract or other agreement;
 2. If a certificate holder has a ground ambulance service contract under R9-25-1104 with a political subdivision, the ground ambulance service contract contains requirements that specify a method for dispatch, which may differ from requirements in subsection (E)(1)(c); and
 3. For an interfacility transport of a patient with no time-critical condition:
 - a. Unless already specified in a written agreement between the certificate holder and the person requesting the interfacility transport, the entity receiving the request for the interfacility transport provides an estimated time of arrival to the person requesting the interfacility transport at the time that the interfacility transport is requested;
 - b. If the estimated time of arrival provided according to subsection (E)(3)(a) changes to a later time, the ground ambulance service, either directly or indirectly, does one of the following:
 - i. Contacts another ground ambulance service to respond to the dispatch, based on the ground ambulance service's back-up plan and back-up agreements;
 - ii. Provides to the contact at the requesting health care institution the name and telephone number of another ground ambulance service with which the ground ambulance service has a back-up agreement; or
 - iii. Provides an amended estimated time of arrival to the person requesting transport that takes into consideration:
 - (1) The patient's condition and needs, and
 - (2) Health and safety;
 - c. Effective January 1, 2025, unless otherwise specified on the certificate holder's certificate of necessity, the actual time of arrival of a ground ambulance vehicle at a health care institution for an interfacility transport of a patient who does not have a time-critical condition is within 60 minutes of the estimated time of arrival in subsection (E)(3)(a) or amended estimated time of arrival in subsection (E)(3)(b)(iii) for at least 90% of the interfacility transports; and
 - d. If the interfacility transport does not meet the standards in subsection (E)(3)(c), factors that may have contributed to not meeting the standards are considered through the quality improvement process in subsection (K)(2)(b).
- F. Transport:** A certificate holder:
1. Shall only provide ambulance response or transport within the service area identified in the certificate holder's certificate of necessity except:
 - a. When authorized by a service area's dispatch, before the service area's ground ambulance vehicle arrives at the scene;
 - b. According to a back-up agreement; or
 - c. If the area is not included in the service area of another certificate holder;
 2. Except as specified in subsection (F)(3), shall transport a patient in the certificate holder's service area who requests transport; and
 3. May deny transport to a patient in the certificate holder's service area:
 - a. As limited by A.R.S. § 36-2224;
 - b. If the patient is in a health care institution and the patient's medical condition requires a level of care or monitoring during transport that exceeds the scope of practice of the ambulance attendants' certification;
 - c. If the transport may result in an immediate threat to the ambulance attendant's safety, as determined by the ambulance attendant, the certificate holder, the administrative medical director, or a physician providing on-line medical direction and does not affect the ground ambulance service's hours of operation;
 - d. If the patient is 18 years or age or older, or meets the requirements in A.R.S. § 12-2451, 44-131, or 44-132, and refuses to be transported; or
 - e. If the patient is in a health care institution and does not meet the federal requirements for medically necessary ground vehicle ambulance transport as identified in 42 CFR 410.40.
- G. Response Time Performance:** A certificate holder shall ensure that:
1. Response times resulting from a 9-1-1 or similar system dispatch or, if applicable, a request for the interfacility transport of a patient with a time-critical condition comply with requirements of the certificate holder's certificate of necessity;
 2. Response time performance, based on the information in subsection (J)(2), is assessed at least every six months for compliance with requirements of the certificate holder's certificate of necessity;
 3. The following are reported to the Department annually, in a Department-provided format, concurrent with the submission of the information required in R9-25-909:
 - a. Response time data that complies with requirements in A.R.S. § 36-2232(A)(3), and
 - b. The results of the response time performance assessments in subsection (G)(2); and
 4. If response time performance does not comply with requirements of the certificate holder's certificate of necessity, either:
 - a. A corrective action plan, developed according to R9-25-910(E)(2)(a) through (d), is submitted to the Department with the information required in subsection (G)(3); or
 - b. The certificate holder submits to the Department with the information required in subsection (G)(3) documentation demonstrating that noncompliance was due to:
 - i. A situation specified in A.R.S. § 36-2232(G), or
 - ii. An external factor beyond the control of the certificate holder.
- H. Performance of Interfacility Transports of Patients with No Time-Critical Condition:** Effective January 1, 2025, a certificate holder shall ensure that:
1. The performance of interfacility transports of patients with no time-critical condition, including patients with a time-sensitive condition:
 - a. Is based on the information in subsection (J)(2);

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- b. Is assessed at least every six months;
- c. Includes the analysis of:
 - i. The number of calls received;
 - ii. The time a call was received;
 - iii. The estimated time of arrival;
 - iv. The time of arrival at the patient's location; and
 - v. Any other information about cancelled calls, amended estimated times of arrival, or delays that may have factored into performance; and
- d. Includes a description of any actions taken by the certificate holder to improve performance;
- 2. The results of the performance assessments in subsection (H)(1) are reported to the Department annually in a Department-provided format, concurrent with the submission of the information required in R9-25-909; and
- 3. If the performance of interfacility transports of patients with no time-critical condition does not comply with subsection (E)(3)(c) or requirements of the certificate holder's certificate of necessity, as applicable, either:
 - a. A corrective action plan, developed according to R9-25-910(E)(2)(a) through (d), is submitted to the Department with the information required in subsection (H)(2); or
 - b. The certificate holder submits to the Department with the information required in subsection (H)(2) documentation demonstrating that noncompliance was due to an external factor beyond the control of the certificate holder.
- I.** The Department may require that a certificate holder contract for third-party monitoring of response time performance as part of a:
 - 1. Political subdivision contract, unless both parties to the contract waive the requirement; or
 - 2. Corrective action plan.
- J.** Records: A certificate holder shall ensure that:
 - 1. A prehospital incident history report, in a Department-provided format, is created for each patient that includes the following information, as available:
 - a. The name and identification number of the ground ambulance service;
 - b. Information about the software for the storage and submission of the prehospital incident history report;
 - c. The unique number assigned to the run;
 - d. The unique number assigned to the patient;
 - e. Information about the response to the dispatch, including:
 - i. The level of service requested;
 - ii. Information obtained by the person providing dispatch about the request;
 - iii. Information about the ground ambulance vehicle assigned to the dispatch;
 - iv. Information about the EMCTs responding to the dispatch;
 - v. The priority assigned to the dispatch; and
 - vi. Response delays, as applicable;
 - f. The date and time that:
 - i. The call requesting service was received through the 9-1-1 or similar dispatch system,
 - ii. The request was received by the person providing dispatch,
 - iii. The ground ambulance service received the dispatch,
 - iv. The ground ambulance vehicle left for the patient's location,
 - v. The ground ambulance vehicle arrived at the patient's location,
 - vi. The EMCTs in the ground ambulance vehicle arrived at the patient's side,
 - vii. Transfer of care for the patient occurred at a location other than the destination,
 - viii. The ground ambulance vehicle departed the patient's location,
 - ix. The ground ambulance vehicle arrived at the destination,
 - x. Transfer of care for the patient occurred at the destination, and
 - xi. The ground ambulance vehicle was available to take another call;
 - g. Information about the patient, including:
 - i. The patient's first and last name;
 - ii. The address of the patient's residence;
 - iii. The county of the patient's residence;
 - iv. The country of the patient's residence;
 - v. The patient's gender, race, ethnicity, and age;
 - vi. The patient's estimated weight;
 - vii. The patient's date of birth; and
 - viii. If the patient has an alternate residence, the address of the alternate residence;
 - h. The primary method of payment for services and anticipated level of payment;
 - i. Information about the scene, including:
 - i. Specific information about the location of the scene;
 - ii. Whether the ground ambulance vehicle was first on the scene;
 - iii. The number of patients at the scene;
 - iv. Whether the scene was the location of a mass casualty incident; and
 - v. If the scene was the location of a mass casualty incident, triage information;
 - j. Information about the reason for requesting service for the patient, including:
 - i. The date and time of onset of symptoms and when the patient was last well;
 - ii. Information about the principal reason the patient needs services;
 - iii. The patient's symptoms;
 - iv. The results of the EMCT's initial assessment of the patient;
 - v. If the patient was injured, information about the injury and the cause of the injury;
 - vi. If the patient experienced a cardiac arrest, information about the etiology of the cardiac arrest and subsequent treatment provided; and
 - vii. For an interfacility transport, the reason for the transport;
 - k. Information about any specific barriers to providing care to the patient;
 - l. Information about the patient's medical history, including:
 - i. Known allergies to medications,
 - ii. Surgical history,
 - iii. Current medications, and
 - iv. Alcohol or drug use;
 - m. Information about the patient's current medical condition, including the information in subsections (D)(2)(e)(v) through (xi) and the time and method of assessment;

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- n. Information about agents administered to the patient, including the dose and route of administration, time of administration, and the patient's response to the agent;
 - o. If not specifically included under subsection (J)(1)(l), (l)(iv), (m), or (n), the information required in A.A.C. R9-4-602(A);
 - p. Information about any procedures performed on the patient and the patient's response to the procedure;
 - q. Whether the patient was transported and, if so, information about the transport;
 - r. Information about the destination of the transport, including the reason for choosing the destination;
 - s. Whether transfer of care for the patient to another EMS provider or ambulance service occurred and, if so, identification of the EMS provider or ambulance service;
 - t. Unless transfer of care for the patient to another EMS provider or ambulance service occurred, information about:
 - i. Whether the destination facility was notified that the patient being transported has a time-critical condition and the time of notification,
 - ii. The disposition of the patient at the destination, and
 - iii. The disposition of the run;
 - u. Any other narrative information about the patient, care receive by the patient, or transport; and
 - v. The name and certification level of the EMCT providing the information; and
2. Dispatch records for each call or request for service, including all cancelled runs, contain the following information, in a Department-provided format:
 - a. The name of the ground ambulance service;
 - b. The date;
 - c. Level of service;
 - d. Type of service;
 - e. Staffing of the run;
 - f. Time of receipt of the call;
 - g. Time of the dispatch;
 - h. The estimated time of arrival, as provided according to subsection (E)(3)(a) if applicable;
 - i. Departure time to the patient's location;
 - j. Address of the patient's location;
 - k. Time of arrival at the patient's location;
 - l. Departure time to the destination health care institution;
 - m. Name and address of the destination health care institution;
 - n. Time of arrival at the destination health care institution;
 - o. Any type of delay, if applicable;
 - p. The unique reference number used by the ground ambulance service to identify the patient, dispatch, or run;
 - q. The number assigned to the ground ambulance vehicle by the certificate holder;
 - r. The priority assigned by a certificate holder to the response;
 - s. The scene locality; and
 - t. Whether the dispatch is a scheduled transport.
- K. Assuring Consistent, Compliant Performance:** A certificate holder shall:
1. Adopt, implement, and maintain policies and procedures for:
 - a. Complaint resolution;
 - b. Assessing the ground ambulance service's compliance with requirements in this Article, Articles 2, 10, or 11 of this Chapter, or A.R.S. Title 36, Chapter 21.1, including the review of:
 - i. The information provided to an emergency receiving facility for compliance with the protocol required in R9-25-201(E)(2)(d),
 - ii. Chain of custody for drugs,
 - iii. Compliance with minimum equipment requirements for a ground ambulance vehicle,
 - iv. Compliance with requirements in R9-25-201(E)(3), and
 - v. The quality improvement parameters in subsection (K)(2)(b) related to the provision of services;
 - c. Notifying the Department within 30 calendar days after completing an assessment in subsection (K)(1)(b), during which an instance of noncompliance was identified, and submitting a corrective action plan that complies with requirements in R9-25-910(E)(2)(a) through (d); and
 - d. A quality improvement process according to subsection (K)(2);
 2. Establish, document, and implement a quality improvement process, as specified in policies and procedures, through which:
 - a. Data related to initial patient assessment, patient care, transport services provided, and patient status upon arrival at the destination are:
 - i. Collected continuously;
 - ii. For the information required in subsection (J)(1), submitted to the Department, in a format specified by the Department and within 48 hours after the beginning of a run, for quality improvement purposes; and
 - iii. If notified that the submission of information to the Department according to subsection (K)(2)(a)(ii) was unsuccessful, corrected and resubmitted within seven days after notification;
 - b. Continuous quality improvement processes are developed and implemented to identify, document, and evaluate issues related to the provision of services to ensure quality patient care, including:
 - i. Care provided to patients with time-critical conditions, including deviations from national treatment standards for a patient with a time-critical condition;
 - ii. Transport, including an interfacility transport of a patient that does not have a time-critical condition;
 - iii. Documentation; and
 - iv. Patient status upon arrival at the destination;
 - c. A committee consisting of the administrative medical director, the individual managing the ground ambulance service or designee, and other employees as appropriate:
 - i. Review the data in subsection (K)(2)(a) and any issues identified in subsection (K)(2)(b) on at least a quarterly basis; and

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- ii. Implement activities to improve performance when deviations in patient care, transport, or documentation are identified; and
 - d. The activities in subsection (K)(2)(c) are documented, consistent with A.R.S. §§ 36-2401, 36-2402, and 36-2403; and
 - 3. Ensure that the information required in subsection (J)(2) is submitted to the Department, in a Department-provided format, and within 48 hours after the receipt of a call or request for service.
 - L.** If a certificate holder has a reasonable basis to believe that a situation or circumstance specified according to A.R.S. § 36-2211(A) has occurred, the certificate holder shall:
 - 1. If applicable, take immediate action to prevent the recurrence of the situation or circumstance;
 - 2. Report the suspected situation or circumstance to the Department and, if applicable, according to A.R.S. § 13-3620 or 46-454;
 - 3. Document:
 - a. The suspected situation or circumstance;
 - b. Any action taken according to subsection (L)(1); and
 - c. The report in subsection (L)(2);
 - 4. Maintain the documentation in subsection (L)(3) for at least 12 months after the date of the report in subsection (L)(2);
 - 5. Initiate an investigation of the situation or circumstance and document the following information within five working days after the report required in subsection (L)(2):
 - a. The dates, times, and description of the situation or circumstance;
 - b. A description of any injury to a patient related to the suspected situation or circumstance and any change to the patient's physical, cognitive, functional, or emotional condition;
 - c. The names of witnesses to the suspected situation or circumstance; and
 - d. The actions taken by the certificate holder to prevent the suspected situation or circumstance from occurring in the future; and
 - 6. Maintain a copy of the documented information required in subsection (L)(5) and any other information obtained during the investigation for at least 12 months after the date the investigation was initiated.
 - M.** A certificate holder shall notify the Department of a change in the number or location of suboperation stations in the certificate holder's service area, according to A.R.S. § 36-2232(C)(4), and include:
 - 1. The certificate of necessity number for the ground ambulance service;
 - 2. The name of the ground ambulance services on the certificate of necessity;
 - 3. The name, title, address, email address, and telephone number of an individual whom the Department may contact about the notification; and
 - 4. Information about the change, including, as applicable:
 - a. How the number of suboperation stations is changed from the information on the certificate holder's certificate of necessity;
 - b. The address of each suboperation station that is being removed from service; and
 - c. The address, hours of operation, and telephone number of each new suboperation station located within the service area.
 - N.** A certificate holder shall submit to the Department, no later than 180 days after the certificate holder's fiscal year end, the information in the Ambulance Revenue and Cost Report specified in R9-25-909(A) or (C), as appropriate to the certificate holder's business organization.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section R9-25-908 repealed; new Section R9-25-908 made by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).
- R9-25-909. Ambulance Revenue and Cost Reporting Requirements (Authorized by A.R.S. §§ 36-2232, 36-2246)**
- A.** Except as provided in subsection (C), a certificate holder shall ensure that an Ambulance Revenue and Cost Report for a ground ambulance service includes, in a Department-provided format:
 - 1. The following information to identify the source and time period for the Ambulance Revenue and Cost Report:
 - a. The legal name of the ground ambulance service and any other names by which the ground ambulance service is known;
 - b. The identifying number on the certificate holder's current certificate of necessity, if applicable;
 - c. The physical address at which financial records on which the information in the Ambulance Service and Cost Report is based are maintained;
 - d. The mailing address for the ground ambulance service, if different from the address in subsection (A)(1)(c);
 - e. The name, title, email address, and telephone number of the following:
 - i. The individual responsible for managing the ground ambulance service; and
 - ii. The individual to contact regarding the information in the Ambulance Service and Cost Report;
 - f. The beginning date and ending date of the reporting period; and
 - g. Whether the method of valuing inventory is:
 - i. First-in-first-out;
 - ii. Last-in-first-out; or
 - iii. Another method, including a description of the method;
 - 2. The following information to provide data in support of information in other portions of the Ambulance Revenue and Cost Report:
 - a. Except as provided in subsection (B), for each of the following, for the reporting period, under the ground ambulance service's subscription service rate, contract rate, or general public rate, the number of:
 - i. Transports billed at the critical care rate,
 - ii. Transports billed at the ALS base rate,
 - iii. Transports billed at the BLS base rate,
 - iv. Miles billed at the mileage rate while a patient is being transported,
 - v. Hours and minutes billed according to R9-25-1108(E), and
 - vi. Canceled and non-billable runs;
 - b. For each of subsections (A)(2)(a)(i) through (vi), the total number for all three rates for the reporting period; and

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- c. If applicable, the number of hours different classifications of EMCT and other ambulance attendants volunteered for the ground ambulance service and the total number of volunteer hours for the reporting period;
- 3. The following information about revenue generated for the reporting period from routine operations of the ground ambulance service:
 - a. Except as provided in subsection (B), the amount of revenue generated from the following sources of revenue:
 - i. Transports billed at the critical care rate;
 - ii. Transports billed at the ALS base rate;
 - iii. Transports billed at the BLS base rate;
 - iv. Miles billed at the mileage rate while a patient is being transported;
 - v. Hours and minutes billed according to R9-25-1108(E);
 - vi. Charges for disposable supplies, medical supplies, medications, and oxygen-related items;
 - vii. Charges for nursing services;
 - viii. Charges for positioning a staffed ground ambulance vehicle at a public or private event, such as a sporting event or car race; and
 - ix. Other sources of routine operating revenue; and
 - b. The total amount of revenue generated for the reporting period from routine operations of the ground ambulance service;
- 4. The costs of goods, such as disposable supplies, medical supplies, medications, and oxygen-related items, charged to patients for the reporting period, calculated as:
 - a. The cost of the beginning inventory of all such goods,
 - b. Plus the costs of purchased items,
 - c. Plus any other costs, and
 - d. Minus the cost of the ending inventory of all such goods;
- 5. The following information about revenue generated for the reporting period from sources other than routine operations of the ground ambulance service:
 - a. For each entity with which the ground ambulance service has a ground ambulance service contract:
 - i. The name of the entity with which the ground ambulance service has the contract,
 - ii. The total number of billable runs for the reporting period,
 - iii. The amount billed for the reporting period based on the general public rate,
 - iv. The percent discount under the contract, and
 - v. The resulting discount amount;
 - b. The total amount of the discount amount from all the entities listed according to subsection (A)(5)(a); and
 - c. For a ground ambulance service providing subscription service, subscription service revenue and direct expenses, including:
 - i. The amount billed for the reporting period at the general public rate established according to R9-25-1101 or R9-25-1102;
 - ii. Any reductions to the amount in subsection (A)(5)(c)(i) due to:
 - (1) The discount amount the ground ambulance service receives from AHCCCS as an allowable rate,
 - (2) The discount amount the ground ambulance service receives from Medicare as an allowable rate,
- (3) The subscription service rate established according to R9-25-1105, and
- (4) Uncollectable revenue associated with subscription service;
- iii. The total of the amounts in subsections (A)(5)(c)(ii)(1) through (4);
- iv. The difference between the amount in subsection (A)(5)(c)(i) and the amount in subsection (A)(5)(c)(iii);
- v. The amount of revenue from the sales of subscription service contracts;
- vi. A description of other revenue associated with subscription service and the amount of revenue;
- vii. The total subscription service revenue, calculated as the sum of the amounts in subsections (A)(5)(c)(iv) through (vi); and
- viii. Direct expenses incurred selling subscription service contracts, by type of expense and in total;
- d. The amount of revenue generated for the reporting period, by type of source of revenue, including from any other sources of revenue besides routine operations of the ground ambulance service;
- e. The total amount of revenue generated for the reporting period from sources other than routine operations of the ground ambulance service;
- 6. Except as provided in subsection (B), the following information about discounts for all applicable patients for the reporting period, based on the difference between the general public rate a ground ambulance service assesses a patient and the discount amount the ground ambulance service receives for each of the following:
 - a. From AHCCCS reimbursement;
 - b. From Medicare reimbursement;
 - c. From a contact rate or range of rates established according to R9-25-1103; and
 - d. From the provision of subscription service established according to R9-25-1105;
 - e. From any other discount amount, including a description of the source and the amount; and
 - f. The totals of subsections (A)(6)(a) through (e);
- 7. The total amount of revenue generated and allowances given by the ground ambulance service for the reporting period;
- 8. The following information about personnel of the ground ambulance service:
 - a. Except as provided in subsection (B), the number of FTEs, calculated as the sum of all hours for which employee wages were paid for the reporting period divided by 2,080, for each of the following categories of personnel, for the reporting period:
 - i. Owners or officers of the ground ambulance service;
 - ii. Managers of the ground ambulance service;
 - iii. Each classification of ambulance attendants who provide services on a ground ambulance vehicle, not including personnel who were paid wages on a per run basis; and
 - iv. Other types of employees;
 - b. The total number of FTEs for the reporting period;
 - c. Except as provided in subsection (B), the following for each category of personnel in subsections

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- (A)(8)(a)(i) through (iv), including personnel who were paid wages on a per run basis:
 - i. Gross wages,
 - ii. Payroll taxes,
 - iii. Employee fringe benefits, and
 - iv. The totals of subsections (A)(8)(c)(i) through (iii);
- d. The total amount of personnel expenses in subsection (A)(8)(c) for all personnel;
- e. Details of salaries and wages paid to officers or owners of the ground ambulance service, including:
 - i. The name, title, and percentage ownership of each officer or owner;
 - ii. The salary or wages paid and FTE equivalent for the time the officer or owner spent performing management duties, for each officer or owner;
 - iii. The salary or wages paid and FTE equivalent for the time the officer or owner spent performing duties as an EMCT, for each officer or owner;
 - iv. The salary or wages paid and FTE equivalent for the time the officer or owner spent performing office or administrative duties, for each officer or owner;
 - v. The salary or wages paid and FTE equivalent for the time the officer or owner spent performing other types of duties, for each officer or owner; and
 - vi. The total salary or wages paid and FTE equivalent for the time all officers or owners spent performing the types of duties in subsections (A)(8)(e)(ii) through (v); and
- f. Details on scheduled shifts, hourly wages, annual salary, and amount per run or shift for each category of personnel in subsection (A)(8)(b)(ii) through (iv);
- 9. Except as provided in subsection (B), the operating expenses incurred by the ground ambulance service for the reporting period, for each type of operating expense;
- 10. The total operating expenses incurred by the ground ambulance service for the reporting period;
- 11. Ambulance service income, calculated as the difference between the amount identified in subsection (A)(7) and the amount identified in subsection (A)(10);
- 12. The income and expenses, other than revenue and operating expenses, for each type of income received and expense incurred by the ground ambulance service for the reporting period;
- 13. The total income and expenses, other than revenue and operating expenses, for the reporting period;
- 14. The net income or loss for the reporting period, before taxes, calculated as the sum of the amounts identified in subsections (A)(11) and (A)(13);
- 15. The amounts of:
 - a. State income taxes,
 - b. Federal income taxes, and
 - c. The total of subsections (A)(15)(a) and (b);
- 16. The net income or loss for the reporting period, after taxes, calculated as the difference between the amounts in subsections (A)(14) and (A)(15)(c);
- 17. Information pertaining to depreciation of property or equipment;
- 18. The amount of assets, for each type of asset, of the ground ambulance service for the reporting period;
- 19. The total amount of assets of the ground ambulance service for the reporting period;
- 20. The amount of liabilities, for each type of liability, of the ground ambulance service for the reporting period;
- 21. The total amount of liabilities of the ground ambulance service for the reporting period;
- 22. The amount of long-term debt, for each type of long-term debt, of the ground ambulance service for the reporting period;
- 23. The total amount of long-term debt of the ground ambulance service for the reporting period;
- 24. The amount of equity, for each type of equity, of the ground ambulance service for the reporting period;
- 25. The total amount of equity of the ground ambulance service for the reporting period;
- 26. The total amount of liabilities and equity of the ground ambulance service for the reporting period;
- 27. The statement of cash flows for the reporting period;
- 28. A list of all business organizations or governmental entities affiliated with the certificate holder, if applicable, including for each:
 - a. The legal name;
 - b. The type of business organization, if applicable; and
 - c. Whether the relationship to the applicant is as a:
 - i. Parent organization,
 - ii. Subordinate organization,
 - iii. Subsidiary organization,
 - iv. Member organization, or
 - v. Business organization related to an ambulance service, EMS, or transport for which a controlling person of the applicant is also a controlling person of the business organization; and
- 29. An attestation including:
 - a. The signature of the individual specified in subsection (A)(1)(e)(i), including the individual's title and date of signature;
 - b. A statement that the individual in subsection (A)(29)(a) directed the preparation of the Ambulance Revenue and Cost Report in accordance with requirements in this Article and using an accrual basis of accounting; and
 - c. A statement that the information provided in the Ambulance Revenue and Cost Report is true and correct.
- B.** If a ground ambulance service applies local resident subsidization to reimbursement under the general public rate, a certificate holder shall ensure that the Ambulance Revenue and Cost Report for a ground ambulance service includes, in a Department-provided format:
 - 1. The following, in total and broken out for both subsidized patients and non-subsidized patients:
 - a. The information for subsections (A)(2)(a)(i) through (vi) under the ground ambulance service's general public rate;
 - b. The amount of revenue generated from the sources of revenue specified in subsections (A)(3)(a)(i) through (ix) from routine operations of the ground ambulance service; and
 - c. The amount of discount for all applicable patients for the reporting period, based on the difference between the general public rate a ground ambulance service assesses a patient and the discount amount the ground ambulance service receives;

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- i. From AHCCCS reimbursement,
 - ii. From Medicare reimbursement, and
 - iii. Due to the local resident subsidization;
 2. The number of FTEs, calculated as the sum of all hours for which employee wages were paid for the reporting period divided by 2,080, for each of the following categories of personnel, for the reporting period:
 - a. Managers of the ground ambulance service;
 - b. Ambulance attendants who provide services on a ground ambulance vehicle, not including personnel who were paid wages on a per run basis; and
 - c. Other types of employees;
 3. The following for each category of personnel in subsection (B)(2)(a) through (c):
 - a. Gross wages,
 - b. Payroll taxes,
 - c. Employee fringe benefits, and
 - d. The totals of subsections (B)(3)(a) through (c);
 4. If applicable, for each category of employee in subsection (B)(2)(a) through (c), the basis of allocation of gross wages, payroll taxes, employee fringe benefits, and the totals of the allocations; and
 5. If applicable, for each category of employee in subsection (B)(2)(a) through (c), the allocation percentage for gross wages, payroll taxes, and employee fringe benefits;
 6. The operating expenses incurred, for each type of operating expense, by the ground ambulance service for the reporting period in total and with the allocation percentage for each category of operating expense, including the basis of allocation.
- C. A certificate holder shall ensure that an Ambulance Revenue and Cost Report for a ground ambulance service under A.R.S. § 36-2246(C) includes, in a Department-provided format:
 1. The following information to identify the source and time period for the Ambulance Revenue and Cost Report:
 - a. The legal name of the ground ambulance service and any other names by which the ground ambulance service is known; and
 - b. The beginning date and ending date of the reporting period; and
 2. The following information to provide data in support of information in other portions of the Ambulance Revenue and Cost Report:
 - a. For each of the following, for the reporting period, under the ground ambulance service's subscription service rate, contract rate, or general public rate, the number of:
 - i. Transports billed at the critical care rate,
 - ii. Transports billed at the ALS base rate,
 - iii. Transports billed at the BLS base rate,
 - iv. Miles billed at the mileage rate while a patient is being transported,
 - v. Hours and minutes billed according to R9-25-1108(E), and
 - vi. Canceled and non-billable runs;
 - b. For each of subsections (C)(2)(a)(i) through (vi), the total number for all three rates for the reporting period; and
 - c. If applicable, the number of hours different classifications of EMCT and other ambulance attendants volunteered for the ground ambulance service and the total number of volunteer hours for the reporting period;
 3. The following information about revenue generated for the reporting period from routine operations of the ground ambulance service:
 - a. The amount of revenue generated from the following sources of revenue:
 - i. Transports billed at the critical care rate;
 - ii. Transports billed at the ALS base rate;
 - iii. Transports billed at the BLS base rate;
 - iv. Miles billed at the mileage rate while a patient is being transported;
 - v. Hours and minutes billed according to R9-25-1108(E),
 - vi. Charges for disposable supplies, medical supplies, medications, and oxygen-related items;
 - vii. Charges for nursing services; and
 - viii. Charges for positioning a staffed ground ambulance vehicle at a public or private event, such as a sporting event or car race; and
 - b. The total amount of revenue generated for the reporting period from routine operations of the ground ambulance service;
 4. The following information about discounts for all applicable patients for the reporting period, based on the difference between the general public rate a ground ambulance service assesses a patient and the discount amount the ground ambulance service receives:
 - a. From AHCCCS reimbursement,
 - b. From Medicare reimbursement,
 - c. Due to a contact rate or range of rates established according to R9-25-1103,
 - d. Due to a subscription service rate established according to R9-25-1105,
 - e. Due to any other revenue reduction, and
 - f. From the totals of subsections (C)(4)(a) through (e);
 5. The total amount of revenue generated, less allowances given, by the ground ambulance service from routine operations for the reporting period;
 6. The following information about personnel of the ground ambulance service:
 - a. The total number of FTEs, calculated as the sum of all hours for which employee wages were paid for the reporting period divided by 2,080, for the reporting period;
 - b. The number of FTEs, for each of the following categories of personnel, for the reporting period, not including personnel who were paid wages on a per run basis:
 - i. Managers of the ground ambulance service,
 - ii. Ambulance attendants who provide services on a ground ambulance vehicle, and
 - iii. Other types of employees;
 - c. The gross wages for each category of personnel in subsection (C)(6)(b)(i) through (iii);
 - d. Payroll taxes and employee fringe benefits for each category of personnel; and
 - e. The total gross wages taxes and fringe benefits for all category of personnel in subsections (C)(6)(b)(i) through (iii);
 7. The operating expenses incurred by the ground ambulance service for the reporting period for each type of operating expense;
 8. The total operating expenses incurred by the ground ambulance service for the reporting period;

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9. The total operating income or loss, calculated as the difference between the amount identified in subsection (C)(5) and the amount identified in subsection (C)(8);
 10. The amount of revenue generated or income derived for the reporting period by type of source of revenue or income, from sources other than routine operations of the ground ambulance service, including from:
 - a. The sale of subscription service contracts under R9-25-1105;
 - b. Any other sources of operating revenue besides routine operations of the ground ambulance service, including a description of the sources and amount of revenue;
 - c. Local supportive funding; and
 - d. Any other sources of income besides routine operations of the ground ambulance service, including a description of the sources and amount of income;
 11. Any other expenses incurred by the ground ambulance service for the reporting period, including a description of the sources and amount of expenses;
 12. The net income or loss for the reporting period, before taxes, from sources other than routine operations of the ground ambulance service, calculated as the sum of the amounts identified in subsections (C)(9) and (C)(10), minus the amount in subsection (C)(11);
 13. The amounts of:
 - a. State income taxes,
 - b. Federal income taxes, and
 - c. The total of subsections (C)(13)(a) and (b);
 14. The net income or loss for the reporting period, after taxes, calculated as the difference between the amounts in subsections (C)(12) and (C)(13)(c);
 15. The amount of assets, for each type of asset, of the ground ambulance service for the reporting period;
 16. The total amount of current assets of the ground ambulance service for the reporting period;
 17. Information pertaining to depreciation of property or equipment;
 18. The amount of liabilities, for each type of liability, of the ground ambulance service for the reporting period;
 19. The total amount of liabilities of the ground ambulance service for the reporting period;
 20. The amount of long-term debt, for each type of long-term debt, of the ground ambulance service for the reporting period;
 21. The total amount of long-term debt of the ground ambulance service for the reporting period;
 22. The amount of equity, for each type of equity, of the ground ambulance service for the reporting period;
 23. The total amount of equity of the ground ambulance service for the reporting period;
 24. The total amount of liabilities and equity of the ground ambulance service for the reporting period;
 25. The statement of cash flows for the reporting period.
- A. The Department may conduct an inspection of a ground ambulance service, which may include the ground ambulance service's premises, records, and equipment, and each ground ambulance vehicle operated or to be operated by the ground ambulance service.
 - B. If the Department receives written or verbal information alleging a violation of this Article; Article 2, 10, or 11 of this Chapter; or A.R.S. Title 36, Chapter 21.1, the Department may conduct an investigation.
 1. The Department may conduct an inspection as part of an investigation.
 2. A certificate holder shall allow the Department to inspect the ground ambulance service's premises, records, and equipment, and each ground ambulance vehicle and to interview personnel as part of an investigation.
 - C. When an application for a certificate of necessity for a ground ambulance service is submitted along with a transfer request due to a change of ownership, the Department shall determine whether an inspection is necessary based upon the potential impact to public health, safety, and welfare.
 - D. The Department shall conduct each inspection in compliance with A.R.S. § 41-1009.
 - E. If the Department determines that a ground ambulance service is not in compliance with the requirements in this Article; Article 2, 10, or 11 of this Chapter; or A.R.S. Title 36, Chapter 21.1, the Department may:
 1. Take an enforcement action as described in R9-25-911; or
 2. As part of a stipulated agreement under A.R.S. § 36-2245(I), require that the ground ambulance service submit to the Department, within 30 days after written notice from the Department, a corrective action plan acceptable to the Department to address issues of compliance that do not directly affect the health or safety of a patient that:
 - a. Describes how each identified instance of noncompliance will be corrected and reoccurrence prevented;
 - b. Includes a date for correcting each instance of noncompliance that is appropriate to the actions necessary to correct the instance of noncompliance;
 - c. Includes the signature of the individual acting for the certificate holder according to R9-25-102 and date signed; and
 - d. If noncompliance is associated with medical direction, EMCT skills or performance, or other issues related to compliance with Article 2 or Article 5 of this Chapter, includes the dated signature of the administrative medical director.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section R9-25-910 renumbered to R9-25-909; new Section R9-25-910 made by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section R9-25-909 repealed; new Section R9-25-909 renumbered from R9-25-910 and amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-910. Inspections and Investigations (Authorized by A.R.S. §§ 36-2204, 36-2212, 36-2232, 36-2241, 36-2245)

R9-25-911. Enforcement Action (Authorized by A.R.S. §§ 36-2234(L), 36-2244, 36-2245, 41-1092.03, 41-1092.11(B))

- A. The Department may take an action listed in subsection (B) against a ground ambulance service that:
 1. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 2. Fails or has failed to comply with any provision in this Article or Article 2, 10, or 11 of this Chapter;

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3. Does not submit a corrective action plan, as provided in R9-25-903(A)(6), R9-25-908(G)(4)(a), R9-25-908(H)(3)(a), R9-25-908(K)(1)(c), or R9-25-910(E)(2), that is acceptable to the Department;
 4. Does not complete a corrective action plan submitted according to R9-25-903(A)(8) or R9-25-910(E)(2); or
 5. Knowingly or negligently provides false documentation or false or misleading information to the Department or to a patient, third-party payor, or other person billed for service.
- B.** The Department may take the following actions against a ground ambulance service:
1. Except as provided in subsection (B)(3), after notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, suspend:
 - a. The ground ambulance service's certificate of necessity, or
 - b. The certificate of registration of a ground ambulance vehicle operated by the ground ambulance service;
 2. After notice and an opportunity to be heard is provided under A.R.S. Title 41, Chapter 6, Article 10, revoke:
 - a. The ground ambulance service's certificate of necessity, or
 - b. The certificate of registration of a ground ambulance vehicle operated by the ground ambulance service;
 3. As permitted under A.R.S. §§ 36-2234(N) and 41-1092.11(B), if the Department determines that the public health, safety, or welfare imperatively requires emergency action and incorporates a finding to that effect in the Department's order, immediately suspend:
 - a. The ground ambulance service's certificate of necessity pending proceedings for revocation or other action, or
 - b. The certificate of registration of a ground ambulance vehicle operated by the ground ambulance service pending proceedings for revocation or other action; or
 4. Another enforcement action according to A.R.S. § 36-2245(I), (J), or (K).
- C.** In determining the type of enforcement action to impose under A.R.S. § 36-2245, the Director shall consider:
1. The severity of the violation relative to public health and safety;
 2. The number of violations relative to the annual transport volume of the certificate holder;
 3. The nature and circumstances of the violation;
 4. Whether the violation was corrected, the manner of correction, and the time-frame involved;
 5. The duration of each violation;
 6. The frequency and nature of complaints received by the Department about a certificate holder; and
 7. The impact of the penalty or assessment on the provision of ambulance response or transport in the certificate holder's service area.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). R9-25-911 repealed; new R9-25-911 renumbered from R9-25-912 and amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-912. Renumbered

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Section R9-25-912 renumbered to R9-25-911 by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

Exhibit 9A. Repealed**Historical Note**

Exhibit 9A renumbered from Exhibit A and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). The Department requested (file number R22-134) that two corrections be made to page 1 of Exhibit 9(A) as amended at 19 A.A.R. 4032 (December 13, 2013); missing form fields have also been added due to clerical errors when formatting this Exhibit (Supp. 22-3). Exhibit 9A repealed by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

Exhibit A. Renumbered**Historical Note**

New Exhibit adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). New Exhibit A recodified from Article 12 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2). Exhibit A renumbered to Exhibit 9A by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit 9B. Repealed**Historical Note**

Exhibit 9B renumbered from Exhibit B and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Exhibit 9B repealed by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

Exhibit B. Renumbered**Historical Note**

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). New Exhibit B recodified from Article 12 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2). Exhibit B renumbered to Exhibit 9B by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

ARTICLE 10. GROUND AMBULANCE VEHICLE REGISTRATION**R9-25-1001. Initial and Renewal Application for a Certificate of Registration (Authorized by A.R.S. §§ 36-2212, 36-2232, 36-2240)**

- A.** To be eligible to obtain a certificate of registration for a ground ambulance vehicle, an applicant shall:
1. Hold a current and valid certificate of necessity issued under Article 9 of this Chapter;
 2. Possess a copy of a current and valid motor vehicle registration for the ground ambulance vehicle, issued according to A.R.S. Title 28, Chapter 7, Article 2, or similar statutes in another state; and
 3. Comply with all applicable requirements of this Article; Articles 2, 9, and 11 of this Chapter; and A.R.S. Title 36, Chapter 21.1.

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- B.** An applicant for an initial or renewal certificate of registration of a ground ambulance vehicle shall submit an application packet to the Department that contains:
1. The following information in a Department-provided format:
 - a. The applicant's legal business or corporate name, including all other business names used by the applicant related to the use of a ground ambulance vehicle;
 - b. The applicant's mailing address; email address; physical address of the business, if different from the mailing address; fax number, if any; and telephone number;
 - c. The following information about the ground ambulance vehicle:
 - i. The manufacturer's name;
 - ii. The year the ground ambulance vehicle was manufactured;
 - iii. The vehicle identification number of the ground ambulance vehicle;
 - iv. The unit number of the ground ambulance vehicle, assigned by the applicant;
 - v. The ground ambulance vehicle's state license plate number; and
 - vi. The location at which the ground ambulance vehicle will be available for inspection;
 - d. If applicable, the identification number of the certificate of necessity under which the ground ambulance vehicle is registered;
 - e. The name, email address, and telephone number of the individual to contact to arrange for inspection, if the inspection is preannounced;
 - f. The name, title, address, email address, and telephone number of the individual acting on behalf of the applicant according to R9-25-102;
 - g. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - h. Attestation that the information provided in the application packet, including the information in the accompanying documents, is accurate and complete; and
 - i. The signature of the applicant or applicant's designated representative and date signed;
 2. A copy of documentation demonstrating compliance with subsection (A)(2); and
 3. Unless the applicant operates or intends to operate the ground ambulance vehicle only as a volunteer not-for-profit service, the following fees:
 - a. A \$50 registration fee, as required under A.R.S. § 36-2212(D); and
 - b. A \$200 annual regulatory fee, as required under A.R.S. § 36-2240(4).
- C.** Except as provided in A.R.S. § 36-2232(A)(11), the Department shall inspect each ground ambulance vehicle according to R9-25-1004(A) and (B) to determine compliance with the provisions of A.R.S. Title 36, Chapter 21.1 and this Article:
1. Within 30 calendar days before an initial certificate of registration is issued by the Department; and
 2. At least every 12 months thereafter, before issuing a renewal certificate of registration.
- D.** The Department shall review and approve or deny each application as described in Article 12 of this Chapter.
- E.** If the Department approves the application and sends the applicant the written notice of approval, specified in R9-25-1201(C)(5), the Department shall issue the certificate of registration to the applicant:
1. For an applicant with a current and valid certificate of necessity issued under Article 9 of this Chapter, within five working days after the date on the written notice of approval; and
 2. For an applicant that does not have a current and valid certificate of necessity issued under Article 9 of this Chapter, when the certificate of necessity is issued.
- F.** The Department may deny a certificate of registration for a ground ambulance vehicle if the applicant:
1. Fails to meet the eligibility requirements of subsection (A);
 2. Fails or has failed to comply with any provision in A.R.S. Title 36, Chapter 21.1;
 3. Fails or has failed to comply with any provision in this Article or Article 2, 9, or 11 of this Chapter;
 4. Knowingly or negligently provides false documentation or false or misleading information to the Department; or
 5. Fails to submit to the Department documents or information requested under R9-25-1201(B)(1) or (C)(3) and requests a denial as permitted under R9-25-1201(E).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1002. Term and Transferability of Certificates of Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, and 41-1092.11)

- A.** The Department shall issue an initial certificate of registration:
1. With a term of one year from date of issuance of the initial certificate of registration; or
 2. If requested by the applicant, with a term shorter than one year that allows for the Department to conduct annual inspections of all of the applicant's ground ambulance vehicles at one time.
- B.** The Department shall issue a renewal certificate of registration with a term of one year from the expiration date on the previous certificate of registration.
- C.** If a certificate holder submits an application for renewal as described in R9-25-1001 before the expiration date of the current certificate of registration, the current certificate of registration does not expire until the Department has made a final determination on the application for renewal, as provided in A.R.S. § 41-1092.11.
- D.** A certificate of registration is not transferable from one person to another.
- E.** If there is a change in the ownership of a ground ambulance vehicle or the person who can legally possess and operate the ground ambulance vehicle, the new owner or person who can legally possess and operate the ground ambulance vehicle shall apply for and obtain a new certificate of registration before operating the ground ambulance vehicle in this state.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). R9-25-1002 renumbered to R9-25-1005; new R9-25-1002 made by

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final rulemaking at 30 A.A.R. 581 (March 29, 2024),
with an immediate effective date of March 7, 2024 (Supp.
24-1).

R9-25-1003. Changes Affecting Registration (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2238, and 36-2247)

- A. At least 30 days before the date of a change in a certificate holder's name, the certificate holder shall send the Department written notice of the name change.
- B. Within 30 days after the date of receipt of a notice described in subsection (A), the Department shall issue an amended certificate of registration that incorporates the name change but retains the expiration date of the current certificate of registration.
- C. No later than 10 days after a certificate holder ceases to operate a ground ambulance vehicle, the certificate holder shall send the Department written notice of the date that the certificate holder ceased to operate the ground ambulance vehicle and of the certificate holder's intention to relinquish the certificate of registration for the ground ambulance vehicle as of that date.
- D. Within 30 days after the date of receipt of a notice described in subsection (C), the Department:
 1. Shall:
 - a. Void the certificate of registration for the ground ambulance vehicle; and
 - b. Send the certificate holder written confirmation of the voluntary relinquishment of the certificate of registration, with an effective date that corresponds to the written notice; and
 2. If the ground ambulance vehicle is the only ground ambulance vehicle operated by a ground ambulance service, may revoke the certificate of necessity of the ground ambulance service.
- E. A certificate holder shall notify the Department in writing within one working day after a change in the certificate holder's eligibility to hold a certificate of registration for a ground ambulance vehicle under R9-25-1001(A)(2) or (3).
- F. Upon receiving a notification required in subsection (E), the Department:
 1. Shall revoke the certificate for the ground ambulance vehicle; and
 2. If the ground ambulance vehicle is the only ground ambulance vehicle operated by a ground ambulance service, may revoke the certificate of necessity of the ground ambulance service.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Amended by final rulemaking at 12 A.A.R. 4404, effective January 6, 2007 (Supp. 06-4). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 3487, with an immediate effective date of December 4, 2018 (Supp. 18-4). R9-25-1003 repealed; new R9-25-1003 made by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1004. Ground Ambulance Vehicle Inspections (Authorized by A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2232(A)(11), and 36-2241)

- A. Except as provided in R9-25-910(B) and subsection (B)(2), an applicant or a certificate holder shall:

1. Make a ground ambulance vehicle, equipment, and supplies available for inspection within Arizona within 10 working days after a request by the Department; and
 2. Upon the Department's request, provide the opportunity to ride in or operate the ground ambulance vehicle being inspected.
- B. The Department:
 1. Shall inspect:
 - a. Each ground ambulance vehicle according to R9-25-1005 and Table 10.1,
 - b. Supplies and equipment according to Table 10.2, and
 - c. For the level of service the ground ambulance vehicle is expected to be used to provide;
 2. May inspect, without prior notification, a ground ambulance vehicle or supplies and equipment, for the level of service a ground ambulance vehicle is being used to provide at the time of inspection; and
 3. Shall conduct each inspection in compliance with A.R.S. § 41-1009.
 - C. As permitted under A.R.S. § 36-2232(A)(11), upon a certificate holder's request and at the certificate holder's expense, the annual inspection of a ground ambulance vehicle required for renewal of a certificate of registration may be conducted by a Department-approved inspection facility according to Table 10.1.
 - D. A certificate holder may request the Department to inspect all of the certificate holder's ground ambulance vehicles at the same date and location.
 - E. If, after inspection of a certificate holder's ground ambulance vehicle according to Table 10.1, the Department determines that the ground ambulance vehicle has:
 1. A major defect, the certificate holder shall take the ground ambulance vehicle out-of-service until the major defect is corrected; or
 2. A minor defect, the certificate holder:
 - a. May allow the ground ambulance vehicle to be operated to transport patients for up to 15 calendar days while the minor defect is corrected; and
 - b. After 15 calendar days, shall take the ground ambulance vehicle out-of-service until the minor defect is corrected, unless granted an extension of time, according to subsection (F), to repair the minor defect.
 - F. The Department may grant an extension of time for a certificate holder to repair a minor defect upon a written request from the certificate holder, detailing the reasons for the need of an extension of time.
 - G. Within 15 calendar days after the date of repair of a major defect or minor defect, a certificate holder shall submit written notice and documentation of the repair to the Department.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). R9-25-1004 repealed; new R9-25-1004 made by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1005. Minimum Standards for Ground Ambulance Vehicles (Authorized by A.R.S. §§ 36-2202(A)(5), 36-2232(C)(5))

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- A.** An applicant for a certificate of registration or a certificate holder shall ensure that a ground ambulance vehicle is marked on the sides of the ground ambulance vehicle with the legal business or corporate name of the applicant or certificate holder, with letters not less than six inches in height.
- B.** An applicant for a certificate of registration or a certificate holder shall ensure a ground ambulance vehicle is equipped with the following:
1. An engine intake air cleaner that meets the ground ambulance vehicle manufacturer's engine specifications;
 2. A brake system that meets the requirements in A.R.S. § 28-952;
 3. A cooling system in the engine compartment that maintains the engine temperature operating range required to prevent damage to the ground ambulance vehicle engine;
 4. A battery:
 - a. With no leaks, corrosion, or other visible defects; and
 - b. As measured by a voltage meter, capable of generating:
 - i. 12.6 volts at rest, and
 - ii. 13.2 to 14.2 volts on high idle with all electrical equipment turned on;
 5. A wiring system in the engine compartment designed to prevent the wire from being cut by or tangled in the engine or hood;
 6. Hoses, belts, and wiring with no visible defects;
 7. An electrical system capable of maintaining a positive amperage charge while the ground ambulance vehicle is stationary and operating at high idle with headlights, running lights, patient compartment lights, environmental systems, and all warning devices turned on;
 8. An exhaust pipe, muffler, and tailpipe that meet the requirements in A.R.S. § 28-955 under the ground ambulance vehicle and securely attached to the chassis;
 9. A frame capable of supporting the:
 - a. Gross vehicle weight of the ground ambulance vehicle; and
 - b. The anticipated weight of ambulance attendants, supplies and equipment, and patients;
 10. A horn that meets the requirements in A.R.S. § 28-954(A);
 11. A siren that meets the requirements in A.R.S. § 28-954(E);
 12. A front bumper that is positioned at the forward-most part of the ground ambulance vehicle extending to the ground ambulance vehicle's outer edges;
 13. A fuel cap of a type specified by the manufacturer for each fuel tank;
 14. A steering system to include:
 - a. For a hydraulic power steering system:
 - i. Power-steering belts free from frays, cracks, or slippage;
 - ii. Power-steering system that is free from leaks; and
 - iii. Fluid in the power-steering system that fills the reservoir between the full level and the add level indicator on the dipstick;
 - b. For an electrical or other type of steering system that does not contain the components of a hydraulic power steering system, components that:
 - i. Provide the same functions as a hydraulic power steering system, and
 - ii. Meet manufacturer's specifications; and
 - c. Bracing extending from the center of the steering wheel to the steering wheel ring that is not cracked;
15. Front and rear shock absorbers that are free from leaks;
 16. Tires on each axle that:
 - a. Are properly inflated;
 - b. Are of equal size, equal ply ratings, and equal type;
 - c. Are free of bumps, knots, or bulges;
 - d. Have no exposed ply or belting; and
 - e. Have tread groove depth equal to or more than 4/32 inch;
 17. An air cooling system capable of achieving and maintaining a 20° F difference between the air intake and the cool air outlet;
 18. Air cooling and heater hoses secured in all areas of the ground ambulance vehicle and chassis to prevent wear due to vibration;
 19. Body free of damage or rust that interferes with the physical operation of the ground ambulance vehicle or creates a hole in the driver's compartment or the patient compartment;
 20. Windshield defrosting and defogging equipment;
 21. Emergency warning lights that provide 360° conspicuity;
 22. At least one 5-lb. ABC dry, chemical, multi-purpose fire extinguisher in a quick release bracket, either disposable with an indicator of a full charge or with a current inspection tag;
 23. A heating system capable of achieving and maintaining a temperature of not less than 68° F in the patient compartment within 30 minutes;
 24. Sides of the ground ambulance vehicle insulated and sealed to prevent dust, dirt, water, carbon monoxide, and gas fumes from entering the interior of the patient compartment and to reduce noise;
 25. Interior patient compartment wall and floor coverings that are:
 - a. In good repair and capable of being disinfected, and
 - b. Maintained in a sanitary manner;
 26. Padding over exit areas from the patient compartment and over sharp edges in the patient compartment;
 27. Secured interior equipment and other objects;
 28. When present, hangers or supports for equipment mounted not to protrude more than 2 inches when not being used;
 29. Functional lamps and signals, including:
 - a. Bright and dim headlamps,
 - b. Brake lamps,
 - c. Parking lamps,
 - d. Backup lamps,
 - e. Tail lamps,
 - f. Turn signal lamps,
 - g. Side marker lamps,
 - h. Hazard lamps,
 - i. Patient loading door lamps and side spot lamps,
 - j. Spot lamp in the driver's compartment and within reach of the ambulance attendant, and
 - k. Patient compartment interior lamps;
 30. Side-mounted rear vision mirrors and wide vision mirror mounted on, or attached to, the side-mounted rear vision mirrors or other optical devices allowing monitoring of the area surrounding the ground ambulance vehicle;
 31. A patient loading door that permits the safe loading and unloading of a patient occupying a stretcher in a supine position;

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32. At least two means of egress from the patient compartment to the outside through a door;
 33. Functional open door securing devices on a patient loading door;
 34. Patient compartment upholstery free of cuts or tears and capable of being disinfected;
 35. A three-point occupant restraint system installed for each seat in the driver's compartment;
 36. A restraint system installed for each seat in the patient compartment:
 - a. For a ground ambulance vehicle manufactured before January 1, 2025, that consists of at least a seat belt; and
 - b. For a ground ambulance vehicle manufactured on or after January 1, 2025, with at least three-points of contact with the occupant of a seat;
 37. A wheeled, multi-level stretcher that is:
 - a. Suitable for supporting a patient at each level;
 - b. At least 69 inches long and 20 inches wide;
 - c. Rated for use with a patient weighing either:
 - i. Up to 350 pounds, or
 - ii. For a ground ambulance vehicle capable of transporting a patient weighing over 350 pounds, up to the rated capability of the ground ambulance vehicle;
 - d. Adjustable to allow a patient to recline and to elevate the patient's head and upper torso to an angle at least 70° from the horizontal plane;
 - e. Equipped with a mattress that has a protective cover that is free of cracks, cuts, or tears and capable of being disinfected;
 - f. Equipped with a five-point restraint system to secure a patient during transport; and
 - g. Equipped to secure the stretcher to the interior of the vehicle during transport using the fastener required under subsection (B)(38);
 38. A crash stable side or center mounting fastener of the quick release type to secure a stretcher to a ground ambulance vehicle;
 39. Windshield and windows free of obstruction;
 40. A windshield free from unrepaired starred cracks and line cracks that extend more than 1 inch from the bottom or sides of the windshield or that extend more than 2 inches from the top of the windshield;
 41. A windshield-washer system that applies enough cleaning solution to clear the windshield;
 42. Operable windshield wipers with a minimum of two speeds;
 43. Functional hood latch for the engine compartment;
 44. Fuel system with fuel tanks and lines that meets manufacturer's specifications;
 45. Suspension system that meets the ground ambulance vehicle manufacturer's specifications;
 46. Instrument panel that meets the ground ambulance vehicle manufacturer's specifications; and
 47. Wheels that meet and are mounted according to manufacturer's specifications.
- C. An applicant for a certificate of registration or a certificate holder shall ensure that a ground ambulance vehicle is equipped:
 1. To provide, and capable of providing, voice communication between:
 - a. An ambulance attendant and the dispatch center; and
 - b. An ambulance attendant and a source from which the ambulance attendant may request and receive on-line medical direction, according to R9-25-201(E)(2)(a)(i); and
 2. Except as provided in subsection (E), with a global positioning monitoring device to enable the recording of times of arrival on-scene for determining response times.
 - D. An applicant for a certificate of registration or a certificate holder shall ensure that a ground ambulance vehicle is equipped, as specified in Table 10.2, to provide the level of service for which the ground ambulance vehicle is to be used.
 - E. An applicant for a certificate of registration or a certificate holder may request a waiver of the requirement in subsection (C)(2) by submitting to the Department, on an annual basis and in a Department-provided format, the following information:
 1. The applicant's or certificate holder's name;
 2. If applicable, the identification number of the certificate of necessity under which the ground ambulance vehicle is registered;
 3. The identifying information specified in R9-25-1001(B)(1)(c) for the ground ambulance vehicle to which the waiver would pertain;
 4. A reason and justification for the waiver;
 5. The name, title, address, email address, and telephone number of the individual acting on behalf of the applicant or certificate holder according to R9-25-102;
 6. Whether the applicant agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 7. Attestation that the information provided is accurate and complete; and
 8. The signature of the specified according to subsection (E)(5) and date signed.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). R9-25-1005 repealed; new R9-25-1005 renumbered from R9-25-1002 and amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1006. Repealed**Historical Note**

New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Repealed by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

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Table 10.1. Major and Minor Defects (Authorized by A.R.S. §§ 36-2202(A)(5), 36-2212, 36-2232, 36-2234)

The Department classifies defects on a ground ambulance vehicle as major or minor as follows:

INSPECTION ITEM	MAJOR DEFECT	MINOR DEFECT
EXTERIOR:		
Emergency warning lights	Lack of 360° of conspicuity	Cracked, broken, or missing lens Inoperative lamps
Ground ambulance vehicle body	Damage or rust to the exterior of the ground ambulance vehicle, which interferes with the operation of the ground ambulance vehicle Damage resulting in a hole in the driver's compartment or the patient compartment Holes that may allow exhaust or dust to enter the patient compartment Bolts attaching body to chassis loose, broken, or missing	Damage resulting in cuts or rips to the exterior of the ground ambulance vehicle
Marking		Missing company identification Incorrect size or location
Mirrors or other optical devices allowing monitoring of the area surrounding the ground ambulance vehicle	Exterior rear vision or wide vision mirrors missing or An optical device not functioning according to manufacturer's specifications	Cracked mirror glass Loose mounting bracket bolts or screws Broken mirrors Loose or broken mounting brackets Missing mounting bracket bolts or screws
Windshield		Unrepaired starred cracks or line cracks extending more than 1 inch from the bottom or side of the windshield Unrepaired starred cracks or line cracks extending more than 2 inches from the top of the windshield
Windows		Placement of nontransparent materials which obstruct view Cracked or broken
Fuel caps	Fuel caps missing or of a type not specified by the manufacturer	
Bumpers		Loose or missing bumper
Patient compartment doors	Completely or partially missing window panel Two means of egress missing or inoperative	Inoperative open door securing devices Cracked window panels
Padding over exit areas		Missing padding over exits in the patient compartment Deterioration of padding
Fire extinguisher	Absent or non-functional	Not at full charge Expired inspection tag
Exhaust system	Exhaust fumes in the patient or driver compartment	Muffler not securely attached to the chassis and tailpipe Exhaust pipe brackets not securely attached to the chassis and tailpipe End of tailpipe pinched or bent
Wheels	Loose or missing lug nuts Broken lugs Cracked or bent rims	
Tires	Tires on each axle are not of equal size, equal ply ratings, and equal type Bumps, knots, or bulges on any tire Exposed ply or belting on any tire Flat tire on any wheel	Tread groove depth less than 4/32" measured in a tread groove on any tire Not properly inflated
EXTERIOR LIGHTING:		
Head lamps	Inoperative	High beam inoperative Low beam inoperative Inoperative dimmer switch
Brake lamps	Both inoperative	One inoperative
Parking lamps		Inoperative

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Back-up lamps		Inoperative Cracked, broken, or missing lens
Tail lamps	Both inoperative	One inoperative Cracked, broken, or missing lens
Turn signal lamps		Any turn signal lamp inoperative Cracked, broken, or missing lens
Side marker lamps		Inoperative Cracked, broken, or missing lens
Hazard lamps		Inoperative
Loading lamps		Inoperative Cracked, broken, or missing lens
ENGINE COMPARTMENT AND BATTERY:		
Engine compartment		Inoperative hood latch Deterioration of hoses, belts, or wiring Air cooling and heater hoses not secured Fluid leaks other than engine cooling system
Battery	Not secured For a vehicle powered by an electric motor, not meeting manufacturer's guidelines for use	Deterioration of battery hold-down clamps Corrosive acid buildup on battery terminals Incapable of generating voltage in compliance with R9-25-1005(B)(4)(b)
Electrical system	Does not comply with R9-25-1005(B)(7)	
Engine compartment wiring system		Does not comply with R9-25-1005(B)(5)
Engine cooling system	Does not comply with R9-25-1005(B)(3)	Leaks in system Inadequate fluid in reservoir
Engine intake air cleaner		Does not comply with R9-25-1005(B)(1)
DRIVER'S COMPARTMENT:		
Air cooling system	Does not maintain temperature required according to R9-25-1005(B)(17)	Unsecured hoses
Instrument panel		Inoperative gauges, switches, or illumination
Global positioning monitoring device		Except if under a waiver granted under R9-25-1005(E), lack of operative equipment
Horn		Inoperative
Siren	Inoperative	
Steering wheel bracing	Steering wheel bracing cracked	
Windshield-washer system		Does not comply with R9-25-1005(B)(41)
Windshield defroster/defogger		Inoperative Ventilation system openings partially blocked
Windshield wipers	Inoperative wiper on driver's side	Inoperative speed control Split or cracked wiper blade Inoperative wiper on passenger's side
Windshield	Windshield that is obstructed Placement of nontransparent materials that obstruct view	
Equipment		Inability to secure equipment
Occupant restraint system	Absence of an occupant restraint system or inoperative occupant restraint system in the driver's compartment	Frayed material on the occupant restraint system
Spot lamp in driver's compartment		Inoperative
Exhaust system	Exhaust fumes in the driver's compartment	
PATIENT COMPARTMENT:		
Air cooling system	Does not maintain temperature required according to R9-25-1005(B)(17)	Unsecured hoses

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Heating system		Unsecured hoses Does not maintain minimum temperature required in R9-25-1005(B)(23)
Equipment	Inability to secure oxygen tanks Inability of fixed oxygen tank to hold pressure	Inability to secure other equipment Inability of portable oxygen tank to hold pressure
Interior wall and floor coverings and seat upholstery	Visible blood, body fluids, or tissue	Unrepaired cuts or holes in seats Missing pieces of floor covering Upholstery, floor, walls, or ceiling not capable of being disinfected
Occupant restraint systems and securing belts	More than one inoperative occupant restraint system in the patient compartment Absence of securing belts on a stretcher	Frayed material on the occupant restraint system or securing belt One inoperative occupant restraint system in the patient compartment
Stretcher fastener	Does not comply with R9-25-1005(B)(38)	
Hangers		Supports or hangers protruding more than 2" when not being used
Edges		Presence of exposed sharp edges
Patient Compartment interior lamps	All lamps inoperative	Inoperative individual lamps Missing lens
Stretcher	Does not comply with R9-25-1005(B)(37)	
Exhaust system	Exhaust fumes in the patient compartment	
COMMUNICATION EQUIPMENT:		
Communication capability between an ambulance attendant and the dispatch center	Lack of operative communication equipment	
Communication capability between an ambulance attendant and the physician providing on-line medical direction	Lack of operative communication equipment	
GENERAL SYSTEMS:		
Frame	Cracks in frame	
Suspension	Broken suspension parts U-bolts loose or missing	Bent suspension parts Leaking shock absorbers Cracks or breaks in shock absorber mounting brackets
Side insulation	Missing or settled insulation	Inadequate insulation
Parking brake		Inoperative
Vehicle brakes	Inoperative	Fluid leaks
Steering system	Inoperative	Power steering belts slipping Power steering belts cracked or frayed Fluid leaks Fluid does not fill the reservoir between the full level and the add level indicator on the dipstick

Historical Note

New Table 10.1 made by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

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Table 10.2. Minimum Equipment and Supplies for Ground Ambulance Vehicles (Authorized by A.R.S. § 36-2202(A)(5))

An applicant for a certificate of registration or a certificate holder shall ensure that a ground ambulance vehicle contains, at a minimum, the following operational equipment and supplies based on the level of service of use:

MINIMUM EQUIPMENT AND SUPPLIES		BLS	ALS
A. Ventilation and Airway Equipment			
1.	Portable and fixed suction apparatus	X	X
2.	Wide-bore tubing, rigid pharyngeal curved suction tip and flexible suction catheters in the following French sizes: a. Two in 6, 8, or 10; and b. Two in 12, 14, or 16	X	X
3.	One fixed oxygen cylinder or equivalent with a minimum capacity of 106 cubic feet, a minimum pressure of 500 p.s.i., and a variable flow regulator	X	X
4.	One portable oxygen cylinder with a minimum capacity of 13 cubic feet, a minimum pressure of 500 p.s.i., and a variable flow regulator	X	X
5.	Oxygen administration equipment, including tubing; non-rebreathing masks (adult, pediatric, and infant sizes); and nasal cannulas (adult, Pediatric, and infant sizes)	X	X
6.	Bag-valve mask, with hand-operated, self-reexpanding bag (adult size), with oxygen reservoir/accumulator; mask (adult, pediatric, infant, and neonate sizes); and valve	X	X
7.	Airways, nasal (adult, pediatric, and infant sizes), one each in French sizes 16 to 34	X	X
8.	Airways, oropharyngeal, two each in adult, pediatric, and infant sizes	X	X
9.	Laryngoscope handle, adult and pediatric, with, if applicable, extra batteries and bulbs	-	X
10.	Laryngoscope blades, one each in sizes 0, 1, and 2, straight; sizes 3 and 4, straight and curved	-	X
11.	Endotracheal tubes, sizes 2.5-5.5 mm cuffed or uncuffed and 6.0-9.0 mm cuffed	-	X
12.	Endotracheal tube cuff pressure manometer	-	X
13.	Stylettes for Endotracheal tubes, one each in adult and pediatric sizes	-	X
14.	One type of supraglottic airway device	-	X
15.	Two 10 mL straight-tip syringes	-	X
16.	Two long, large-bore needles for needle chest decompression, 2" to 3.25" long and 14-16G	-	X
17.	Hand-held nebulizer(s)	-	X
18.	Aerosol masks, one each adult and pediatric	-	X
19.	Magill forceps, adult and pediatric	-	X
20.	Nasogastric tubes, sizes 5F and 8F, Salem sump sizes 14F and 18F	-	X
21.	End-tidal CO2 detectors, quantitative, with capability for adult and pediatric patients	-	X
22.	Non-Invasive Positive Pressure Ventilation (NIPPV) device with one mask in each available size	-	X
23.	In-line viral/bacterial filter	-	X
B. Monitoring and Defibrillation			
1.	Automatic external defibrillator	X	-
2.	One portable, battery-operated monitor/defibrillator, with tape write-out/recorder, defibrillator pads, adult and pediatric paddles or hands-free patches, ECG leads, and adult and pediatric chest attachment electrodes	-	X
3.	Transcutaneous cardiac pacemaker, either stand-alone unit or integrated into monitor/defibrillator, including pediatric pads and cables	-	X
C. Stretchers and Immobilization Devices			
1.	One stair chair or another mechanism for safely moving a patient in an upright sitting position	X	X
2.	Cervical immobilization devices, rigid, adjustable or two each in small, medium, and large sizes	X	X
3.	Head immobilization device, either firm padding or another commercial device	X	X
4.	Lower extremity (femur) traction device, including lower extremity, limb support slings, padded ankle hitch, padded pelvic support, and traction strap (one adult-sized and one child-sized)	X	X
5.	Two upper and two lower extremity immobilization splints in each of small, medium and large sizes	X	X
6.	Two full-length spine boards	X	X
7.	Supplies to secure a patient to a spine board, including at least three appropriate restraint straps (not using a single chin strap for head immobilization)	X	X
8.	One cervical-thoracic spinal immobilization device for extrication	X	X
D. Bandages			
1.	Burn pack, including standard package, two sterile burn sheets	X	X
2.	Dressings, including sterile multi-trauma dressings (various large and small sizes, including three sized 10" x 12" or larger)	X	X
3.	Two abdominal pads, 10" x 12" or larger	X	X
4.	Fifty non-sterile 4" x 4" gauze sponges	X	X
5.	Two triangular bandages	X	X
6.	Four gauze rolls, sterile (4" or larger)	X	X

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7.	Ten soft roller bandages, non-sterile (4" or larger)	X	X
8.	Four occlusive dressing, sterile, 3" x 8" or larger	X	X
9.	Adhesive or self-adhesive tape, including various sizes (1" or larger) hypoallergenic adhesive and two various sizes (1" or larger) adhesive or self-adhesive	X	X
E. Obstetrical			
1.	Sterile obstetrical kit, including towels, 4" x 4" dressing, umbilical tape, sterile scissors or other cutting utensil, bulb suction, clamps for cord, sterile gloves, blankets, and a head cover	X	X
2.	An alternate portable patient heat source or 2 heat packs	X	X
F. Miscellaneous			
1.	Sphygmomanometer (infant, pediatric, and adult regular and large sizes)	X	X
2.	Stethoscope	X	X
3.	Pediatric equipment sizing reference guide	-	X
4.	Thermometer with low temperature capability	X	X
5.	Paramedic or trauma shears capable of cutting heavy bandages, clothing, belts, and boots	X	X
6.	Cold packs	X	X
7.	Two flashlights with extra batteries or recharger, as applicable	X	X
8.	Two blankets	X	X
9.	One blanket with head cover made of heat-reflective material	X	X
10.	Two sheets	X	X
11.	Two cloth towels, each at least 12" by 12" in size	X	X
12.	Five disposable emesis bags or basins	X	X
13.	Lubricating jelly (water soluble)	X	X
14.	Glucometer or blood glucose measuring device with reagent strips	X	X
15.	Pulse oximeter with pediatric and adult probes	X	X
16.	Automatic blood pressure monitor	-	X
17.	Trauma arterial tourniquet	X	X
18.	One scalpel	-	X
19.	Mass casualty triage sorting capability for at least 50 individuals (triage tags)	X	X
20.	Beginning April 2024, a method to electronically document patient information and treatment that is capable of being transferred	X	X
G. Infection Control (Latex-free equipment shall be available)			
1.	Two sets of eye protection (full peripheral glasses or goggles, face shield)	X	X
2.	Two masks, at least as protective as a National Institute for Occupational Safety and Health-approved N-95 respirator, which are fit-tested	X	X
3.	Two pairs of gloves, non-sterile, and three pairs of non-latex gloves	X	X
4.	Two jumpsuits or gowns	X	X
5.	Two pairs of shoe covers	X	X
6.	Disinfectant hand wash, commercial antimicrobial (towelette, spray, or liquid)	X	X
7.	Disinfectant solution for cleaning equipment	X	X
8.	Standard sharps containers	X	X
9.	Disposable red trash bags	X	X
10.	Ten protective facemasks or cloth face coverings for patients	X	X
H. Injury Prevention Equipment			
1.	Safety vest or other garment with reflective material for each personnel member	X	X
2.	Hazardous material reference guide	X	X
3.	Hearing protection for personnel	X	X
I. Vascular Access			
1.	The following intravenous solution administration sets:	-	X
a.	Four intravenous solution administration sets, capable of delivering 10 drops per cc		
b.	Four intravenous solution administration sets capable of delivering 60 drops per cc		
2.	Antiseptic solution (alcohol wipes and povidone-iodine wipes)	X	X
3.	Intravenous pressure infuser device or mechanical capability	-	X
4.	Intravenous catheters, one each of 14, 16, 18, 20, 22, and 24 G	-	X
5.	Two intraosseous needles, each capable of use in adult and pediatric patients	-	X
6.	Venous tourniquet	-	X

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7. The following syringes:	-	X
a. Two 1 mL tuberculin,		
b. Four 3 mL,		
c. Four 5 mL,		
d. Four 10-12 mL,		
e. Two 20 mL, and		
f. Two 50-60 mL		
8. Three 5 micron filter needles	-	X
9. Assorted sizes of non-filter needles	-	X
10. Intravenous arm boards, adult and pediatric	-	X
J. Medications		
1. Agents specified in a table of agents, established according to A.R.S. § 36-2204 and available through the Department at www.azdhs.gov/ems-regulatory-references , that an administrative medical director may authorize for use based on the EMCT classification	X	X
2. Sterile saline for irrigation	X	X

Historical Note

New Table 10.2 made by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

ARTICLE 11. GROUND AMBULANCE SERVICE RATES AND CHARGES; CONTRACTS

R9-25-1101. Establishing Initial General Public Rates (Authorized by A.R.S. §§ 36-2232, 36-2239)

A. As provided in R9-25-902(A)(19), an applicant wanting to establish initial general public rates as part of an application for an initial certificate of necessity shall include the following in the application packet submitted to the Department according to R9-25-902(A):

1. A copy of the applicant's financial statements, covering the most recent consecutive 12-month period;
2. A copy of the purchase agreements or lease agreements listed according to R9-25-902(A)(17), if not already submitted according to R9-25-902(A)(28);
3. For all business organizations or governmental entities affiliated with the applicant listed according to R9-25-902(A)(1)(d), the methodology and calculations used in allocating costs among the applicant and government entities or profit or not-for-profit businesses;
4. Other documents, exhibits, or statements that may assist the Department in setting the general public rates; and
5. Any other information or documents requested by the Director to clarify or complete the application.

B. A certificate holder applying for initial general public rates shall submit to the Department:

1. The following information, in a Department-provided format:
 - a. The identifying number on the certificate holder's current certificate of necessity;
 - b. The legal business or corporate name, address, telephone number, and facsimile number of the ground ambulance service;
 - c. Any other names by which the certificate holder is known;
 - d. The names of all other business organizations or governmental entities operated by the certificate holder related to the ground ambulance service;
 - e. The name, title, address, email address, and telephone number of the following:
 - i. Each certificate holder and individual responsible for managing the ground ambulance service,
2. The documents required in subsections (B)(4) through

- ii. The individual acting for the certificate holder according to R9-25-102,
- iii. The individual to contact to access the ground ambulance service's records required in R9-25-908(B), and
- iv. The statutory agent for the ground ambulance service or the individual designated by the certificate holder to accept service of process and subpoenas for the ground ambulance service;

- f. The requested general public rates;
- g. Whether the certificate holder agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
- h. Attestation that the information or documents submitted to the Department are true and correct; and
- i. The signature of the individual acting for the certificate holder according to R9-25-102 and the date signed;

2. A copy of the certificate holder's financial statements, covering the most recent consecutive 12-month period;
3. A projected Ambulance Revenue and Cost Report covering the first consecutive 12 months of operation under the requested general public rates in subsection (B)(1)(f);
4. A copy of all actual or anticipated purchase agreements or lease agreements to be used in connection with the ground ambulance service, including the monetary amount and duration of each agreement, for:
 - a. Real estate,
 - b. Ground ambulance vehicles, or
 - c. Equipment exceeding \$10,000;
5. For all business organizations or governmental entities affiliated with the certificate holder listed according to subsection (B)(1)(d), the methodology and calculations used in allocating costs among the certificate holder and business organizations or governmental entities;
6. Other documents, exhibits, or statements that may assist the Department in setting the general public rates; and
7. Any other information or documents requested by the Director to clarify or complete the application.

C. Each certificate holder requesting to apply for a uniform general public rate under A.R.S. § 36-2232(E) shall submit to the Department:

1. The information required in subsection (B)(1); (7);

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3. A copy of the certificate holder's financial statements, covering the most recent consecutive 24-month period;
 4. Projected Ambulance Revenue and Cost Reports covering the first consecutive 24 months of operation under the requested general public rates in subsection (B)(1)(f); and
 5. A document signed by each certificate holder requesting to apply for a uniform general public rate under A.R.S. § 36-2232(E).
- D.** The Department shall review an application under subsection (B) or (C) according to R9-25-1106, R9-25-1107, and R9-25-1201 and approve or deny the application according to A.R.S. § 36-2232 and Article 12 of this Chapter.
- Historical Note**
- New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1).
Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).
- R9-25-1102. Application for Adjustment of General Public Rates (Authorized by A.R.S. §§ 36-2234, 36-2239)**
- A.** A certificate holder applying for an adjustment of general public rates not exceeding the monetary amount calculated according to A.R.S. § 36-2234(G) shall submit to the Department, in a Department-provided format:
1. The name of the certificate holder,
 2. The identifying number on the certificate holder's current certificate of necessity,
 3. A statement that the certificate holder is making the request according to A.R.S. § 36-2234(G),
 4. A statement that the certificate holder has not applied for an adjustment to the certificate holder's general public rates within the previous six months,
 5. The amount of the requested general public rate,
 6. The effective date of the requested general public rate adjustment,
 7. An attestation that the information provided by the certificate holder is true and correct, and
 8. The signature of the individual acting for the certificate holder according to R9-25-102 and the date signed.
- B.** A certificate holder requesting an adjustment of general public rates exceeding the monetary amount calculated according to A.R.S. § 36-2234(G) shall submit to the Department:
1. The following information in a Department-provided format:
 - a. The identifying number on the certificate holder's current certificate of necessity;
 - b. The legal business or corporate name, address, telephone number, and facsimile number of the ground ambulance service;
 - c. Any other names by which the certificate holder is known;
 - d. The names of all other business organizations or governmental entities operated by the certificate holder related to the ground ambulance service;
 - e. The name, title, address, email address, and telephone number of the following:
 - i. Each entity and individual responsible for managing the ground ambulance service,
 - ii. The individual acting for the certificate holder according to R9-25-102,
 - iii. The individual to contact to access the ground ambulance service's records required in R9-25-908(B), and
 - iv. The statutory agent for the ground ambulance service or the individual designated by the certificate holder to accept service of process and subpoenas for the ground ambulance service;
 - f. A statement that the certificate holder is making the request according to A.R.S. § 36-2234(C);
 - g. The reason for the general public rate adjustment request;
 - h. The requested general public rates;
 - i. A statement that the certificate holder has not applied for an adjustment to the certificate holder's general public rates within the previous six months;
 - j. The effective date of the requested general public rate adjustment;
 - k. Whether the certificate holder agrees to allow the Department to submit supplemental requests for information under R9-25-1201(C)(3);
 - l. An attestation that the information and documents provided by the certificate holder are true and correct, and
 - m. The signature of the individual acting for the certificate holder according to R9-25-102 and the date signed;
2. A copy of the certificate holder's financial statements, covering at least:
- a. If applicable under A.R.S. § 36-2234(H), the most recent consecutive 24-month period; or
 - b. The most recent consecutive 12-month period;
3. A copy of the certificate holder's most recent Ambulance Revenue and Cost Report;
4. A projected Ambulance Revenue and Cost Report covering the first consecutive 12 months of operation under the requested general public rates in subsection (B)(1)(h);
5. If the ground ambulance service has a contract with a federal or tribal entity, a copy of the certificate holder's contract with each federal or tribal entity unless the contract has been submitted to the Department and reviewed according to R9-25-1104;
6. A copy of all actual or anticipated purchase agreements or lease agreements to be used in connection with the ground ambulance service, including the monetary amount and duration of each agreement, for:
- a. Real estate,
 - b. Ground ambulance vehicles, or
 - c. Equipment exceeding \$10,000;
7. For all business organizations or governmental entities affiliated with the certificate holder listed according to subsection (B)(1)(d), the methodology and calculations used in allocating costs among the certificate holder and business organizations or governmental entities;
8. Other documents, exhibits, or statements that support the reason for the general public rate adjustment request as specified in subsection (B)(1)(g) and may assist the Department in setting the general public rates; and
9. Any other information or documents requested by the Director to clarify or complete the application.
- C.** An applicant under R9-25-902, requesting to join a group of certificate holders, with a uniform general public rate established according to A.R.S. § 36-2232(E) and R9-25-1101(C), shall submit to the Department:
1. The information required in R9-25-902(A) and R9-25-1101(A)(1);
 2. The documents required in subsections (B)(5) through (9);

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3. A copy of the applicant's financial statements, covering the most recent consecutive 24-month period;
 4. Projected Ambulance Revenue and Cost Reports covering the first consecutive 24 months of operation under the uniform general public rate; and
 5. Documentation supporting the request, signed by each certificate holder with the uniform general public rate.
- D.** A certificate holder with a uniform general public rate, established according to A.R.S. § 36-2232(E) and R9-25-1101(C), that wants to establish a different general public rate shall submit to the Department:
1. A request according to subsection (A) or (B), as applicable; and
 2. Documentation that the certificate holder has notified the other certificate holders with the uniform public rate of the certificate holder's intention of establishing a different general public rate.
- E.** A certificate holder with a uniform general public rate, established according to A.R.S. § 36-2232(E) and R9-25-1101(C), that is notified according to subsection (D)(2) shall, within 60 calendar days after the date of notification of the Department's decision to grant the different general public rate:
1. Notify the Department of the intention to retain the rate currently on the certificate of necessity; or
 2. Submit to the Department the information and documentation required in subsection (B).
- F.** The Department shall review an application under this Section according to R9-25-1106, R9-25-1107, and R9-25-1201 and approve or deny the application according to A.R.S. §§ 36-2234 and 36-2239 and Article 12 of this Chapter.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1103. Application for a Contract Rate or Range of Rates Less than General Public Rates (A.R.S. §§ 36-2234(I) and (K), 36-2239)

- A.** A certificate holder applying for approval of a contract rate or range of rates under A.R.S. § 36-2234(I) shall submit to the Department:
1. The following information, in a Department-provided format:
 - a. The name of the certificate holder;
 - b. The identifying number on the certificate holder's current certificate of necessity;
 - c. A statement that the certificate holder is making the request under A.R.S. § 36-2234(I);
 - d. The contract rate or range of rates being requested;
 - e. The effective date of the requested contract rate or range of rates;
 - f. An attestation that the information and documents provided by the certificate holder are true and correct; and
 - g. The signature of the individual acting for the certificate holder according to R9-25-102 and the date signed; and
 2. Information demonstrating the cost and economics of providing the transports for the requested contract rate or range of rates, such as:
 - a. A copy of the certificate holder's most recent Ambulance Revenue and Cost Report; and

- b. A projected Ambulance Revenue and Cost Report covering the first consecutive 12 months of operation under the requested contract rate or range of rates in subsection (A)(1)(d).

- B.** A certificate holder applying for approval of a contract rate or range of contract rates under A.R.S. § 36-2234(K) shall submit to the Department:

1. The information in subsection (A)(1), in a Department-provided format; and
2. The documents required in R9-25-1102(B)(2) through (8).

- C.** The Department shall review an application under this Section according to R9-25-1106, R9-25-1107, and R9-25-1201 and approve or deny the application according to A.R.S. §§ 36-2234 and 36-2239 and Article 12 of this Chapter.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1104. Ground Ambulance Service Contracts (A.R.S. §§ 36-2232, 36-2234(M))

- A.** A certificate holder shall not institute a new service contract between the ground ambulance service and a political subdivision of this state except as provided in A.R.S. § 36-2234(M).
- B.** Before implementing a ground ambulance service contract, a certificate holder shall submit to the Department:
1. A cover letter from the certificate holder, including:
 - a. The name of the certificate holder;
 - b. The identifying number on the certificate holder's current certificate of necessity;
 - c. A statement that the certificate holder is submitting a copy of a ground ambulance service contract according to A.R.S. § 36-2234(M);
 - d. The name of the other party to the ground ambulance service contract, including, if applicable, the name of a political subdivision;
 - e. The name, title, address, email address, and telephone number of an individual representing the other party, as specified according to subsection (B)(1)(d), who the Department may contact about the proposed ground ambulance service contract if necessary;
 - f. The total number of pages of the proposed ground ambulance service contract; and
 - g. The signature of the individual acting for the certificate holder according to R9-25-102 and the date signed; and
 2. A copy of the proposed ground ambulance service contract that:
 - a. Includes the certificate holder's legal name and any other name listed on the certificate holder's current certificate of necessity;
 - b. Includes the name of the other party to the ground ambulance service contract, as specified according to subsection (B)(1)(d);
 - c. Identifies each type of service and level of service to be provided under the proposed ground ambulance service contract;
 - d. Lists the general public rates or contract rate or range of rates approved by the Director according to R9-25-1101, R9-25-1102, or R9-25-1103;

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- e. Complies with A.R.S. §§ 36-2201 through 36-2246 and this Chapter; and
 - f. Does not preclude use of the 9-1-1 system or a similar system.
- C. Except as provided in R9-25-904(A)(2), the Department shall not approve a proposed ground ambulance service contract between two certificate holders.
- D. The Department shall review a proposed ground ambulance service contract under this Section according to A.R.S. §§ 36-2232 and, if applicable, 36-2234(M) and Article 12 of this Chapter.
- E. The Department shall not enforce the provisions of a ground ambulance service contract unless the executed ground ambulance service contract has been approved by the Department and contains language authorizing the Department to enforce the provisions of the ground ambulance service contract.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1105. Application for Provision of Subscription Service or to Establish a Subscription Service Rate (A.R.S. § 36-2232(A)(1))

- A. An applicant for an initial certificate of necessity or a certificate holder applying to provide subscription service, establish a subscription service rate, or request approval of a subscription service contract shall submit an application packet to the Department that includes:
1. The following information, in a Department-provided format:
 - a. The name of the applicant or certificate holder;
 - b. The identifying number on the certificate holder's current certificate of necessity, if applicable;
 - c. The number of estimated subscription service contracts;
 - d. An estimate of the number of annual subscription service transports for the service area;
 - e. The proposed subscription service rate;
 - f. An estimate of the cost of providing subscription service to the service area;
 - g. An attestation that the information and documents provided by the applicant or certificate holder are true and correct; and
 - h. The signature of the individual acting for the applicant or certificate holder according to R9-25-102 and the date signed;
 2. A copy of the proposed subscription service contract;
 3. Documents supporting the estimate in subsection (A)(1)(c), such as a survey of the service area;
 4. Documents supporting the estimate in subsection (A)(1)(f); and
 5. Any other information or documents that the certificate holder believes may assist the Department in setting a subscription service rate.
- B. The Department shall review an application under this Section according to R9-25-1106, R9-25-1107, and R9-25-1201 and approve or deny a subscription service rate according to Article 12 of this Chapter.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1). Section

heading corrected at request of the Department, Office File No. M11-313, filed September 12, 2011 (Supp. 10-4). Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1106. Rate of Return Setting Considerations (A.R.S. §§ 36-2232, 36-2239)

- A. In determining the rate of return on gross revenue in A.R.S. § 36-2239(I)(4), the Director shall consider a ground ambulance service's:
1. Direct costs for operating the ground ambulance service within its service area, including the costs of supplies and equipment;
 2. Indirect costs for operating the ground ambulance service within its service area, such as costs that do not include the costs of supplies or equipment;
 3. Financial statements;
 4. Ratio between variable and fixed costs on the financial statements;
 5. Method of indirect costs allocation to specific cost-center areas;
 6. Return on equity;
 7. Reimbursable and non-reimbursable charges;
 8. Type of business entity;
 9. Monetary amount and type of debt financing;
 10. Replacement and expansion costs;
 11. Number of calls, transports, and billable miles;
 12. Costs associated with rules, inspections, and audits;
 13. Substantiated prior reported losses;
 14. Medicare and AHCCCS settlements, the difference between the general public rate a ground ambulance service assesses a patient and what a ground ambulance service receives from Medicare or AHCCCS as an allowable rate; and
 15. Any other information or documents needed by the Director to clarify incomplete or ambiguous information or documents.
- B. In determining the rate of return on gross revenue in A.R.S. § 36-2239(I)(4), the Director shall not consider:
1. Depreciation of the portion of ground ambulance vehicles and equipment obtained through Department funding;
 2. The certificate holder's travel and entertainment expenses that do not directly relate to providing the EMS or transport;
 3. The monetary value of any goodwill accumulated by the certificate holder, that is, the difference between the purchase price of a ground ambulance service and the fair market value of the ground ambulance service's identifiable net assets;
 4. Any penalties or fines imposed on the certificate holder by a court or government agency; and
 5. Any financial contributions received by the certificate holder.
- C. In determining just, reasonable, and sufficient rates in A.R.S. § 36-2232(A)(1), the Director shall establish rates to provide for a rate of return that is at least 7% of gross revenue, calculated using the accrual method of accounting according to generally accepted accounting principles, unless the certificate holder requests a lower rate of return.
- D. The Department shall calculate the rate of return on gross revenue by dividing net income, as specified according to R9-25-909(A)(16) or (C)(14) as applicable, by gross revenue, as specified according to R9-25-909(A)(3)(b) or (C)(3)(b) as applicable.

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Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1107. Rate Calculation Factors (A.R.S. § 36-2232)

- A.** When evaluating a proposed mileage rate, the Department shall consider the following factors:
1. The cost of licensure and registration of each ground ambulance vehicle;
 2. The cost of fuel;
 3. The cost of ground ambulance vehicle maintenance;
 4. The cost of ground ambulance vehicle repair;
 5. The cost of tires;
 6. The cost of ground ambulance vehicle insurance;
 7. The cost of mechanic wages, benefits, and payroll taxes;
 8. The cost of loan interest related to the ground ambulance vehicles;
 9. The cost of the weighted allocation of overhead;
 10. The cost of ground ambulance vehicle depreciation;
 11. The cost of reserves for replacement of ground ambulance vehicles and equipment; and
 12. Mileage reimbursement, as established by Medicare guidelines for EMS and transport provided by a ground ambulance service, including considerations to maximize Medicare reimbursement.
- B.** When evaluating a proposed BLS base rate, the Department shall consider the costs associated with providing EMS and transport.
- C.** When evaluating a proposed ALS base rate, the Department shall consider the factors in subsection (B) and the additional costs of ALS ambulance equipment, ALS personnel, and professional liability insurance for ALS personnel.
- D.** When evaluating a proposed critical care rate, the Department shall:
1. Consider the factors in subsections (B) and (C) and the additional costs of providing critical care services; and
 2. Ensure that the critical care rate is:
 - a. Equivalent to at least the amount for specialty care transport, as used in federal Medicare guidelines; and
 - b. Greater than an ALS base rate.
- E.** The Department shall determine the standby waiting rate as no higher than the BLS base rate divided by 4.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1108. Implementation of Rates and Charges (A.R.S. §§ 36-2232, 36-2239)

- A.** Except as provided in A.R.S. § 36-2239(B) and (E), a certificate holder shall not institute a new general public rate, new contract rate or range of rates, or subscription service rate before receiving from the Department an approval of the new general public rate, new contract rate or range of rates, or subscription service rate.
- B.** Under A.R.S. § 36-2232(A)(1) and (4), the Department may periodically review and, if appropriate, adjust rates and charges for a ground ambulance service to ensure that the rates and charges are just, reasonable, and sufficient.

- C.** A certificate holder shall assess rates and charges as follows:

1. When calculating a rate or charge:
 - a. Omit fractions of less than 1/2 of 1 cent; or
 - b. Increase to the next whole cent, fractions of 1/2 of 1 cent or greater;
2. When calculating the number of miles for a transport, use one of the following, with the number of miles rounded as specified in subsection (C)(1):
 - a. The ground ambulance vehicle's odometer reading,
 - b. Software designed to calculate mileage, or
 - c. A regional map;
3. When calculating the reimbursement amount for mileage of a transport, multiply the number of miles for the transport by the mileage rate;
4. When transporting two or more patients in the same ground ambulance vehicle, assess to each patient:
 - a. Fifty percent of the mileage rate and one hundred percent of the ALS or BLS base rate; and
 - b. One hundred percent of:
 - i. The charge for each disposable supply, medical supply, medication, and oxygen-related cost used on the patient; and
 - ii. Waiting time assessed according to subsection (E); and
5. When agreed upon by prior arrangement to transport a patient to one destination and return to the point of pick-up or to one destination and then to a subsequent destination, assess only the ALS or BLS base rate, mileage rate, and standby waiting rate for the transport.

- D.** When a certificate holder transfers a patient to an air ambulance, the certificate holder shall assess the patient the rates and charges for EMS and transport provided to the patient before the transfer.

- E.** A certificate holder shall assess a standby waiting rate in quarter-hour increments, except for:
1. The first 15 minutes after arrival to load the patient at the point of pick-up;
 2. The time, exceeding the first 15 minutes, required by ambulance attendants to provide necessary medical treatment and stabilization of the patient at the point of pick-up; and
 3. The first 15 minutes to unload the patient at the point of destination.

- F.** When a certificate holder responds to a request outside the certificate holder's service area, the certificate holder shall assess the certificate holder's own rates and charges for EMS or transport provided to the patient.

- G.** When the Department or the certificate holder determines that a refund of a rate or a charge is required, the certificate holder shall refund the rate or charge within 90 days after the date of the determination.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1109. Charges (A.R.S. §§ 36-2232, 36-2239(D))

- A.** A certificate holder that charges patients for disposable supplies, medical supplies, medications, and oxygen-related costs shall submit to the Department:
1. A list of the items and the proposed charges, and
 2. A non-retroactive effective date.

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- B.** A certificate holder shall submit to the Department a new list, containing the information required in subsection (A), each time the certificate holder proposes a change in the items or the amount charged.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

R9-25-1110. Invoices (A.R.S. §§ 36-2234, 36-2239)

- A.** A certificate holder shall ensure that:
- Each invoice for rates and charges contains the following:
 - The patient's name;
 - The certificate holder's name, address, and telephone number;
 - The date of service;
 - An itemized list of the rates and charges assessed;
 - The total monetary amount owed the certificate holder; and
 - The payment due date; and
 - Any subsequent invoice to the same patient for the same EMS or transport contains all the information in subsection (A) except the information in subsection (A)(1)(d).
- B.** A certificate holder may combine into one line item the charges for multiple items if:
- The supplies are used together for a specific purpose, and
 - The name of the combined item is included in the certificate holder's list provided to the Department according to R9-25-1109.
- C.** A certificate holder may combine rates and charges into one line item if required by a third-party payor.

Historical Note

New Section adopted by final rulemaking at 7 A.A.R.

1098, effective February 13, 2001 (Supp. 01-1).

Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

ARTICLE 12. TIME-FRAMES FOR DEPARTMENT APPROVALS**R9-25-1201. Time-frames (Authorized by A.R.S. §§ 36-2235, 41-1072 through 41-1079)**

- A.** The overall time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department is listed in Table 12.1. The applicant and the Director may agree in writing to extend the overall time-frame. The substantive review time-frame shall not be extended by more than 25% of the overall time-frame.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department is listed in Table 12.1. The administrative completeness review time-frame begins on the date that the Department receives an application form or an application packet.
- If the application packet is incomplete, the Department shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the written request until the date the Department receives a complete application packet from the applicant.
 - When an application packet is complete, the Department shall send a written notice of administrative completeness.
 - If the Department grants an approval during the time provided to assess administrative completeness, the Department shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time-frame described in A.R.S. § 41-1072 is listed in Table 12.1 and begins on the date of the notice of administrative completeness.
- As part of the substantive review time-frame for an application for an approval other than renewal of an ambulance registration, the Department shall conduct inspections, conduct investigations, or hold hearings required by law.
 - If required under R9-25-402, the Department shall fix the period and terms of probation as part of the substantive review.
 - During the substantive review time-frame, the Department may make one comprehensive written request for additional documents or information and may make supplemental requests for additional information with the applicant's written consent.
 - The substantive review time-frame and the overall time-frame are suspended from the date of the written request for additional information or documents until the Department receives the additional information or documents.
 - The Department shall send a written notice of approval to an applicant:
 - Who:
 - Meets the qualifications in A.R.S. Title 36, Chapter 21.1 and this Chapter for the type of application submitted; or
 - Is not in compliance with requirements in A.R.S. Title 36, Chapter 21.1 and this Chapter, for the type of application submitted, that do not directly affect the health or safety of a patient and submits to the Department a corrective action plan that is acceptable to the Department to address issues of compliance; and
 - For an application under R9-25-902 or R9-25-903, which may include special conditions or limitations, including a shorter renewal term, according to A.R.S. § 36-2235.
 - The Department shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. Title 36, Chapter 21.1, and this Chapter for the type of application submitted.
- D.** If an applicant fails to supply the documents or information under subsections (B)(1) and (C)(3) within the number of days specified in Table 12.1 from the date of the written notice or comprehensive written request, the Department shall consider the application withdrawn.
- E.** An applicant that does not wish an application to be considered withdrawn may request a denial in writing within the number of days specified in Table 12.1 from the date of the written notice or comprehensive written request for documents or information under subsections (B)(1) and (C)(3).
- F.** If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the Department shall consider the next business day as the time-frame's last day.
- G.** A person may appeal a decision according to A.R.S. § 36-2234 or Title 41, Chapter 6, Article 6.

Historical Note

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New Section adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 2352, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Amended by exempt

rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

Table 12.1. Time-frames (in days)

Type of Application	Statutory Authority	Overall Time-frame	Administrative Completeness Time-frame	Time to Respond to Written Notice	Substantive Review Time-frame	Time to Respond to Comprehensive Written Request
ALS Base Hospital Certification (R9-25-204)	A.R.S. §§ 36-2201, 36-2202(A)(3), and 36-2204(5)	45	15	60	30	60
Training Program Certification (R9-25-301)	A.R.S. §§ 36-2202(A)(3) and 36-2204(1) and (3)	120	30	60	90	60
Addition of a Course (R9-25-303)	A.R.S. §§ 36-2202(A)(3) and 36-2204(1) and (3)	90	30	60	60	60
EMCT Certification (R9-25-403)	A.R.S. §§ 36-2202(A)(2), (3), and (4), 36-2202(G), and 36-2204(1)	120	30	90	90	270
EMCT Recertification (R9-25-404)	A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), 36-2202(G), and 36-2204(1) and (4)	120	30	60	90	60
Extension to File for EMCT Recertification (R9-25-405)	A.R.S. §§ 36-2202(A)(2), (3), (4), and (6), 36-2202(G), and 36-2204(1) and (7)	30	15	60	15	60
Downgrading of Certification (R9-25-406)	A.R.S. §§ 36-2202(A)(2), (3), and (4), 36-2202(G), and 36-2204(1) and (6)	30	15	60	15	60
Initial Air Ambulance Service License (R9-25-704)	A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215	150	30	60	120	60
Renewal of an Air Ambulance Service License (R9-25-704)	A.R.S. §§ 36-2202(A)(3) and (4), 36-2209(A)(2), 36-2213, 36-2214, and 36-2215	90	30	60	60	60
Initial Certificate of Registration for an Air Ambulance (R9-25-801)	A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4)	90	30	60	60	60
Renewal of a Certificate of Registration for an Air Ambulance (R9-25-801)	A.R.S. §§ 36-2202(A)(4) and (5), 36-2209(A)(2), 36-2212, 36-2213, 36-2214, and 36-2240(4)	90	30	60	60	60
Initial Certificate of Necessity (R9-25-902)	A.R.S. §§ 36-2204, 36-2232, 36-2233, 36-2240	180	30	60	120	
Renewal of a Certificate of Necessity (R9-25-903)	A.R.S. §§ 36-2233, 36-2235, 36-2240	90	30	60	60	60
Transfer of a Certificate of Necessity (R9-25-904)	A.R.S. §§ 36-2236(A) and (B), 36-2240	180	30	60	120	60
Amendment of a Certificate of Necessity (R9-25-905)	A.R.S. §§ 36-2232(A)(4), 36-2240	180	30	60	120	60
Initial Registration of a Ground Ambulance Vehicle (R9-25-1001)	A.R.S. §§ 36-2212, 36-2232, 36-2240	90	30	60	60	60
Renewal of a Ground Ambulance Vehicle Registration (R9-25-1001)	A.R.S. §§ 36-2212, 36-2232, 36-2240	90	30	60	60	60
Establishment of Initial General Public Rates (R9-25-1101)	A.R.S. §§ 36-2232, 36-2239	180	30	60	120	60

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Adjustment of General Public Rates (R9-25-1102)	A.R.S. §§ 36-2234, 36-2239	450	30	60	420	60
Contract Rate or Range of Rates Less than General Public Rates (R9-25-1103)	A.R.S. §§ 36-2234, 36-2239	450	30	60	420	60
Ground Ambulance Service Contracts (R9-25-1104)	A.R.S. § 36-2232	450	30	60	420	60
Ground Ambulance Service Contracts with Political Subdivisions (R9-25-1104)	A.R.S. §§ 36-2232, 36-2234(K)	30	15	15	15	Not Applicable
Subscription Service Rate (R9-25-1105)	A.R.S. § 36-2232(A)(1)	450	30	60	420	60

Historical Note

Table 12.1 renumbered from Table 1 and amended by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4). Amended by final expedited rulemaking at 24 A.A.R. 268, with an immediate effective date of January 9, 2018 (Supp. 18-1). Amended by final rulemaking at 28 A.A.R. 842 (April 29, 2022), effective June 5, 2022 (Supp. 22-2). Amended by final rulemaking at 30 A.A.R. 581 (March 29, 2024), with an immediate effective date of March 7, 2024 (Supp. 24-1).

Table 1. Renumbered**Historical Note**

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Amended by final rulemaking at 8 A.A.R. 2352, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 5372, effective January 3, 2004 (Supp. 03-4). Amended by final rulemaking at 12 A.A.R. 656, effective April 8, 2006 (Supp. 06-1). Table 1 renumbered to Table 12.1 by exempt rulemaking at 19 A.A.R. 4032, effective December 1, 2013 (Supp. 13-4).

Exhibit A. Recodified**Historical Note**

New Exhibit adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Exhibit A recodified to Article 9 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2).

Exhibit B. Recodified**Historical Note**

New Table adopted by final rulemaking at 7 A.A.R. 1098, effective February 13, 2001 (Supp. 01-1). Exhibit B recodified to Article 9 at 12 A.A.R. 2243, effective June 2, 2006 (Supp. 06-2).

ARTICLE 13. TRAUMA CENTERS AND TRAUMA REGISTRIES**R9-25-1301. Definitions (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))**

In addition to the definitions in A.R.S. § 36-2201 and R9-25-101, the following definitions apply in this Article, unless otherwise specified:

1. "Admitted" means when a patient is either:
 - a. Held for observation of a trauma-related injury; or
 - b. Considered an inpatient, as defined in A.A.C. R9-10-201.
2. "Business day" means a Monday, Tuesday, Wednesday, Thursday, or Friday that is not a state holiday.
3. "Designation" means a formal determination by the Department that a health care institution complies with

requirements in A.R.S. § 36-2225 and this Article for providing a particular Level of trauma service.

4. "Emergency department" means a designated area of a hospital that provides emergency services, as defined in A.A.C. R9-10-101, as an organized service, 24 hours per day, seven days per week, to individuals who present for immediate medical services.
5. "ICD-code" means an International Classification of Diseases code, a set of numbers or letters or a combination of letters and numbers that specify a disease, condition, or injury; the location of the disease, condition, or injury; or the circumstances under which a patient may have incurred the disease, condition, or injury, which is used by a health care institution for billing purposes.
6. "Level I Pediatric trauma center" means a Level I trauma center that has a trauma service specifically intended to meet the needs of children requiring trauma care.
7. "Level II Pediatric trauma center" means a Level II trauma center that has a trauma service specifically intended to meet the needs of children requiring trauma care.
8. "Medical services" means the services pertaining to the "practice of medicine," as defined in A.R.S. § 32-1401, or "medicine," as defined in A.R.S. § 32-1800, performed at the direction of a physician.
9. "National verification organization" has the same meaning as in A.R.S. § 36-2225.
10. "Nursing services" means services that pertain to the curative, restorative, and preventive aspects of "registered nursing," as defined in A.R.S. § 32-1601, performed:
 - a. At the direction of a physician; and
 - b. By or under the supervision of a registered nurse licensed:
 - i. According to Title 32, Chapter 15; or
 - ii. When performed in a health care institution operating under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation, by a similar licensing board in another state.

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11. "On-call" means assigned to respond and, if necessary, come to a health care institution when notified by a personnel member of the health care institution.
12. "Organized service" has the same meaning as in A.A.C. R9-10-201.
13. "Owner" means one of the following:
 - a. For a health care institution licensed under 9 A.A.C. 10, the licensee;
 - b. For a health care institution operated under federal or tribal laws, the administrative unit of the U.S. government or sovereign tribal nation operating the health care institution.
14. "Personnel member" means an individual providing medical services, nursing services, or health-related services, as defined in A.R.S. § 36-401, to a patient.
15. "Physician" means an individual licensed:
 - a. According to A.R.S. Title 32, Chapter 13 or 17; or
 - b. When working in a health care institution operating under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation, by a similar licensing board in another state.
16. "Signature" means:
 - a. A handwritten or stamped representation of an individual's name or a symbol intended to represent an individual's name, or
 - b. An "electronic signature" as defined in A.R.S. § 44-7002.
17. "Substantial compliance" has the same meaning as in A.R.S. § 36-401.
18. "Transport" means the conveyance of a patient by ground ambulance or air ambulance from one location to another location.
19. "Trauma care" means medical services and nursing services provided to a patient suffering from a sudden physical injury.
20. "Trauma center" has the same meaning as in A.R.S. § 36-2225.
21. "Trauma critical care course" means a multidisciplinary class or series of classes consisting of interactive tutorials, skills teaching, and simulated patient management scenarios of trauma care, consistent with training recognized by the American College of Surgeons.
22. "Trauma facility" means a health care institution that provides trauma care to a patient as an organized trauma service.
23. "Trauma service" means designated personnel members, equipment, and area within a health care institution and the associated policies and procedures for the personnel members to follow when providing trauma care to a patient.
24. "Trauma team" means a group of personnel members with defined roles and responsibilities in providing trauma care to a patient.
25. "Trauma team activation" means a notification to respond that is sent to trauma team personnel members in reaction to triage information received concerning a patient with injury or suspected injury.
26. "Verification" means formal confirmation by a national verification organization that a health care institution meets the national verification organization's standards for providing trauma care at a specific Level of trauma service.

effective October 6, 2005 (Supp. 05-4). Amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3). Amended by final expedited rulemaking at 29 A.A.R. 2321 (October 6, 2023), with an immediate effective date of September 18, 2023 (Supp. 23-3).

R9-25-1302. Eligibility for Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A.** A health care institution is eligible for designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center, or Level III trauma center if the health care institution:
1. Is either:
 - a. Licensed by the Department under 9 A.A.C. 10 to operate as a hospital; or
 - b. Operating as a hospital under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and
 2. For designation as a:
 - a. Level I trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level I trauma facility;
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level I trauma center; or
 - iii. Meets the requirements in subsection (C);
 - b. Level I Pediatric trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level I Pediatric trauma facility;
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level I Pediatric trauma center; or
 - iii. Meets the requirements in subsection (C);
 - c. Level II trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level II trauma facility; or
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level II trauma center; or
 - iii. Meets the requirements in subsection (C);
 - d. Level II Pediatric trauma center:
 - i. Holds verification, issued within the six months before the date of designation, as a Level II Pediatric trauma facility;
 - ii. Has documentation issued by a national verification organization, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level II Pediatric trauma center; or
 - iii. Meets the requirements in subsection (C); or
 - e. Level III trauma center:

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363,

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- i. Holds verification, issued within the six months before the date of designation, as a Level III trauma facility; or
 - ii. Has documentation issued by a national verification organization or the Department, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level III trauma center.
- B. A health care institution is eligible for designation as a Level IV trauma center if the health care institution:
 - 1. Is either:
 - a. Licensed by the Department under 9 A.A.C. 10 to operate as:
 - i. A hospital; or
 - ii. An outpatient treatment center authorized to provide emergency room services, as defined in A.A.C. R9-10-1001, according to A.A.C. R9-10-1019; or
 - b. Operating as a hospital or an outpatient treatment center providing emergency services under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and
 - 2. Either:
 - a. Holds verification, issued within the six months before the date of designation, as a Level IV trauma facility; or
 - b. Has documentation issued by a national verification organization or the Department, within the six months before the date of designation, stating that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for a Level IV trauma center.
- C. A health care institution is eligible for designation as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center based on assessment by the Department that the health care institution meets the standards specified in R9-25-1308 and Table 13.1 for the Level of trauma center for which designation is requested if the health care institution:
 - 1. Applies for verification from a national verification organization;
 - 2. Informs the Department, at least 30 calendar days before, of the dates the national verification organization will be on the premises of the health care institution to assess the health care institution for compliance with the national verification organization's standards for verification;
 - 3. Invites the Department to review the facility and documentation of capabilities of the health care institution during the national verification organization's assessment in subsection (C)(2);
 - 4. Is not issued verification from the national verification organization at the Level of designation sought;
 - 5. Does not receive the documentation required in subsection (A)(2)(a)(ii), (b)(ii), (c)(ii), or (d)(ii), as applicable; and
 - 6. Receives the documentation specified in R9-25-1306(G) and, if applicable, submits to the Department a written plan in R9-25-1306(H), acceptable to the Department, to correct instances of non-compliance.
- D. A health care institution is eligible to retain designation as a specific Level of trauma center if the health care institution complies with the applicable requirements in this Article for the specific Level of trauma center.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1303. Application and Designation Process (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A. An owner applying for initial designation or to renew designation for a health care institution shall submit to the Department an application including:
 - 1. The following information, in a Department-provided format:
 - a. The name, address, and telephone number of the health care institution for which the owner is requesting designation;
 - b. The owner's name, address, email address, telephone number, and, if available, fax number;
 - c. The name, email address, telephone number, and, if available, fax number of the chief administrative officer, as defined in A.A.C. R9-10-101, for the health care institution for which the owner is requesting designation;
 - d. The designation Level for which the owner is applying;
 - e. Whether the owner is requesting designation for the health care institution based on:
 - i. Verification, or
 - ii. Meeting the applicable standards specified in R9-25-1308 and Table 13.1;
 - f. If the owner is requesting designation for the health care institution based on verification:
 - i. The name of the national verification organization;
 - ii. The name, telephone number, and email address for a representative of the national verification organization;
 - iii. The Level of verification held;
 - iv. The effective date of the verification, and
 - v. The expiration date of the verification;
 - g. If the owner is requesting designation for the health care institution based on the health care institution meeting the applicable standards specified in R9-25-1308 and Table 13.1:
 - i. Whether:
 - (1) A national verification organization has assessed the health care institution, or
 - (2) The Department will be assessing the health care institution;
 - ii. If a national verification organization has assessed the health care institution:
 - (1) The name of the national verification organization;
 - (2) The name, telephone number, and email address for a representative of the national verification organization; and
 - (3) The date the national verification organization assessed the health care institution; and
 - iii. If the Department will be assessing the health care institution, the date the health care institution will be ready for the Department to assess the health care institution;
 - h. Unless the owner is an administrative unit of the U.S. government or a sovereign tribal nation, the

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license number, issued by the Department, for the health care institution for which designation is being requested;

- i. The name, email address, telephone number, and, if available, fax number of the health care institution's trauma program manager;
- j. Whether the health care institution's trauma registry will be located at the health care institution or be part of a centralized trauma registry;
- k. The name, email address, telephone number, and, if available, fax number of the health care institution's trauma registrar;
- l. If applying for designation as a Level IV trauma center, whether the health care institution plans to submit, in addition to the information required in R9-25-1309(A), the information specified in R9-25-1309(B);
- m. If not already submitting trauma registry information to the Department, the time period for which the health care institution plans to begin submitting trauma registry information;
- n. Except for a health care institution applying for designation as a Level IV trauma center, the name, email address, telephone number, and, if available, fax number of the health care institution's trauma medical director;
- o. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;
- p. Attestation that:
 - i. The owner will comply with all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article; and
 - ii. The information and documents provided as part of the application are accurate and complete; and
- q. The dated signature of the applicable individual according to R9-25-102;
2. If applicable, documentation demonstrating that the health care institution is operating as a hospital or an outpatient treatment center providing emergency services under federal or tribal law as an administrative unit of the U.S. government or a sovereign tribal nation; and
3. One of the following:
 - a. Documentation from the national verification organization, identified according to subsection (A)(1)(f)(i), establishing that the owner holds verification for the health care institution at the Level of designation being requested and showing the effective date and expiration date of the verification;
 - b. Documentation from the national verification organization, identified according to subsection (A)(1)(g)(ii)(1), demonstrating that the health care institution meets the applicable standards specified in R9-25-1308 and Table 13.1; or
 - c. The information and documents required in R9-25-1307(C), (D), or (F), as applicable.
- B.** An owner applying to renew designation for a health care institution shall submit the application in subsection (A) to the Department at least 60 calendar days and no more than 90 calendar days before the expiration of the current designation.
- C.** Within 30 calendar days after receiving an application submitted according to subsection (A), the Department shall review

the application submitted for completeness, and, if the application is:

1. Incomplete, provide to the owner a written notice listing each missing item and the information or items needed to complete the application; and
2. Complete and based on:
 - a. Verification, comply with R9-25-1307(A);
 - b. A national verification organization assessing the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, comply with R9-25-1307(B); or
 - c. The Department assessing the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, assess compliance with applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article according to R9-25-1307(E) or (G).
- D.** The Department shall consider an application withdrawn if an owner:
 1. Fails to submit to the Department all of the information or items listed in a notice of missing items within 60 calendar days after the date on the notice of missing items, unless the Department and the owner agree to an extension of this time; or
 2. Submits a written request withdrawing the application.
- E.** If an owner submits an application for renewal of designation for a health care institution according to subsection (A) before the expiration date of the current designation, the designation of the health care institution remains in effect until the:
 1. Department has determined whether or not to issue a renewal of the designation, or
 2. Application is withdrawn.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3). New Section R9-25-1303 renumbered from R9-25-1304 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1303.01. Expired**Historical Note**

New Section made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3). Section expired under A.R.S. 41-1056(J) at 29 A.A.R. 421 (January 27, 2023), with an immediate effective date of January 4, 2023 (Supp. 23-1).

R9-25-1304. Changes Affecting Designation Status (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A.** An owner of a trauma center shall:
1. Notify the Department, in writing or in a Department-provided format, no later than 60 calendar days after the date of a change in the health care institution's:
 - a. Name,
 - b. Trauma program manager, or
 - c. If applicable, trauma medical director; and
 2. Provide the effective date of the change and, as applicable, the:
 - a. Current and new name of the health care institution, or
 - b. Name of the new trauma program manager or trauma medical director.

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- B.** An owner of a trauma center shall notify the Department in writing within three business days after:
1. The trauma center's health care institution license expires or is suspended or revoked;
 2. The trauma center's health care institution license is changed to a provisional license under A.R.S. § 36-425;
 3. The trauma center no longer holds verification; or
 4. A change, which is expected to last for more than seven consecutive calendar days, in the trauma center's ability to meet:
 - a. The applicable standards specified in R9-25-1308 and Table 13.1; or
 - b. If designation is based on verification, the national verification organization's standards for verification.
- C.** At least 90 calendar days before a trauma center ceases to provide a trauma service, the owner of the trauma center shall notify the Department, in writing or in a Department-provided format, of the owner's intention to cease providing the trauma service and to relinquish designation, including the effective date.
- D.** The Department shall, upon receiving a notice described in:
1. Subsection (A), issue an amended designation that incorporates the name change but retains the expiration date of the current designation;
 2. Subsection (B)(1), send the owner a written notice stating that the health care institution no longer meets the definition of a trauma center and that the Department intends to dedesignate the health care institution, according to R9-25-1307(J)(2);
 3. Subsection (B)(2), evaluate the restrictions on the provisional license to determine if the trauma service was affected and may send the owner a written notice of the Department's intention to:
 - a. Dedesignate the health care institution, according to R9-25-1307(J) through (M);
 - b. Require a modification of the health care institution's designation within 15 calendar days after the date of the notice, according to R9-25-1305; or
 - c. Require a corrective action plan to address issues of compliance with the applicable standards specified in R9-25-1308 and Table 13.1, according to R9-25-1306(E);
 4. Subsection (B)(3), send the owner written notice that the owner is required, within 15 calendar days after the date of the notice, to submit to the Department:
 - a. An application for designation at a specific Level of trauma center, according to R9-25-1303, based on meeting the applicable standards specified in R9-25-1308 and Table 13.1; or
 - b. Written notification of the owner's intention to relinquish designation;
 5. Subsection (B)(4), send the owner written notice that the owner is required, within 15 calendar days after the date of the notice, to submit to the Department:
 - a. An application for modification of the health care institution's designation, according to R9-25-1305;
 - b. A corrective action plan to address issues of compliance with the applicable standards specified in R9-25-1308 and Table 13.1, according to R9-25-1306(E); or
 - c. Written notification of the owner's intention to relinquish designation; or
 6. Subsection (C), (D)(4)(b), or (D)(5)(c), send the owner written confirmation of the voluntary relinquishment of designation.
- E.** An owner of a trauma center, who obtains verification for the trauma center during a term of designation that was based on the trauma center meeting the applicable standards specified in R9-25-1308 and Table 13.1, may obtain a new initial designation based on verification, with a designation term based on the dates of the verification, by submitting an application according to R9-25-1303.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1304 renumbered to R9-25-1303; new Section R9-25-1304 renumbered from R9-25-1308 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3). Amended by final expedited rulemaking at 29 A.A.R. 2321 (October 6, 2023), with an immediate effective date of September 18, 2023 (Supp. 23-3).

R9-25-1305. Modification of Designation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A.** Except as provided in R9-25-1304(D)(3)(b) and (5)(a), at least 30 calendar days before ceasing to provide a trauma service consistent with a trauma center's current designation, an owner of a trauma center may request a designation that requires fewer resources and capabilities than the trauma center's current designation by submitting to the Department an application for modification of the trauma center's designation, in a Department-provided format, that includes:
1. The name and address of the trauma center for which the owner is requesting modification of designation;
 2. A list of the criteria for the current designation with which the owner no longer intends to comply;
 3. An explanation of the changes being made in the trauma center's resources or operations, related to each criterion specified according to subsection (A)(2), to ensure the health and safety of a patient;
 4. The Level of designation being requested;
 5. An attestation that:
 - a. The owner will be in compliance with all applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article for the Level of designation requested if modified designation is issued; and
 - b. The information provided in the application is accurate and complete; and
 6. The dated signature of the applicable individual according to R9-25-102.
- B.** The Department shall review the application submitted according to R9-25-1307(I) to determine whether, with the changes being made in the trauma center's resources and operations, the trauma center will be in substantial compliance based the applicable standards specified in R9-25-1308 and Table 13.1 for the Level of designation requested.
- C.** To retain trauma center designation for a health care institution, an owner who holds modified designation shall, before the expiration date of the modified designation:
1. Apply for renewal of designation according to R9-25-1303, based on the health care institution's meeting the applicable standards specified in R9-25-1308 and Table 13.1, for the Level of the modified designation; or
 2. Apply for initial designation according to R9-25-1303, based on the health care institution meeting the applicable

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standards specified in R9-25-1308 and Table 13.1, for a Level other than the Level of the modified designation.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1305 repealed; new Section R9-25-1305 renumbered from R9-25-1309 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1306. Inspections (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A.** When the Department inspects a health care institution applying for a trauma center designation or a health care institution designated as a trauma center to determine compliance with the applicable requirements in this Article, the Department:
1. Shall use criteria for assessing compliance developed using recommendations from the State Trauma Advisory Board, according to A.R.S. § 36-2222(E)(1); and
 2. May:
 - a. Evaluate the health care institution's equipment and physical plant;
 - b. Interview the health care institution's personnel members, including any individuals providing trauma care; and
 - c. Review any of the following:
 - i. Medical records;
 - ii. Patient discharge summaries;
 - iii. Patient care logs;
 - iv. Rosters and schedules of personnel members and individuals who provide trauma care as part of the trauma service;
 - v. Performance-improvement-related documents, including quality management program documents required in A.A.C. R9-10-204 or R9-10-1004 as applicable; and
 - vi. Other documents relevant to the provision of trauma care as part of the trauma service.
- B.** The Department shall determine whether there is a need for an inspection of a health care institution and which components in subsection (A)(2) to include in an inspection, based on the health care institution's application; previous inspections, if applicable; and the operating history of the health care institution and may conduct an announced inspection of the identified components:
1. Before issuing an initial, renewal, or modified designation to an owner applying for designation of a health care institution as a trauma center;
 2. If an owner of a health care institution designated as a trauma center has submitted a corrective action plan under subsection (E); or
 3. A health care institution designated as a trauma center is randomly selected to receive an inspection.
- C.** If the Department has reason to believe that a trauma center is not complying with applicable requirements in A.R.S. Title 36, Chapter 21.1 and this Article, the Department may conduct an announced or unannounced inspection of the trauma center according to subsection (A).
- D.** Within 30 calendar days after completing an inspection, the Department shall send to an owner a written report of the Department's findings, including, if applicable, a list of any instances of non-compliance identified during the inspection and a request for a written corrective action plan.
- E.** Within 15 calendar days after receiving a request for a written corrective action plan, an owner shall submit to the Department

a written corrective action plan that includes for each identified instance of non-compliance:

1. A description of how the instance of non-compliance will be corrected and reoccurrence prevented, and
 2. A date of correction for the instance of non-compliance.
- F.** The Department shall accept a written corrective action plan if the corrective action plan:
1. Describes how each identified instance of non-compliance will be corrected and reoccurrence prevented, and
 2. Includes a date for correcting each instance of non-compliance that is appropriate to the actions necessary to correct the instance of non-compliance.
- G.** If the Department reviews a health care institution's facility and documentation of capabilities during a national verification organization's assessment according to R9-25-1302(C)(3) and the health care institution is not issued verification from the national verification organization at the Level of designation sought, the Department shall send to an owner of the health care institution, within 30 calendar days after the review, a written report of the Department's findings, including, if applicable, a list of any instances of non-compliance with requirements in R9-25-1308 and Table 13.1 identified during the review.
- H.** A health care institution receiving a written report in subsection (G), containing a list of instances of non-compliance with requirements in R9-25-1308 and Table 13.1 identified during a review of the health care institution's facility and documentation of capabilities, may submit to the Department a written plan to correct instances of non-compliance that includes:
1. A description of how the health care institution will correct each instance of non-compliance and prevent the reoccurrence, and
 2. A date by which the health care institution plans to correct each instance of non-compliance.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1306 repealed; new Section R9-25-1306 made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3). Amended by final expedited rulemaking at 29 A.A.R. 2321 (October 6, 2023), with an immediate effective date of September 18, 2023 (Supp. 23-3).

R9-25-1307. Designation and Dedesignation (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

- A.** For initial designation or renewal of designation of a health care institution based on verification, the Department shall, within 45 calendar days after receiving a complete application from an owner:
1. Except as provided in subsection (H)(2), if the application complies with the applicable requirements in this Article, issue a designation for the health care institution that is valid for the duration of the verification; or
 2. If the application does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10, that the Department intends to decline to issue a designation for the health care institution.
- B.** Except as provided in subsection (F) specifying requirements for renewal of a one-year designation, for initial designation or renewal of designation of a health care institution based on an assessment by a national verification organization, the Department shall, within 60 calendar days after receiving a complete

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application from an owner, review the application and, if the Department determines that:

1. The application and the health care institution comply with the applicable requirements in this Article, except as provided in subsection (H)(1), issue a designation for the health care institution that is valid for three years from the issue date;
 2. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article, and the Department has accepted a written corrective action plan submitted according to R9-25-1306(E), issue a designation for the health care institution that is valid for one year from the issue date; or
 3. The application or the health care institution does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10, that the Department intends to decline to issue a designation for the health care institution.
- C. Except as provided in subsection (F) specifying requirements for renewal of a one-year designation, for initial designation or renewal of designation of a health care institution as a Level III trauma center or a Level IV trauma center based on an assessment by the Department, an owner shall include as part of the application required in R9-25-1303(A):
1. The following information in a Department-provided format:
 - a. The name of the health care institution for which the owner is requesting designation;
 - b. The services the health care institution is providing or plans to provide as part of the trauma service;
 - c. The name and title of the liaison to the trauma service from each of the services listed according to subsection (C)(1)(b);
 - d. If applicable, the name, email address, telephone number, and, if available, fax number of the health care institution's emergency department physician director;
 - e. If applicable, the name, email address, telephone number, and, if available, fax number of the health care institution's surgical director or co-director;
 - f. If a multidisciplinary peer review committee is required according to Table 13.1 for the Level of the trauma center, the name and title of each member of the multidisciplinary peer review committee;
 - g. If the health care institution's trauma registry will be part of a centralized trauma registry, a description of the training provided to the trauma program manager to enable the trauma program manager to comply with R9-25-1308(D)(2);
 - h. If applicable, for an application for initial designation, a description of the health care institution's plans for the continuing education activities related to trauma care, required in R9-25-1308(G)(4);
 - i. For renewal of designation, a description of the continuing education activities conducted during the term of the designation;
 - j. If applicable, the name, email address, telephone number, and, if available, fax number of the health care institution's injury prevention coordinator;
 - k. A description of the methods by which trauma team personnel members communicate with EMS personnel;
 - l. A description of the trauma-related training received by registered nurses in the intensive care unit;
 - m. An attestation that the owner of the health care institution will prohibit:
 - i. The trauma medical director from serving as trauma medical director for another health care institution; and
 - ii. A physician on-call for general surgery, neurosurgery, or orthopedic surgery to be on-call or on a back-up call list at another health care institution; and
 - n. The dated signature of the applicable individual according to R9-25-102;
 2. A copy of the policies and procedures required in R9-25-1308(B)(6) for the health care institution's trauma registry;
 3. A copy of the policies and procedures required in R9-25-1308(B)(7) for the health care institution's performance improvement program;
 4. A copy of the policies and procedures required in R9-25-1308(F)(2) for the health care institution's trauma service;
 5. If applicable, a copy of the policies and procedures required in R9-25-1308(F)(9) for operating rooms;
 6. A copy of the applicable policies and procedures required in R9-25-1308(H)(4);
 7. A copy of the health care institution's clinical practice guidelines, describing the health care institution's capability to resuscitate, stabilize, and transfer pediatric patients;
 8. If applicable, a copy of the bylaws of the health care institution's multidisciplinary peer review committee;
 9. Copies of the job descriptions for the health care institution's:
 - a. Trauma program manager;
 - b. Trauma registrar; and
 - c. If applicable, injury prevention coordinator;
 10. A list of the trauma care parameters the health care institution is or will be monitoring as part of the performance improvement program;
 11. A list of trauma team members, including:
 - a. Name,
 - b. Title, and
 - c. Role on the trauma team;
 12. If required for an individual listed according to subsection (C)(11), a copy of documentation of the individual's:
 - a. Board certification or board eligibility,
 - b. Most recent certification in a trauma critical care course,
 - c. Pediatric-specific credentials, and
 - d. Other trauma-related training; and
 13. If the trauma medical director is not a member of the trauma team, the applicable documentation required in subsection (C)(12) for the trauma medical director.
- D. Except as provided in subsection (F) specifying requirements for renewal of a one-year designation, for initial designation or renewal of designation of a health care institution as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center based on an assessment by the Department under R9-25-1302(C), an owner shall include as part of the application required in R9-25-1303(A):
1. A copy of the documentation submitted to the national verification organization as part of an application for verification;

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2. If not included in the documentation in subsection (D)(1):
 - a. Any information or documents required in subsection (C);
 - b. For an application for initial designation, a description of the health care institution's plans for:
 - i. Injury prevention activities, required in R9-25-1308(G)(5)(a); and
 - ii. Educational outreach activities, required in R9-25-1308(G)(5)(b); and
 - c. For an application for renewal of designation, a description of the injury prevention activities and educational outreach activities conducted during the term of the designation;
 3. A copy of the national verification's organization's written report to the health care institution describing the results of the national verification organization's assessment of the health care organization;
 4. A copy of the written report in R9-25-1306(G); and
 5. If applicable, the written plan to correct instances of non-compliance in R9-25-1306(H).
- E.** Except for renewal of a one-year designation as provided in subsection (G), for initial designation or renewal of designation of a health care institution based on an assessment by the Department according to subsection (C) or (D), the Department shall, within 90 calendar days after receiving a complete application from an owner, review the application, inspect the health care institution, if applicable, and, if the Department determines that:
1. The application and the health care institution comply with the applicable requirements in this Article, except as provided in subsection (H)(1), issue a designation for the health care institution that is valid for three years from the issue date;
 2. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article, and the Department has accepted the document submitted according to R9-25-1306(E) or subsection (D)(5), issue a designation for the health care institution that is valid for one year from the issue date; or
 3. The application or the health care institution does not comply with the applicable requirements in this Article, provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10, that the Department intends to decline to issue a designation for the health care institution.
- F.** For renewal, at the same Level of trauma center, of a one-year designation issued according to subsection (B)(2) or (E)(2), an owner shall include, as part of the application required in R9-25-1303(A), documentation related to the completion of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2).
- G.** The Department shall, within 60 calendar days after receiving from an owner an application submitted according to subsection (F), review the information and documentation, inspect the health care institution if applicable, and:
1. Issue a designation for the health care institution that is valid for two years from the issue date if the Department determines that:
 - a. The application and the health care institution comply with the applicable requirements in this Article; and
 - b. The owner has completed the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable; or
 2. Provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10, that the Department intends to decline to issue a designation for the health care institution if the Department determines that:
 - a. The application or the health care institution do not comply with the applicable requirements in this Article; or
 - b. The owner has not completed all of the components of the plan specified in the document accepted by the Department in subsection (B)(2) or (E)(2), as applicable.
- H.** The Department may:
1. Issue or extend a designation to a health care institution that is longer than three years if:
 - a. The health care institution would be eligible for designation under R9-25-1302(A)(2)(a)(ii) or (iii), (A)(2)(b)(ii) or (iii), (A)(2)(c)(ii) or (iii), (A)(2)(d)(ii) or (iii), or (A)(2)(e)(ii) with assessment from a national verification organization;
 - b. The national verification organization either:
 - i. Will not allow the health care institution to apply for verification within the time-frame necessary to comply with R9-25-1302(C), or
 - ii. Does not schedule an assessment visit to the health care institution within six months after the date of the health care institution's request;
 - c. The health care institution and, if applicable, the application comply with the applicable requirements in this Article; and
 - d. The health care institution provides to the Department documentation supporting subsection (H)(1)(b); or
 2. Issue a designation based on verification to a health care institution, according to subsection (A)(1), that is shorter than the duration of the verification if the expiration of the verification is more than five years after the date of issuance.
- I.** For modification of a designation according to R9-25-1305, the Department shall, within 30 calendar days after receiving a complete application for modification in R9-25-1305(A) from an owner, review the application, inspect the health care institution, if applicable, and:
1. Issue a modified designation for the Level of designation requested for the health care institution that is valid for the duration of the original designation or one year from the issue date, whichever is longer, if the Department determines that:
 - a. The application and the health care institution comply with the applicable requirements in this Article for the Level of designation requested; or
 - b. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article for the Level of designation requested, and the Department has accepted a written corrective action plan submitted according to R9-25-1306(E);
 2. Issue a modified designation for a lower Level of designation than the Level of designation requested for the health care institution that is valid for the duration of the

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original designation or one year from the issue date, whichever is longer, if the Department determines that:

- a. The application and the health care institution comply with the applicable requirements in this Article for the lower Level of designation and the health care institution:
 - i. Does not comply with the applicable requirements in this Article for the Level of designation requested; or
 - ii. Is in substantial compliance with the applicable requirements in this Article for the Level of designation requested, and the Department has not accepted a written corrective action plan submitted according to R9-25-1306(E); or
 - b. The application complies with the applicable requirements in this Article, the health care institution is in substantial compliance with the applicable requirements in this Article for the lower Level of designation, and the Department has accepted a written corrective action plan according to R9-25-1306(E); or
3. Provide a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10 that the Department intends to decline to issue a modified designation for the health care institution if the Department determines that the application or the health care institution does not comply with the applicable requirements in this Article.

J. The Department may dedesignate a health care institution as a trauma center if an owner:

1. Has provided false or misleading information to the Department;
2. Is not eligible for designation under R9-25-1302(A) or (B); or
3. Fails to comply with an applicable requirement in A.R.S. Title 36, Chapter 21.1 or this Article.

K. In determining whether to dedesignate a health care institution as a trauma center, the Department shall consider:

1. The severity of each instance relative to public health and safety;
2. The number of instances;
3. The nature and circumstances of each instance;
4. Whether each instance was corrected, the manner of correction, and the duration of the instance; and
5. Whether the instances indicate a lack of commitment to having the trauma center meet the verification standards of a national verification organization or, if applicable, the standards specified in R9-25-1308 and Table 13.1.

L. If the Department intends to dedesignate a health care institution, the Department shall send to the owner a written notice that complies with A.R.S. Title 41, Chapter 6, Article 10.

M. An owner who receives a written notice in subsection (A)(2), (B)(3), (E)(3), (G)(2), (I)(3), or (J) may file a written notice of appeal with the Department that complies with A.R.S. Title 41, Chapter 6, Article 10.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1307 repealed; new Section R9-25-1307 renumbered from R9-25-1312 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Amended by final expedited rulemaking at 29 A.A.R. 2321 (October 6, 2023), with an immediate effective date

of September 18, 2023 (Supp. 23-3).

R9-25-1308. Trauma Center Responsibilities (A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(4), (5), and (6))

A. The owner of a trauma center shall ensure that:

1. If designation is based on:
 - a. Verification, the trauma center meets the applicable standards of the verifying national verification organization; or
 - b. Meeting the applicable standards specified in this Section and Table 13.1, the trauma center meets the applicable standards for the Level of trauma center for which designation has been issued;
2. The trauma center complies with a written corrective action plan accepted by the Department according to R9-25-1306(F); and
3. The Department has access to:
 - a. The trauma center and to personnel members present in the trauma center; and
 - b. Documents that are requested by the Department and not confidential under A.R.S. Title 36, Chapter 4, Article 4 or 5, within two hours after the Department's request.

B. The owner of a trauma center shall ensure that the trauma center:

1. Except as provided in subsection (D), establishes a trauma registry of patients receiving trauma care who meet the criteria specified in subsection (C)(1) that contains the information required in R9-25-1309, as applicable for the specific Level of the trauma center;
2. Appoints an individual to act as trauma registrar to coordinate trauma registry activities;
3. If necessary to comply with subsections (C)(2) and (3), provides sufficient additional individuals to assist with trauma registry activities;
4. Establishes a performance improvement program for the trauma service to develop and implement processes to improve trauma care parameters;
5. If required according to Table 13.1 for the Level of the trauma center, establishes as part of the performance improvement program, established according to subsection (B)(4), a multidisciplinary peer review committee to review the quality of trauma care provided by the trauma center, including information from the trauma registry, and suggest methods to improve the quality of trauma care;
6. Establishes, documents, and implements policies and procedures for the trauma registry established according to subsection (B)(1) that include:
 - a. Ensuring that individuals responsible for collecting, entering, or reviewing information in the trauma registry have received training in gaining access to, and retrieving information from, the trauma registry;
 - b. Collection of the information required in R9-25-1309 about the patients specified in subsection (C)(1) receiving trauma care;
 - c. Submission to the Department of the information required in subsection (C)(2);
 - d. Review of information in the trauma center's trauma registry; and
 - e. Performance improvement activities required in R9-25-1310; and

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7. Establishes, documents, and implements policies and procedures for the performance improvement program established according to subsection (B)(4), including:
 - a. A list of the positions of personnel members who have defined roles in the performance improvement program and, if applicable, a list of positions that are dedicated to performance improvement activities for patients receiving trauma care from the trauma center;
 - b. The qualifications, skills, and knowledge required of the personnel members in the positions specified according to subsection (B)(7)(a);
 - c. The role each personnel member specified according to subsection (B)(7)(a) plays in the performance improvement program;
 - d. The trauma care parameters to be reviewed as part of the performance improvement program;
 - e. The frequency of review of trauma care parameters;
 - f. If an issue related to trauma care or to trauma care parameters is identified:
 - i. How a plan to address the issue is developed to reduce the chance of the issue recurring in the future;
 - ii. How the plan is documented;
 - iii. The mechanism and criteria by which the plan is reviewed and approved;
 - iv. How the plan is implemented; and
 - v. How implementation of the plan and future recurrences are monitored;
 - g. If applicable, the composition, duties, responsibilities, and frequency of meetings of the multidisciplinary peer review committee established according to subsection (B)(5);
 - h. If applicable, how the multidisciplinary peer review committee collaborates with the trauma center's quality management program; and
 - i. How changes proposed by the performance improvement program are reviewed by the trauma center's quality management program.
- C. The owner of a trauma center shall ensure that:
 1. The trauma registry, established according to subsection (B)(1), includes the information required in R9-25-1309 for each patient with whom the trauma center had contact who meets one or more of the following criteria:
 - a. A patient with injury or suspected injury who is:
 - i. Transported from a scene to a trauma center or an emergency department based on the responding emergency medical services provider's or ambulance service's triage protocol required in R9-25-201(E)(2)(b), or
 - ii. Transferred from one health care institution to another health care institution by an emergency medical services provider or ambulance service;
 - b. A patient with injury or suspected injury for whom a trauma team activation occurs; or
 - c. A patient with injury, who is admitted as a result of the injury or who dies as a result of the injury, and whose medical record includes one or more of specific ICD-codes indicating that:
 - i. At the initial encounter with the patient, the patient had:
 - (1) An injury or injuries to specific body parts,
 - (2) Unspecified multiple injuries,
 - (3) Injury of an unspecified body region,
 - (4) A burn or burns to specific body parts,
 - (5) Burns assessed through Total Body Surface Area percentages, or
 - (6) Traumatic Compartment Syndrome; and
 - ii. The patient's injuries or burns were not only:
 - (1) An isolated distal extremity fracture from a same-level fall,
 - (2) An isolated femoral neck fracture from a same-level fall,
 - (3) Effects resulting from an injury or burn that developed after the initial encounter,
 - (4) A superficial injury or contusion, or
 - (5) A foreign body entering through an orifice;
 2. The following information is submitted to the Department, in a Department-provided format, according to subsection (C)(3):
 - a. The name and physical address of the trauma center;
 - b. The date the trauma registry information is being submitted to the Department;
 - c. The total number of patients whose trauma registry information is being submitted;
 - d. The quarter and year for which the trauma registry information is being submitted;
 - e. The range of emergency department or hospital arrival dates for the patients for whom trauma registry information is being submitted;
 - f. The name, title, email address, telephone number, and, if available, fax number of the trauma center's point of contact for the trauma registry information;
 - g. Any special instructions or comments to the Department from the trauma center's point of contact;
 - h. The information from the trauma registry for patients identified during the quarter specified according to subsection (C)(2)(d); and
 - i. Updated information for any patients identified during the previous quarter, including the patient's name, medical record number, and admission date; and
 3. The information required in subsection (C)(2) is submitted:
 - a. For patients identified between January 1 and March 31, so that the information in subsections (C)(2)(a) through (h) is received by the Department by July 1 of the same calendar year;
 - b. For patients identified between April 1 and June 30, so that the information in subsections (C)(2)(a) through (h) is received by the Department by October 1 of the same calendar year;
 - c. For patients identified between July 1 and September 30, so that the information in subsections (C)(2)(a) through (h) is received by the Department by January 2 of the following calendar year; and
 - d. For patients identified between October 1 and December 31, so that the information in subsections (C)(2)(a) through (h) is received by the Department by April 1 of the following calendar year.
 - D. Trauma centers under the same governing authority, as defined in A.R.S. § 36-401, may establish a single, centralized trauma registry and submit to the Department consolidated information from the trauma registry, according to subsections (C)(2) and (3), if:

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1. The information submitted to the Department specifies for each patient in the trauma registry the trauma center that had contact with the patient; and
 2. Each trauma center contributing information to the centralized trauma registry is able to:
 - a. Access, edit, and update the information contributed by the trauma center to the centralized trauma registry; and
 - b. Use the information contributed by the trauma center to the centralized trauma registry when complying with performance improvement program requirements in this Section.
- E. As part of the performance improvement program, the owner of a trauma center shall ensure that the trauma program manager and, if applicable, trauma medical director periodically, according to policies and procedures:
1. Review the information in the trauma center's trauma registry; and
 2. Monitor at least the following trauma care parameters, as applicable, for patients in the trauma registry:
 - a. EMS received by a patient;
 - b. Length of stay longer than two hours in the emergency department before transfer;
 - c. Instances of trauma team activation to determine if trauma team activation was timely and appropriate;
 - d. Instances where trauma care was provided to a patient but trauma team activation did not occur;
 - e. Time from notification of a surgeon on the trauma team that a patient described in subsection (H)(6)(b)(i) is in the emergency department to when the surgeon arrives in the emergency department;
 - f. Documentation of the nursing services provided to a patient;
 - g. Instances and reasons for transfer of a patient;
 - h. Instances and reasons for transfer to a hospital not designated as a trauma center;
 - i. For a hospital designated as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, instances and reasons for diversion, as defined in A.A.C. R9-10-201, of a patient requiring trauma care;
 - j. Instances of and circumstances related to the death of a patient;
 - k. Instances related to the assessment of child maltreatment;
 - l. Other patient outcomes;
 - m. Trauma care parameters for pediatric patients, including pediatric-specific measures; and
 - n. The completeness and timeliness of trauma data submission.
- F. In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall:
1. Ensure that a trauma service is established if required by Table 13.1;
 2. Ensure that policies and procedures for the trauma service are established, documented, and implemented that include:
 - a. The composition of the trauma team;
 - b. The qualifications, skills, and knowledge required of each personnel member of the trauma team;
 - c. Continuing education or continuing medical education requirements for each personnel member of the trauma team;
 - d. The roles and responsibilities of each personnel member of the trauma team;
 - e. Under what circumstances the trauma team is activated; and
 - f. How the trauma team is activated;
 3. Ensure that the personnel members on the trauma team have the qualifications, skills, and knowledge required in the policies and procedures;
 4. If the trauma center is required according to Table 13.1 to have a trauma medical director, appoint a board-certified or board-eligible surgeon as trauma medical director;
 5. Prohibit a physician from serving as trauma medical director for the trauma center if the physician is serving as trauma medical director for another health care institution;
 6. Ensure that the trauma medical director completes:
 - a. If the trauma center's designation is for a three-year period, at least 48 hours of external trauma-related continuing medical education during the term of the designation;
 - b. If the trauma center's designation is for a one-year period, at least 16 hours of external trauma-related continuing medical education during the term of the designation; and
 - c. If the trauma center is designated as a Level I Pediatric trauma center or Level II Pediatric trauma center, at least 12 of the 48 hours required in subsection (F)(6)(a) or four of the 16 hours required in subsection (F)(6)(b) in pediatric trauma-related continuing medical education;
 7. Appoint an individual to act as trauma program manager to coordinate trauma service activities;
 8. If the trauma center is required by Table 13.1 to have a multidisciplinary peer review committee, ensure that each surgeon on the trauma team designated according to subsection (F)(3) attends at least 50% of the meetings of the multidisciplinary peer review committee;
 9. If the trauma center provides surgical services, ensure that policies and procedures for operating rooms and an operating room team are established, documented, and implemented that include:
 - a. The availability of an operating room for trauma care;
 - b. The composition of an operating room team;
 - c. The qualifications, skills, and knowledge required of each personnel member of an operating room team;
 - d. The roles and responsibilities of each personnel member of an operating room team;
 - e. If an operating room team is not on the premises of the health care institution 24 hours a day, under what circumstances the operating room team is notified to come to the trauma center; and
 - f. How the operating room team is notified;
 10. Ensure that the following personnel members on the trauma team:
 - a. Hold current certification in a trauma critical care course:
 - i. Trauma medical director, if applicable;
 - ii. Each emergency medicine physician who is not board-certified or board-eligible; and

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- iii. Each physician assistant or registered nurse practitioner who is responsible for providing trauma care to patients in an emergency department in the absence of an emergency physician; or
 - b. Have held certification in a trauma critical care course:
 - i. Each general surgeon other than the trauma medical director, and
 - ii. Each emergency medicine physician who is board-certified or board-eligible;
 - 11. If the trauma center is designated as a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, ensure that each of the trauma team personnel members required in Table 13.1(C)(2) and (C)(3)(a) through (f) are board-certified or board-eligible;
 - 12. If the trauma center is designated as a Level I Pediatric trauma center, ensure that the following trauma team members are fellowship-trained:
 - a. The surgeon credentialed for pediatric trauma care required in Table 13.1(C)(2)(a)(iii),
 - b. The pediatric emergency medicine physician required in Table 13.1(C)(2)(c),
 - c. The pediatric-credentialed orthopedic surgeon required in Table 13.1(C)(3)(b),
 - d. The pediatric-credentialed neurosurgeon required in Table 13.1(C)(3)(d), and
 - e. The pediatric-credentialed critical care medicine physician required in Table 13.1(C)(3)(f);
 - 13. If the trauma center is designated as a Level II Pediatric trauma center, ensure that:
 - a. The pediatric-credentialed critical care medicine physician required in Table 13.1(C)(3)(f) is fellowship-trained, and
 - b. A fellowship-trained pediatric emergency medicine physician:
 - i. Provides direction for pediatric emergency trauma care and oversight of the treatment of pediatric patients as part of the performance improvement program, and
 - ii. Is appointed as a liaison to the multidisciplinary peer review committee established according to subsection (B)(5); and
 - 14. If the trauma center is not designated as a Level I Pediatric trauma center or Level II Pediatric trauma center and annually provides trauma care to 100 or more injured children younger than 15 years of age who meet one or more of the criteria in subsection (C)(1)(c), ensure that the trauma center:
 - a. Complies with subsection (F)(13) and Table 13.1(C)(2)(a)(iii), (3)(b), (3)(d), and (3)(f) and (F)(2); and
 - b. Has a:
 - i. Pediatric emergency department area,
 - ii. Pediatric intensive care area, and
 - iii. Pediatric-specific trauma performance improvement program.
- G.** In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall ensure that the trauma center:
- 1. Establishes, documents, and implements a patient transfer plan, consistent with A.A.C. R9-10-211, that includes:
 - a. The criteria for transferring a patient,
 - b. The health care institution to which a patient meeting specific criteria will be transferred,
 - c. The personnel members who are responsible for coordinating the transfer of a patient, and
 - d. The process for transferring a patient;
 - 2. Participates in state, local, or regional trauma-related activities such as:
 - a. The State Trauma Advisory Board, established by A.R.S. § 36-2222;
 - b. A regional emergency medical services coordinating council described in A.R.S. § 36-2222(A)(3);
 - c. Trauma Registry Users Group, established by the Department;
 - d. Trauma Managers Workgroup, established by the Department; or
 - e. Injury Prevention Council;
 - 3. Participates in injury prevention programs specific to the trauma center's patient population at the national, regional, state, or local levels;
 - 4. Except for a Level IV trauma center, conducts trauma care continuing education activities for physicians, trauma center personnel members, and EMCTs;
 - 5. If required for the trauma center according to Table 13.1, establishes and maintains:
 - a. An injury prevention program:
 - i. Independently or in collaboration with other health care institutions, health advocacy groups, or the Department; and
 - ii. That includes:
 - (1) Designating a prevention coordinator who serves as the trauma center's representative for injury prevention and injury control activities;
 - (2) Carrying out injury prevention and injury control activities, including activities specific to the patient population;
 - (3) Conducting injury control studies;
 - (4) Monitoring the progress and effect of the injury prevention program; and
 - (5) Providing injury prevention and injury control information resources for the public; and
 - b. An educational outreach program:
 - i. Independently or in collaboration with other health care institutions, health advocacy groups, or the Department;
 - ii. That includes providing education to physicians, trauma center personnel members, EMCTs, and the general public; and
 - iii. That may include education about:
 - (1) Injury prevention,
 - (2) Trauma care,
 - (3) Other topics specific to the patient population,
 - (4) Criteria for assessing a patient who may require trauma care, and
 - (5) Criteria for the transfer of a patient requiring trauma care; and
 - 6. If the trauma center holds a designation as a Level I trauma center or Level I Pediatric trauma center:
 - a. Establishes and maintains, either independently or in collaboration with other hospitals, a residency program or fellowship program that provides advanced

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- medical training in emergency medicine, general surgery, orthopedic surgery, or neurosurgery;
- b. Participates in the provision of a trauma critical care course;
 - c. Conducts or participates in research related to trauma and trauma care; and
 - d. Maintains an Institutional Review Board, established consistent with 45 CFR Part 46, to review biomedical and behavioral research related to trauma and trauma care involving human subjects, conducted, funded, or sponsored by the trauma center, in order to protect the rights of the human subjects of such research.
- H.** In addition to the requirements in subsections (A) through (E), the owner of a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 shall:
1. Ensure the presence of a surgeon at all operative procedures;
 2. If the trauma center provides emergency medicine, neurosurgery, orthopedic surgery, anesthesiology, critical care, or radiology as an organized service, ensure that:
 - a. A physician from the organized service is appointed to act as a liaison between the organized service and the trauma center's trauma service;
 - b. The physician in subsection (H)(2)(a) completes:
 - i. If the trauma center's designation is for a three-year period, at least 48 hours of trauma-related continuing medical education during the term of the designation;
 - ii. If the trauma center's designation is for a one-year period, at least 16 hours of trauma-related continuing medical education during the term of the designation; and
 - iii. If the trauma center is designated as a Level I Pediatric trauma center or Level II Pediatric trauma center, at least 12 of the 48 hours required in subsection (H)(2)(b)(i) or four of the 16 hours required in subsection (H)(2)(b)(ii) in pediatric trauma-related continuing medical education; and
 - c. If the trauma center is required by Table 13.1 to have a multidisciplinary peer review committee, ensure the physician in subsection (H)(2)(a) attends at least 50% of the meetings of the multidisciplinary peer review committee;
 3. Ensure that, when a physician is on-call for general surgery, neurosurgery, or orthopedic surgery, the physician is not on-call or on a back-up call list at another health care institution;
 4. Ensure that policies and procedures are established, documented, and implemented for:
 - a. Except for a Level IV trauma center, the formulation of blood products to be available during an event requiring multiple blood transfusions for a patient or patients; and
 - b. For a Level IV trauma center, the expedited release of blood products during an event requiring multiple blood transfusions for a patient or patients;
 5. Ensure that the patient transfer plan required in subsection (G)(1) includes processes for transferring a patient needing:
 - a. Acute hemodialysis or pediatric trauma care to a hospital providing the required service if the trauma center is designated as a:
 - i. Level III or Level IV trauma center; or
 - ii. Level II trauma center and does not provide, as applicable, acute hemodialysis or pediatric trauma care;
 - b. Burn care as an organized service, acute spinal cord management, microvascular surgery, or replant surgery to a hospital providing the required service if the trauma center is designated as a:
 - i. Level III or Level IV trauma center; or
 - ii. Level I or Level II trauma center and does not provide, as applicable, burn care as an organized service, acute spinal cord management, microvascular surgery, or replant surgery; or
 - c. Another service that the trauma center is not authorized or not able to provide to a hospital providing the required service;
 6. Except for a Level IV trauma center or as provided in subsection (I), require that:
 - a. An emergency medicine physician is present in the emergency department at all times;
 - b. A surgeon on the trauma team is present in the emergency department:
 - i. For a patient:
 - (1) If an adult, with a systolic blood pressure less than 90 mm Hg or, if a child, with confirmed age-specific hypotension;
 - (2) With respiratory compromise, respiratory obstruction, or intubation;
 - (3) Who is transferred from another hospital and is receiving blood to maintain vital signs;
 - (4) Who has a gunshot wound to the abdomen, neck, or chest;
 - (5) Who has a Glasgow Coma Scale score less than 8 associated with an injury attributed to trauma; or
 - (6) Who is determined by an emergency department physician to have an injury that has the potential to cause prolonged disability or death; and
 - ii. No later than the following times:
 - (1) For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, within 15 minutes after notification or at the time the patient arrives in the emergency department, whichever is later; or
 - (2) For a Level III trauma center, within 30 minutes after notification or at the time the patient arrives in the emergency department, whichever is later; and
 - c. One of the following anesthesia personnel members is available for an operative procedure on a patient at the indicated time point:
 - i. For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, or Level II Pediatric trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department or in an operating room area awaiting the patient no later than 15 minutes

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- after patient arrival in the emergency department; and
- ii. For a Level III trauma center, an anesthesiologist, anesthesiology chief resident, or certified registered nurse anesthetist is present in the emergency department or in an operating room area awaiting the patient no later than 30 minutes after patient arrival in the emergency department;
7. For a clinical capability required for the trauma center according to Table 13.1(C)(3), require that the on-call radiologist, critical care medicine physician, or surgical specialist is available to provide medical services, as applicable to the specialist, for a patient requiring trauma care within 45 minutes after notification; and
 8. For personnel members assigned to an operating room team according to subsection (F)(9), require that the personnel members on the operating room team are on the premises of the trauma center while on duty or:
 - a. For a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center:
 - i. Are available to provide operative services for a patient requiring trauma care within 15 minutes after notification or patient arrival at the trauma center, whichever is later; and
 - ii. Have response times and patient outcomes monitored through the performance improvement program; and
 - b. For a Level III trauma center or Level IV trauma center, if the Level IV trauma center provides surgical services:
 - i. Are available to provide operative services for a patient requiring trauma care within 30 minutes after notification or patient arrival at the trauma center, whichever is later; and
 - ii. Have response times and patient outcomes monitored through the performance improvement program.
 - I. The Department shall consider a trauma center designated based on meeting the applicable standards specified in this Section and Table 13.1 to be in compliance with subsection (H)(6)(a), (b), or (c), as applicable, if the trauma center has documentation showing that:
 1. The individual required to be present at the indicated location and within the indicated time period was present 80% or more of the time, and
 2. The trauma center monitors the rate of compliance with subsection (H)(6) and patient outcomes through the performance improvement program.
 - J. The requirement in subsection (H)(6)(b) applies whether or not the owner of a trauma center allows a surgery resident in the fourth or fifth year of residency training to begin treating a patient described in subsection (H)(6)(b)(i) while awaiting the arrival of the surgeon on the trauma team, as required in subsection (H)(6)(b)(ii)(1) or (2).
 - K. An ALS base hospital certificate holder that chooses to submit trauma registry information to the Department, as allowed by A.R.S. § 36-2221(A), shall:
 1. Include in the ALS base hospital's trauma registry at least the information required in R9-25-1309(A) for each patient who meets one or more of the criteria in subsections (C)(1)(a) through (c), and
 2. Comply with the submission requirements in subsections (C)(2) and (3).

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1308 renumbered to R9-25-1304; new Section R9-25-1308 renumbered from R9-25-1313 and amended by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3). Incomplete citations to Table 13.1(C)(3)(f) under subsections (F)(12)(e) and (F)(13)(a) corrected at the request of the Department (Supp. 18-4). Amended by final expedited rulemaking at 29 A.A.R. 2321 (October 6, 2023), with an immediate effective date of September 18, 2023 (Supp. 23-3).

R9-25-1309. Trauma Registry Data (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2221, and 36-2225(A)(5) and (6))

- A. A trauma registry established according to R9-25-1308(B)(1) includes the following in the record of a patient's episode of care, as defined in A.A.C. R9-11-101, for each patient meeting the criteria in R9-25-1308(C)(1):
1. An identification code specific to the health care institution that had contact with the patient during the episode of care;
 2. Demographic information about the patient:
 - a. The unique number assigned by the health care institution to the patient;
 - b. A code indicating whether the patient's record will be submitted to the Department as required in R9-25-1308(C)(2);
 - c. The unique number assigned by the health care institution for the episode of care;
 - d. The date the patient arrived at the health care institution for the episode of care;
 - e. For the episode of care, a code indicating whether the patient:
 - i. Was directly admitted to the health care institution,
 - ii. Was admitted to the health care institution through the emergency department,
 - iii. Was seen in the emergency department then transferred to another health care institution by an ambulance service or emergency medical services provider,
 - iv. Was seen in the emergency department and discharged, or
 - v. Died in the emergency department or was dead on arrival;
 - f. The patient's first name, middle initial, and last name;
 - g. The patient's Social Security Number;
 - h. The patient's date of birth and age;
 - i. Codes indicating the patient's gender, race, and ethnicity;
 - j. The zip code of the patient's residence or, if applicable, an indication of why no zip code was reported; and
 - k. The city, state, and county of the patient's residence;
 3. Information about the occurrence of the patient's injury:
 - a. The date and time the injury occurred;
 - b. The ICD-code describing the type of location where the injury occurred;

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- c. The zip code of the location where the injury occurred;
 - d. The city, state, and county where the injury occurred;
 - e. A code indicating whether the patient's injury resulted from blunt force trauma, a penetrating wound, or a burn;
 - f. The ICD-code indicating the primary mechanism or cause of the patient's injury resulting in the episode of care and the manner or intent through which the injury occurred;
 - g. A description of the cause and circumstances leading to the patient's injury;
 - h. Whether the patient was using a protective device or safety equipment at the time of the injury and, if so, the type or types of protective device or safety equipment being used;
 - i. If the patient was subject to the requirements in A.R.S. § 28-907 at the time of the injury, whether the patient was using a child restraint system, as defined in A.R.S. § 28-907, at the time of the injury and, if so, the type of child restraint system being used; and
 - j. If the patient's injury resulted from a motor vehicle crash, a code describing the status of airbag deployment;
4. Information about the patient's arrival at the health care institution:
- a. A code identifying the mode of transportation by which the patient arrived at the health care institution; and
 - b. If applicable:
 - i. The ambulance service or emergency medical services provider that transported the patient to the health care institution;
 - ii. The unique identifier given by the ambulance service or emergency medical services provider to the incident during which the patient received EMS;
 - iii. The date the ambulance service or emergency medical services provider transported the patient to the trauma center; and
 - iv. If the patient was transferred from another health care institution, the name of the other health care institution;
5. Information about the health care institution's assessment or treatment of the patient in the emergency department:
- a. A code indicating which of the criteria in R9-25-1308(C)(1) the patient met;
 - b. A code indicating whether an ambulance service or emergency medical services provider transported the patient to the health care institution and, if so, the criteria used by the transporting ambulance service or emergency medical services provider for transporting the patient to the health care institution;
 - c. The date and time the patient arrived at the emergency department of the health care institution for the episode of care;
 - d. The date and time the patient died or left the emergency department of the health care institution for the episode of care;
 - e. The length of time in hours and in minutes that the patient remained in the emergency department of the health care institution during the episode of care;
 - f. If trauma team activation occurred, the time when the last trauma team personnel member arrived at their assigned location in the health care institution;
 - g. Whether the patient showed signs of life when the patient arrived at the health care institution;
 - h. The values of the following for the patient at the time of their first assessment at the health care institution:
 - i. Pulse rate;
 - ii. Respiratory rate;
 - iii. Oxygen saturation;
 - iv. Systolic blood pressure; and
 - v. Temperature, including the units of temperature and the route used to measure the patient's temperature;
 - i. A code indicating whether the patient was receiving respiratory assistance at the time the patient's respiratory rate was assessed;
 - j. A code indicating whether the patient was receiving supplemental oxygen at the time the patient's oxygen saturation was assessed;
 - k. Codes indicating the Glasgow Coma Score for:
 - i. Eye opening,
 - ii. Verbal response to stimulus, and
 - iii. Motor response to stimulus;
 - l. The patient's total Glasgow Coma Score;
 - m. Whether the patient was intubated at the time of the patient's assessments in subsections (A)(5)(h)(ii), (k)(ii), and (l);
 - n. A code indicating whether a paralytic agent or sedative had been administered to the patient at the time the patient's Glasgow Coma Score was measured;
 - o. A code indicating another factor that may have affected the patient's Glasgow Coma Score;
 - p. A revised trauma score for the patient, auto-calculated based on the patient's systolic blood pressure, respiratory rate, and Glasgow Coma Score;
 - q. A code indicating the status of alcohol use by the patient and, if applicable, the blood alcohol concentration in the patient's blood;
 - r. A code indicating the status of drug use by the patient and, if applicable, the code for each drug class detected in the patient's blood;
 - s. A code indicating the disposition of the patient at the time the patient was discharged from the emergency department; and
 - t. If the patient was transferred to another health care institution upon discharge from the emergency department:
 - i. The name of the health care institution to which the patient was transferred;
 - ii. The name of the ambulance service or emergency medical services provider providing the interfacility transport;
 - iii. A code indicating the reason for transfer; and
 - iv. If there was a delay in transferring the patient to another health care institution, a code indicating the reason for the delay;
6. Information about the patient's discharge from the health care institution:
- a. The date and time the patient was discharged from the health care institution;

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- b. The length of time the patient remained as an inpatient, as defined in A.A.C. R9-10-201, in the health care institution;
- c. The length of time the patient remained in the health care institution's intensive care unit;
- d. A code indicating whether the patient was alive or dead at the time of discharge from the health care institution;
- e. The ICD-code for each injury identified in the patient, including an indication of whether the ICD-code is for:
 - i. The principle diagnosis, the reason believed by the health care institution to be chiefly responsible for the patient's need for the episode of care; or
 - ii. A secondary diagnosis, another reason believed by the health care institution to have contributed to the patient's need for the episode of care;
- f. The patient's Injury Severity Score;
- g. A code indicating the disposition of the patient at the time the patient was discharged from the health care institution;
- h. Whether a report of suspected physical abuse was reported to law enforcement or as required by A.R.S. § 13-3620 or 46-454, if applicable, and, if so:
 - i. Whether an investigation into the suspected physical abuse was initiated by an entity to which the suspected physical abuse was reported; and
 - ii. If the patient is a child, whether the patient was discharged in the care of a person other than the person responsible for the care of the patient at the time the patient arrived at the health care institution; and
- i. If the patient was transferred to a hospital upon discharge from the health care institution:
 - i. The name of the hospital to which the patient was transferred,
 - ii. The name of the ambulance service or emergency medical services provider providing the interfacility transport, and
 - iii. A code indicating the reason for transfer; and
- 7. Financial information about the episode of care:
 - a. A code for the primary source of payment for the episode of care;
 - b. A code for a secondary source of payment for the episode of care, if applicable;
 - c. The total amount of charges for the episode of care; and
 - d. The total amount collected by the health care institution for the episode of care.
- B.** In addition to the information required in subsection (A), a trauma registry established according to R9-25-1308(B)(1) by a Level I trauma center, Level I Pediatric trauma center, Level II trauma center, Level II Pediatric trauma center, or Level III trauma center includes the following in the record of a patient's episode of care, as defined in A.A.C. R9-11-101, for each patient meeting the criteria in R9-25-1308(C)(1):
 - 1. Demographic information about the patient:
 - a. The country of the patient's residence;
 - b. The country where the patient was found or from which an ambulance service or emergency medical services provider transported the patient; and
 - c. Any pre-existing medical conditions diagnosed for the patient, unrelated to the reason for the episode of care;
 - 2. Information about the occurrence of the patient's injury:
 - a. Whether the time specified according to subsection (A)(3)(a) is the actual time of occurrence or an estimate;
 - b. The street address of the location where the injury occurred or, if the location at which the injury occurred does not have a street address, another indicator of the location at which the injury occurred;
 - c. Any additional ICD-code describing the mechanism or cause of the patient's injury resulting in the episode of care and the manner or intent through which the injury occurred;
 - d. The ICD-code indicating the activity the patient was engaged in that resulted in the patient's injury;
 - e. If the patient's injury resulted from a crash involving a means of transportation, including a motor vehicle, other motorized means of transportation, watercraft, bicycle, or aircraft, a code describing the type of vehicle in use at the time of the injury and the patient's location in the vehicle;
 - f. A description of any issues related to a protective device or safety equipment in use at the time of the patient's injury; and
 - g. Whether the patient's injury occurred during the patient's paid employment and, if so, a code indicating:
 - i. The type of occupation associated with the patient's employment, and
 - ii. The patient's occupation;
 - 3. A code indicating whether EMS was provided to the patient and, if applicable, the type of transport provided to the patient;
 - 4. If EMS was provided to the patient, whether a prehospital incident history report was provided to the trauma center and, if so:
 - a. The date on the prehospital incident history report;
 - b. The identifying number on the prehospital incident history report assigned by the ambulance service or emergency medical services provider;
 - c. The date and time the ambulance service or emergency medical services provider was dispatched, as defined in R9-25-901, to the scene;
 - d. The date and time the ambulance service or emergency medical services provider responded to the dispatch;
 - e. The date and time the ambulance service or emergency medical services provider arrived at the scene;
 - f. The date and time the ambulance service or emergency medical services provider established contact with the patient;
 - g. The date and time the ambulance service or emergency medical services provider left the scene;
 - h. The date and time the ambulance service or emergency medical services provider arrived at the health care institution that was the transport destination;
 - i. The date and time the patient's pulse, respiration, oxygen saturation, and systolic blood pressure were first measured;

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- j. At the date and time the patient's pulse, respiration, oxygen saturation, and systolic blood pressure were first measured, the patient's:
 - i. Pulse rate,
 - ii. Respiratory rate,
 - iii. Oxygen saturation, and
 - iv. Systolic blood pressure;
 - k. Whether the patient was intubated at the date and time the patient's pulse, respiration, and oxygen saturation were first measured;
 - l. Codes indicating the Glasgow Coma Score for:
 - i. Eye opening,
 - ii. Verbal response to stimulus, and
 - iii. Motor response to stimulus;
 - m. The patient's total Glasgow Coma Score;
 - n. A code indicating whether a paralytic agent or sedative had been administered to the patient at the date and time the patient's Glasgow Coma Score was measured;
 - o. A revised trauma score for the patient, auto-calculated based on the patient's systolic blood pressure, respiratory rate, and Glasgow Coma Score;
 - p. Codes indicating all airway management procedures performed on the patient by an ambulance service or emergency medical services provider before the patient's arrival at the first health care institution; and
 - q. Whether the patient experienced cardiac arrest subsequent to the injury before the patient's arrival at the first health care institution;
5. The amount of time that elapsed from the date and time the ambulance service or emergency medical services provider:
 - a. Was dispatched and the date and time the ambulance service or emergency medical services provider arrived at the scene,
 - b. Arrived at the scene and the date and time the ambulance service or emergency medical services provider left the scene,
 - c. Left the scene and the date and time the ambulance service or emergency medical services provider arrived at the transport destination, and
 - d. Was dispatched and the date and time the ambulance service or emergency medical services provider arrived at the transport destination;
 6. Whether the patient arrived at the trauma center for treatment of the injury resulting in the episode of care through an interfacility transport;
 7. If the patient arrived at the trauma center through an interfacility transport, the following information about the health care institution at which the patient was seen immediately before arriving at the trauma center:
 - a. The name of the health care institution;
 - b. The date and time the patient arrived at the health care institution in subsection (B)(7)(a); and
 - c. The date and time the patient left the health care institution in subsection (B)(7)(a);
 8. If the patient arrived at the health care institution in subsection (B)(7)(a) through an interfacility transport, the information in subsections (B)(7)(a) through (c) about each health care institution at which the patient was seen for the injury resulting in the episode of care before arriving at the health care institution in subsection (B)(7)(a);
 9. If the patient arrived at the trauma center through an interfacility transport, for each health care institution at which the patient was seen for the injury resulting in the episode of care before arriving at the trauma center, information for the first instance of assessing the patient's:
 - a. Respiratory rate,
 - b. Systolic blood pressure,
 - c. The patient's total Glasgow Coma Score, and
 - d. Revised trauma score; and
 10. Information about the patient's episode of care at the trauma center and the patient's discharge from the trauma center:
 - a. The patient's height and weight when the patient arrived at the trauma center;
 - b. The number of days the patient spent on a mechanical ventilator;
 - c. If applicable, the identification number assigned by a medical examiner or alternate medical examiner, as defined in A.R.S. § 11-591, to the documentation of the patient's autopsy;
 - d. The total length of time the patient remained at the trauma center before discharge;
 - e. For each ICD-code identified according to subsection (A)(6)(e), a code that reflects the severity of the injury to which the ICD-code refers;
 - f. For each ICD-code identified according to subsection (A)(6)(e) that does not include an indication of the part of the patient's body that was injured, a code supplementing the ICD-code that indicates the part of the body that was injured;
 - g. For each procedure performed on the patient:
 - i. The ICD-code for the procedure,
 - ii. The health care institution at which the procedure was performed,
 - iii. A code indicating the organized service unit within the health care institution in which the procedure was performed, and
 - iv. The date and time the procedure was begun;
 - h. Any complications experienced by the patient while the patient remained at the trauma center;
 - i. The Abbreviated Injury Scale code indicating the severity of each of the patient's injuries;
 - j. The Abbreviated Injury Scale code indicating the body region affected by each of the patient's injuries;
 - k. If the trauma center is designated as a Level I trauma center or Level I Pediatric trauma center, the six-digit Abbreviated Injury Scale code and the software version used to calculate the six-digit Abbreviated Injury Scale code; and
 - l. The patient's probability of survival.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1309 renumbered to R9-25-1305; new Section R9-25-1309 made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1310. Trauma Registry Data Quality Assurance (Authorized by A.R.S. §§ 36-2202(A)(4), 36-2208(A), 36-2209(A)(2), 36-2220(A), 36-2221, and 36-2225(A)(5) and (6))

- A. To ensure the completeness and accuracy of trauma registry reporting, a health care institution submitting trauma registry information to the Department shall allow the Department to

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review the following, upon prior notice from the Department of at least five business days:

1. The health care institution's trauma registry or other database containing trauma registry information;
 2. Patient medical records; and
 3. Any record, other than those specified in subsections (A)(1) and (2), that may contain information about diagnostic evaluation or treatment provided to a patient receiving trauma care.
- B.** Upon prior notice from the Department of at least five business days, a health care institution submitting trauma registry information to the Department shall provide the Department with all patient medical records for a time period specified by the Department, to allow the Department to determine the accuracy and completeness of the information submitted to the trauma registry for patients receiving trauma care during the period.
- C.** For purposes of subsection (B), the Department considers a health care institution to be in compliance with R9-25-1308(C)(2) if the health care institution submitted to the Department trauma registry information for 97% of the patients receiving trauma care during the period.
- D.** If trauma registry information submitted to the Department by a health care institution according to R9-25-1308(C)(2) and (3) is not in compliance with requirements in R9-25-1308 or R9-25-1309, the Department shall:
1. Notify the health care institution that the trauma registry information submitted to the Department is not in compliance with requirements in R9-25-1308 or R9-25-1309, and
 2. Identify the revisions or actions that are needed to bring the data into compliance with R9-25-1308 and R9-25-1309.
- E.** A health care institution that has trauma registry information returned, as provided in subsection (D), shall:
1. Revise the trauma registry information as identified by the Department, and
 2. Submit the revised data to the Department within 15 business days after the date the Department notified the health care institution according to subsection (D)(1) or within a longer period agreed upon between the Department and the health care institution.
- F.** Within 15 business days after receiving a written request from the Department that includes a simulated patient medical record, a health care institution submitting trauma registry information to the Department shall prepare and submit to the Department the information required in R9-25-1309, applicable to the Level of health care institution, for the patient described in the simulated patient medical record.

Historical Note

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1310 repealed; new Section R9-25-1310 renumbered from R9-25-1406 and amended by final rulemaking at 23

A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1311. Repealed**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1311 repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1312. Renumbered**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1312 renumbered to R9-25-1307 by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1313. Renumbered**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section R9-25-1313 renumbered to R9-25-1308 by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1314. Expired**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3).

R9-25-1315. Repealed**Historical Note**

New Section made by final rulemaking 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Section repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Table 1. Repealed**Historical Note**

New Table made by final rulemaking at 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Table 1 Application Processing Time Periods repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Exhibit I. Repealed**Historical Note**

New Exhibit made by final rulemaking at 11 A.A.R. 4363, effective October 6, 2005 (Supp. 05-4). Exhibit 1 Arizona Trauma Center Standards repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Table 13.1. Arizona Trauma Center Standards (A.R.S. §§ 36-2202(A)(4), 36-2209(A)(2), and 36-2225(A)(4))

Key:

E = Essential and required

I(P) = Level I Pediatric trauma center

II(P) = Level II Pediatric trauma center

ICU = Intensive care unit

In-house = On the premises of the health care institution

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ISS = Injury severity score, the sum of the squares of the abbreviated injury scale scores of the three most severely injured body regions

Child life = A program of support to injured children and their families to reduce stress and anxiety by:

- a. Explaining medical equipment and procedures to children in a non-threatening and age-appropriate manner,
- b. Explaining a diagnosis to a child in an age-appropriate manner, and
- c. Helping children and their families develop strategies to cope with the diagnosis and expected outcome

Trauma Facilities Criteria	Levels					
	I	I(P)	II	II(P)	III	IV
A. Institutional Organization						
1. Trauma service	E	E	E	E	E	-
2. Trauma medical director	E	E	E	E	E	-
3. Trauma multidisciplinary peer review committee	E	E	E	E	E	-
4. Injury prevention program (R9-25-1308(G)(5)(a))	E	E	E	E	-	-
5. Injury prevention activities (R9-25-1308(G)(3))	E	E	E	E	E	E
6. Educational outreach program (R9-25-1308(G)(5)(b))	E	E	E	E	-	-
7. Educational outreach activities (R9-25-1308(G)(4))	E	E	E	E	E	-
8. Child maltreatment assessment capability	E	E	E	E	E	E
B. Hospital Departments/Divisions/Sections						
1. Surgery	E	E	E	E	E	-
2. Neurosurgery	E	E	E	E	-	-
3. Orthopedic surgery	E	E	E	E	E	-
4. Emergency medicine	E	E	E	E	E	-
5. Pediatric emergency department area	-	E	-	E	-	-
6. Anesthesia	E	E	E	E	E	-
C. Clinical Capabilities						
1. Written on-call schedule for each component of the trauma service if a team member is not in-house	E	E	E	E	E	E
2. Physician specialist available 24 hours/day						
a. General surgeon	E	E	E	E	E	-
i. Published back-up schedule	E	E	E	E	-	-
ii. Dedicated to single hospital when on-call	E	E	E	E	-	-
iii. Surgeon credentialed for pediatric trauma care	-	E	-	E	-	-
b. Emergency medicine physician	E	E	E	E	E	-
c. Pediatric emergency medicine physician	-	E	-	-	-	-
3. Specialist on-call and available 24 hours/day						
a. Orthopedic surgeon	E	E	E	E	E	-
b. Pediatric-credentialed orthopedic surgeon	-	E	-	E	-	-
c. Neurosurgeon	E	E	E	E	-	-
d. Pediatric-credentialed neurosurgeon	-	E	-	E	-	-
e. Critical care medicine physician	E	E	E	E	-	-
f. Pediatric-credentialed critical care medicine physician	-	E	-	E	-	-
g. Radiologist	E	E	E	E	E	
h. Hand surgeon	E	E	E	E	-	-
i. Ophthalmic surgeon	E	E	E	E	-	-
j. Plastic surgeon	E	E	E	E	-	-
k. Thoracic surgeon	E	E	E	E	-	-
l. Cardiac surgeon	E	E	-	-	-	-
m. Obstetrics/gynecologic surgeon	E	E	-	-	-	-
n. Oral/maxillofacial surgeon (plastic surgeon, otolaryngologist, or oral/maxillofacial surgeon)	E	E	E	E	-	-
4. Qualified anesthesia personnel member on-call and available 24 hours/day						
a. Physician or certified nurse anesthetist	E	E	E	E	E	-
b. Physician or certified nurse anesthetist with a pediatric credential	-	E	-	E	-	-
5. Volume performance standards:						
a. 1200 trauma admissions per year,	E	-	-	-	-	-
b. 240 admissions with ISS > 15 per year, or						
c. Average of 35 patients with ISS > 15 for each trauma team surgeon per year						

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d. 200 trauma admissions < 15 years of age per year,	-	E	-	-	-	-
D. Facilities/Resources/Capabilities						
1. Emergency department						
a. Designated physician director	E	E	E	E	E	-
b. Personnel members with pediatric-specific trauma-related training	-	E	-	E	-	-
c. Resuscitation equipment for patients of all sizes						
i. Airway control and ventilation equipment	E	E	E	E	E	E
ii. Pulse oximetry	E	E	E	E	E	E
iii. Suction devices	E	E	E	E	E	E
iv. Electrocardiograph-oscilloscope-defibrillator	E	E	E	E	E	E
v. Color-coded, length-based tool to assist with medication dosing and equipment selection for children	E	E	E	E	E	E
vi. Central venous pressure monitoring equipment	E	E	E	E	E	-
vii. Standard intravenous fluids and administration sets	E	E	E	E	E	E
viii. Large-bore intravenous catheters	E	E	E	E	E	E
ix. Sterile surgical sets for:						
(1) Airway control/cricothyrotomy	E	E	E	E	E	E
(2) Thoracostomy	E	E	E	E	E	E
(3) Central line insertion	E	E	E	E	E	-
(4) Thoracotomy	E	E	E	E	E	-
x. Arterial catheters	E	E	E	E	-	-
xi. X-ray availability 24 hours/day	E	E	E	E	E	-
xii. Thermal control equipment						
(1) For patient	E	E	E	E	E	E
(2) For fluids and blood	E	E	E	E	E	E
xiii. Rapid infusion system/capability	E	E	E	E	E	E
xiv. Qualitative end-tidal CO ₂ monitoring	E	E	E	E	E	E
d. Communication with EMS personnel	E	E	E	E	E	E
e. Capability to resuscitate, stabilize, and transfer pediatric patients	E	E	E	E	E	E
2. Operating room						
a. Immediately available 24 hours/day	E	E	E	E	-	-
b. Size-specific equipment						
i. Cardiopulmonary bypass	E	E	-	-	-	-
ii. Operating microscope	E	E	-	-	-	-
c. Thermal control equipment						
i. For patient	E	E	E	E	E	E
ii. For fluids and blood	E	E	E	E	E	E
d. X-ray capability including C-arm image intensifier	E	E	E	E	E	-
e. Endoscopes, bronchoscope	E	E	E	E	E	-
f. Craniotomy instruments	E	E	E	E	-	-
g. Equipment for long bone and pelvic fixation	E	E	E	E	E	-
h. Rapid infusion system/capability	E	E	E	E	E	E
3. Postanesthesia recovery room or surgical ICU						
a. Registered nurses available 24 hours/day	E	E	E	E	E	E
b. Equipment for monitoring and resuscitation	E	E	E	E	E	E
c. Intracranial pressure monitoring equipment	E	E	E	E	-	-
d. Pulse oximetry	E	E	E	E	E	E
e. Thermal control equipment						
i. For patient	E	E	E	E	E	E
ii. For fluids and blood	E	E	E	E	E	E
4. ICU or critical care unit for injured patients						
a. Pediatric ICU	-	E	-	E	-	-
b. Registered nurses with trauma-related training	E	E	E	E	E	-
c. Registered nurses with pediatric-specific trauma-related training	-	E	-	E	-	-
d. Designated surgical director or surgical co-director	E	E	E	E	E	-

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e. Physician (fourth year of residency training or higher) assigned to surgical ICU service and in-house 24 hours/day	E	E	-	-	-	-
f. Physician (fourth year of residency training or higher) with a pediatric credential assigned to surgical ICU service and in-house 24 hours/day	-	E	-	-	-	-
g. Surgically directed and staffed ICU service	E	E	E	E	-	-
h. Equipment for monitoring and resuscitation	E	E	E	E	E	-
i. Intracranial pressure monitoring equipment	E	E	E	E	-	-
5. Respiratory therapy services (Available 24 hours/day)						
a. Available in-house	E	E	E	E	-	-
b. On-call and available within 45 minutes after notification	-	-	-	-	E	-
6. Radiological services (Available 24 hours/day)						
a. In-house radiology technologist	E	E	E	E	E	-
b. Radiology technologist on-call and available within 45 minutes after notification	-	-	-	-	-	E
c. Resuscitation equipment for patients of all sizes, as specified in subsection (D)(1)(c)(i) to (v)	E	E	E	E	E	E
d. Angiography	E	E	E	E	-	-
e. Sonography	E	E	E	E	E	-
f. Computed tomography (CT)	E	E	E	E	E	-
i. In-house CT technician	E	E	E	E	-	-
ii. CT technician on-call and available within 45 minutes after notification	-	-	-	-	E	-
g. Magnetic resonance imaging	E	E	E	E	-	-
7. Clinical laboratory service (Available 24 hours/day)						
a. Standard analyses of blood, urine, and other body fluids	E	E	E	E	E	E
b. Blood typing and cross-matching	E	E	E	E	E	-
c. Coagulation studies	E	E	E	E	E	E
d. Comprehensive blood bank or access to a community central blood bank and adequate storage facilities	E	E	E	E	E	-
e. Blood gases and pH determinations	E	E	E	E	E	E
f. Microbiology	E	E	E	E	E	-
E. Rehabilitation Services Specific to the Patient Population						
1. Physical therapy	E	E	E	E	E	-
2. Occupational therapy	E	E	E	E	-	-
3. Speech therapy	E	E	E	E	-	-
F. Social Services Specific to the Patient Population						
1. Social services	E	E	E	E	E	-
2. Child life program	-	E	-	E	-	-
G. Performance Improvement						
1. Multidisciplinary peer review committee	E	E	E	E	E	-
2. Performance improvement personnel dedicated to the trauma service	E	E	E	E	-	-

Historical Note

Table 13.1, Arizona Trauma Center Standards, made by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3). Subsections under (D)(2) were incorrectly labeled at 23 A.A.R. 2656; clerical error corrected and labeled as f through h (Supp. 22-2). Amended by final expedited rulemaking at 29 A.A.R. 2321 (October 6, 2023), with an immediate effective date of September 18, 2023 (Supp. 23-3).

ARTICLE 14. REPEALED

January 1, 2018 (Supp. 17-3).

R9-25-1401. Repealed**Table 1.****Repealed****Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

Historical Note

New Table 1 made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Table 1 Trauma Registry Data Set, repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1402. Repealed**R9-25-1403.****Repealed****Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section repealed by final rulemaking at 23 A.A.R. 2656, effective

Historical Note

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section

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repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1404. Expired**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section expired under A.R.S. 41-1056(E) at 18 A.A.R. 2153, effective June 30, 2012 (Supp. 12-3).

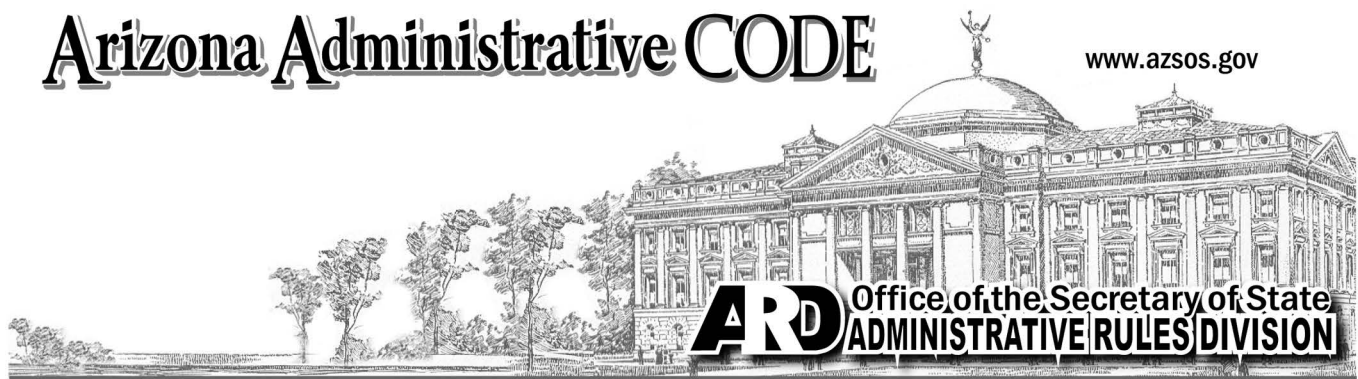
R9-25-1405. Repealed**Historical Note**

New Section made by final rulemaking at 13 A.A.R.

4301, effective January 12, 2008 (Supp. 07-4). Section heading corrected at request of the Department, Office File No. M12-82, filed March 5, 2012 (Supp. 11-4). Section repealed by final rulemaking at 23 A.A.R. 2656, effective January 1, 2018 (Supp. 17-3).

R9-25-1406. Renumbered**Historical Note**

New Section made by final rulemaking at 13 A.A.R. 4301, effective January 12, 2008 (Supp. 07-4). Section R9-25-1406 renumbered to R9-25-1310, effective January 1, 2018 (Supp. 17-3).



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

The table of contents on page one contains links to the referenced page numbers in this Chapter.
Refer to the notes at the end of a Section to learn about the history of a rule as it was published in the *Arizona Administrative Register*.

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
July 1, 2024 through September 30, 2024

R9-28-1301.	General Freedom to Work Requirements	42	R9-28-1313.	Premium Requirements	44
R9-28-1303.	Application for Coverage	43	R9-28-1316.	Institutionalized Person	44
R9-28-1304.	Notice of Approval or Denial	43	R9-28-1324.	Redetermination of Eligibility	45
R9-28-1309.	Conditions of Eligibility	44			

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The release of this Chapter in Supp. 24-3 replaces Supp. 24-2, 1-45 pages.

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

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

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

THE ADMINISTRATIVE CODE

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

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

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

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

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

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

RULE HISTORY

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

AUTHENTICATION OF PDF CODE CHAPTERS

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

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

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

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

EXEMPTIONS FROM THE APA

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

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

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

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

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

PERSONAL USE/COMMERCIAL USE

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

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Administrative Rules Division

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TITLE 9. HEALTH SERVICES

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

Authority: A.R.S. §§ 36-2903.01, 36-2903, 36-2932

Supp. 24-3

Editor's Note: The Office of the Secretary of State publishes all Code Chapters on white paper (Supp. 01-3).

Editor's Note: This Chapter contains rules which were adopted under an exemption from the rulemaking provisions of the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6, §§ 1001 et seq.) as specified in Laws 1992, Ch. 301, § 61 and Ch. 302, § 13, and Laws 1994, Ch. 322, § 21. Exemption from A.R.S. Title 41, Chapter 6 means that AHCCCS did not submit notice of this rulemaking to the Secretary of State's Office for publication in the Arizona Administrative Register; AHCCCS did not submit these rules to the Governor's Regulatory Review Council; AHCCCS was not required to hold public hearings on these rules; and the Attorney General did not certify these rules. Because this Chapter contains rules which are exempt from the regular rulemaking process, the Chapter is printed on blue paper. The rules affected by this exemption appear throughout this Chapter.

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Article 6, consisting of Sections R9-28-601 through R9-28-610, repealed; new Article 6, consisting of Sections R9-28-601 through R9-28-608, adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1).

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Article 8, consisting of Sections R9-28-801 through R9-28-803, repealed by final rulemaking at 10 A.A.R. 820, effective April 3, 2004. The subject matter of Article 8 is now in 9 A.A.C. 34 (Supp. 04-1).

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Article 11, consisting of Sections R9-28-1101 through R9-28-1106, repealed; new Article 11, consisting of Sections R9-28-1101 through R9-28-1108, adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4).

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ARTICLE 12. REPEALED

Article 12, consisting of Section R9-28-1201, repealed by final rulemaking at 10 A.A.R. 820, effective April 3, 2004. The subject matter of Article 12 is now in 9 A.A.C. 34 (Supp. 04-1).

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ARTICLE 1. DEFINITIONS

R9-28-101. General Definitions

- A. Location of definitions. Definitions applicable to Chapter 28 are found in the following:

Definition	Section or Citation
"210"	42 CFR 435.211
"217"	42 CFR 435.217
"236"	42 CFR 435.236
"Acute"	R9-28-301
"ADHS"	R9-22-101
"ADL"	R9-28-101
"Administration"	A.R.S. § 36-2931
"Advance notice"	R9-28-411
"Aged"	R9-28-402
"Aggregate"	R9-22-701
"Aggression"	R9-28-301
"AHCCCS"	R9-22-101
"AHCCCS registered provider"	R9-22-101
"ALTCS"	R9-28-101
"ALTCS acute care services"	R9-28-401
"Alternative HCBS setting"	R9-28-101
"Ambulance"	A.R.S. § 36-2201
"Ambulation"	R9-28-301
"Applicant"	R9-22-101
"Assessor"	R9-28-301
"Auto-assignment algorithm" or "Algorithm"	R9-22-1701
"Bathing"	R9-28-301
"Bathing or showering"	R9-28-301
"Bed hold"	R9-28-102
"Behavior intervention"	R9-28-102
"Behavior management services"	R9-22-1201
"Behavioral health evaluation"	R9-22-1201
"Behavioral health medical practitioner"	R9-22-1201
"Behavioral health professional"	R9-20-101
"Behavioral health service"	R9-20-101
"Behavioral health technician"	R9-20-101
"Billed charges"	R9-22-701
"Blind"	42 U.S.C. 1382c(a)(2)
"Capped fee-for-service"	R9-22-101
"Case management plan"	R9-28-101
"Case management"	R9-28-1101
"Case manager"	R9-28-101
"Case record"	R9-22-101
"Categorically-eligible"	R9-22-101
"Certification"	R9-28-501
"Certified psychiatric nurse practitioner"	R9-22-1201
"CFR"	R9-28-101
"Child"	R9-22-1503
"Clarity of communication"	R9-28-301
"Clean claim"	A.R.S. § 36-2904
"Clinical supervision"	R9-22-201
"CMS"	R9-22-101
"Community mobility"	R9-28-301
"Community spouse"	R9-28-401
"Consecutive days"	R9-28-801
"Continence"	R9-28-301
"Contract"	R9-22-101
"Contract year"	R9-22-101
"Contractor"	A.R.S. § 36-2901
"Cost avoid"	R9-22-1201 or R9-22-1001
"County of fiscal responsibility"	R9-28-701
"Covered services"	R9-28-101
"CPT"	R9-22-701
"Crawling and standing"	R9-28-301

"CSRD"	R9-28-401
"Current"	R9-28-301
"Day"	R9-22-101 or R9-22-1101
"De novo hearing"	42 CFR 431.201
"Department"	A.R.S. § 36-2901
"Developmental disability" or "DD"	A.R.S. § 36-551
"Diagnostic services"	R9-22-101
"Director"	R9-22-101
"Disabled"	R9-28-402
"Disenrollment"	R9-22-1701
"Disruptive behavior"	R9-28-301
"DME"	R9-22-101
"Dressing"	R9-28-301
"Eating"	R9-28-301
"Eating or drinking"	R9-28-301
"Emergency medical services for the non-FES member"	R9-22-201
"Emotional and cognitive functioning"	R9-28-301
"Employed"	R9-28-1320
"Encounter"	R9-22-701
"Enrollment"	R9-22-1701
"EPD"	R9-28-301
"E.P.S.D.T. services"	42 CFR 440.40(b)
"Estate"	A.R.S. § 14-1201
"Experimental services"	R9-22-203
"Expressive verbal communication"	R9-28-301
"Facility"	R9-22-101
"Factor"	42 CFR 447.10
"Fair consideration"	R9-28-401
"FBR"	R9-22-101
"Federal financial participation" or "FFP"	42 CFR 400.203
"Fee-For-Service" or "FFS"	R9-22-101
"File" R9-28-801	"First continuous period of institutionalization"
	R9-28-401
"Food preparation"	R9-28-301
"Frequency"	R9-28-301
"Functional assessment"	R9-28-301
"Grievance"	R9-34-202
"Grooming"	R9-28-301
"GSA"	R9-22-101
"Guardian"	A.R.S. § 14-5311
"Hand use"	R9-28-301
"HCBS" or "Home and community based services"	A.R.S. § 36-2931
"Health care practitioner"	R9-22-1201
"History"	R9-28-301
"Home"	R9-28-101 and R9-28-801
"Home health services"	R9-22-201
"Hospice"	A.R.S. § 36-401
"Hospital"	R9-22-101
"ICF-MR" or "Intermediate care facility for the mentally retarded"	42 U.S.C. 1396d(d)
"IADL"	R9-28-101
"IHS"	R9-22-101
"IMD" or "Institution for mental diseases"	42 CFR 435.1010
"Immediate risk of institutionalization"	R9-28-301
"Individual Representative"	R9-28-509
"Institutionalized"	R9-28-401
"Institutionalized spouse"	R9-28-101
"Interested Party"	R9-28-106
"Intergovernmental agreement" or "IGA"	R9-28-1101
"Intervention"	R9-28-301
"JCAHO"	R9-28-101

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"License" or "licensure"	R9-22-101	"SSI"	42 CFR 435.4
"Medical assessment"	R9-28-301	"Subcontract"	R9-22-101
"Medical or nursing services and treatments"		"TEFRA lien"	R9-28-801
or "services and treatments"	R9-28-301	"Therapeutic leave"	R9-28-501
"Medical record"	R9-22-101	"Toileting"	R9-28-301
"Medical services"	A.R.S. § 36-401	"Transferring"	R9-28-301
"Medically eligible"	R9-28-401	"TRBHA"	R9-22-1201
"Medically necessary"	R9-22-101	"Tribal contractor"	R9-28-1101
"Member"	A.R.S. § 36-2931 and R9-28-901	"Tribal facility"	A.R.S. § 36-2981
"Mental disorder"	A.R.S. § 36-501	"Utilization management/review"	R9-22-501
"MMMNA"	R9-28-401	"Ventilator dependent"	R9-28-102
"Mobility"	R9-28-301	"Verbal or physical threatening"	R9-28-301
"Natural Support Services"	R9-28-101	"Vision"	R9-28-301
"Noncontracting provider"	A.R.S. § 36-2931	"Wandering"	R9-28-301
"Nursing facility" or "NF"	42 U.S.C. 1396r(a)	"Wheelchair mobility"	R9-28-301
"Occupational therapy"	R9-22-201	B. General definitions. In addition to definitions contained in A.R.S. §§ 36-551, 36-2901, 36-2931, and 9 A.A.C. 22, Article 1, the following words and phrases have the following meanings unless the context of the Chapter explicitly requires another meaning:	
"Orientation"	R9-28-301		
"Partial care"	R9-22-1201	"ADL" or "Activities of Daily Living" mean activities a member must perform daily for the member's regular day-to-day necessities, including but not limited to mobility, transferring, bathing, dressing, grooming, eating, and toileting.	
"PAS"	R9-28-103	"ALTCS" means the Arizona Long-term Care System as authorized by A.R.S. § 36-2932.	
"Personal hygiene"	R9-28-301	"Alternative HCBS setting" means a living arrangement approved by the Director and licensed or certified by a regulatory agency of the state, where a member may reside and receive HCBS, including:	
"Pharmaceutical service"	R9-22-201	For a person with a developmental disability specified in A.R.S. § 36-551:	
"Physical therapy"	R9-22-201	Community residential setting defined in A.R.S. § 36-551;	
"Physically disabled"	R9-28-301	Group home defined in A.R.S. § 36-551;	
"Physician"	R9-22-101	State-operated group home under A.R.S. § 36-591;	
"Physician consultant"	R9-28-301	Group foster home under R6-5-5903;	
"Post-stabilization care services"	42 CFR 438.114	Licensed residential facility for a person with traumatic brain injury under A.R.S. § 36-2939;	
"Practitioner"	R9-22-101	Behavioral health adult therapeutic home under 9 A.A.C. 20, Articles 1 and 15;	
"Primary care provider" or "(PCP)"	R9-22-101	Level 2 and Level 3 behavioral health residential agencies under 9 A.A.C. 20, Articles 1, 4, 5, and 6; and	
"Primary care provider services"	R9-22-201	Rural substance abuse transitional centers under 9 A.A.C. 20, Articles 1 and 14; and	
"Prior authorization"	R9-22-101	For a person who is Elderly and Physically Disabled (EPD) under R9-28-301, and the facility, setting, or institution is registered with AHCCCS:	
"Prior period coverage" or "PPC"	R9-22-101	Adult foster care defined in A.R.S. § 36-401 and as authorized in A.R.S. § 36-2939;	
"Program contractor"	A.R.S. § 36-2931	Assisted living home or assisted living center, units only, under A.R.S. § 36-401, and as authorized in A.R.S. § 36-2939;	
"Provider"	A.R.S. § 36-2931	Licensed residential facility for a person with a traumatic brain injury specified in A.R.S. § 36-2939;	
"Psychiatrist"	R9-22-1201	Behavioral health adult therapeutic home under 9 A.A.C. 20, Articles 1 and 15;	
"Psychologist"	R9-22-1201	Level 2 and Level 3 behavioral health residential agencies under 9 A.A.C. 20, Articles 1, 4, 5, and 6; and	
"Psychosocial rehabilitation services"	R9-22-201		
"Qualified behavioral health service provider"	R9-28-1101		
"Quality management"	R9-22-501		
"Radiology"	R9-22-101		
"Reassessment"	R9-28-103		
"Recover"	R9-28-901		
"Redetermination"	R9-28-401		
"Referral"	R9-22-101		
"Regional behavioral health authority" or "RBHA"	A.R.S. § 36-3401		
"Reinsurance"	R9-22-701		
"Representative"	R9-28-401		
"Resistiveness"	R9-28-301		
"Respiratory therapy"	R9-22-201		
"Respite care"	R9-28-102		
"RFP"	R9-22-101		
"Room and board"	R9-28-102		
"Rolling and sitting"	R9-28-301		
"Running or wandering away"	R9-28-301		
"Scope of services"	R9-28-102		
"Section 1115 Waiver"	A.R.S. § 36-2901		
"Self-injurious behavior"	R9-28-301		
"Sensory"	R9-28-301		
"Seriously mentally ill" or "SMI"	A.R.S. § 36-550		
"Social worker"	R9-28-301		
"Special diet"	R9-28-301		
"Speech therapy"	R9-22-201		
"Spouse"	R9-28-401		
"SSA"	42 CFR 1000.10		

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Rural substance abuse transitional centers under 9 A.A.C. 20, Articles 1 and 14.

“Case management plan” means a service plan developed by a case manager that involves the overall management of a member’s care, and the continued monitoring and reassessment of the member’s need for services.

“Case manager” means a person who is either a degreed social worker, a licensed registered nurse, or has a minimum of two years of experience in providing case management services to a person who is EPD.

“CFR” means Code of Federal Regulations, unless otherwise specified in this Chapter.

“Covered services” means the health and medical services described in Articles 2 and 11 of this Chapter as being eligible for reimbursement by AHCCCS.

“Home” means a residential dwelling that is owned, rented, leased, or occupied by a member, at no cost to the member, including a house, a mobile home, an apartment, or other similar shelter. A home is not a facility, a setting, or an institution, or a portion of any of these that is licensed or certified by a regulatory agency of the state as a:

Health care institution under A.R.S. § 36-401;
Residential care institution under A.R.S. § 36-401;
Community residential setting under A.R.S. § 36-551; or
Behavioral health facility under 9 A.A.C. 20, Articles 1, 4, 5, and 6.

“IADL” or “Instrumental Activities of Daily Living” mean activities related to independent living that a member must perform, including but not limited to:

Preparing meals,
Managing money,
Shopping for groceries or personal items,
Performing light or heavy housework, and
Use of the telephone.

“IHS” means the Indian Health Service.

“Institutionalized spouse” means the same as defined in 42 U.S.C. 1396r-5.

“JCAHO” means the Joint Commission on Accreditation of Healthcare Organizations.

“Natural Support Services” are services provided voluntarily by a person not legally obligated to provide those services. The services are specified in the service plan as described under R9-28-510 and cannot supplant other covered services.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective July 13, 1992 (Supp. 92-3). Amended effective November 5, 1993 (Supp. 93-4). Section repealed; new Section adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by final rulemaking at 5 A.A.R. 874, effective March 4, 1999 (Supp. 99-1). Subsection (A)(69) amended to correct a printing error, filed in the Office of the Secretary of State August 13, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 2461, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 6 A.A.R.

3365, effective August 7, 2000 (Supp. 00-3). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 2356, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 8 A.A.R. 3340, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 3810, effective October 4, 2003 (Supp. 03-3). Amended by final rulemaking at 10 A.A.R. 1312, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 11 A.A.R. 3165, effective October 1, 2005 (Supp. 05-3). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2). Amended by final rulemaking at 18 A.A.R. 3380, effective January 1, 2013 (Supp. 12-4).

R9-28-102. Covered Services Related Definitions

Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

“Bed hold” means a 24 hour per day unit of service that is authorized by an ALTCS case manager or designee during a period of short-term hospitalization or therapeutic leave that meets the requirement specified in 42 CFR 483.12.

“Behavior intervention” means the planned interruption of a member’s inappropriate behavior using techniques such as reinforcement, training, behavior modification, and other systematic procedures intended to result in more acceptable behavior.

“Respite care” means a short-term service provided in a NF or a home and community based service setting to an individual if necessary to relieve a family member or other person caring for the individual.

“Room and board” means lodging and meals.

“Scope of services” means the covered, limited, and excluded services under Articles 2 and 12 of this Chapter.

“Ventilator dependent,” for purposes of ALTCS eligibility, means an individual is medically dependent on a ventilator for life support at least six hours per day and has been dependent on ventilator support as an inpatient in a hospital, NF, or ICF-MR for at least 30 consecutive days.

Historical Note

Adopted effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 6 A.A.R. 2461, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 3810, effective October 4, 2003 (Supp. 03-3).

R9-28-103. Preadmission Screening Related Definitions

Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

“Developmental disability” is defined in A.R.S. § 36-551.

“PAS” means preadmission screening, which is the process of determining an individual’s risk of institutionalization at a NF or ICF-MR level of care, as specified in Article 3 of this Chapter.

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“Reassessment” means the process of redetermining PAS eligibility for ALTCS services as appropriate, for all members.

Historical Note

Adopted effective December 8, 1997 (Supp. 97-4).
Amended by final rulemaking at 6 A.A.R. 2461, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 3810, effective October 4, 2003 (Supp. 03-3).
Amended by final rulemaking at 10 A.A.R. 1312, effective May 1, 2004 (Supp. 04-1).

R9-28-104. Repealed**Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4).
Amended effective November 4, 1998 (Supp. 98-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1).
Amended by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 6 A.A.R. 2461, effective June 9, 2000 (Supp. 00-2). Repealed by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2).

R9-28-105. Repealed**Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4).
Amended by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Section repealed by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

R9-28-106. Request for Proposals and Contract Process Related Definitions

Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22 Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning: “Interested Party” means an actual or prospective offeror whose economic interest may be affected substantially and directly by the issuance of a request for proposals, the award of a contract, or the failure to award a contract.

Historical Note

Adopted effective December 8, 1997 (Supp. 97-4).
Amended by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1).

R9-28-107. Repealed**Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4).
Amended effective November 4, 1998 (Supp. 98-4).
Amended by final rulemaking at 6 A.A.R. 2461, effective June 9, 2000 (Supp. 00-2). Amended by final rulemaking at 9 A.A.R. 3810, effective October 4, 2003 (Supp. 03-3).
Section repealed by final rulemaking at 11 A.A.R. 3165, effective October 1, 2005 (Supp. 05-3).

R9-28-108. Repealed**Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4).
Amended by final rulemaking at 6 A.A.R. 3365, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 820, effective April 3, 2004 (Supp. 04-1).

R9-28-109. Repealed**Historical Note**

Adopted effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

R9-28-110. Reserved**R9-28-111. Behavioral Health Services Related Definitions**

Definitions. The words and phrases in this Chapter, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, have the same meaning as specified in 9 A.A.C. 22, Article 1.

Historical Note

Adopted effective December 8, 1997 (Supp. 97-4).
Amended by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4).

ARTICLE 2. COVERED SERVICES**R9-28-201. General Requirements**

In addition to the exclusions and limitations specified in this Article, services provided to a member are covered services if:

1. Medically necessary, cost effective, and federally reimbursable;
2. Coordinated by a case manager in accordance with requirements specified in R9-28-510;
3. The provider obtains prior authorization as required by a member’s program contractor or by the Administration:
 - a. Failure of the provider to obtain prior authorization is cause for denial.
 - b. Services provided during prior period coverage are exempt from prior authorization requirements;
4. Provided in facilities or areas of facilities that are licensed or certified under Article 5 of this Chapter, or meet other requirements described in Article 5 of this Chapter;
5. Rendered by AHCCCS registered providers as permitted under this Chapter and within their scope of practice; and
6. Provided at an appropriate level of care, as determined by the case manager or the primary care provider.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Section repealed; new Section adopted effective September 22, 1997 (Supp. 97-3).
Amended by final rulemaking at 8 A.A.R. 2356, effective May 9, 2002 (Supp. 02-2).

R9-28-202. Scope of Services

- A. The Administration or a contractor shall cover medical services specified in 9 A.A.C. 22, Article 2 for a member, subject to the limitations and exclusions specified in Article 2, unless otherwise specified in this Chapter.
- B. In addition, for members living in an HCBS setting, incontinence briefs for a member 21 years of age and older, including pull-ups, are covered in order to:
 1. Treat a medical condition; and
 2. Prevent skin breakdown when all the following are met:
 - a. The member is incontinent due to a documented medical condition that causes incontinence of bowel and/or bladder,
 - b. The PCP or attending physician has issued a prescription ordering the incontinence briefs,
 - c. Incontinence briefs do not exceed 180 briefs per month unless the prescribing physician presents evidence of medical necessity for more than 180 briefs per month,
 - d. The member obtains incontinence briefs from vendors within the Contractor’s network, and

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- e. Prior authorization has been obtained if required by the Administration, Contractor, or Contractor's designee, as appropriate. Contractors shall not require prior authorization more frequently than every twelve months.
- C. Incontinence brief coverage for a member under age 21 is described under R9-22-212.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended under an exemption from the provisions of the Administrative Procedure Act effective March 22, 1993; received in the Office of the Secretary of State March 24, 1993 (Supp. 93-1). Amended effective November 5, 1993 (Supp. 93-4). Section repealed; new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2356, effective May 9, 2002 (Supp. 02-2). Amended by final rulemaking at 21 A.A.R. 1243, effective July 7, 2015 (Supp. 15-3).

R9-28-203. Coverage for CRS Services

- A. Beginning October 1, 2013, ALTCS DD members who need active treatment for one or more of the qualifying medical condition(s) in A.A.C. R9-22-1303 shall receive CRS services through the CRS contractor as described under Chapter 22, Article 13.
- B. Beginning October 1, 2013, AHCCCS ALTCS EPD members who need active treatment for one or more of the qualifying medical conditions in A.A.C. R9-22-1303 shall not receive CRS services through the CRS contractor as described under Chapter 22, Article 13. These members shall receive treatment for those conditions through their assigned ALTCS EPD contractor. However, an American Indian member with a CRS condition(s) who is enrolled with a tribal contractor or Native American Community Health (NACH) shall obtain CRS services through the CRS contractor.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective July 13, 1992 (Supp. 92-3). Amended under an exemption from the provisions of the Administrative Procedure Act effective March 22, 1993; received in the Office of the Secretary of State March 24, 1993 (Supp. 93-1). Repealed effective September 22, 1997 (Supp. 97-3). New Section R9-28-203 made by final rulemaking at 19 A.A.R. 2963, effective November 10, 2013 (Supp. 13-3).

R9-28-204. Institutional Services

- A. Institutional services are provided in:
 - 1. A NF;
 - 2. An ICF-MR; or
 - 3. A facility identified in R9-28-1105(A)(1)(b), (B), or (C).
- B. The Administration and a contractor shall include the following services in the per diem rate for a facility listed in subsection (A):
 - 1. Nursing care services;
 - 2. Rehabilitative services prescribed as a maintenance regimen;
 - 3. Restorative services, such as range of motion;
 - 4. Social services;
 - 5. Nutritional and dietary services;
 - 6. Recreational therapies and activities;

- 7. Medical supplies and non-customized durable medical equipment under 9 A.A.C. 22, Article 2;
 - 8. Overall management and evaluation of a member's care plan;
 - 9. Observation and assessment of a member's changing condition;
 - 10. Room and board services, including supporting services such as food and food preparation, personal laundry, and housekeeping;
 - 11. Non-prescription and stock pharmaceuticals; and
 - 12. Respite care services not to exceed 600 hours per benefit year.
- C. Each facility listed in subsection (A) is responsible for coordinating the delivery of at least the following auxiliary services:
- 1. Under 9 A.A.C. 22, Article 2:
 - a. Attending physician, practitioner, and primary care provider services;
 - b. Pharmaceutical services;
 - c. Diagnostic services under A.A.C. R9-22-208;
 - d. Emergency medical services; and
 - e. Emergency and medically necessary transportation services.
 - 2. Therapy services under R9-28-206.
- D. Limitations. The following limitations apply:
- 1. A private room in a NF, ICF-MR, or facility identified in R9-28-1105(A)(1)(b), (B), or (C) is covered only if:
 - a. The member or has a medical condition that requires isolation, and
 - b. The member's primary care provider or attending physician provides written authorization;
 - 2. Each ICF-MR shall meet the standards in A.R.S. § 36-2939(B)(1), and in 42 CFR 483, Subpart I, February 28, 1992, incorporated by reference and on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation contains no future editions or amendments;
 - 3. Bed hold days as authorized by the Administration or its designee for a fee-for-service provider shall meet the following criteria:
 - a. Short-term hospitalization leave for a member age 21 and over is limited to 12 days per AHCCCS benefit year, and is available if a member is admitted to a hospital for a short stay. After the short-term hospitalization, the member is returned to the institutional facility from which leave is taken, and to the same bed if the level of care required can be provided in that bed; and
 - b. Therapeutic leave for a member age 21 and older is limited to nine days per AHCCCS benefit year. A physician order is required for therapeutic leave from the facility for one or more overnight stays to enhance psycho-social interaction, or as a trial basis for discharge planning. After the therapeutic leave, the member is returned to the same bed within the institutional facility;
 - c. Therapeutic leave and short-term hospitalization leave are limited to any combination of 21 days per benefit year for a member under age 21;
 - 4. The Administration or a contractor shall cover services that are not part of a per diem rate but are ALTCS covered services included in this Article, and deemed necessary by a member's case manager or the case manager's designee if:

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- a. The services are ordered by the member's primary care provider; and
- b. The services are specified in a case management plan under R9-28-510;
5. A member age 21 through 64 is eligible for behavioral health services provided in a facility under subsection (A)(3) that has more than 16 beds, for up to 30 days per admission and no more than 60 days per benefit year as allowed under the Administration's Section 1115 Waiver with CMS and except as specified by 42 CFR 441.151, May 22, 2001, incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation contains no future editions or amendments; and
6. The limitations in subsection (D)(5) do not apply to a member:
 - a. Under age 21 or age 65 or over, or
 - b. In a facility with 16 beds or less.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended subsections (A) and (D) effective June 6, 1989 (Supp. 89-2). Amended effective November 5, 1993 (Supp. 93-4). Section repealed; new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 2356, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 17 A.A.R. 1876, effective October 1, 2011 (Supp. 11-3). Exemption to amend rules to expire December 31, 2013 under Laws 2012, Chapter 299, Section 8 therefore this Section was amended by final rulemaking at 19 A.A.R. 2758, effective October 8, 2013 (Supp. 13-3).

R9-28-205. Home and Community Based Services (HCBS)

- A. Subject to the availability of federal funds, HCBS are covered services if provided to a member residing in the member's own home or an alternative residential setting. Room and board services are not covered in a HCBS setting.
- B. The case manager shall authorize and specify in a case management plan any additions, deletions, or changes in home and community based services provided to a member or in accordance with R9-28-510.
- C. Home and community based services include the following:
 1. Home health services provided on a part-time or intermittent basis. These services include:
 - a. Nursing care;
 - b. Home health aide;
 - c. Medical supplies, equipment, and appliances;
 - d. Physical therapy;
 - e. Occupational therapy;
 - f. Respiratory therapy; and
 - g. Speech and audiology services;
 2. Private duty nursing services;
 3. Medical supplies and durable medical equipment, including customized DME, as described in 9 A.A.C. 22, Article 2;
 4. Transportation services to obtain covered medically necessary services;
 5. Adult day health services provided to a member in an adult day health care facility licensed under 9 A.A.C. 10, Article 5, including:

- a. Supervision of activities specified in the member's care plan;
- b. Personal care;
- c. Personal living skills training;
- d. Meals and health monitoring;
- e. Preventive, therapeutic, and restorative health related services; and
- f. Behavioral health services, provided either directly or through referral, if medically necessary;
6. Personal care services;
7. Homemaker services;
8. Home delivered meals, that provide at least one-third of the recommended dietary allowance, for a member who does not have a developmental disability under A.R.S. § 36-551;
9. Respite care services for no more than 600 hours per benefit year;
10. Habilitation services including:
 - a. Physical therapy;
 - b. Occupational therapy;
 - c. Speech and audiology services;
 - d. Training in independent living;
 - e. Special development skills that are unique to the member;
 - f. Sensory-motor development;
 - g. Behavior intervention; and
 - h. Orientation and mobility training;
11. Developmentally disabled day care provided in a group setting during a portion of a 24-hour period, including:
 - a. Supervision of activities specified in the member's care plan;
 - b. Personal care;
 - c. Activities of daily living skills training; and
 - d. Habilitation services;
12. Supported employment services provided to a member in the ALTCS transitional program under R9-28-306 who is developmentally disabled under A.R.S. § 36-551.

Historical Note

Adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2356, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 17 A.A.R. 1876, effective October 1, 2011 (Supp. 11-3). Exemption to amend rules to expire December 31, 2013 under Laws 2012, Chapter 299, Section 8 therefore this Section was amended by final rulemaking at 19 A.A.R. 2758, effective October 8, 2013 (Supp. 13-3).

R9-28-206. ALTCS Services that may be Provided to a Member Residing in either an Institutional or HCBS Setting

The Administration shall cover the following services if the services are provided to a member within the limitations listed:

1. Occupational and physical therapies, speech and audiology services, and respiratory therapy:
 - a. The duration, scope, and frequency of each therapeutic modality or service is prescribed by the member's primary care provider or attending physician;
 - b. The therapy or service is authorized by the member's contractor or the Administration; and
 - c. The therapy or service is included in the members case management plan;
 - d. AHCCCS will not cover more than 15 outpatient physical therapy visits for the contract year with the exception of the required Medicare coinsurance and

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- deductible payment as described in 9 A.A.C. 29, Article 3.
2. Medical supplies, durable medical equipment, and customized durable medical equipment, which conform with the requirements and limitations of 9 A.A.C. 22, Article 2 and as described under R9-28-202 for persons in HCBS settings;
 3. Ventilator dependent services:
 - a. Inpatient or institutional services are limited to services provided in a general hospital, special hospital, NF, or ICF-MR. Services provided in a general or special hospital are included in the hospital's unit tier rate under 9 A.A.C. 22, Article 7;
 - b. A ventilator dependent member may receive the array of home and community based services under R9-28-205 as appropriate.
 4. Hospice services:
 - a. Hospice services are covered only for a member who is in the final stages of a terminal illness and has a prognosis of death within six months;
 - b. Covered hospice services for a member are those allowable under 42 CFR 418.202, December 20, 1994, incorporated by reference and on file with the Administration and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments; and
 - c. Covered hospice services do not include:
 - i. Medical services provided that are not related to the terminal illness, or
 - ii. Home delivered meals.
 - d. Medicare is the primary payor of hospice services for a member if applicable.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective July 13, 1992 (Supp. 92-3). Amended effective November 5, 1993 (Supp. 93-4). Section repealed; new Section adopted effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 2356, effective May 9, 2002 (Supp. 02-2). Amended by exempt rulemaking at 16 A.A.R. 1664, effective October 1, 2010 (Supp. 10-3). Amended by final rulemaking at 21 A.A.R. 1243, effective July 7, 2015 (Supp. 15-3).

ARTICLE 3. PREADMISSION SCREENING (PAS)**R9-28-301. Definitions**

- A. Common definitions. In addition to definitions contained in A.R.S. Title 36, Chapter 29, and 9 A.A.C. 28, Article 1, the words and phrases in this Article have the following meanings for an individual who is elderly or physically disabled (EPD) or developmentally disabled (DD) unless the context explicitly requires another meaning:

“Applicant” is defined in A.A.C. R9-22-101.

“Assessor” means a social worker as defined in this subsection or a licensed registered nurse (RN) who:

Is employed by the Administration to conduct PAS assessments,
 Completes a minimum of 30 hours of classroom training in both EPD and DD PAS for a total of 60 hours, and
 Receives intensive oversight and monitoring by the Administration during the first 30 days of employ-

ment and ongoing oversight by the Administration during all periods of employment.

“Current” means belonging to the present time.

“Disruptive behavior” means inappropriate behavior by the applicant or member including urinating or defecating in inappropriate places, sexual behavior inappropriate to time, place, or person or excessive whining, crying, or screaming that interferes with an applicant's or member's normal activities or the activities of others and requires intervention to stop or interrupt the behavior.

“Frequency” means the number of times a specific behavior occurs within a specified interval.

“Functional assessment” means an evaluation of information about an applicant's or member's ability to perform activities related to:

Developmental milestones,
 Activities of daily living,
 Communication, and
 Behavior.

“Immediate risk of institutionalization” means the status of an applicant or member under A.R.S. § 36-2934(A)(5) and as specified in A.R.S. § 36-2936 and in the Administration's Section 1115 Waiver with Centers for Medicare and Medicaid Services (CMS).

“Intervention” means therapeutic treatment, including the use of medication, behavior modification, and physical restraints to control behavior. Intervention may be formal or informal and includes actions taken by friends or family to control the behavior.

“Medical assessment” means an evaluation of an applicant's or member's medical condition and the applicant's or member's need for medical services.

“Medical or nursing services and treatments” or “services and treatments” means specific, ongoing medical, psychiatric, or nursing intervention used actively to resolve or prevent deterioration of a medical condition. Durable medical equipment and activities of daily living assistive devices are not treatment unless the equipment or device is used specifically and actively to resolve the existing medical condition.

“Physician consultant” means a physician who contracts with the Administration.

“Social worker” means an individual with two years of case management-related experience or a baccalaureate or master's degree in:

Social work,
 Rehabilitation,
 Counseling,
 Education,
 Sociology,
 Psychology, or
 Other closely related field.

“Special diet” means a diet planned by a dietitian, nutritionist, or nurse that includes high fiber, low sodium, or pureed food.

“Toileting” means the process involved in an applicant's or member's managing of the elimination of urine and feces in an appropriate place.

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“Vision” means the ability to perceive objects with the eyes.

- B. EPD.** In addition to definitions contained in subsection (A), the following also apply to an applicant or member who is EPD:

“Aggression” means physically attacking another, including:

- Throwing an object,
- Punching,
- Biting,
- Pushing,
- Pinching,
- Pulling hair,
- Scratching, and
- Physically threatening behavior.

“Bathing” means the process of washing, rinsing, and drying all parts of the body, including an applicant’s or member’s ability to transfer to a tub or shower and to obtain bath water and equipment.

“Continence” means the applicant’s or member’s ability to control the discharge of body waste from bladder and bowel.

“Dressing” means the physical process of choosing, putting on, securing fasteners, and removing clothing and footwear. Dressing includes choosing a weather-appropriate article of clothing but excludes aesthetic concerns. Dressing includes the applicant’s or member’s ability to put on artificial limbs, braces, and other appliances that are needed daily.

“Eating” means the process of putting food and fluids by any means into the digestive system.

“Emotional and cognitive functioning” means an applicant’s or member’s orientation and mental state, as evidenced by aggressive, self-injurious, wandering, disruptive, and resistive behaviors.

“EPD” means an applicant or member who is elderly or physically disabled.

“Grooming” means an applicant’s or member’s process of tending to appearance. Grooming includes: combing or brushing hair; washing face and hands; shaving; oral hygiene (including denture care); and menstrual care. Grooming does not include aesthetics such as styling hair, skin care, nail care, and applying cosmetics.

“Mobility” means the extent of an applicant’s or member’s purposeful movement within a residential environment.

“Orientation” means an applicant’s or member’s awareness of self in relation to person, place, and time.

“Physically disabled” means an applicant or member who is determined to be physically impaired by the Administration through the PAS assessment as allowed under the Administration’s Section 1115 Waiver with CMS.

“Resistiveness” means inappropriately obstinate and uncooperative behaviors, including passive or active obstinate behaviors, or refusing to participate in self-care or to take necessary medications. Resistiveness does not include difficulties with auditory processing or reasonable expressions of self-advocacy.

“Self-injurious behavior” means repeated self-induced, abusive behavior that is directed toward infliction of immediate physical harm to the body.

“Sensory” means of or relating to the senses.

“Transferring” means an applicant’s or member’s ability to move horizontally or vertically between two surfaces within a residential environment, excluding transfer for toileting or bathing.

“Wandering” means an applicant’s or member’s moving about with no rational purpose and with a tendency to go beyond the physical parameter of the residential environment.

- C. DD.** In addition to definitions contained in subsection (A), the following also apply to an applicant or member who is DD:

“Acute” means an active medical condition having a sudden onset, lasting a short time, and requiring immediate medical intervention.

“Aggression” means physically attacking another, including:

- Throwing objects,
- Punching,
- Biting,
- Pushing,
- Pinching,
- Pulling hair, and
- Scratching.

“Ambulation” means the ability to walk and includes quality of the walking and the degree of independence in walking.

“Bathing or showering” means an applicant’s or member’s ability to complete the bathing process including drawing the bath water, washing, rinsing, and drying all parts of the body, and washing the hair.

“Clarity of communication” means an ability to speak in recognizable language or use a formal symbolic substitution, such as American-Sign Language.

“Community mobility” means the applicant’s or member’s ability to move about a neighborhood or community independently, by any mode of transportation.

“Crawling and standing” means an applicant’s or member’s ability to crawl and stand with or without support.

“DD” means developmentally disabled.

“Developmental milestone” means a measure of an applicant’s or member’s functional abilities, including:

- Fine motor skills,
- Gross motor skills,
- Communication,
- Socialization,
- Daily living skills, and
- Behaviors.

“Dressing” means the ability to put on and remove an article of clothing. Dressing does not include the ability to put on or remove braces nor does it reflect an applicant’s or member’s ability to match colors or choose clothing appropriate for the weather.

“Eating or drinking” means the process of putting food and fluid by any means into the digestive system.

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“Expressive verbal communication” means an applicant’s or member’s ability to communicate thoughts with words or sounds.

“Food preparation” means the ability to prepare a simple meal including a sandwich, cereal, or a frozen meal.

“Hand use” means the applicant’s or member’s ability to use both hands, or one hand if an applicant or member has only one hand or has the use of only one hand.

“History” means a medical condition that occurred in the past, regardless of whether the medical condition required treatment in the past, and is not now active.

“Personal hygiene” means the process of tending to one’s appearance. Personal hygiene may include: combing or brushing hair, washing face and hands, shaving, performing routine nail care, oral hygiene including denture care, and menstrual care. This does not include aesthetics such as styling hair, skin care, and applying cosmetics.

“Rolling and sitting” means an applicant’s or member’s ability to roll and sit independently or with the physical support of another person or with a device such as a pillow or specially-designed chair.

“Running or wandering away” means an applicant or member leaving a physical environment without notifying or receiving permission from the appropriate individuals.

“Self-injurious behavior” means an applicant’s or member’s repeated behavior that causes injury to the applicant or member.

“Verbal or physical threatening” means any behavior in which an applicant or member uses words, sounds, or action to threaten harm to self, others, or an object.

“Wheelchair mobility” means an applicant’s or member’s mobility using a wheelchair and does not include the ability to transfer to and from the wheelchair.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended subsection (C) effective June 6, 1989 (Supp. 89-2). Amended effective July 13, 1992 (Supp. 92-3). Amended effective November 5, 1993 (Supp. 93-4). Section repealed by emergency action, new Section adopted by emergency action, subsection (A) effective June 30, 1995, subsection (B) effective September 1, 1995, pursuant to A.R.S. § 41-1026, valid for 180 days; entire Section filed in the Secretary of State’s Office June 30, 1995 (Supp. 95-2). Section repealed by emergency action, new Section adopted again by emergency action with changes effective January 2, 1996, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 96-1). Emergency expired June 1, 1996. Section in effect before emergency action restored. Section repealed; new Section adopted effective January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 7 A.A.R. 5824, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 4007, effective October 5, 2006 (Supp. 06-4). Amended by final rulemaking at 17 A.A.R. 167, effective March 12, 2011 (Supp. 11-1). Amended by final expedited rulemaking at 28 A.A.R. 3303 (October

14, 2022), with an immediate effective date of September 23, 2022 (Supp. 22-3).

R9-28-302. General Provisions

To qualify for services described in A.R.S. § 36-2939:

1. An applicant shall meet the financial criteria described in Article 4, and
2. AHCCCS shall determine that the applicant is at immediate risk of institutionalization under the PAS assessment as specified in this Article.

Historical Note

New Section adopted by emergency action, subsection (A) effective June 30, 1995, subsection (B) effective September 1, 1995, pursuant to A.R.S. § 41-1026, valid for 180 days; entire Section filed in the Office of the Secretary of State June 30, 1995 (Supp. 95-2). New Section adopted again by emergency action with changes effective January 2, 1996, pursuant to A.R.S. § 41-1026 (Supp. 96-1). Emergency expired June 1, 1996. New Section adopted effective January 14, 1997 (Supp. 97-1). Amended by final rulemaking at 7 A.A.R. 5824, effective December 7, 2001 (Supp. 01-4).

R9-28-303. Preadmission Screening (PAS) Process

- A. The assessor shall use the PAS instrument to determine whether the following applicants or members are at immediate risk of institutionalization:
 1. The assessor shall use the PAS instrument prescribed in R9-28-304 to assess an applicant or member who is EPD.
 2. The assessor shall use the age-specific PAS instrument prescribed in R9-28-305 to assess an applicant or member who is physically disabled and less than 6 years old. After assessing the child, the assessor shall refer the child for physician consultant review under subsections (G) through (J).
 3. The assessor shall use the PAS instrument prescribed in R9-28-305 to assess an applicant or member who is DD, except as specified in subsection (A)(4) for an applicant or member who is DD and residing in a NF. After assessing a child who is DD and less than 6 months of age, the assessor shall refer the child for physician consultant review under subsections (G) through (J).
 4. The assessor shall use the PAS instrument prescribed in R9-28-304 for an applicant or a member who is DD and residing in a NF.
 5. The assessor shall use the PAS instrument prescribed in R9-28-304 or R9-28-305, whichever is applicable, to assess an applicant or member who is classified as ventilator-dependent, under Section 1902(e)(9) of the Social Security Act.
- B. For an initial assessment of an applicant who is in a hospital or other acute care setting:
 1. A registered nurse assessor shall complete the PAS assessment; or
 2. In the event that a registered nurse assessor is not available, a social worker assessor shall complete the PAS assessment; and
- C. An assessor shall conduct a PAS assessment with an applicant or member, except as provided in subsection (F). The assessor shall make reasonable efforts to obtain the applicant’s or member’s available medical records. The assessor may also obtain information for the PAS assessment from interviews with the:
 1. Applicant or member,
 2. Parent,
 3. Guardian,

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4. Caregiver, or
5. Any person familiar with the applicant's or member's functional or medical condition.
- D. Using the information described in subsection (C), an assessor shall complete the PAS assessment based on the assessor's education, experience, professional judgment, and training.
- E. After the assessor completes the PAS assessment, the assessor shall calculate a PAS score. The assessor shall compare the PAS score to an established threshold score. The scoring methodology and threshold scores are specified in R9-28-304 and R9-28-305. Except as determined by physician consultant review as provided in subsections (G) through (J), the threshold score is the point at which an applicant or member is determined to be at immediate risk of institutionalization.
- F. Upon request from a person acting on behalf of the applicant, the Administration shall conduct a PAS assessment to determine whether a deceased applicant would have been eligible to receive ALTCS benefits for those months.
- G. In the following circumstances, the Administration shall request that a physician consultant review the PAS assessment, the available medical records, and use professional judgment to make the determination that an applicant or member has a developmental disability or has a nonpsychiatric medical condition that, by itself or in combination with other medical conditions, places an applicant or member at immediate risk of institutionalization:
 1. The PAS score of an applicant or member who is EPD is less than the threshold specified in R9-28-304, but is at least 56;
 2. The PAS score of an applicant or member who is DD is less than the threshold specified in R9-28-305, but is at least 38;
 3. An applicant or member scores below the threshold specified in R9-28-304, but the Administration has reasonable cause to believe that the applicant's or member's unique functional abilities or medical condition may place the applicant or member at immediate risk of institutionalization;
 4. An applicant or member scores below the threshold specified in R9-28-304 and has a documented diagnosis of autism, autistic-like behavior, or pervasive developmental disorder;
 5. An applicant or member who is seriously mentally ill as defined in A.R.S. § 36-550 who scores at or above the threshold specified in R9-28-304, but may not meet the requirements of A.R.S. § 36-2936. When an applicant or member who is seriously mentally ill scores at or above the threshold, the physician consultant shall exercise professional judgment to determine whether the applicant or member meets the requirements of A.R.S. § 36-2936.
 6. An applicant is an AHCCCS acute care member and scores at or above the threshold specified in R9-28-304 but the Administration has reasonable cause to believe that the applicant's condition is convalescent and requires less than 90 days of institutional care;
 7. An applicant or member is a child who is physically disabled and is at least 6 but less than 12 years of age;
 8. An applicant or member is a child who is physically disabled and is under 6 years of age; and
 9. An applicant is under 6 months of age.
- H. The physician consultant shall consider the following:
 1. Activities of daily living dependence;
 2. Delay in development;
 3. Continence;
 4. Orientation;
 5. Behavior;
 6. Any medical condition, including stability and prognosis of the condition;
 7. Any medical nursing treatment provided to the applicant or member including skilled monitoring, medication, and therapeutic regimens;
 8. The degree to which the applicant or member must be supervised;
 9. The skill and training required of the applicant or member's caregiver; and
 10. Any other factor of significance to the individual case.
- I. If the physician consultant is unable to make the determination from the PAS assessment and the available medical records, the physician consultant may conduct a face-to-face review with the applicant or member or contact others familiar with the applicant's or member's needs, including a primary care physician or other caregiver, to make the determination.
- J. The physician consultant shall state the reasons for the determination in the physician review comment section of the PAS instrument.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective July 13, 1992 (Supp. 92-3). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective July 1, 1993 (Supp. 93-3). Amended effective November 5, 1993 (Supp. 93-4). Section repealed by emergency action, new Section adopted by emergency action effective June 30, 1995, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 95-2). Section repealed by emergency action, new Section adopted again by emergency action effective January 2, 1996, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 96-1). Emergency expired June 1, 1996. Section in effect before emergency action restored. Section repealed; new Section adopted effective January 14, 1997 (Supp. 97-1). Former Section R9-28-303 renumbered to R9-28-304; new Section R9-28-303 made by final rulemaking at 7 A.A.R. 5824, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 4007, effective October 5, 2006 (Supp. 06-4). Amended by final rulemaking at 17 A.A.R. 167, effective March 12, 2011 (Supp. 11-1). Amended by final expedited rulemaking at 28 A.A.R. 3303 (October 14, 2022), with an immediate effective date of September 23, 2022 (Supp. 22-3).

R9-28-304. Preadmission Screening Criteria for an Applicant or Member who is Elderly or Physically Disabled (EPD)

- A. The PAS instrument for an applicant or member who is EPD includes the following categories:
 1. Intake information category. The assessor solicits intake information category information on an applicant's or member's demographic background. The components of the intake information category are not included in the calculated PAS score.
 2. Functional assessment category. The assessor solicits functional assessment category information on an applicant's or member's:
 - a. Need for assistance with activities of daily living, including:
 - i. Bathing,
 - ii. Dressing,
 - iii. Grooming,

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- iv. Eating,
 - v. Mobility,
 - vi. Transferring, and
 - vii. Toileting in the residential environment or other routine setting;
 - b. Communication and sensory skills, including hearing, expressive communication, and vision; and
 - c. Continence, including bowel and bladder functioning.
3. Emotional and cognitive functioning category. The assessor solicits emotional and cognitive functioning category information on an applicant's or member's:
 - a. Orientation to person, place, and time. In soliciting this information, the assessor shall also take into account the caregiver's judgment; and
 - b. Behavior, including:
 - i. Wandering
 - ii. Self-injurious behavior,
 - iii. Aggression,
 - iv. Resistiveness, and
 - v. Disruptive behavior.
 4. Medical assessment category. The assessor solicits medical assessment category information on an applicant's or member's:
 - a. Medical conditions that have an impact on the applicant's or member's functional ability in relation to activities of daily living, continence, and vision;
 - b. Medical condition that requires medical or nursing service and treatment;
 - c. Medication, treatment, and allergies;
 - d. Specific services and treatments that the applicant or member is currently receiving; and
 - e. Physical measurements, hospitalization history, and ventilator dependency.
- B.** The assessor shall use the PAS instrument to assess an applicant or member who is EPD as specified in this Section. A copy of the PAS instrument is available from the Administration. The Administration uses the assessor's PAS assessment to calculate three scores: a functional score, a medical score, and a total score.
1. Functional score:
 - a. The Administration calculates the functional score from responses to scored items in the functional assessment and emotional and cognitive functioning categories. For each response to a scored item, a number of points is assigned, which is multiplied by a weighted numerical value. The result is a weighted score for each response.
 - b. In the functional assessment matrix, all items in the following categories are scored according to subsection (C):
 - i. Activities of daily living,
 - ii. Continence,
 - iii. Sensory,
 - iv. Orientation, and
 - v. Behavior.
 - c. The sum of the weighted scores equals the functional score. The weighted score per item can range from 0 to 15. The maximum functional score attainable by an applicant or member is 166.
 2. Medical score.
 - a. In the medical assessment matrix, all items in the following categories are scored according to:
 - i. Medical conditions as specified in subsection (C), and
 - ii. Medical or nursing services and treatments in subsection (C).
 - b. The Administration calculates the medical score based on the applicant's or member's:
 - i. Diagnosis of Alzheimer's, or dementia, or organic brain syndrome (OBS);
 - ii. Diagnosis of paralysis; and
 - iii. Current use of oxygen.
 - c. The maximum medical score attainable by an applicant or member is 31.5.
 3. Total score.
 - a. The sum of an applicant's or member's functional and medical scores equals the total score.
 - b. The total score is compared to the established threshold score as calculated under this Section. The threshold score is 60.
 - c. As defined in R9-28-303, an applicant or member is determined at immediate risk of institutionalization if the total score is equal to or greater than 60.
- C.** The following matrices represent the number of points available and the respective weight for each scored item.
1. Table 1, Functional assessment points. The lowest value in the range of points available per item in the functional assessment category, zero, indicates minimal to no impairment. Conversely, the highest value indicates severe impairment.
 2. Table 2, Medical assessment points. The lowest value in the range of points available per item in the medical assessment category, zero, indicates that the applicant or member:
 - a. Does not have the scored medical condition,
 - b. Does not need the scored medical or nursing services, or
 - c. Does not receive the scored medical or nursing services.

Table 1. Functional Assessment

FUNCTIONAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P) x (W)
Activities of Daily Living Section			
Mobility	0-3	5	0-15
Transfer	0-3	5	0-15
Bathing	0-3	5	0-15
Dressing	0-3	5	0-15
Grooming	0-3	5	0-15
Eating	0-3	5	0-15
Toileting	0-3	5	0-15
Continence Section			

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Bowel	0-3	1	0-3
Bladder	0-3	1	0-3
Sensory Section			
Vision	0-3	2	0-6
Orientation Section			
Place	0-4	.5	0-2
Time	0-4	.5	0-2
Emotional or Cognitive Behavior Section			
Aggression-Frequency	0-3	1.5	0-4.5
Aggression-Intervention	0-3	1.5	0-4.5
Self-injurious-Frequency	0-3	1.5	0-4.5
Self-injurious-Intervention	0-3	1.5	0-4.5
Wandering-Frequency	0-3	1.5	0-4.5
Wandering-Intervention	0-3	1.5	0-4.5
Resistiveness-Frequency	0-3	1.5	0-4.5
Resistiveness-Intervention	0-3	1.5	0-4.5
Disruptive-Frequency	0-3	1.5	0-4.5
Disruptive-Intervention	0-3	1.5	0-4.5

Table 2. Medical Assessment

MEDICAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P) x (W)
Medical Conditions Section			
Paralysis	0-1	6.5	0 or 6.5
Alzheimer's, or OBS, or Dementia	0-1	20	0 or 20
Services and Treatments Section			
Oxygen	0-1	5	0 or 5

Historical Note

New Section adopted by emergency action, subsection (A) effective June 30, 1995, subsection (B) effective September 1, 1995, pursuant to A.R.S. § 41-1026, valid for 180 days; entire Section filed as an emergency rule with the Secretary of State's Office June 30, 1995 (Supp. 95-2). New Section adopted again by emergency action with changes effective January 2, 1996, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 96-1). Emergency expired. New Section adopted effective January 14, 1997 (Supp. 97-1). Former Section R9-28-304 renumbered to R9-28-305; new Section R9-28-304 renumbered from R9-28-303 and amended by final rulemaking at 7 A.A.R. 5824, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 4007, effective October 5, 2006 (Supp. 06-4). Amended by final expedited rulemaking at 28 A.A.R. 3303 (October 14, 2022), with an immediate effective date of September 23, 2022; the functional and medical assessment matrices following subsection (C)(2)(c) have been named Table 1 and 2 (Supp. 22-3).

R9-28-305. Preadmission Screening Criteria for an Applicant or Member who is Developmentally Disabled (DD)

A. The Administration shall conduct a PAS assessment of an applicant or member who is DD using one of three PAS instruments specifically designed to assess an applicant or member in the following age groups:

1. Twelve years of age and older,
2. Six through 11 years of age, and
3. Birth through 5 years of age.

B. The PAS instruments for an applicant or member who is DD include three major categories:

1. Intake information category. The assessor solicits intake information category information on an applicant's or member's demographic background. The components of this category are not included in the calculated PAS score.
2. Functional assessment category. The functional assessment category differs by age group as indicated in subsections (B)(2)(a) through (e):
 - a. For an applicant or member 12 years of age and older, the assessor solicits the functional assessment category information on an applicant's or member's:
 - i. Need for assistance with independent living skills, including hand use, ambulation, wheel-

chair mobility, transfer, eating or drinking, dressing, personal hygiene, bathing or showering, food preparation, community mobility, and toileting;

- ii. Communication skills and cognitive abilities, including expressive verbal communication, clarity of communication, associating time with an event and action, and remembering an instruction and a demonstration; and
- iii. Behavior, including aggression, verbal or physical threatening, self-injurious behavior, and resistive or rebellious behavior.

- b. For an applicant or member 6 through 11 years of age, the assessor solicits the functional assessment category information on an applicant's or member's:
 - i. Need for assistance with independent living skills, including rolling and sitting, crawling and standing, ambulation, climbing stairs or ramps, wheelchair mobility, dressing, personal hygiene, bathing or showering, toileting, level of bladder control, and orientation to familiar settings;

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- ii. Communication, including expressive verbal communication and clarity of communication; and
 - iii. Behavior, including aggression, verbal or physical threatening, self-injurious behavior, running or wandering away, and disruptive behavior.
 - c. For an applicant or member 6 months through 5 years of age, the assessor solicits the functional assessment category information on an applicant's or member's performance with respect to a series of developmental milestones that measure an applicant's or member's degree of functional growth.
 - d. For an applicant or member less than 6 months of age, the assessor shall not complete a functional assessment. The assessor shall include a description of the applicant's or member's development in the PAS instrument narrative summary.
3. Medical assessment category. The assessor solicits medical assessment category information on an applicant's or member's:
- a. Medical condition;
 - b. Specific services and treatments the applicant or member receives or needs and the frequency of those services and treatments;
 - c. Current medication;
 - d. Medical stability;
 - e. Sensory functioning;
 - f. Physical measurements; and
 - g. Current living arrangement, ventilator dependency and eligibility for DES Division of Developmental Disabilities program services.
- C. The assessor shall use the PAS instrument to assess an applicant or member who is DD. A copy of the PAS instrument is available from the Administration. The Administration uses the assessor's PAS instrument responses to calculate three scores: a functional score, a medical score, and a total score.
1. Functional score.
- a. The Administration calculates the functional score from responses to scored items in the functional assessment category. Each response is assigned a number of points which is multiplied by a weighted numerical value, resulting in a weighted score for each response.
 - b. The following items are scored as indicated in subsection (D), under the Functional Assessment matrix:
 - i. For an applicant or member 12 years of age and older, all items in the behavior section are scored. Designated items in the independent living skills, communication skills, and cognitive abilities sections are also scored;
 - ii. For an applicant or member 6 through 11 years of age, all items in the communication section are scored. Designated items in the independent living skills and behavior sections are scored;
 - iii. For an applicant or member 6 months of age through 5 years of age, items in the developmental milestones section are scored based on the age of the applicant.
 - c. The sum of the weighted scores equals the functional score. The range of weighted score per item

and maximum functional score for each age group is presented below:

AGE GROUP	RANGE FOR WEIGHTED SCORE PER ITEM	MAXIMUM FUNCTIONAL SCORE ATTAINABLE
12+	0 - 11.2	124.1
6-11	0 - 24	112.5
0-5	0 - 5.0	106.02

- d. No minimum functional score is required.
2. Medical score.
- a. Subsections (C)(2)(a)(i) through (iii) are scored as indicated in subsection (D), under the Medical Assessment matrix:
 - i. The assessor shall score designated items in the medical conditions for an applicant or member 12 years of age and older and 6 years of age through 11 years of age.
 - ii. The assessor shall score designated items in the medical conditions and medical stability sections for an applicant or member 6 months of age through 5 years of age.
 - iii. The assessor shall complete only the medical assessment section of the PAS for an applicant or member less than 6 months of age. There is no weighted or calculated score assigned. The assessor shall refer the applicant or member for physician consultant review.
 - b. The Administration calculates the medical score from information obtained in the medical assessment category. Each response to a scored item is assigned a number of points. The sum of the points equals the medical score. The range of points per item and the maximum medical score attainable by an applicant or member is presented below:
- | AGE GROUP | RANGE OF POINTS PER ITEM | MAXIMUM MEDICAL SCORE ATTAINABLE |
|-----------|--------------------------|----------------------------------|
| 12+ | 0 - 20.6 | 21.4 |
| 6-11 | 0 - 2.5 | 5 |
| 0-5 | 0 - 10 | 60 |
- c. No minimum medical score is required.
3. Total score.
- a. The sum of an applicant's or member's functional and medical scores equals the total score.
 - b. The total score is compared to an established threshold score in R9-28-304. For an applicant or member who is DD, the threshold score is 40. Based upon the PAS instrument an applicant or member with a total score equal to or greater than 40 is at immediate risk of institutionalization.
- D. The following matrices represent the number of points available and the weight for each scored item.
- 1. Functional assessment points. An applicant or member age group 0 to 5: The value is received for each negative response. An applicant or member age groups 6 to 11 and 12+: the lowest value in the range of points available per item in the functional assessment category indicates minimal to no impairment. Conversely, the highest value indicates severe impairment.
 - 2. Medical assessment points. The lowest value in the range of points available per item in the medical assessment category, zero, indicates that the applicant or member:

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- a. Does not have a medical condition specified in the following matrices,
- b. Does not need medical or nursing service as specified in the following matrices, or
- c. Does not receive any medical or nursing service as specified in the following matrices.

Table 3. Age Group 12 and Older Assessment

FUNCTIONAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P) x (W)
Independent Living Skills Section			
Hand Use, Food Preparation	0-3	3.5	0-10.5
Ambulation, Toileting, Eating, Dressing, Personal Hygiene	0-4	2.8	0-11.2
Communicative Skills and Cognitive Abilities Section			
Associating Time, Remembering Instructions	0-3	0.5	0-1.5
Behavior Section			
Aggression, Threatening, Self Injurious	0-4	2.8	0-11.2
Resistive	0-3	3.5	0-10.5
MEDICAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P) x (W)
Medical Condition Section			
Cerebral Palsy	0-1	0-4	0-4
Epilepsy	0-1	0-4	0-4
Moderate, Severe or Profound Mental Retardation	0-1	0-20.6	0-20.6

Table 4. Age Group 6-11 Assessment

FUNCTIONAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P) x (W)
Independent Living Skills Section			
Climbing Stairs, Wheelchair Mobility, Bladder Control	0-3	1.875	0-5.625
Ambulation, Dressing, Bathing, Toileting	0-4	1.5	0-6
Crawling or Standing	0-5	1.25	0-6.25
Rolling or Sitting	0-8	0.833	0-6.66
Communication Section			
Clarity	0-4	1.5	0-6
Expressive Communication	0-5	1.25	0-6.25
Behavior Section			
Wandering	0-4	6	0-24
Disruptive	0-3	7.5	0-22.5
MEDICAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P) x (W)
Medical Condition Section			
Cerebral Palsy	0-1	0-2.5	0-2.5
Epilepsy	0-1	0-2.5	0-2.5

Table 5. Age Group 0 – 5 Assessment

FUNCTIONAL ASSESSMENT	Weight (W)
6 -9 Months	5.0
9-11 Months	4.1
12-17 Months	2.9
18-23 Months	2.125
24-29 Months	1.75
30-35 Months	1.55
36-47 Months	1.34
48-59 Months	1.14
60 Months+	1.03
MEDICAL ASSESSMENT	Weight (W)
Cerebral Palsy	5.0
Epilepsy	5.0
Moderate, Severe, or Profound Mental Retardation (36 Months and older only)	15.0
Autism + M-CHAT (18 Months and older only) Fails at least six M-CHAT based questions	7.0

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Autism + Behaviors (30-35 Months only) Exhibits at least 3 of 4 specific behaviors	5.0
Autism + Behaviors (36 Months and older only) Exhibits at least 6 of 8 specific behaviors	10.0
Drug Regulation + Administration (6 Months to 35 Months)	1.0
Drug Regulation + Administration (36 Months and older)	1.5
Non-Bowel/Bladder Ostomy Care (6 Months to 35 Months)	7.0
Non-Bowel/Bladder Ostomy Care (36 Months and older)	5.0
Tube Feeding (6 Months to 35 Months)	7.0
Tube Feeding (36 Months and older)	5.0
Physical Therapy or Occupational Therapy (6 Months to 35 Months)	1.0
Physical Therapy or Occupational Therapy (36 Months and older)	1.5
Acute Hospital Admission (One)	1.0
Acute Hospital Admissions (Two or more)	2.0
Direct Care Staff Trained (6 Months to 11 Months)	0.5
Direct Care Staff Trained (12 Months and older)	1.0
Special Diet	2.0

Historical Note

Section adopted by emergency action effective June 30, 1995, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 95-2). Section adopted again by emergency action effective January 2, 1996, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 96-1). Emergency expired. New Section adopted effective January 14, 1997 (Supp. 97-1). Former Section R9-28-305 renumbered to R9-28-306; new Section R9-28-305 renumbered from R9-28-304 and amended by final rulemaking at 7 A.A.R. 5824, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 17 A.A.R. 167, effective March 12, 2011 (Supp. 11-1). Amended by final expedited rulemaking at 28 A.A.R. 3303 (October 14, 2022), with an immediate effective date of September 23, 2022; the functional and medical assessment matrices following subsection (D)(2)(c) have been named Table 3 through 5 (Supp. 22-3).

R9-28-306. Reassessments

- A. An assessor shall reassess an ALTCS member to determine continued eligibility:
1. In connection with a routine audit of the PAS assessment by AHCCCS;
 2. In connection with a request by a provider, program contractor, case manager, or other party, if AHCCCS determines that continued eligibility is uncertain due to substantial evidence of a change in the member's circumstances or error in the PAS assessment; or
 3. Annually when part of a population group identified by the Director in a written report as having an increased likelihood of becoming ineligible.
- B. An assessor shall determine continued eligibility for ALTCS using the same criteria used for the initial PAS assessment as prescribed in R9-28-303.
- C. An assessor shall refer the reassessment to physician consultant review if the member is:
1. Determined ineligible,
 2. In the ALTCS Transitional Program under R9-28-307 and resides in a NF or ICF-IID, or
 3. Seriously mentally ill and no longer has a non-psychiatric medical condition that impacts the member's ability to function.

Historical Note

Adopted effective September 1, 1995, under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1994, Ch. 322, § 21; filed with the Office of the Secretary of State June 29, 1995 (Supp. 95-3). Former Section R9-28-306 renumbered to R9-28-307; new Section R9-28-306 renumbered from R9-28-305 and amended by final rulemaking at 7 A.A.R. 5824, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 10 A.A.R. 1312, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 17 A.A.R. 167, effective March 12, 2011 (Supp. 11-1). Amended by final expedited rulemak-

ing at 28 A.A.R. 3303 (October 14, 2022), with an immediate effective date of September 23, 2022 (Supp. 22-3).

R9-28-307. The ALTCS Transitional Program for a Member who is Elderly or Physically Disabled (EPD) or Developmentally Disabled (DD)

- A. The ALTCS transitional program serves members enrolled in the ALTCS program who, at the time of reassessment as described in R9-28-306, no longer meet the threshold specified in R9-28-304 for EPD or in R9-28-305 for DD but do meet all other ALTCS eligibility criteria. The Administration shall compare the member's PAS assessment to a scoring methodology for eligibility in the ALTCS transitional program as defined in subsections (B) and (C).
- B. The Administration shall transfer a member who is DD from the ALTCS program to the ALTCS transitional program if, at the time of a reassessment, the total PAS score is less than the threshold described in R9-28-305 but is at least 30, or the member is diagnosed with moderate, severe, or profound mental retardation.
- C. The Administration shall transfer a member who is EPD from the ALTCS program to the ALTCS transitional program if, at the time of a reassessment, the PAS score is less than the threshold described in R9-28-304 but is at least 40.
- D. For a member residing in a NF or ICF-IID, the program contractor or the Administration shall ensure that the member is moved to an approved home- and community-based setting within 90 continuous days from the enrollment date of the member's eligibility for the ALTCS transitional program.
- E. A member in the ALTCS transitional program shall continue to receive all medically necessary covered services as specified in Article 2.
- F. A member in the ALTCS transitional program is eligible to receive up to 90 continuous days per NF or ICF-IID admission when the member's condition worsens to the extent that an admission is medically necessary.

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- G. For a member requiring medically necessary NF or ICF-IID services for longer than 90 days, the program contractor shall request the Administration to conduct a reassessment under R9-28-306.

Historical Note

New Section renumbered from R9-28-306 and amended by final rulemaking at 7 A.A.R. 5824, effective December 7, 2001 (Supp. 01-4). Amended by final rulemaking at 12 A.A.R. 4007, effective October 5, 2006 (Supp. 06-4). Amended by final expedited rulemaking at 28 A.A.R. 3303 (October 14, 2022), with an immediate effective date of September 23, 2022 (Supp. 22-3).

ARTICLE 4. ELIGIBILITY AND ENROLLMENT**R9-28-401. Eligibility and Enrollment-Related Definitions**

Definitions. For purposes of this Article, the following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

“ALTCS acute care services” means services under 9 A.A.C. 22, Articles 2 and 12, that are provided to a person who meets ALTCS eligibility requirements in 9 A.A.C. 28, Article 4 and who:

- Lives in an acute care living arrangement described in R9-28-406; or
- Is not eligible for long-term care benefits, described in R9-28-409, due to a transfer under R9-28-409 without receiving fair consideration, or
- Has refused institutionalized or HCBS services.

“Community spouse” means the husband or wife of an institutionalized person who has entered into a contract of marriage, recognized as valid by the state of Arizona, and who does not live in a medical institution.

“CSRD” means Community Spouse Resource Deduction, the amount of a married couple’s resources that is excluded in the eligibility determination to prevent impoverishment of the community spouse as determined under R9-28-410.

“Fair consideration” means income, real or personal property, services, or support and maintenance equal to or exceeding the fair market value of the income or resources that were transferred.

“First continuous period of institutionalization” means the first period beginning on or after September 30, 1989 that the applicant was institutionalized for 30 consecutive days or more. To be considered institutionalized, the applicant must:

- Have resided in a medical institution;
- Have received paid formal Home and Community Based Services (HCBS);
- Have received a combination of medical institutionalization and HCBS, or
- Intend to receive HCBS and either:

- Requests a Resource Assessment and is determined in need if institutional services by a Resource Assessment Medical Evaluation; or
- Applies for ALTCS and is determined medically eligible by the Pre-Admission Screening (PAS).

“Institutionalized” means residing in a medical institution or receiving or expecting to receive HCBS that prevent the person from being placed in a medical institution as determined by the PAS.

“Medically eligible” means meeting the ALTCS medical eligibility criteria under Article 3 of this Chapter.

“MMMNA” means Minimum Monthly Maintenance Needs Allowance.

“Redetermination” means a periodic review of all eligibility factors for a recipient.

“Representative” means a person other than a spouse or a parent of a dependent child, who applies for ALTCS on behalf of another person.

“Share of costs” means the amount an ALTCS recipient is required to pay toward the cost of long term care services.

“Spouse” means a person legally married under Arizona law, a person eligible for Social Security benefits as the spouse of another person, or a person living with another person of the opposite sex and the couple represents themselves in the community as husband and wife.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 5138, effective January 3, 2004 (Supp. 03-4). Section repealed; new Section made by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2). Amended by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).

R9-28-401.01. General**A. Application for ALTCS coverage.**

1. The Administration shall provide a person the opportunity to apply for ALTCS as described under Chapter 22, Article 3, unless specified otherwise in this Section.
2. To apply for ALTCS, a person shall submit an application to an ALTCS eligibility office.
 - a. The application shall contain the applicant’s name and address.
 - b. Before the application is approved, a person listed in A.A.C. R9-22-302(2) shall sign the application.
 - c. A witness shall also sign the application if an applicant signs the application with a mark.
 - d. The date of application is the date the application is received by the Administration or its designee as described in R9-22-302.
3. Except as provided in R9-22-306, the Administration shall determine eligibility within 45 days from the date of application.
4. An applicant or representative who files an ALTCS application may withdraw the application for ALTCS coverage either orally or in writing to the ALTCS eligibility office where the application was filed. The Administration shall provide the applicant with a denial notice under subsection (E).
5. If an applicant dies while an application is pending, the Administration shall complete an eligibility determination for the deceased applicant.
6. If a person dies before an application is filed, the Administration shall complete an eligibility determination on an application filed on behalf of the deceased applicant, if the application is filed in the month of the person’s death.

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- B.** Conditions of ALTCS eligibility. Except for persons identified in subsection (C), the Administration shall approve a person for ALTCS if all conditions of eligibility are met. The conditions of eligibility are:
1. Citizenship and alien status under Chapter 22, Article 3;
 2. SSN under Chapter 22, Article 3;
 3. Living arrangements under R9-28-406;
 4. Resources under R9-28-407;
 5. Income under R9-28-408;
 6. Transfers under R9-28-409;
 7. A legally authorized person shall assign rights to the Administration for medical support and for payment of medical care from any first- and third-parties as described under R9-22-311;
 8. A person shall take all necessary steps to obtain annuity, pension, retirement, and disability benefits for which a person may be entitled;
 9. State residency under R9-22-305;
 10. Medical eligibility as specified in Chapter 28, Article 3; and
 11. Providing information and verification as specified under Chapter 22, Article 3.
- C.** Persons eligible for Title IV-E or Title XVI are only required to meet the conditions under subsection (B)(6), (B)(10), (B)(11) and with respect to trusts, A.R.S. § 36-2934.01.
- D.** Eligibility effective date.
1. Eligibility is effective on the first day of the month that all eligibility requirements are met, including the period described under R9-22-303.
 2. The effective date of eligibility for an applicant who moves into Arizona is no sooner than the date Arizona residency is established.
 3. The effective date of eligibility for an inmate applying for medical coverage is the date the applicant no longer meets the definition of an inmate of a public institution.
- E.** Notice. The Administration shall send a person a notice of the decision regarding the person's application. The notice shall include a statement of the action and an explanation of the person's hearing rights as specified in 9 A.A.C. 34 and:
1. Approval. If the applicant meets all the eligibility requirements and conditions of eligibility of this Article, the Administration or its designee shall approve the application and provide the applicant with an approval notice. The approval notice shall contain:
 - a. The name of each approved applicant,
 - b. The effective date of eligibility for each approved applicant,
 - c. The amount of share of cost, and
 - d. The applicant's right to appeal the decision.
 2. Denial. If an applicant fails to meet the eligibility requirements or conditions of eligibility of this Article, the Administration or its designee shall deny the application and provide the applicant with a denial notice. The denial notice shall contain:
 - a. The name of each ineligible applicant,
 - b. The specific reason why the applicant is ineligible,
 - c. The income and resource calculations for the applicant compared to the income or resource standards for eligibility when the reason for the denial is due to the applicant's income or resources exceeding the applicable standard,
 - d. The legal citations supporting the reason for the ineligibility,
 - e. The location where the applicant can review the legal citations, and
 - f. The applicant's right to appeal the decision and request a hearing.
- F.** Confidentiality. The Administration shall maintain the confidentiality of a person's record under A.A.C. R9-22-512.
- Historical Note**
- New Section made by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2). Amended by final rulemaking at 19 A.A.R. 3320, effective November 30, 2013 (Supp. 13-4). Amended by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).
- R9-28-402. Repealed**
- Historical Note**
- Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective July 13, 1992 (Supp. 92-3). Amended effective November 5, 1993 (Supp. 93-4). Repealed effective November 4, 1998 (Supp. 98-4). New Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Repealed by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).
- R9-28-403. Repealed**
- Historical Note**
- Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective April 25, 1990 (Supp. 90-2). Amended effective July 13, 1992 (Supp. 92-3). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Repealed by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).
- R9-28-404. Repealed**
- Historical Note**
- Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective April 25, 1990 (Supp. 90-2). Amended effective July 13, 1992 (Supp. 92-3). Amended effective November 5, 1993 (Supp. 93-4). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Repealed by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).
- R9-28-405. Repealed**
- Historical Note**
- Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Repealed by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).
- R9-28-406. ALTCS Living Arrangements**
- A.** Long-term care living arrangements. A person may be eligible for ALTCS services, under Article 2, while living in one of the following settings:
1. Institutional settings:
 - a. A Nursing Facility (NF) defined in 42 U.S.C. 1396r(a),

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- b. An Institution for Mental Diseases (IMD) for a person who is either under age 21 or age 65 or older,
 - c. An Intermediate Care Facility for the Mentally Retarded (ICF-MR) for a person with developmental disabilities,
 - d. A hospice (free-standing, hospital, or nursing facility subcontracted beds) defined in A.R.S. § 36-401; or
- 2. Home and community-based services (HCBS) settings:
 - a. A person's home defined in R9-28-101(B), or
 - b. Alternative HCBS settings defined in R9-28-101(B).
- B. ALTCS acute care living arrangements.**
 - 1. A person applying for and otherwise entitled to receive ALTCS coverage shall receive only ALTCS acute care coverage if residing in one of the following living arrangements, settings, or locations:
 - a. A noncertified medical facility, or
 - b. A medical facility that is registered with AHCCCS but does not have a contract with an ALTCS program contractor, or
 - c. At home or in an alternative HCBS setting when the person refuses HCBS services, or
 - d. A licensed or certified HCBS facility that is not registered with AHCCCS.
 - 2. Eligibility income limits.
 - a. For a person residing in a setting described in subsection (1)(a) or (1)(b), the gross income limit is 300 percent of the Federal Benefit Rate (FBR).
 - b. For a person residing in a setting described in subsection (1)(c) or (1)(d), the net income limit is 100 percent of the FBR.
- C. Inmate of a public institution.** An inmate of a public institution is not eligible for the ALTCS program if federal financial participation (FFP) is not available as described under R9-22-310.
- D.** For an institutionalized spouse, a resource disregard is allowed under 42 U.S.C. 1396r-5(c).
- E.** Trusts are evaluated in accordance with federal and state laws to determine eligibility.
- F.** A person shall provide information and verification necessary to determine the countable value of resources.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).

R9-28-407. Resource Criteria for Eligibility

- A.** The following Medicaid-eligible persons shall be deemed to meet the resource requirements for ALTCS eligibility unless ineligible due to federal and state laws regarding trusts.
 - 1. A person receiving Supplemental Security Income (SSI);
 - 2. A person receiving Title IV-E Foster Care Maintenance payment; or
 - 3. A person receiving a Title IV-E Adoption Assistance.
- B.** Except as provided in subsection (C), if a person's ALTCS eligibility is most closely related to SSI and is not included in subsection (A), the Administration shall determine eligibility using resource criteria in 42 U.S.C. 1382(a)(1)(B), 42 U.S.C. 1382b, and 20 CFR 416 Subpart L. The resource limit for an individual is \$2,000 or \$3,000 for a couple under 20 CFR 416.1205.
- C.** The Administration permits the following exceptions to the resource criteria for a person identified in subsection (B):
 - 1. Resources of the spouse or parent of a minor child are disregarded beginning the first day in the month the person is institutionalized.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Section repealed, new Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2). Amended by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).

R9-28-408. Income Criteria for Eligibility

- A.** The following Medicaid-eligible persons shall be deemed to meet the income requirements for ALTCS eligibility unless ineligible due to federal and state laws regarding trusts.
 - 1. A person receiving Supplemental Security Income (SSI);
 - 2. A person receiving Title IV-E Foster Care Maintenance Payments; or
 - 3. A person receiving Title IV-E Adoption Assistance.
- B.** If the person is not included in subsection (A), the Administration shall count the income described in 42 U.S.C. 1382a and 20 CFR 416 Subpart K to determine eligibility with the following exceptions:
 - 1. Income types excluded by 42 U.S.C. 1382a(b) for determining net income are also excluded in determining gross income to determine eligibility;

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2. Income of the parent or spouse of a minor child is counted as part of income under 42 CFR 435.602, except that the income of the parent or spouse is disregarded for the month beginning when the person is institutionalized;
 3. In-kind support and maintenance, under 42 U.S.C. 1382a(a)(2)(A), are excluded for both net and gross income tests;
 4. The income exceptions under A.A.C. R9-22-1503(B) apply to the net income test; and
 5. Income described in subsection (C) is excluded.
- C.** The following are income exceptions:
1. Disbursements from a trust are considered in accordance with federal and state law; and
 2. For an institutionalized spouse, a person defined in 42 U.S.C. 1396r-5(h)(1), income is calculated in accordance with 42 U.S.C. 1396r-5(b).
- D.** Income eligibility. Except as provided in R9-28-406(B)(2)(b), countable income shall not exceed 300 percent of the FBR.
- E.** The Administration shall determine the amount a person shall pay for the cost of ALTCS services and the post-eligibility treatment of income (share-of-cost) under A.R.S. § 36-2932(L) and 42 CFR 435.725 or 42 CFR 435.726. The Administration shall consider the following in determining the share-of-cost:
1. Income types excluded by 42 U.S.C. 1382a(b) for determining net income are excluded in determining share-of-cost.
 2. SSI benefits paid under 42 U.S.C. 1382(e)(1)(E) and (G) to a person who receives care in a hospital or nursing facility are not included in calculating the share-of-cost.
 3. The share-of-cost of a person with a spouse is calculated as follows:
 - a. If an institutionalized person has a community spouse under 42 U.S.C. 1396r-5(h), share-of-cost is calculated under R9-28-410 and 42 U.S.C. 1396r-5(b) and (d); and
 - b. If an institutionalized person does not have a community spouse, share of cost is calculated solely on the income of the institutionalized person.
 4. Income assigned to a trust is considered in accordance with federal and state law.
 5. The following expenses are deducted from the share-of-cost of an eligible person to calculate the person's share-of-cost:
 - a. A personal-needs allowance (PNA) equal to 300 percent of the FBR for a person who receives or intends to receive HCBS or who resides in a medical institution for less than the full calendar month. A personal-needs allowance equal to 15 percent of the FBR for a person residing in a medical institution for a full calendar month, except:
 - i. The PNA shall be increased above 15% of the FBR by the amount of income garnished for child support under a court order, including administrative fees garnished for collection efforts, but only to the extent that the amount garnished is not deducted as a monthly allowance for the dependent under any other provision of the post-eligibility process. The increase to the PNA due to the garnishment shall not exceed the actual garnishment paid in the month for which the PNA is calculated; and
 - ii. The PNA shall be increased above 15% of the FBR by the amount of income garnished for spousal maintenance under a judgment and decree for dissolution of marriage, including administrative fees garnished for collection efforts, but only to the extent that the amount garnished is not deducted as a monthly allowance for the spouse under any other provision of the post-eligibility process. The increase to the PNA due to the garnishment shall not exceed the actual garnishment paid in the month for which the PNA is calculated.
 - b. A spousal allowance, equal to the FBR minus the income of the spouse, if a spouse but no children remain at home;
 - c. A household allowance equal to the standard specified in Section 2 of the Aid for Families with Dependent Children (AFDC) State Plan as it existed on July 16, 1996 for the number of household members minus the income of the household members if a spouse and children remain at home;
 - d. Expenses for medical and remedial care services if the expenses were for services rendered to the applicant or beneficiary and prescribed by a health care practitioner acting within the scope of practice as defined by State law. The applicant or recipient must have, or have had, a legal obligation to pay the medical or remedial expense. Deductions do not include the cost of services to the extent a third party paid for, or is liable for, the service. Deductions for expenses incurred prior to application are limited to expenses incurred during the three months prior to the filing of an application. Documents shall be submitted within a reasonable time as determined by the Director.
 - e. An amount determined by the Director for the maintenance of a single person's home for not longer than six months if a physician certifies that the person is likely to return home within that period; or
 - f. An amount for Medicare and other health insurance premiums, deductibles, or coinsurance not subject to third-party reimbursement; and
 6. The deductible expense under subsection (5)(d) shall not include any amount for a service covered under the Title XIX State Plan.
- F.** A person shall provide information and verification of income under A.R.S. § 36-2934(G) and 20 CFR 416.203.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2). Amended by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1). Amended by final rulemaking at 24 A.A.R. 667, effective March 6, 2018 (Supp. 18-1).

R9-28-409. Transfer of Assets

- A.** The provisions in this Section apply to an institutionalized person who has, or whose spouse has, transferred assets and received less than the fair market value (uncompensated value) as specified in A.R.S. § 36-2934(B) and 42 U.S.C. 1396p(c)(1)(A), July 1, 2009, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732

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N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.

- B.** A person shall report transfer of assets. The Administration shall evaluate all transfers made during or after the look-back period under 42 U.S.C. 1396p(c)(1)(B), July 1, 2009, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments. The person shall provide verification of any transfer.
- C.** Certain transfers are permitted under 42 U.S.C. 1396p(c)(2), July 1, 2009, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
- D.** If the Administration determines a disqualification period applies due to a transfer, and the person is otherwise eligible, the person may remain eligible for ALTCS acute care services but shall be disqualified for receiving ALTCS coverage under 42 U.S.C. 1396p(c)(1)(E), July 1, 2009, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
- E.** Period of disqualification for transfers.
 - 1. Calculating a period of disqualification at application. The uncompensated value of all transfers shall be divided by the monthly private pay rate. The result of this calculation equals the number of months of ineligibility.
 - 2. Calculating a period of disqualification after approval:
 - a. For one or more transfers occurring in one calendar month or in consecutive months, the period of disqualification is determined under subsection (E)(1). The period of disqualification begins with the month that the first transfer was made.
 - b. For transfers occurring in nonconsecutive calendar months, the period of disqualification for each transfer of assets shall be determined separately under subsection (E)(1) to determine if the periods of disqualification overlap.
 - i. Periods of disqualification that overlap shall be added together and shall run consecutively, beginning with the month the first transfer was made.
 - ii. Periods of disqualification that do not overlap are each applied separately beginning the month that the transfer was made.
- F.** Transfers of assets for less than fair market value are presumed to have been made to establish eligibility for ALTCS services.
- G.** Rebuttal of disqualification.
 - 1. A person found ineligible for ALTCS services by reason of a transfer of assets for uncompensated value shall have the right to rebut the disqualification for reasons stated under 42 U.S.C. 1396p(c)(2)(C), July 1, 2009, which is incorporated by reference and on file with the Administration, and available from the U.S. Government Printing Office, Mail Stop: IDCC, 732 N. Capitol Street, NW, Washington, DC, 20401. This incorporation by reference contains no future editions or amendments.
 - 2. The person shall have the burden of rebutting the presumption.

- 3. If a person rebuts a transfer on the basis of debt repayment, the Administration shall determine the validity of the debt and payment amount under A.R.S. § 44-101.

- H.** Undue hardship. The transfer penalty period may be waived if denial of eligibility for long term care services creates an undue hardship.
 - 1. The Administration shall consider whether the transfer penalty period can be waived when:
 - a. The individual is otherwise eligible for ALTCS benefits and application of the transfer of assets provision would deprive the individual of medical care such that the individual's life or health would be endangered, or
 - b. The individual is otherwise eligible for ALTCS benefits and is deprived of food, clothing, shelter or other necessities of life as evidenced by the fact that the individual's income is less than or equal to the Federal Poverty Level (FPL);
 - 2. The transfer penalty period shall be waived when:
 - a. The individual is incapacitated as established by the Court or by a physician; and
 - b. The individual who had the legal authority to handle the applicant's finances has violated the terms of that legal authority; and
 - c. An individual acting on the applicant's behalf has exhausted all legal remedies to regain the asset, such as but not limited to, filing a police report and seeking recovery through civil court.
 - 3. The transfer penalty period shall not be waived when:
 - a. The applicant was mentally competent and would have been aware of the consequences of the transfers at the time the transfers occurred; or
 - b. The applicant gave another person specific legal authority to make the transfers, such as a conservator, or a person granted the applicant's financial power of attorney when the applicant was competent to do so, and the person did not violate the limits of that authority in making the transfers.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).

R9-28-410. Community Spouse

- A.** The methodology in this Section applies to an institutionalized person who has a community spouse.
- B.** If the institutionalized person's most current period of continuous institutionalization began on or after September 30, 1989, the Administration shall use the methodology for the treatment of resources under 42 U.S.C. 1396r-5(c).
 - 1. The following resource criteria shall be used in addition to the criteria specified in R9-28-407 to be eligible:
 - a. Resources owned by a couple at the beginning of the first continuous period of institutionalization from and after September 30, 1989, shall be computed from the first day of institutionalization. The total value of resources owned by the institutionalized spouse and the community spouse, and a spousal share equal to one-half of the total value, are computed under 42 U.S.C. 1396r-5(c)(1).
 - b. The Community Spouse Resource Deduction (CSRD) is calculated under 42 U.S.C. 1396r-5(f)(2).

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- c. The CSRD is subtracted from the total resources of the couple to determine the amount of the couple's resources considered available to the institutionalized spouse at the time of application under 42 U.S.C. 1396r-5(c)(2).
 - i. Resources in excess of the CSRD must be equal to or less than the standard for a person specified in R9-28-407.
 - ii. The CSRD is allowed as a deduction for 12 consecutive months beginning with the first month in which the institutionalized spouse is eligible for ALTCS benefits. Beginning with the 13th month, the separate property of the institutionalized spouse must be within the resource standard for a person specified in R9-28-407.
 - iii. If a person who was previously eligible for ALTCS as an institutionalized person with a community spouse reapplies for ALTCS after a break in institutionalization of more than 30 days, the CSRD will be allowed as a deduction from resources for a 12-month period in addition to the period in subsection (c)(ii).
 2. Resources are excluded as specified in R9-28-407, except that one vehicle is totally excluded regardless of its value, and any additional vehicles are included using equity value.
 3. The Director may grant eligibility if the Administration determines that a denial of eligibility would create an undue hardship for the institutionalized spouse.
- C.** This Section applies to the income eligibility and post-eligibility treatment of income beginning September 30, 1989, regardless of when the first period of institutionalization began.
1. Income payments are attributed to the institutionalized person and the community spouse under 42 U.S.C. 1396r-5(b)(2).
 2. Income is excluded as specified in R9-28-408.
 3. The institutionalized spouse's income eligibility is determined by combining the income of the institutionalized person and the community spouse and dividing by two. If the institutionalized person is not eligible using this method, the income eligibility shall be based on the income received in the person's name.
 4. The following allowances described in 42 U.S.C. 1396r-5(d)(1) and (2) are allowed as deductions from the institutionalized spouse's income in determining share-of-cost:
 - a. A personal-needs allowance specified in R9-28-408(E)(5);
 - b. A community spouse monthly income allowance, but only to the extent that the institutionalized spouse's income is made available to or for the benefit of the community spouse;
 - c. A family allowance for each family member equal to one-third of the amount remaining after deducting the countable income of the household member from a Minimum Monthly Maintenance Needs Allowance (MMMNA);
 - d. An amount for medical or remedial services as specified in R9-28-408; and
 - e. An amount for Medicare and other health insurance premiums, deductibles, or coinsurance not subject to third-party reimbursement.
- D.** Transfers.
1. The institutionalized spouse may transfer to any of the following an amount of resources equal to the CSRD without affecting eligibility under 42 U.S.C. 1396r-5(f). The institutionalized spouse may transfer resources to:
 - a. The community spouse; or
 - b. Someone other than the community spouse if the resources are for the sole benefit of the community spouse.
 2. The institutionalized spouse is allowed a period of 12 consecutive months, beginning with the first month of eligibility, to transfer resources in excess of the resource standard in R9-28-407 to the persons listed in subsection (D)(1).
 3. All other transfers by the institutionalized person or transfers by the community spouse are treated under the provisions in R9-28-409.
- E.** Specific hearing rights as described under 9 A.A.C. 34 apply to a person whose eligibility is determined under this Section.
1. The institutionalized spouse or the community spouse is entitled to a fair hearing if dissatisfied with the determination of any of the following:
 - a. The community spouse monthly income allowance,
 - b. The amount of monthly income allocated to the community spouse,
 - c. The computation of the spousal share of resources,
 - d. The attribution of resources, or
 - e. The CSRD.
 2. The hearing officer may increase the amount of the MMMNA if either the community spouse or institutionalized spouse establishes that the community spouse needs income above the established MMMNA due to exceptional circumstances.
 3. The hearing officer may increase the amount of the CSRD to allow the community spouse to retain enough resources to generate income to meet the MMMNA. The hearing officer may allow the community spouse to retain an amount of resources necessary to purchase a single premium life annuity that would furnish monthly income sufficient to bring the community spouse's total monthly income up to the MMMNA.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2). Amended by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).

R9-28-411. Changes, Redeterminations, and Notices**A.** Reporting and verifying changes.

1. A person shall report to the ALTCS eligibility office the following changes for a person, a person's spouse, or a person's dependent children under 42 CFR 435.916:
 - a. A change of address;
 - b. An admission to or discharge from a medical facility, public institution, or private institution;
 - c. A change in the household's composition;
 - d. A change in income;
 - e. A change in resources;
 - f. A determination of eligibility for other benefits;
 - g. A death;
 - h. A change in marital status;
 - i. An improvement in the person's medical condition;
 - j. A change in school attendance;
 - k. A change in Arizona state residency;

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- l. A change in citizenship or alien status;
 - m. Receipt of an SSN under R9-22-305;
 - n. A transfer of assets under R9-28-409;
 - o. A change in trust income and disbursements in accordance with state and federal law;
 - p. A change in first- or third-party liability that may be responsible for payment of all or a portion of the person's medical costs;
 - q. A change in first-party medical insurance premiums;
 - r. A change in the household expenses used to calculate the community spouse monthly income allowance described in R9-28-410;
 - s. A change in the amount of the community spouse monthly income allowance that is provided to the community spouse by the institutionalized spouse under R9-28-410; and
 - t. Any other change that may affect the person's eligibility or share-of-cost.
2. A change shall be reported either orally or in writing as described under R9-22-306.
- B. Processing of changes and redeterminations.** A person's eligibility shall be redetermined at least one time every 12 months and when changes occur, under 42 CFR 435.916. A person's share-of-cost, specified in R9-28-408, shall be redetermined whenever a change occurs that may affect the post-eligibility computation of income.
- C. Actions that may result from a redetermination or change.** Processing a redetermination or change shall result in one of the following findings:
1. No change in eligibility or the post-eligibility computation of income;
 2. Discontinuance of eligibility if a condition of eligibility is no longer met;
 3. Suspension of eligibility if a condition of eligibility is temporarily not met;
 4. A change in the post-eligibility computation of income and the person's share-of-cost; or
 5. A change in service from ALTCS to ALTCS acute care services, or from ALTCS acute care services to ALTCS, caused by changes in a person's living arrangement, specified in R9-28-406, or a transfer of assets specified in R9-28-409.
- D. Notices.**
1. Contents of notice. The Administration shall issue a notice when an action is taken regarding a person's eligibility or computation of share-of-cost. The notice shall contain the following information:
 - a. A statement of the action being taken;
 - b. The effective date of the action;
 - c. The specific reason for the intended action;
 - d. The actual figures used in the eligibility determination and specify the amount by which the person exceeds income standards if eligibility is being discontinued because either a person's resources exceed the resource limit, or a person's income exceeds the income limit;
 - e. The specific law or regulation that supports the action, or a change in federal or state law that requires an action;
 - f. An explanation of a person's right to request an evidentiary hearing as described under 9 A.A.C. 34; and
 - g. An explanation of the date by which a request for hearing must be received so that eligibility or the current share-of-cost may be continued.
 2. Advance notice of changes in eligibility or share-of-cost. "Advance notice" means a notice that is issued to a person at least 10 days before the effective date of change. Except as specified in subsection (D)(3), advance notice shall be issued whenever the following adverse action is taken:
 - a. To discontinue or suspend eligibility if an eligible person no longer meets a condition of eligibility, either ongoing or temporarily;
 - b. To affect post-eligibility computation of income and increase a person's share-of-cost; or
 - c. To reduce benefits from ALTCS to ALTCS acute care services due to a change from a long-term care living arrangement to an acute care living arrangement, specified in R9-28-406(B), or due to a transfer with uncompensated value, specified in R9-28-409.
 3. Adverse actions. An applicant or member may appeal, as described under 9 A.A.C. 34, by requesting a hearing from the Administration or its designee concerning any of the adverse actions if:
 - a. A person provides a clear, written statement, signed by the person, that a person no longer desires services;
 - b. A person provides information that requires termination of eligibility or an increase in the share-of-cost and the person signs a clear written statement waiving advance notice;
 - c. A person cannot be located and mail sent to that person has been returned as undeliverable;
 - d. A person has been admitted to a public institution where the person is ineligible for ALTCS under R9-28-406; or
 - e. A person has been approved for Medicaid in another state;
 - f. The Administration has information that confirms the death of the person;
 - g. The person's primary care provider has prescribed a change in the level of medical care; or
 - h. The notice involves an adverse determination regarding the PAS, specified in A.R.S. § 36-2936.
- E. Transitional.** HCBS services may be provided to a person who is no longer at risk of institutionalization but who continues to require significant long-term care services under A.R.S. § 36-2936(D).

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Amended by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).

R9-28-412. General Enrollment

- A. Program contractors.** The Administration shall enroll each ALTCS member with:
1. An elderly and physically disabled (EPD) program contractor;
 2. The developmentally disabled (DD) program contractor;
 3. A tribal program contractor; or
 4. The AHCCCS fee-for-service program.
- B. Enrollment choice.** An ALTCS member may choose a program contractor:
1. At the time of application, or

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2. If the ALTCS member establishes a home outside of the GSA.
- C. Annual enrollment. If an ALTCS member is elderly or physically disabled and lives in a GSA served by more than one program contractor, a member may change to an available program contractor during the annual enrollment choice period.
- D. A program contractor is responsible for the enrolled ALTCS member as described in R9-28-712, County-of-Fiscal Responsibility.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 369, effective January 6, 1999 (Supp. 99-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2).

R9-28-413. Enrollment with an Elderly and Physically Disabled (EPD) Program Contractor

- A. A member's enrollment with an EPD program contractor. The Administration shall enroll an ALTCS elderly or physically disabled member with an EPD program contractor assigned to that GSA.
- B. New member makes a choice of an EPD program contractor. The Administration shall provide a new member an opportunity to choose an EPD program contractor, if an ALTCS member is elderly or physically disabled, and lives in a GSA served by more than one EPD program contractor.
- C. New member who makes no choice of an EPD program contractor. The Administration shall enroll an elderly or physically disabled new member that lives in a GSA with more than one EPD program contractor and who makes no choice of an EPD program contractor under the following:
 1. Criteria. The Administration will prioritize enrollment based on continuity of care and enroll a member with an EPD program contractor chosen under the following criteria, including but not limited to:
 - a. A member's living arrangement, and
 - b. A member's primary care practitioner.
 2. Algorithm. The Administration shall enroll a member through an algorithm as specified in contract, when a member has a choice of more than one EPD program contractor and the criteria in subsection (C)(1) does not apply.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).

R9-28-414. Enrollment with the DD Program Contractor

A member's DD program contractor. The Administration shall enroll a member including an American Indian with the DES Division of Developmental Disabilities as specified in A.R.S. § 36-2940, if the ALTCS member is eligible for services for the developmentally disabled.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).

R9-28-415. Enrollment with a Tribal Program Contractor

- A. On-reservation. Notwithstanding R9-28-412, the Administration shall enroll an American Indian ALTCS member who is elderly or physically disabled with the ALTCS tribal program contractor as specified in A.R.S. § 36-2932 if the person:
 1. Lives on-reservation of a tribe participating as an ALTCS tribal program contractor, or
 2. Lived on-reservation of a tribe participating as an ALTCS tribal program contractor immediately prior to placement in an off-reservation NF or alternative HCBS setting.
- B. Off-reservation. The Administration shall enroll an American Indian ALTCS member who is elderly or physically disabled with an EPD program contractor under R9-28-413, if the member lives off-reservation, and does not have on-reservation status as specified in subsection (A)(2).

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2). Amended by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).

R9-28-416. Enrollment with the Fee-for-Service (FFS) Program

- A. No tribal or EPD program contractor in GSA. The Administration shall enroll an ALTCS elderly or physically disabled member who resides in an area with no ALTCS tribal program contractor or EPD program contractor in the AHCCCS FFS program under A.R.S. § 36-2945.
- B. Prior period coverage. The Administration shall enroll a member in AHCCCS fee-for-service program if a member is eligible for ALTCS services only during prior period coverage.
- C. The Administration shall enroll a member in the AHCCCS fee-for-service program if the member is eligible for ALTCS services during the prior quarter period.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).

R9-28-417. Notification Requirements

- A. Administration responsibilities. The Administration shall notify a member's program contractor when a member is enrolled or disenrolled from the ALTCS program. The Administration shall include the following in the notification:
 1. The member's name,
 2. The member's identification number,
 3. The member's effective date of enrollment or disenrollment, and
 4. The member's share-of-cost on a monthly enrollment roster.
- B. Program contractor's responsibilities. The program contractor shall notify the Administration if an ALTCS member has any change that may affect eligibility including but not limited to:
 1. A change in residential address,
 2. A change in medical or functional condition,
 3. A change in living arrangement including:
 - a. Alternative HCBS setting,
 - b. Home,
 - c. Nursing facility, or
 - d. Other living arrangement not specified in this subsection,
 4. Change in resource or income, or

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5. Death.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1).

R9-28-418. Disenrollment

The Administration shall disenroll an ALTCS member on the last day of the month following receipt of appropriate notification under R9-28-411 except:

1. The Administration shall disenroll an ALTCS member who dies. A member's last day of enrollment shall be the date of death.
2. The Administration shall disenroll a member immediately when the member voluntarily withdraws from the ALTCS program.
3. If ALTCS benefits have been continued pending an eligibility appeal decision and the discontinuance is upheld as specified in 9 A.A.C. 34, the Administration shall disenroll a member effective on the date of the hearing decision.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 14 A.A.R. 2090, effective July 5, 2008 (Supp. 08-2). Amended by final rulemaking at 20 A.A.R. 234, effective January 7, 2014 (Supp. 14-1).

ARTICLE 5. PROGRAM CONTRACTOR AND PROVIDER STANDARDS**R9-28-501. Program Contractor and Provider Standards – Related Definitions**

Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings unless the context of the Chapter explicitly requires another meaning:

“Certification” means a voluntary process by which a federal or state regulatory entity grants recognition to a person, facility, or organization that has met certain qualifications specified by the regulatory entity, allowing the person, facility, or organization to use the word “certified” in a title or designation.

“Therapeutic leave” means that a member leaves an institutional facility for a period that does not exceed nine days per contract year.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). New Section made by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4406, effective January 3, 2009 (Supp. 08-4).

R9-28-501.01. Pre-Existing Conditions

A program contractor shall comply with the pre-existing condition requirements in A.A.C. R9-22-502.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4406, effective January 3, 2009 (Supp. 08-4).

R9-28-502. Long-term Care Provider Requirements

- A. A provider shall obtain any necessary authorization from the program contractor or the Administration for services provided to a member.
- B. A provider shall maintain and make available to a program contractor and to the Administration, financial, and medical records for not less than five years from the date of final payment, or for records relating to costs and expenses to which the Administration has taken exception, five years after the date of final disposition or resolution of the exception. The provider shall maintain records that meet uniform accounting standards and generally accepted practices for maintenance of medical records, including detailed specification of all patient services delivered, the rationale for delivery, and the service date.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended subsection (E) effective June 6, 1989 (Supp. 89-2). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

R9-28-503. Licensure and Certification for Long-term Care Institutional Facilities

- A. A nursing facility shall not provide services to a member unless the facility is licensed by Arizona Department of Health Services, Medicare- and Medicaid-certified, and meets the requirements in 42 CFR 442, as of October 1, 2004, and 42 CFR 483, as of October 1, 2004, incorporated by reference, on file with the Administration, and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments.
- B. An ICF-MR shall not provide services to a member unless the ICF-MR is Medicaid-certified and meets the requirements in A.R.S. § 36-2939(B)(1) and 42 CFR 442, Subpart C, as of October 1, 2004, and 42 CFR 483, as of October 1, 2004, incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation by reference contains no future editions or amendments.
- C. A nursing facility or ICF-MR that provides services to a member shall register as a provider with the Administration to receive reimbursement. The Administration shall not register a provider unless the provider meets the licensure and certification requirements of subsection (A) or (B).

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective November 5, 1993 (Supp. 93-4). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4406, effective January 3, 2009 (Supp. 08-4).

R9-28-504. Standards of Participation, Licensure, and Certification for HCBS Providers

- A. A noninstitutional long-term care provider shall not register with the Administration unless the provider meets the requirements of the Arizona Department of Health Services' rules for licensure, if applicable.
- B. Additional qualifications to provide services to a member:
 1. A community residential setting and a group home for a person with developmental disabilities shall be licensed

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- by the appropriate regulatory agency of the state as described in A.A.C. R9-33-107 and A.A.C. R6-6-714;
2. An adult foster care home shall be certified or licensed under 9 A.A.C. 10;
 3. A home health agency shall be Medicare-certified and licensed under 9 A.A.C. 10;
 4. A person providing a homemaker service shall meet the requirements specified in the contract between the person and the Administration;
 5. A person providing a personal care service shall meet the requirements specified in the contract between the person and the Administration;
 6. An adult day health care provider shall be licensed under 9 A.A.C. 10;
 7. A therapy provider shall meet the following requirements:
 - a. A physical therapy provider shall meet the requirements in 4 A.A.C. 24;
 - b. A speech therapist provider shall meet the applicable requirements under 9 A.A.C. 16, Article 2.
 - c. An occupational therapy provider shall meet the requirements in 4 A.A.C. 43; and
 - d. A respiratory therapy provider shall meet the requirements in 4 A.A.C. 45;
 8. A respite provider shall meet the requirements specified in contract;
 9. A hospice provider shall be Medicare-certified and licensed under 9 A.A.C. 10;
 10. A provider of home-delivered meal service shall comply with the requirements in 9 A.A.C. 8;
 11. A provider of non-emergency transportation shall be licensed by the Arizona Department of Transportation, Motor Vehicle Division;
 12. A provider of emergency transportation shall meet the licensure requirements in 9 A.A.C. 13;
 13. A day care provider for the developmentally disabled under A.R.S. § 36-2939 shall meet the licensure requirements in 6 A.A.C. 6;
 14. A habilitation provider shall meet the requirements in A.A.C. R6-6-1523 or the therapy requirements in this Section;
 15. A service provider, other than a provider specified in subsections (B)(1) through (B)(14), approved by the Director shall meet the requirements specified in a program contractor's contract with the Administration;
 16. A behavioral health provider shall have all applicable state licenses or certifications and meet the service specifications in A.A.C. R9-22-1205; and
 17. An assisted living home or a residential unit shall meet the requirements as defined in A.R.S. § 36-401 and as authorized in A.R.S. § 36-2939.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective July 13, 1992 (Supp. 92-3). Amended effective November 5, 1993 (Supp. 93-4). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 874, effective March 4, 1999 (Supp. 99-1). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

R9-28-505. Standards, Licensure, and Certification for Providers of Hospital and Medical Services

A provider shall not provide hospital services to a member unless the hospital is licensed by the Arizona Department of Health Services, and meets the requirements in 42 CFR 441 and 482, as of October 1, 2004, and 42 CFR 456, Subpart C, as of October 1, 2004, incorporated by reference, on file with the Administration and available from the U.S. Government Printing Office, 732 N. Capitol St., N.W., Washington, D.C. 20401. This incorporation contains no future editions or amendments. An Indian Health Service (IHS) hospital and a Veterans Administration hospital shall not provide services to a member unless accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 14 A.A.R. 4406, effective January 3, 2009 (Supp. 08-4).

R9-28-506. Requirements for Spouse as Paid Caregiver

- A. For purposes of this Section, the following definitions apply:
 1. "Extraordinary care" means care that exceeds the range of activities that a spouse would ordinarily perform in the household on behalf of the ALTCS member if the member did not have a disability or chronic illness, and that is necessary to ensure the health and welfare of the member and avoid institutionalization.
 2. "Personal care or similar services" means assistance provided to an ALTCS member with a disability or chronic illness to enable the member to perform Activities of Daily Living (ADL) or Instrumental Activities of Daily Living (IADL) that the member would normally perform for himself or herself if the member did not have a disability or chronic illness. Assistance may involve performing a personal care task for the member or cuing the member so that the member performs the task for himself or herself.
- B. As authorized by the Section 1115 Waiver, a member may choose to have personal care or similar services provided by the member's spouse as a paid caregiver if the following conditions and limitations are met:
 1. The member resides in his or her own home;
 2. The Administration or a Program Contractor offers the member the choice of a provider of personal care or similar services other than the member's spouse;
 3. The personal care or similar services is described in the member's plan of care prepared by the member's case manager;
 4. The case manager records at least annually in the member's plan of care the member's choice to have personal care or similar services provided by the member's spouse as a paid caregiver;
 5. The personal care or similar services provided by the spouse are extraordinary care;
 6. The spouse is one of the following:
 - a. Employed by a provider that subcontracts with the member's Program Contractor;
 - b. If the member is developmentally disabled, the spouse is either employed by a provider that subcontracts with the member's Program Contractor, or registered with AHCCCS as an independent provider; or
 - c. If the member is a Native American enrolled in FFS, the spouse is either employed by an AHCCCS regis-

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tered provider or registered with AHCCCS as an independent provider;

7. The spouse meets the training and other qualifications that apply to other providers of personal care or similar services registered with AHCCCS;
 8. The Program Contractor does not pay a spouse providing personal care or similar services at a rate that exceeds the rate that would be paid to a provider of personal care or similar services who is not a spouse and the Administration does not pay a spouse providing personal care or similar services at a rate that exceeds the capped fee-for-service payment for personal care or similar services; and
 9. A spouse providing personal care or similar services as a paid caregiver is not paid for more than 40 hours of services in a seven-day period.
- C. For a member who elects to have the member's spouse provide personal care or similar services as a paid caregiver, personal care or similar services in excess of 40 hours in a seven-day period are not covered. If a spouse elects to provide less than the hours authorized by the Administration or Program Contractor, the remaining hours of medically necessary personal care or similar services may be provided by another personal caregiver, but the total hours of care provided by the spouse and any other personal caregiver shall not exceed 40 hours in a seven-day period.
- D. By electing to have the member's spouse provide personal care and similar services as a paid caregiver, the member is not precluded from receiving medically necessary, cost effective home and community based services other than personal care or similar services.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 3587, effective October 2, 2007 (Supp. 07-4).

R9-28-507. Program Contractor General Requirements

- A. To participate in the ALTCS program, through a program contractor or directly through the Administration, a provider of ALTCS-covered services shall be registered with the Administration.
- B. An ALTCS program contractor shall ensure that providers of service meet the requirements of this Article.
- C. Each ALTCS program contractor shall maintain member service records for five years, that include, at a minimum, a case management plan, medical records, encounter data, grievances, complaints, and service information for each ALTCS member.
- D. An ALTCS program contractor shall produce and distribute informational materials that are approved by the Administration to each enrolled ALTCS member or designated representative within 12 business days after the program contractor receives notification of enrollment from the Administration. The program contractor shall ensure that the informational materials include:
 1. A description of all covered services as specified in contract;
 2. An explanation of service limitations and exclusions;
 3. An explanation of the procedure for obtaining services, including a notice stating that the program contractor is liable only for those services authorized by an ALTCS member's case manager;
 4. An explanation of the procedure for obtaining emergency services;
 5. An explanation of the procedure for filing a grievance and appeal; and

6. An explanation of when plan changes may occur as specified in contract.

- E. A subcontractor shall collect the member's share of cost and report to the program contractor the amount collected as specified in the subcontractor contract. The program contractor shall report the share of cost collected to the Administration.
- F. An ALTCS program contractor shall monitor a trust fund account for an institutionalized ALTCS member to verify that expenditures from the member's trust fund account are in compliance with federal regulations 42 U.S.C. 1396p(d)(4) and A.R.S. § 36-2934.01.
- G. A program contractor shall ensure that an institutionalized ALTCS member transferred to an acute care facility to receive services is, whenever possible, returned to the original institution upon completion of acute care.
- H. A program contractor shall ensure that an institutionalized ALTCS member granted therapeutic leave is, whenever medically appropriate, returned to the same bed in the original institution upon completion of the therapeutic leave.
- I. A program contractor shall ensure that services are paid under A.A.C. R9-22-705.
- J. A program contractor shall comply with the marketing provisions in A.A.C. R9-22-504.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

R9-28-508. Self-directed Attendant Care (SDAC)

- A. For purposes of this Article the following terms are defined:

"Competent member" means a person who is oriented, exhibits evidence of logical thought, and can provide directions.

"Fiscal and Employer Agent" or "FEA" is a company specified by the program contractor or the Administration in contract to serve as an employment/payroll processing center for attendant care workers employed by the member to provide SDAC services.

"Medically stable" means the member's skilled-care medical needs are routine and not subject to frequent change because of health issues.

"Personal care" means activities of daily life such as dressing, bathing, eating and mobility.
- B. In lieu of receiving other attendant care services a competent member who meets the requirements of A.R.S. § 36-2951 or the member's legal guardian may choose to employ through the FEA a person to provide Self-directed Attendant Care (SDAC) services. A paid caregiver described under R9-28-506 and a parent of a minor child shall not receive reimbursement for SDAC services.
- C. The attendant care worker chosen to provide SDAC services does not need to be a registered provider. The attendant care worker shall have, at a minimum, hands-on training in First Aid, CPR, Universal Precautions, and state and federal laws regarding privacy of health information or training of similar efficacy as approved by the Administration.
- D. The Administration or Program Contractor shall cover SDAC services only if the member resides in the member's home, and shall not cover SDAC services if the member is institutionalized or residing in an alternative residential setting. If the

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member has a legal guardian, the legal guardian shall be present when SDAC services are provided.

- E. A member who chooses to receive SDAC services is not precluded from receiving medically necessary, cost-effective home health services from other agencies or providers if the services provided are not duplicative of the specific attendant care or skilled service already received through the program contractor.
- F. A competent member or legal guardian may employ an SDAC attendant care worker to provide personal care, homemaker and general supervision services.
- G. A competent member, who is medically stable, or the member's legal guardian may employ an attendant care worker to also provide the following skilled services:
 1. Bowel care, including suppositories, enemas, manual evacuation, and digital stimulation;
 2. Bladder catheterizations (non-indwelling) that do not require a sterile procedure;
 3. Wound care (non-sterile);
 4. Glucose monitoring;
 5. Glucagon as directed by the health care provider;
 6. Insulin by subcutaneous injection only if the member is not able to self-inject;
 7. Permanent gastrostomy tube feeding; and
 8. Additional services requested in writing with the approval of the Director and the Arizona State Board of Nursing.
- H. The Administration or program contractor shall not cover services under subsection (G) unless:
 1. For each SDAC attendant care worker employed by a member or legal guardian, a registered nurse licensed under A.R.S. Title 32, Chapter 15 visits the member and SDAC attendant care worker before a skilled service is provided. The registered nurse will assess, educate, and train the member and SDAC attendant care worker regarding the specific skilled service that the member requires; and
 2. The registered nurse determines in writing that the attendant care worker understands how and demonstrates the skill to perform the processes or procedures required to provide the specific skilled service.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective April 25, 1990 (Supp. 90-2). Amended effective December 8, 1997 (Supp. 97-4). Section repealed by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). New Section made by final rulemaking at 16 A.A.R. 2386, effective January 16, 2011 (Supp. 10-4). Amended by final rulemaking at 18 A.A.R. 2344, effective November 11, 2012 (Supp. 12-3).

R9-28-509. Agency with Choice

- A. Definitions. The following words and phrases, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, have the following meanings specific to this Section:

“Agency” means a provider of home and community based services, other than an individual, that has a co-employment relationship with one or more members for purposes of this Section.

“Co-employment relationship” means a situation where the Agency serves as the legal employer of record and the ALTCS member or authorized representative assumes

certain responsibilities related to directing and or managing care.

“Individual’s representative” means a parent, family member, guardian, advocate, or other person authorized by the member to serve as a representative in connection with the provision of services and supports. This authorization should be in writing, when feasible, or by another method that clearly indicates the individual’s free choice. An individual’s representative may not also be a paid caregiver of an individual receiving services and supports.

“Standardized training” means minimum training standards required of all paid caregivers by the Administration as specified in contract.

- B. Purpose. The Agency with Choice program is an ALTCS member directed service model for the provision of home and community based services. Under this model, the ALTCS member or individual’s representative and the agency enter into a co-employment relationship.
- C. In lieu of receiving HCBS services under a traditional service model, a member or the member’s individual’s representative may choose to participate in the Agency with Choice service model. Under the Agency with Choice service model, the agency shall maintain the authority to hire and fire paid caregivers and provide standardized training to the caregiver, and the member or individual representative may elect to recruit, select, dismiss, determine duties, schedule, specify training to meet the unique needs of the member, and supervise the paid caregivers on a day-to-day basis.
- D. Setting. This program is applicable to ALTCS members who reside in their own home.
- E. A member who chooses to receive services under the Agency with Choice service model is not precluded from receiving medically necessary, cost-effective services and supports from other agencies or providers if the services provided are not duplicative of the specific attendant care or skilled service already received through the contractor.

Historical Note

Section made by final rulemaking at 18 A.A.R. 3380, effective January 1, 2013 (Supp. 12-4).

R9-28-510. Case Management

- A. A program contractor shall assign to each member a case manager to identify, plan, coordinate, monitor, and reassess the need for and provision of long-term care services.
- B. A case manager shall:
 1. Ensure that appropriate ALTCS placement and services are provided for a member within 30 days of enrollment;
 2. Develop a service plan by:
 - a. Completing a case management plan when a member is enrolled in ALTCS and authorizing services for a member who continues to be financially and medically eligible for services;
 - b. Ensuring that a member participates in the preparation of the member’s case management plan;
 - c. Specifying the paid and natural support services to be received by the member, including the duration, scope of services, units of service, frequency of service delivery, provider of services, and effective time period; and
 - d. Coordinating with the primary care provider in determining the necessary services for the member, including hospital and medical services;

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3. Submit a written justification to the case manager's supervisor to include HCBS in the case management plan if the services exceed 80 percent of the institutional cost;
4. Manage a case management plan by:
 - a. Re-evaluating and revising the case management plan when the member transfers to another facility, transfers to a hospital, has a change in level of care; and
 - b. Monitoring receipt of services by a member;
5. Assist the member to maintain or progress toward the highest level of functioning;
6. Ensure that records are transferred when the member is transferred from a facility or provider to a new facility or provider;
7. Perform additional monitoring of a member with rehabilitation potential and whose condition is fragile or unstable, whose case management plan is marginally cost effective, or whose use of medical and hospital services is unusual;
8. Arrange behavioral health services, if necessary. The case manager shall have initial and quarterly consultation and collaboration with a behavioral health professional to review the treatment plan, unless the case manager meets the definition of a behavioral health professional under A.A.C. R9-20-101.

- C. A program contractor shall submit a service plan and other information related to the case management plan upon request to the Administration.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective July 13, 1992 (Supp. 92-3). Amended effective November 5, 1993 (Supp. 93-4). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4). Amended by final rulemaking at 18 A.A.R. 3380, effective January 1, 2013 (Supp. 12-4).

R9-28-511. Quality Management/Utilization Management (QM/UM) Requirements

A program contractor shall:

1. Comply with all requirements specified in A.A.C. R9-22-522; and
2. Submit a quarterly utilization control report within time lines specified in contract, and meet the requirements in 42 CFR 456 Subparts C, D, and F, October 1, 2004, incorporated by reference in R9-28-505.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended under an exemption from the provisions of the Administrative Procedure Act effective March 1, 1993 (Supp. 93-1). Amended effective November 5, 1993 (Supp. 93-4). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 874, effective March 4, 1999 (Supp. 99-1). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

R9-28-512. Expired**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective December 8, 1997

(Supp. 97-4). Section expired under A.R.S. § 41-1056(E) at 8 A.A.R. 4851, effective October 9, 2002 (Supp. 02-4).

R9-28-513. Program Compliance Audits

The Administration shall meet the requirements specified under A.A.C. R9-22-521 for a program contractor.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

R9-28-514. Release of Safeguarded Information by the Administration and Contractors

The Administration, program contractors, providers, and noncontracting providers shall meet the requirements specified under A.A.C. R9-22-512 for an ALTCS applicant, or member.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective December 8, 1997 (Supp. 97-4). Amended by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

R9-28-515. Repealed**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Section repealed by final rulemaking at 11 A.A.R. 4286, effective December 5, 2005 (Supp. 05-4).

ARTICLE 6. RFP AND CONTRACT PROCESS

Article 6, consisting of Sections R9-28-601 through R9-28-610, repealed; new Article 6, consisting of Sections R9-28-601 through R9-28-608, adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1).

R9-28-601. General Provisions

- A. The Director has full operational authority to adopt rules for the RFP process and the award of contract under A.R.S. § 36-2944.
- B. The Administration shall follow the provisions under 9 A.A.C. 22, Article 6 for members, subject to limitations and exclusions under that Article, unless otherwise specified in this Chapter.
- C. The Administration shall award contracts under A.R.S. § 36-2932 to provide services under A.R.S. § 36-2939.
- D. The Administration is exempt from the procurement code under A.R.S. § 41-2501.
- E. The Administration and contractors shall retain all records relating to contract compliance for five years under A.R.S. § 36-2932 and dispose of the records under A.R.S. § 41-2550.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective August 11, 1997 (Supp. 97-3). Amended by final rulemaking at 5 A.A.R. 874, effective March 4, 1999 (Supp. 99-1). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1).

R9-28-602. RFP

The ALTCS RFP for a program contractor serving members who are EPD shall meet the requirements of A.R.S. §§ 36-2944, A.R.S.

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§ 36-2939, A.A.C. R9-22-602, and Articles 2 and 11 of this Chapter.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1).

R9-28-603. Contract Award

The Administration shall award a contract under A.R.S. § 36-2944 and A.A.C. R9-22-603.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1).

R9-28-604. Contract or Proposal Protests; Appeals

Contract or proposal protests or appeals shall be under A.A.C. R9-22-604 and 9 A.A.C. 34.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2502, effective November 13, 2012 (Supp. 12-3).

R9-28-605. Waiver of Contractor's Subcontract with Hospitals

A contractor's subcontract with hospitals may be waived under A.A.C. R9-22-605.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1).

R9-28-606. Contract Compliance Sanction

- A. The Administration shall follow sanction provisions under A.A.C. R9-22-606.
- B. The Administration shall apply remedies found in 42 CFR 488, Subpart F, effective January 1, 2012, incorporated by reference and on file with the Administration and the Office of the Secretary of State, for a nursing facility that does not meet requirements of participation under 42 U.S.C. 1396r. This incorporation by reference contains no future editions or amendments.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective August 11, 1997

(Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Section repealed; new Section made by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 2502, effective November 13, 2012 (Supp. 12-3).

R9-28-607. Repealed**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 5, 1993 (Supp. 93-4). Amended effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Section repealed by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1).

R9-28-608. Repealed**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Section repealed by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1).

R9-28-609. Repealed**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Section repealed by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1).

R9-28-610. Repealed**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended under an exemption from the provisions of the Administrative Procedure Act effective March 1, 1993 (Supp. 93-1). Section repealed by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1).

ARTICLE 7. STANDARDS FOR PAYMENTS**R9-28-701. Standards for Payment Related Definitions**

Definitions. In this Article, in addition to definitions contained in A.R.S. §§ 36-2901 and 36-2931, and 9 A.A.C. 22, Article 1, the following phrase has the following meaning unless the context of the Article explicitly requires another meaning:

"County of fiscal responsibility" means the county that is financially responsible for the state's share of ALTCS funding.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1). Section repealed; new Section made by final rulemaking at 11 A.A.R. 3165, effective October 1, 2005 (Supp. 05-3).

R9-28-701.10. General Requirements

The following Sections of A.A.C. Chapter 22, Articles 2 and 7, are applicable to reimbursement for services provided under the ALTCS program, except that the term "program contractor" shall be substituted for "contractor."

1. Scope of the Administration's and Contractor's Liability, R9-22-701.10;
2. Charges to Members, R9-22-702;

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3. Payments by the Administration or by a program contractor, R9-22-703 and R9-22-705;
4. Contractor's Liability to Hospitals for the Provision of Emergency and Post-stabilization Care, R9-22-709;
5. Payment for Non-hospital services, R9-22-710;
6. Specialty Contracts, R9-22-712(G)(3), R9-22-712.01 (10) and Article 2;
7. Payments by the Administration for Hospital Services Provided to an Eligible Person, R9-22-712; R9-22-712.01 and R9-22-712.10;
8. Overpayment and Recovery of Indebtedness, R9-22-713;
9. Payments to Providers, R9-22-714;
10. Hospital Rate Negotiations, R9-22-715; and
11. Reinsurance, R9-22-720.

Historical Note

New Section made by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

R9-28-702. Nursing Facility Assessment

- A.** For purposes of R9-28-702 and R9-28-703, in addition to the definitions under A.R.S. § 36-2999.51, the following terms have the following meaning unless the context specifically requires another meaning:

"820 transaction" means the standard health care premium payments transaction required by 45 CFR 162.1702.

"Assessment year" means the 12 month period beginning October 1st each year.

"Medicaid patient days" means patient days reported on the Nursing Care Institution Uniform Accounting Report (UAR) as attributable to AHCCCS and its contractors as the primary payor.

"Medicare days" means resident days where the Medicare program, a Medicare advantage or special needs plan, or the Medicare hospice program is the primary payor.

"Medicare patient days" means patient days reported on the Nursing Care Institution UAR as Skilled Medicare Patient Days or Part C/Advantage/Medicare Replacement Days.

"Nursing Care Institution UAR" means the Nursing Care Institution Uniform Accounting Report described by R911-204.

- B.** Subject to Centers for Medicare and Medicaid Services (CMS) approval, effective October 1, 2012, nursing facilities shall be subject to a provider assessment payable on a quarterly basis.
- C.** All nursing facilities licensed in the state of Arizona shall be subject to the provider assessment except for:
1. A continuing care retirement community,
 2. A facility with 58 or fewer beds, according to the Arizona Department of Health Services, Division of Licensing Services, Provider & Facility Database,
 3. A facility designated by the Arizona Department of Health Services as an Intermediate Care Facility for the Intellectually Disabled,
 4. A tribally owned or operated facility located on a reservation,
 5. Arizona Veteran's Homes, or
 6. Facilities located outside of the State of Arizona.
- D.** The Administration shall calculate the prospective nursing facility provider assessment for qualifying nursing facilities as follows:
1. In September of each year, the Administration shall obtain from the Arizona Department of Health Services

- the most recently published Nursing Care Institution UAR and the information required in subsection (C)(2). At the request of the Administration, a nursing facility shall provide the Administration with any additional information necessary to determine the assessment.
2. The Administration shall use the information obtained under subsection (D)(1) to determine:
 - a. Each nursing facility's total annual Medicaid patient days,
 - b. Each nursing facility's total annual Medicare patient days,
 - c. Each nursing facility's total annual patient days,
 - d. The aggregate net patient service revenue of all assessed providers, and
 - e. The slope described under 42 CFR 433.68(e)(2).
 3. For each nursing facility, other than a nursing facility exempted in subsection (C) or described in subsection (D)(4), the provider assessment is calculated by multiplying the nursing facility's total annual patient days, other than Medicare patient days, by \$20.80.
 4. For a nursing facility, other than a nursing facility exempted in subsection (C), with the number of total annual Medicaid patient days greater than or equal to the number required to achieve a slope of at least 1 applying the uniformity tax waiver test described in 42 CFR 433.68(e)(2), the provider assessment is calculated by multiplying the nursing facility's total annual patient days, other than Medicare patient days, by \$2.40.
 5. For each assessment year the slope described under 42 CFR 433.68(e)(2) shall be recalculated.
 6. The assessment calculated under subsections (D)(3), (D)(4) and (D)(5), shall not exceed 3.5 percent of the aggregate net patient service revenue of all assessed providers as reported on the Nursing Care Institution UAR obtained under subsection (D)(1). If the rates listed in (D)(3) and (D)(4) produce a total annual assessment that exceeds 3.5 percent of the aggregate net patient service revenue of all assessed providers as reported on the Nursing Care Institution UAR obtained under subsection (D)(1), the rates listed in (D)(3) and (D)(4) will be reduced to not exceed the 3.5 percent limit.
 7. All calculations and determinations necessary for the provider assessment shall be based on information possessed by the Administration on or before November 1 of the assessment year.
 8. The Administration will forward the provider assessment by facility to the Arizona Department of Revenue on or before December 1 of the assessment year.
 9. In the event a nursing facility closes during the assessment year, the nursing facility shall cease to be responsible for the portion of the assessment applied to the dates the nursing facility is not operating.
 10. In the event a nursing facility begins operation during the assessment year, that facility will have no responsibility for the assessment until such time as the facility has submitted to the Arizona Department of Health Services the report required by R9-11-204(A) covering a full year of operation.
 11. In the event a nursing facility has a change of ownership such that the facility remains open and the ownership of the facility changes, the assessment liability transfers with the change in ownership.

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Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3340, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 3244, effective October 1, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 19 A.A.R. 137, effective January 8, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 4168, effective February 1, 2014 (Supp. 13-4). Amended by final rulemaking at 20 A.A.R. 1989, effective September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 22 A.A.R. 3332, effective January 3, 2017 (Supp. 16-4). Amended by final rulemaking at 28 A.A.R. 3298 (October 14, 2022), with an immediate effective date of September 22, 2022 (Supp. 22-3).

R9-28-703. Nursing Facility Supplemental Payments**A. Determination of amounts available for payment.**

1. Using Medicaid resident bed day information from the most recent and complete 12 months of paid claim and adjudicated encounter data, for every facility eligible for a supplemental payment, the Administration shall determine annually:
 - a. A ratio equal to the number of bed days paid by the Administration's contractors divided by the total number of bed days paid, and
 - b. A ratio equal to the number of bed days paid by the Administration divided by the total number of bed days paid.
2. The Administration shall determine quarterly the amount available in the nursing facility assessment fund established by A.R.S. § 36-2999.53 plus the corresponding federal financial participation and divide the total amount as follows:
 - a. The total amount multiplied by the ratio determined in subsection (A)(1)(a) shall be distributed according to subsection (B).
 - b. The total amount multiplied by the ratio determined in subsection (A)(1)(b) shall be distributed according to subsection (C).

B. Payments to facilities by contractors.

1. The Administration shall distribute quarterly to its contractors an amount equal to the total amount of Nursing Facility Enhanced Payments made by the Administration's contractors for the period of October 1, 2015 through September 30, 2016 divided by 4, which shall be paid to eligible facilities as follows:
 - a. Using the adjudicated encounter data described in subsection (A)(1), the Administration shall determine annually for each facility a ratio equal to the number of bed days for the facility paid by each contractor divided by the total number of bed days paid to all facilities by all contractors.
 - b. Each contractor shall make payments quarterly to each facility in an amount equal to 98% of the amounts identified as Nursing Facility Enhanced Payments in the 820 transaction sent by the Administration to the contractor for the quarter multiplied by the ratio determined in subsection (B)(1)(a) applicable to the contractor and to each facility. In the event the Administration does not produce an 820 transaction, each contractor shall distribute

quarterly an amount equal to 98% of the payment received from AHCCCS for Nursing Facility Enhanced Payments.

- c. Contractors shall not be required to make quarterly payments to a facility until the Administration has made a retroactive adjustment to the capitation rates paid to contractors to correct the Nursing Facility Enhanced Payments based on actual member months for the specified quarter.
 - d. Beginning October 1, 2018, any amounts that would otherwise have been distributed under subsection (B)(1) shall be distributed under subsection (B)(2).
2. Subject to annual approval by CMS in accordance with 42 CFR § 438.6(c), the Administration shall distribute quarterly to its contractors an amount equal to the amount determined in subsection (A)(2)(a) minus the amount distributed under subsection (B)(1), which shall be paid to eligible facilities as follows:
 - a. Using the Medicaid resident bed day information described by subsection (A)(1), the Administration shall determine quarterly a per bed day enhanced support uniform increase by dividing the quarterly distribution amount by one fourth of the total resident bed days paid by the Administration's contractors. Using the same Medicaid resident bed day information, the Administration shall determine the quarterly bed days paid to each facility by each contractor by summing the total bed days paid to each facility by each contractor and dividing by 4.
 - b. The Administration shall communicate to the contractors quarterly the per bed day enhanced support uniform increase and the quarterly bed days paid to each facility by the contractor.
 - c. Each contractor shall distribute quarterly an amount equal to 98% of the payment received from AHCCCS, to be paid to each facility in an amount equal to the per bed day enhanced support uniform increase multiplied by the number of bed days paid by the contractor to the facility.
 3. Each contractor must pay each eligible facility the amounts required under subsections (B)(1) and (B)(2) within 20 calendar days of receiving the Nursing Facility Enhanced Payment from the Administration. The contractors must confirm each payment and payment date to the Administration within 20 calendar days from receipt of the funds.
- C. Payments to facilities by the Administration.
 1. Using the paid claim data described in subsection (A)(1), the Administration shall determine annually for each facility a ratio equal to the number of bed days for the facility paid by the Administration divided by the total number of bed days paid to all facilities by the Administration.
 2. The Administration shall make payments quarterly to each eligible facility in an amount equal to 99% of the amount determined in subsection (A)(2)(b) multiplied by the ratio determined in subsection (C)(1) applicable to the facility.
 3. The Administration shall make the supplemental payments to the eligible facilities within 20 calendar days of determining the amounts required under subsection (C)(2).
 - D. Assurance of sufficient funds for payments. Neither the Administration nor its contractors shall be required to make

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quarterly payments to facilities otherwise required by subsections (B) and (C) until the amount available in the nursing facility assessment fund established by A.R.S. § 36-2999.53, plus the corresponding federal financial participation, is equal to or greater than 101% of the amount necessary to make such payments in full.

E. General requirements for all payments.

1. A facility must be open on the date the supplemental payment is made in order to receive a payment. In the event a nursing facility closes during the assessment year, the nursing facility shall cease to be eligible for supplemental payments.
2. In the event a nursing facility begins operation during the assessment year, that facility shall not receive a supplemental payment until such time as the facility has claim and encounter data that falls within the collection period for the payment calculation.
3. In the event a nursing facility has a change of ownership, payments shall be made to the owner of the facility as of the date of the supplemental payment.
4. Subsection (E)(3) shall not be interpreted to prohibit the current and prior owner from agreeing to a transfer of the payment from the current owner to the prior owner.
5. The Arizona State Veterans' Homes are not eligible for supplemental payments.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 5, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3340, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1). New Section made by final rulemaking at 19 A.A.R. 137, effective January 8, 2013 (Supp. 13-1). Amended by final rulemaking at 19 A.A.R. 4168, effective February 1, 2014 (Supp. 13-4). Amended by final rulemaking at 20 A.A.R. 1989, effective September 6, 2014 (Supp. 14-3). Amended by final rulemaking at 24 A.A.R. 191, effective January 9, 2018 (Supp. 18-1).

R9-28-704. Repealed

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3340, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

R9-28-705. Repealed

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective April 25, 1990 (Supp. 90-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective November 5, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 874, effective March 4, 1999 (Supp. 99-1). Amended by final rulemaking at 11 A.A.R. 3165, effective October 1, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

R9-28-706. Repealed

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended subsections (A) and (B) effective June 6, 1989 (Supp. 89-2). Amended effective April 25, 1990 (Supp. 90-2). Amended effective November 5, 1993 (Supp. 93-4). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 10 A.A.R. 4658, effective January 1, 2005 (Supp. 04-4). Amended by final rulemaking at 11 A.A.R. 3852, effective November 12, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

R9-28-707. Repealed

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

Editor's Note: The following Section was amended under an exemption from the provisions of the Administrative Procedure Act which means that the amendment was not reviewed by the Governor's Regulatory Review Council; the agency did not submit a notice of proposed rulemaking for publication in the Arizona Administrative Register; the agency was not required to hold public hearings on the rulemaking; and the Attorney General has not certified the rule. This Section was subsequently amended through the regular rulemaking process.

R9-28-708. Repealed

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective April 26, 1989 (Supp. 89-2). Amended under an exemption from the provisions of the Administrative Procedure Act, effective March 1, 1993 (Supp. 93-1). Amended effective November 5, 1993 (Supp. 93-4). Amended by final rulemaking at 11 A.A.R. 3852, effective November 12, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

R9-28-709. Repealed

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended subsection (B) effective June 6, 1989 (Supp. 89-2). Amended effective September 22, 1997 (Supp. 97-3). Amended by final rulemaking at 8 A.A.R. 3340, effective July 15, 2002 (Supp. 02-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

R9-28-710. Repealed

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended subsections (C) and (D) effective June 6, 1989 (Supp. 89-2). Amended effective September 22, 1997 (Supp. 97-3). Section repealed by

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final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1).

R9-28-711. Repealed**Historical Note**

Adopted effective November 5, 1993 (Supp. 93-4).
Amended effective September 22, 1997 (Supp. 97-3).
Amended by final rulemaking at 8 A.A.R. 3340, effective July 15, 2002 (Supp. 02-3). Amended by final rulemaking at 11 A.A.R. 3165, effective October 1, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

R9-28-712. County of Fiscal Responsibility**A. General requirements.**

1. The Administration shall determine the county of fiscal responsibility under A.R.S. § 36-2913 for an applicant or member who is elderly or physically disabled.
2. A program contractor shall cover services and provisions specified in 9 A.A.C. 22, Articles 2 and 7 and Article 11 of this Chapter.

B. Criteria for determining county of fiscal responsibility for an applicant.

1. If the applicant resides in the applicant's own home, the county of fiscal responsibility is the county where the applicant currently resides.
2. This applies only if subsection (B)(3) does not apply. If the applicant is residing in a NF or alternative HCBS setting, the county of fiscal responsibility is the county in which the applicant last resided in the applicant's own home.
3. If the applicant moves from another state directly into a NF or alternative HCBS setting in this state, the county of fiscal responsibility is the county in which the person currently resides.
4. If the applicant moves from the Arizona State Hospital (ASH) into a NF or alternative HCBS setting, or is an inmate of a public institution moving from the public institution into a NF or alternative HCBS setting, the county of fiscal responsibility is the county in which the applicant resided in the applicant's own home prior to admission to ASH or the public institution.

C. Criteria for determining if there is a change in county of fiscal responsibility for a member moving from one county to another county.

1. No change in the county of fiscal responsibility. There is no change in the county of fiscal responsibility for a member if:
 - a. The member moves from a NF to another NF in a different county,
 - b. The member moves from a NF to an alternative HCBS setting in a different county,
 - c. The member moves from an alternative HCBS setting to another alternative HCBS setting in a different county,
 - d. The member moves from an alternative HCBS setting to a NF in a different county,
 - e. The member moves from the member's own home to an alternative HCBS setting in a different county,
 - f. The member moves from the member's own home to a NF in a different county,
 - g. The member moves from a NF or alternative HCBS setting into ASH, or
 - h. The member moves from ASH to a NF or alternative HCBS setting.

2. Change in the county of fiscal responsibility. If a member moves from one county to another, the county of fiscal responsibility changes to the new county if the member moves from:
 - a. An alternative HCBS setting to the member's own home in a different county,
 - b. A NF to the member's own home in a different county,
 - c. The member's own home to the member's own home in a different county, or
 - d. ASH to the member's own home.

3. Transfers between program contractors. The county of fiscal responsibility changes if the Administration transfers a member from one program contractor to a different program contractor and if:
 - a. Both program contractors agree, or
 - b. The Administration determines that it is in the best interest of the member.

Historical Note

Adopted effective November 4, 1998 (Supp. 98-4).
Amended by final rulemaking at 8 A.A.R. 3340, effective July 15, 2002 (Supp. 02-3).

R9-28-713. Repealed**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 896, effective February 8, 2000 (Supp. 00-1). Amended by final rulemaking at 11 A.A.R. 3165, effective October 1, 2005 (Supp. 05-3). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

R9-28-714. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

R9-28-715. Repealed**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 444, effective January 10, 2002 (Supp. 02-1). Section repealed by final rulemaking at 13 A.A.R. 458, effective April 7, 2007 (Supp. 07-1).

ARTICLE 8. TEFRA LIENS AND RECOVERIES**R9-28-801. Definitions Related to TEFRA Liens**

In addition to the definitions in A.R.S. §§ 36-2901 and 36-2931, 9 A.A.C. 22, Article 1, and 9 A.A.C. 28, Article 1, the following definitions apply to this Article:

"Consecutive days" means days following one after the other without an interruption resulting from a discharge.

"File" means the date that AHCCCS receives a request for a State Fair Hearing under R9-28-805, as established by a date stamp on the request or other record of receipt.

"Home" means property in which a member has an ownership interest and that serves as the member's principal place of residence. This property includes the shelter in which a member resides, the land on which the shelter is located, and related outbuildings.

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“Recover” means that AHCCCS takes action to collect from a claim.

“TEFRA lien” means a lien under 42 U.S.C. 1396p of the Tax Equity and Fiscal Responsibility Act of 1982. This type of lien is placed on an AHCCCS member’s interest in any real property before the member is deceased.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 5, 1993 (Supp. 93-4). Section repealed; new Section adopted effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 3365, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 820, effective April 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 24 A.A.R. 670, effective May 5, 2018 (Supp. 18-1).

R9-28-801.01. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3). Repealed by final rulemaking at 24 A.A.R. 670, effective May 5, 2018 (Supp. 18-1).

R9-28-802. TEFRA Liens – Filings

- A. Except for members under R9-28-803, AHCCCS shall file a TEFRA lien against the real property of all members who are:
 1. Receiving ALTCS services, and
 2. Permanently institutionalized.
- B. A rebuttable presumption exists that a member is permanently institutionalized if the member has continually resided in a nursing facility, Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID), or other medical institution defined in 42 CFR 435.1010 for 90 or more consecutive days. A member may rebut the presumption by providing a written opinion from a treating physician, rendered to a reasonable degree of medical certainty, that the member’s condition is likely to improve to the point that the member will be discharged from the medical institution and will be capable of returning home by a date certain.
- C. A TEFRA lien may also be imposed against the property of a member where a court judgment determined that benefits were incorrectly paid on behalf of the member.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 5, 1993 (Supp. 93-4). Section repealed; new Section adopted effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 3365, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 820, effective April 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 24 A.A.R. 670, effective May 5, 2018 (Supp. 18-1).

R9-28-803. TEFRA Liens – Prohibitions

AHCCCS shall not file a TEFRA lien against a member’s home if one of the following individuals is lawfully residing in the member’s home:

1. Member’s spouse;
2. Member’s child who is under the age of 21;

3. Member’s child who is blind or disabled under 42 U.S.C. 1382c; or
4. Member’s sibling who has an equity interest in the home and who was residing in the member’s home for at least one year immediately before the date the member was admitted to a nursing facility, ICF/IID, or other medical institution as defined under 42 CFR 435.1010.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Section repealed; new Section adopted effective August 11, 1997 (Supp. 97-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 3365, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 820, effective April 3, 2004 (Supp. 04-1). New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3). Amended by final rulemaking at 24 A.A.R. 670, effective May 5, 2018 (Supp. 18-1).

R9-28-804. TEFRA Liens – AHCCCS Notice of Intent

- A. Time-frame. At least 30 days before filing a TEFRA lien, AHCCCS shall send the member or member’s representative a Notice of Intent.
- B. Content of the Notice of Intent. The Notice of Intent shall include the following information:
 1. A description of a TEFRA lien and the action that AHCCCS intends to take,
 2. How a TEFRA lien affects a member’s property,
 3. The legal authority for filing a TEFRA lien,
 4. The time-frames and procedures involved in filing a TEFRA lien, and
 5. The member’s right to request an exemption.
- C. Request for exemption. A member or a member’s representative may request an exemption. To request an exemption the member or the member’s representative shall submit a written statement to AHCCCS within 30 days from the receipt of the Notice of Intent describing the factual basis for a claim that the property should be exempt from placement of a TEFRA lien or from recovery of lien based on R9-28-802, R9-28-803, or R9-28-806. AHCCCS shall respond to the member or member’s representative in writing within 30 days of receiving a request for exemption, unless the parties mutually agree to a longer period of time.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective April 25, 1990 (Supp. 90-2). Section repealed effective August 11, 1997 (Supp. 97-3). New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

R9-28-805. TEFRA Liens and Estate Recovery – Member’s Request for a State Fair Hearing

- A. If the member or member’s representative does not request an exemption under R9-28-804(C), the Administration shall send the member or representative a Notice of TEFRA Lien. The member or representative may file a request for a State Fair Hearing within 30 days of the receipt of the Notice of TEFRA Lien.
- B. If the member requests an exemption and the request is denied, the Administration shall send the member or representative a Denial of a Request for Exemption. The member or representative may file a request for a State Fair Hearing within 30 days of the receipt of the Denial of Request for Exemption.

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After the 30-day time-frame to file a State Fair Hearing, the member or representative is sent a Notice of a TEFRA Lien.

- C. Hearings regarding TEFRA liens shall be conducted under 9 A.A.C. 34.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

R9-28-806. TEFRA Liens – Recovery

- A. AHCCCS shall seek to recover a TEFRA lien for the amount of the medical assistance provided up to the amount of the sale upon the sale or transfer of the real property subject to the lien made prior to the member's death.
- B. After the member's death, AHCCCS shall seek to recover a TEFRA lien for the amount of the medical assistance received by the member at the age of 55 years or older from the member's estate after the sale or transfer of the real property subject to the lien. However, AHCCCS shall not seek to recover the TEFRA lien or attempt recovery against any real property subject to the TEFRA lien so long as the member is survived by the member's:
1. Spouse;
 2. Child under the age of 21; or
 3. Child who receives benefits under either Title II or Title XVI of the Social Security Act as blind or disabled, as defined under 42 U.S.C. 1382c.
- C. AHCCCS shall not seek to recover a TEFRA lien on an individual's home if the member is survived by:
1. A sibling of the member who currently resides in the deceased member's home and who has resided in the member's home on a continuous basis since at least one year immediately before the date of the member's admission to the nursing facility, ICF/IID, or other medical institution as defined under 42 CFR 435.1010 and has; or
 2. A child of the member who resides in the deceased member's home and who:
 - a. Was residing in the member's home for a period of at least two years immediately before the date of the member's admission to the nursing facility, ICF/IID, or other medical institution as defined under 42 CFR 435.1010;
 - b. Provided care to the member that allowed the member to reside at home rather than in an institution; and
 - c. Has resided in the member's home on a continuous basis since the admission of the deceased member to the medical institution.
- D. To determine whether a child of the member provided care under subsection (B)(2), AHCCCS shall require the following information:
1. A physician's written statement that describes the member's physical condition and service needs for the previous two years before the member's death;
 2. Verification that the child actually lived in the member's home;
 3. A written statement from the child providing the services that describes and attests to the services provided;
 4. A written statement, if any, made by the member prior to death regarding the services received; and
 5. A written statement from physician, friend, or relative as witness to the care provided.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

Amended by final rulemaking at 24 A.A.R. 670, effective May 5, 2018 (Supp. 18-1).

R9-28-807. TEFRA Liens – Release

AHCCCS shall issue a release of a TEFRA lien within 30 days of:

1. Satisfaction of the lien; or
2. Notice that the member has been discharged from the nursing facility, ICF/IID, or other medical institution, defined under 42 CFR 435.1010, and the member has returned home and is physically residing in the home with the intention of remaining in the home. Discharge to an alternative HCBS setting defined at R9-28-101 does not constitute a return to the home.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

Amended by final rulemaking at 24 A.A.R. 670, effective May 5, 2018 (Supp. 18-1).

ARTICLE 9. FIRST- AND THIRD-PARTY LIABILITY AND RECOVERIES**R9-28-901. Definitions**

In addition to the definitions in A.R.S. §§ 36-2901 and 36-2931, 9 A.A.C. 22, Article 1, and 9 A.A.C. 28, Article 1, the following definitions apply to this Article:

"Estate" has the meaning in A.R.S. § 14-1201.

"Member" means a person eligible for AHCCCS-covered services under A.R.S. Title 36, Chapter 29, Article 2.

"Recover" means that AHCCCS takes action to collect from a claim.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 7, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

R9-28-902. General Provisions

The provisions in A.A.C. R9-22-1002 apply to this Section.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective July 1, 1993 (Supp. 93-3). Amended effective November 7, 1997 (Supp. 97-4). Amended by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

R9-28-903. Cost Avoidance

The provisions in A.A.C. R9-22-1003 apply to this Section.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

R9-28-904. Member Participation

The provisions in A.A.C. R9-22-1004 apply to this Section.

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Historical Note

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

R9-28-905. Collections

The provisions in A.A.C. R9-22-1005 apply to this Section.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

R9-28-906. AHCCCS Monitoring Responsibilities

The provisions in A.A.C. R9-22-1006 apply to this Section.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 7, 1997 (Supp. 97-4). Section repealed; new Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

R9-28-907. Notification for Perfection, Recording, and Assignment of AHCCCS Liens

The provisions in A.A.C. R9-22-1007 apply to this Section.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

R9-28-908. Notification Information for Liens

The provisions in A.A.C. R9-22-1008 apply to this Section.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

R9-28-909. Notification of Health Insurance Information

The provisions in A.A.C. R9-22-1009 apply to this Section.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

R9-28-910. Recoveries

AHCCCS shall recover funds paid before or after the death of a member for ALTCS benefits including: capitation payments, Medicare Parts A and B premium payments, coinsurance and deductibles paid by AHCCCS, fee-for-service payments, and reinsurance payments from:

1. The estate of a member who was 55 years of age or older when the member received benefits; or
2. The estate or the property of a member under A.R.S. §§ 36-2935, 36-2956, and 42 U.S.C. 1396p.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

R9-28-911. Estate Recovery and Undue Hardship

A. Any recovery of a claim by AHCCCS against a member's estate shall be made only after the death of the member's surviving spouse and only at a time:

1. When there exists no surviving minor child under age 21; and
2. When there exists no surviving child who receives benefits under either Title II or Title XVI of the Social Security Act because the child is blind or disabled as defined in 42 U.S.C. 1382c.

B. Undue hardship exemption request. A member's representative may request an undue hardship exemption. If the member's representative wishes to request an undue hardship exemption, the member's representative shall submit the request within 30 days from the receipt of the notification of the AHCCCS claim against the estate. The member's representative shall submit a written statement to AHCCCS describing the factual basis for a claim that the property should be exempt from estate recovery as provided under this Section. AHCCCS shall respond to the member or member's representative in writing within 30 days of receiving an undue hardship exemption request, unless the parties mutually agree to a longer period of time.

C. AHCCCS shall waive a claim against a member's estate because of undue hardship if any of the following situations exist:

1. The estate consists only of real property that is listed as residential property by the Arizona Department of Revenue or County Assessor's Office, and the heir or devisee:
 - a. Owns a business that is located at the residential property and:
 - i. The business was in operation at the residential property for at least 12 months preceding the death of the member,
 - ii. The business provides more than 50 percent of the heir's or devisee's livelihood, and
 - iii. The recovery of the property would result in the heir or devisee losing the heir's or devisee's means of livelihood; or
 - b. Currently resides in the residence and:
 - i. Resided there at the time of the member's death,
 - ii. Made the residence his or her primary residence for the 12 months immediately before the death of the member, and
 - iii. Owns no other residence; or
2. The estate consists only of personal property and:
 - a. The heir's or devisee's gross annual income for the household size is less than 100 percent of the Federal Poverty Level (FPL). New sources of income such as employment or Social Security that may not have yet been received are included in determining the household's annual gross income; and
 - b. The heir or devisee does not own a home, land, or other real property.

D. When the estate consists of both personal property and real property that qualify for the undue hardship exemption criteria under subsections (B) and (C), AHCCCS shall not grant an undue hardship waiver; however, AHCCCS shall adjust its claim to the value of the personal property.

E. AHCCCS shall exempt the following income, resources, and property of Native Americans (NA) and Alaska Natives (AN) from estate recovery:

1. Income and resources from tribal land and other resources currently held in trust and judgment funds from the Indian Claims Commission or U.S. Claims Court;
2. Ownership interest in trust or non-trust property;
3. Ownership interests left as a remainder in an estate in rents, leases, royalties, or usage rights related to natural resources;
4. Any other ownership interests or rights in a property that has unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional

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life style according to applicable Tribal law or custom; and

5. Income left as a remainder in an estate derived from any property listed in subsection (E)(1) through (4), that was either collected by a NA, or by a Tribe or Tribal organization and distributed to a NA.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1). Amended by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Amended by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

R9-28-912. Partial Recovery

AHCCCS shall use the following factors in determining whether to seek a partial recovery of funds when an heir or devisee does not meet the requirements of R9-28-911 and requests a partial recovery:

1. Financial and medical hardship to the heir or devisee;
2. Income of the heir or devisee and whether the heir or devisee's household gross annual income is less than 100 percent of the FPL;
3. Resources of the heir or devisee;
4. Value and type of assets;
5. Amount of AHCCCS' claim against the estate; and
6. Whether other creditors have filed claims against the estate or have foreclosed on the property.

Historical Note

New Section made by final rulemaking at 10 A.A.R. 1308, effective May 1, 2004 (Supp. 04-1).

R9-28-913. Repealed**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Repealed by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

R9-28-914. Repealed**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Repealed by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

R9-28-915. Repealed**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Repealed by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

R9-28-916. Repealed**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Repealed by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

R9-28-917. Repealed**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3).

Repealed by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

R9-28-918. Repealed**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Repealed by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

R9-28-919. Repealed**Historical Note**

New Section made by final rulemaking at 10 A.A.R. 3013, effective September 11, 2004 (Supp. 04-3). Repealed by final rulemaking at 14 A.A.R. 3791, effective November 8, 2008 (Supp. 08-3).

ARTICLE 10. CIVIL MONETARY PENALTIES AND ASSESSMENTS**R9-28-1001. Basis for Civil Monetary Penalties and Assessments for Fraudulent Claims**

AHCCCS shall use the provisions in 9 A.A.C. 22, Article 11 for the determination and collection of penalties and assessments.

Historical Note

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective June 6, 1989 (Supp. 89-2). Amended effective June 9, 1998 (Supp. 98-2). Amended by final rulemaking at 10 A.A.R. 3065, effective September 11, 2004 (Supp. 04-3). Amended by final expedited rulemaking at 30 A.A.R. 928 (May 10, 2024), with an immediate effective date of April 25, 2024 (Supp. 24-2).

R9-28-1002. Repealed**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 5, 1993 (Supp. 93-4). Repealed effective June 9, 1998 (Supp. 98-2).

R9-28-1003. Repealed**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Amended effective November 5, 1993 (Supp. 93-4). Repealed effective June 9, 1998 (Supp. 98-2).

R9-28-1004. Repealed**Historical Note**

Adopted effective October 1, 1988, filed September 1, 1988 (Supp. 88-3). Repealed effective June 9, 1998 (Supp. 98-2).

ARTICLE 11. BEHAVIORAL HEALTH SERVICES**R9-28-1101. General Requirements**

General requirements. The following general requirements apply to behavioral health services provided under this Article, and Chapter 22 subject to all exclusions and limitations.

1. Definitions. The definitions in A.A.C. R9-22-1201 and R9-22-101 apply to this Article, in addition to the following definitions:

"Case manager" means an individual responsible for coordinating the physical health services or behav-

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ioral health services provided to a patient at the health care institution.

“Contractor” means an ALTCS contractor or as previously known as program contractor.

“Cost avoid” means the same as in A.A.C. R9-22-1201.

“Intergovernmental agreement” or “IGA” means an agreement for services or joint or cooperative action between the Administration and a tribal contractor.

“Qualified behavioral health service provider” means a behavioral health service provider that meets the requirements of R9-28-1106.

“Tribal contractor” means a tribal organization (The Tribe) or urban Indian organization defined in 25 U.S.C. 1603 and recognized by CMS as meeting the requirements of 42 U.S.C. 1396d(b), that provides or is accountable for providing the services or delivering the items described in the intergovernmental agreement.

2. Case management. A tribal contractor shall provide case management services to FFS American Indian members living on or off-reservation as delineated in the IGA.
3. Reimbursement. For FFS American Indians, the Administration is exclusively responsible for providing reimbursement for covered behavioral health services that are authorized by a tribal contractor or the Administration under the intergovernmental agreement as specified in this Article. A contractor is exclusively responsible for providing reimbursement for covered behavioral health services that are authorized by a contractor as specified in this Article.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 20 A.A.R. 3122, effective January 4, 2015 (Supp. 14-4).

R9-28-1102. ALTCS Contractor or Tribal Contractor Responsibilities

- A. ALTCS contractor. A contractor shall arrange for behavioral health services to all enrolled members, including American Indian members who are not enrolled with a tribal contractor.
- B. Tribal contractor. A tribal contractor shall provide behavioral health services to an American Indian member who is enrolled with a tribal contractor as prescribed in R9-28-1101. When a tribal contractor determines that an EPD American Indian member residing on a reservation needs behavioral health services under R9-28-415, the member shall receive services as authorized by the Administration or a tribal contractor under A.A.C. R9-22-1205 from any AHCCCS-registered provider.
- C. A program or tribal contractor shall cooperate when a transition of care occurs and ensure that medical records are transferred in accordance with A.R.S. §§ 36-2932, 36-509, and R9-28-514 when a member transitions from:

1. A behavioral health provider to another behavioral health provider,
2. A RBHA or TRBHA to a contractor,
3. A contractor or tribal contractor to a RBHA or TRBHA, or
4. A contractor to a tribal contractor or vice versa.

- D. The Administration, a tribal contractor, or a contractor, as appropriate, shall authorize medical necessary behavioral health services for American Indian members.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Office of the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 20 A.A.R. 3122, effective January 4, 2015 (Supp. 14-4).

R9-28-1103. Eligibility for Covered Services

- A. Eligibility for covered services. A member determined eligible under A.R.S. § 36-2934 shall receive medically necessary covered services specified under Chapter 22, Article 2 and 12.
- B. Behavioral health services are covered as specified in Chapter 22, Article 2 and 12.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Office of the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 20 A.A.R. 3122, effective January 4, 2015 (Supp. 14-4).

R9-28-1104. General Service Requirements

- A. Services. Behavioral health services include both mental health and substance abuse services and are subject to the provisions under Chapter 22, Article 2 and 12.
- B. Enrollment of American Indian member. The Administration shall enroll an EPD American Indian member with a tribal contractor on a FFS basis if:
 1. The member lives on-reservation of an American Indian tribal organization that is an ALTCS tribal contractor, or
 2. The member lived on-reservation of an American Indian tribal organization that is an ALTCS tribal contractor

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immediately before placement in an off-reservation Nursing Facility or an alternative HCBS setting.

- C. Services. A tribal contractor or the Administration may authorize behavioral health services for FFS American Indian members enrolled with a tribal contractor as delineated in the intergovernmental agreement.
- D. Enrollment of American Indian members off-reservation. Except as provided in R9-28-1104(B)(2), an EPD American Indian who resides off-reservation shall be enrolled with an ALTCS contractor to receive behavioral health services, including case management, under R9-28-415.
- E. Enrollment of developmentally disabled American Indian member. A developmentally disabled American Indian member who resides on or off-reservation shall be enrolled with the Department of Economic Security's Division of Developmental Disabilities under R9-28-414 and shall receive behavioral health services from the Department of Economic Security's Division of Developmental Disabilities.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective July 1, 1993; amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective September 30, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Secretary of State September 29, 1995 (Supp. 95-4). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 204, § 11, effective January 1, 1996; filed with the Office of the Secretary of State December 22, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 20 A.A.R. 3122, effective January 4, 2015 (Supp. 14-4).

R9-28-1105. Scope of Behavioral Health Services

Scope of Services. The provisions of A.A.C. R9-22-1205 are the scope of behavioral health services for a member under this Article.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective July 1, 1993 (Supp. 93-3). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1995, Ch. 204, § 11, effective October 1, 1995; filed with the Office of the Secretary of State September 29, 1995 (Supp. 95-4). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by exempt rulemaking at 8 A.A.R. 933, effective February 12, 2002 (Supp. 02-1). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1). Amended by

final rulemaking at 20 A.A.R. 3122, effective January 4, 2015 (Supp. 14-4).

R9-28-1106. Standards for Service Providers

- A. Applicability. The provisions of A.A.C. R9-22-1206 are the general provisions and standards for service providers. References in A.A.C. R9-22-1206 to ADHS/DBHS or to a RBHA apply to a contractor.
- B. The Administration or a contractor shall cost avoid any behavioral health service claims if the Administration or the contractor establishes the probable existence of first-party liability or third-party liability.

Historical Note

Adopted under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective November 1, 1992; received in the Office of the Secretary of State November 25, 1992 (Supp. 92-4). Amended under an exemption from A.R.S. Title 41, Chapter 6, pursuant to Laws 1992, Ch. 301, § 61, effective July 1, 1993 (Supp. 93-3). Section repealed; new Section adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by exempt rulemaking at 7 A.A.R. 4691, effective October 1, 2001 (Supp. 01-3). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 20 A.A.R. 3122, effective January 4, 2015 (Supp. 14-4).

R9-28-1107. Repealed**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1). Repealed by final rulemaking at 20 A.A.R. 3122, effective January 4, 2015 (Supp. 14-4).

R9-28-1108. Repealed**Historical Note**

New Section adopted by final rulemaking at 6 A.A.R. 200, effective December 13, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 3365, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 13 A.A.R. 1090, effective May 5, 2007 (Supp. 07-1).

ARTICLE 12. REPEALED

Article 12, consisting of Section R9-28-1201, repealed by final rulemaking at 10 A.A.R. 820, effective April 3, 2004. The subject matter of Article 12 is now in 9 A.A.C. 34 (Supp. 04-1).

R9-28-1201. Repealed**Historical Note**

Adopted effective September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 6 A.A.R. 3365, effective August 7, 2000 (Supp. 00-3). Section repealed by final rulemaking at 10 A.A.R. 820, effective April 3, 2004 (Supp. 04-1).

ARTICLE 13. FREEDOM TO WORK

Article 13, consisting of Sections R9-28-1301 through R9-28-1324, made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4).

R9-28-1301. General Freedom to Work Requirements

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The Administration shall determine eligibility for AHCCCS medical services under A.A.C. R9-22-1901.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1). Section amended by final rulemaking at 30 A.A.R. 2677 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

R9-28-1302. General Administration Requirements

The Administration shall comply with the confidentiality rule under A.A.C. R9-22-512(C).

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

R9-28-1303. Application for Coverage

- A. A person may apply by submitting an application to an Administration office.
- B. The application date is the date the application is received at an Administration office.
- C. The provisions of R9-22-302 apply to this Section.
- D. An applicant or representative who files an application may withdraw the application either orally or in writing. The Administration shall send an applicant withdrawing an application a denial notice under R9-28-1304.
- E. Except as provided in 42 CFR 435.911, the Administration shall determine eligibility within 45 days.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 5138, effective January 3, 2004 (Supp. 03-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1). Section amended by final rulemaking at 30 A.A.R. 2677 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

R9-28-1304. Notice of Approval or Denial

The Administration shall send an applicant a written notice of the decision regarding the application. This notice shall include a statement of the action and:

1. If approved:
 - a. The effective date of eligibility,
 - b. An explanation of the person's hearing rights specified in 9 A.A.C. 34; or
2. If denied, the information required by R9-28-401.01(E)(2).

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1). Section amended by final rulemaking at 30 A.A.R. 2677 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

R9-28-1305. Reporting and Verifying Changes

An applicant or member shall report and verify changes as described under R9-28-411(A), to the Administration, including any changes in the spouse's income that may affect the share of cost.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

R9-28-1306. Actions that Result from a Redetermination or Change

The processing of a redetermination or change shall result in one of the following actions:

1. No change in eligibility, share-of-cost, or premium,
2. Discontinuance of eligibility if a condition of eligibility is no longer met,
3. A change in the person's share-of-cost,
4. A change in premium amount, or
5. A change in the coverage group under which a person receives AHCCCS medical coverage.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4).

R9-28-1307. Notice of Adverse Action

- A. The requirements under R9-28-411(D)(1) apply.
- B. Advance notice of a change in eligibility, share of cost, or premium amount. Advance notice means a notice of proposed action that is issued to the member at least 10 days before the effective date of the proposed action. Except under subsection (C), advance notice shall be issued whenever an adverse action is taken to:
 1. Discontinue eligibility,
 2. Increase a person's share-of-cost,
 3. Increase the premium amount, or
 4. Reduce benefits from ALTCS to acute care services.
- C. Exceptions from advance notice. A notice shall be issued to the member to discontinue eligibility no later than the effective date of action if:
 1. A member provides a clearly written statement, signed by that member, that services are no longer wanted;
 2. A member provides information that requires termination of eligibility or reduction of services, indicates that the member understands that termination of eligibility or reduction of services will be the result of supplying the information and signs a written statement waiving advance notice;
 3. A member cannot be located and mail sent to the member's last known address has been returned as undeliverable. A member whose eligibility is discontinued under this subsection is subject to reinstatement of discontinued services under 42 CFR 431.231(d);
 4. A member has been admitted to a public institution where a person is ineligible for coverage;
 5. A member has been approved for Medicaid in another state; or
 6. The Administration receives information confirming the death of a member.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

R9-28-1308. Request for Hearing

An applicant or member may request a hearing under 9 A.A.C. 34.

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Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

R9-28-1309. Conditions of Eligibility

An applicant or member shall meet the following conditions to qualify for the Freedom to Work program:

1. Furnish a valid Social Security Number (SSN);
2. Be a resident of Arizona;
3. Be a citizen of the United States, or meet requirements for a qualified alien under A.R.S. § 36 2903.03(B);
4. Be at least 16 years of age, but less than 65 years of age;
5. Have countable income that does not exceed 250 percent of FPL. The Administration shall count income under 42 U.S.C. 1382a and 20 CFR 416 Subpart K with the following exceptions:
 - a. The unearned income of the applicant or member shall be disregarded,
 - b. The income of a spouse or other family members shall be disregarded, and
 - c. The deduction for a minor child shall not apply;
6. Reside in a living arrangement specified under R9-28-406(A);
7. Be determined as physically or developmentally disabled by meeting the medical criteria under Article 3 of this Chapter; and
8. Comply with the member responsibility provisions under R9-22-306.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed; new Section made by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1). Section amended by final rulemaking at 30 A.A.R. 2677 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

R9-28-1310. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

R9-28-1311. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

R9-28-1312. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

R9-28-1313. Premium Requirements

- A. As a condition of eligibility, an applicant or member shall:
1. Pay the premium required under subsection (B).
 2. Not have any unpaid premiums that exceed the premium amount for one month.

- B. The Administration shall process premiums under 9 A.A.C. 31, R9-31-1409 through R9-31-1419 with the following exceptions:

1. A member who has countable income:
 - a. Under \$500, the monthly premium payment shall be \$0.
 - b. Over \$500 but not greater than \$750, the monthly premium payment shall be \$10.
2. The premium for a member shall be increased by \$5 for each \$250 increase in countable income above \$750.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1). Section amended by final rulemaking at 30 A.A.R. 2677 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

R9-28-1314. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

R9-28-1315. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

R9-28-1316. Institutionalized Person

A person is not eligible for AHCCCS medical coverage if the person is:

1. An inmate of a public institution and federal financial participation (FFP) is not available, or
2. Age 22 through age 64 and is residing in an ICF/IID except when allowed under the Administration's Section 1115 Demonstration Project or allowed under a managed care contract approved by CMS.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1). Section amended by final rulemaking at 30 A.A.R. 2677 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

R9-28-1317. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

R9-28-1318. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

R9-28-1319. Repealed

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Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

R9-28-1320. Additional Eligibility Criteria for the Basic Coverage Group

As a condition of eligibility, an applicant or member shall be employed. Employed means that an applicant or member is paid for working and Social Security or Medicare taxes are paid on the applicant's or member's income.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

R9-28-1321. Share of Cost

The Director shall determine the amount a person shall pay for the cost of ALTCS services (share-of-cost) under A.R.S. § 36-2932(L) and 42 CFR 435.725 or 42 CFR 435.726. Share of cost shall be calculated for people who reside in a medical institution for an entire calendar month under R9-28-408(G) and R9-28-410(C) except that the personal-needs allowance shall be increased by 50 percent of the member's earned income.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4).

R9-28-1322. Repealed**Historical Note**

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section repealed by final rulemaking at 15 A.A.R. 269, effective March 7, 2009 (Supp. 09-1).

R9-28-1323. Enrollment

The Administration shall enroll members under R9-28-412 through R9-28-418.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4).

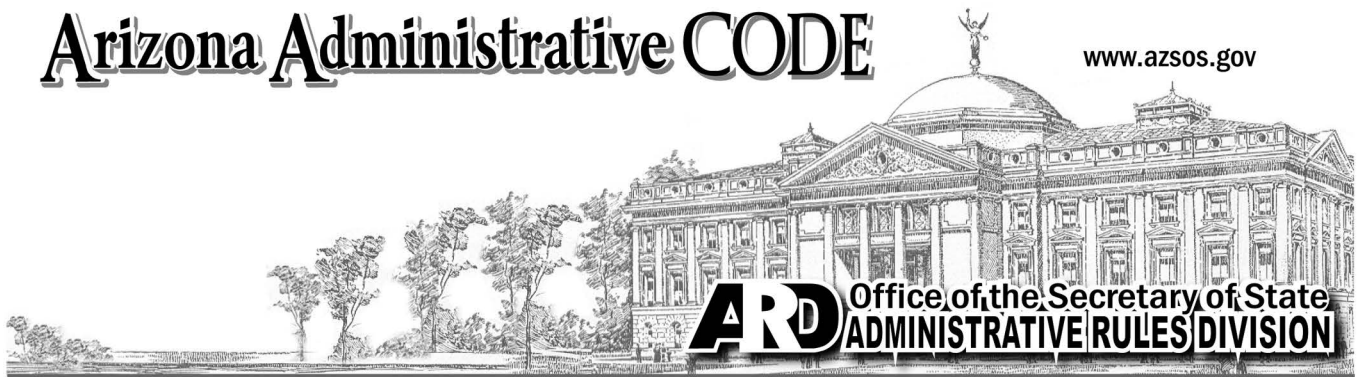
R9-28-1324. Redetermination of Eligibility

- A. Redetermination. Except as provided in subsection (B), the Administration shall complete a redetermination of eligibility at least once a year.
- B. Change in circumstance. The Administration shall complete a redetermination of eligibility if there is a change in the member's circumstances, including a change in disability or employment that may affect eligibility.
- C. Medical Improvement. If a member is no longer disabled under Article 3 of this Chapter, the Administration shall determine if the member is eligible under other coverage groups.

Historical Note

New Section made by exempt rulemaking at 9 A.A.R. 99, effective January 1, 2003 (Supp. 02-4). Section amended by final rulemaking at 30 A.A.R. 2677 (August 30, 2024), effective October 8, 2024 (Supp. 24-3).

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10 A.A.C. 4

Supp. 24-3

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

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

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

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
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The release of this Chapter in Supp. 24-3 replaces Supp. 21-1, 1-18 pages.

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

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

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

THE ADMINISTRATIVE CODE

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

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

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

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

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

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

RULE HISTORY

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

AUTHENTICATION OF PDF CODE CHAPTERS

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

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

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

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

EXEMPTIONS FROM THE APA

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

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

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

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

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

PERSONAL USE/COMMERCIAL USE

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

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Administrative Rules Division

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TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

Authority: A.R.S. § 41-2405(A)(8)

Editor's Note: Sections in Articles 1 and 2 were originally made by the Commission under an emergency rulemaking and a renewal of emergency rulemaking. The Commission filed a Notice of Final Rulemaking for Sections in Articles 1 and 2 before the renewal of the emergency rulemaking was slated to expire on July 19, 2024. The final rules became immediate effective upon filing on July 3, 2024. For notice information, refer to the historical notes of Sections R10-4-101 through R10-4-111 and R10-4-201 through R10-4-204 (Supp. 24-3).

Supp. 24-3

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Before the renewal of the emergency rules expired, Article 1, consisting of Sections R10-4-101 through R10-4-111 was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).

Article 1, consisting of Sections R10-4-101 through R10-4-111 made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

Article 1, consisting of Sections R10-4-101 through R10-4-111 made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3).

Article 1, consisting of Sections R10-4-101 through R10-4-111, expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

Article 1, consisting of Sections R10-4-101 through R10-4-111, adopted effective December 31, 1986.

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Article 2, consisting of Sections R10-4-201 through R10-4-204, made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1).

Article 2, consisting of Sections R10-4-201 through R10-4-204, made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective

for 180 days (Supp. 23-3).

Article 2, consisting of Sections R10-4-201 through R10-4-207, expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

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Article 3, consisting of R10-4-301 through R10-4-305, repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4).

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Article 4 consisting of Sections R10-4-401 through R10-4-404 adopted as an emergency effective February 22, 1988 pursuant to A.R.S. § 41-1026, valid for only 90 days. Emergency expired.

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ARTICLE 1. CRIME VICTIM COMPENSATION PROGRAM**R10-4-101. Definitions**

In this Article:

1. "Board" means the Crime Victim Compensation Board of an operational unit.
2. "Claim" means an application for compensation submitted under this Article.
3. "Claimant" means a natural person who files a claim.
4. "Collateral source" means a source of compensation for economic loss that a claimant received or is accessible to and obtainable by the claimant or that is payable to or on behalf of the victim. Collateral source includes the following sources of compensation:
 - a. The perpetrator or a third party responsible for the perpetrator's actions;
 - b. The United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless:
 - i. The law providing for the compensation makes the compensation excess or secondary to benefits under this Article, or
 - ii. The compensation is made with federal funds granted under 42 U.S.C. 10602;
 - c. Social Security, Medicare, or Arizona Health Care Cost Containment System payments;
 - d. State-required, insurance for a temporary, non-occupational disability;
 - e. Worker's compensation insurance;
 - f. Wage continuation program of any employer;
 - g. Insurance proceeds payable to cover a specific compensable cost due to criminally injurious conduct;
 - h. A contract providing for prepaid hospital and other health care services or disability benefits; and
 - i. A gift, devise, or bequest to cover a specific compensable cost.
5. "Commission" means the Arizona Criminal Justice Commission, as established by A.R.S. § 41-2404.
6. "Compensable cost" means an economic loss for which a compensation award is allowed under this Article.
7. "Compensation award" means a payment made to a claimant under the standards at R10-4-108.
8. "Crime scene cleanup expense" means the reasonable and customary cost for:
 - a. Removing or attempting to remove bodily fluids, dirt, stains, and other debris that result from criminally injurious conduct occurring within a residence or the surrounding curtilage;
 - b. Repairing or replacing exterior doors, locks, or windows damaged as a direct result of criminally injurious conduct occurring within a residence or the surrounding curtilage.
9. "Criminally injurious conduct" means conduct that:
 - a. Constitutes a crime as defined by state or federal law regardless of whether the perpetrator of the conduct is apprehended, charged, or convicted;
 - b. Poses a substantial threat of physical injury, mental distress, or death; and
 - c. Is punishable by fine, imprisonment, or death, or would be punishable but the perpetrator of the conduct lacked the capacity to commit the crime under applicable laws.
10. "Derivative victim" means:
 - a. The spouse, child, parent, stepparent, stepchild, sibling, grandparent, grandchild, or guardian of a victim who died as a result of criminally injurious conduct;
 - b. A child born to a victim after the victim's death;
 - c. A person living in the household of a victim who died as a result of criminally injurious conduct, in a relationship determined by the Board to be substantially similar to a relationship listed in subsection (10)(a);
 - d. A member of the victim's family who witnessed the criminally injurious conduct or who discovered the scene of the criminally injurious conduct;
 - e. A natural person who is not related to the victim but who witnessed the criminally injurious conduct or discovered the scene of the criminally injurious conduct; or
 - f. A natural person whose own mental health counseling and care or presence during the victim's mental health counseling and care is recommended for the successful treatment of the victim.
11. "Durable medical equipment" means an appliance, apparatus, device, or product that:
 - a. Is medically necessary to treat an injury or condition resulting from criminally injurious conduct;
 - b. Improves the function of an injured body part or delays deterioration of a patient's physical condition;
 - c. Is primarily and customarily used to serve a medical purpose rather than primarily for transportation, comfort, or convenience; and
 - d. Provides the medically appropriate level of performance and quality for the medical injury or condition present.
12. "Economic loss" means financial detriment resulting from medical expense, mental health counseling and care expense, crime scene cleanup expense, funeral expense, or work loss.
13. "Fund" means all State, Federal, and jurisdiction financial resources dedicated to the compensation program through statute, this chapter, or federal grant award.
14. "Funeral expense" means a reasonable and customary cost, such as those listed on the Statement of Funeral Goods and Services Selected required under A.A.C. R4-12-307, incurred as a direct result of a victim's funeral, cremation, Native American ceremony, or burial.
15. "Good cause" means a reason that the Board determines is substantial enough to afford a legal excuse.
16. "Inactive claim" means a claim for which no compensation award is made for 12 consecutive months.
17. "Incident of criminally injurious conduct" means all criminal actions that are related to or dependent upon each other regardless of the time involved in perpetrating the actions, number of persons perpetrating the actions, or the number of crimes with which the perpetrator is or could be charged.
18. "Jurisdiction" means any county in this state.
19. "Medical expense" means a reasonable and customary cost for medical care provided to a victim due to a physical injury, mental health condition, or medical condition that is a direct result of criminally injurious conduct.
20. "Mental distress" means a substantial disorder of emotional processes, thought, or cognition that impairs judgment, behavior, or ability to cope with the ordinary demands of life.

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21. "Mental health counseling and care expense" means a reasonable and customary cost to assess, diagnose, and treat a victim's or derivative victim's mental distress resulting from criminally injurious conduct.
22. "Minimum wage standard" means the uniform minimum wage payable in Arizona under federal or state law, whichever is greater.
23. "Operational unit" means a public or private agency authorized by the Commission to receive, evaluate, and present to the Board a claim.
24. "Program" means the Crime Victim Compensation Program.
25. "Proximate cause" means an event sufficiently related to criminally injurious conduct to be held the cause of the criminally injurious conduct.
26. "Reasonable and customary" means the normal charge within a specific geographic area for a specific service by a provider of a particular level of experience or expertise.
27. "Resident" means a natural person who is domiciled in Arizona or is in Arizona for other than a temporary or transitory purpose.
28. "Subrogation" means the substitution of the state or an operational unit in place of a claimant to enforce a lawful claim against a collateral source to recover any part of a compensation award made to the claimant using funds of the state or operational unit.
29. "Total and permanent disability" means a physical or mental condition that the Board finds is a proximate result of criminally injurious conduct and:
 - a. Produces a significant and sustained reduction in the victim's former mental or physical abilities dramatically altering the victim's ability to interact with others and carry on normal functions of life;
 - b. Lessens the victim's ability to work to a material degree; or
 - c. Causes a physical or neurophysical impairment from which no fundamental or marked improvement in the victim's crime-related condition can reasonably be expected.
30. "Transportation costs" means a travel expense that may be reimbursed to a claimant as follows:
 - a. Mileage, calculated at the rate established by:
 - i. The operational unit, or
 - ii. The state if the operational unit has not established a mileage rate;
 - b. Fare or fee expenses; and
 - c. Vehicle rental at the cost specified in the rental agreement.
31. "Victim" means a natural person who suffers a physical injury or medical condition, mental distress, or death as a direct result of:
 - a. Criminally injurious conduct,
 - b. The person's good faith effort to prevent criminally injurious conduct, or
 - c. The person's good faith effort to apprehend a person suspected of engaging in criminally injurious conduct.
32. "Work loss" means a reduction in income from:
 - a. Work that a victim or derivative victim would have performed if the victim had not been a victim; and
 - b. Social Security or Supplemental Security Income that a victim would have received or from which a derivative victim would have benefitted if the victim had not been killed.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Section repealed; new Section R10-4-101 renumbered from R10-4-103 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).

R10-4-102. Administration of the Fund

- A. The Commission shall include in the Fund all funds received for compensating a claimant under this Chapter.
- B. The Commission shall designate one operational unit for a jurisdiction or jurisdictions to receive an allocation from the Fund each state fiscal year.
- C. The Commission shall distribute a portion of the Fund to each operational unit for expenditure by the Board. The Commission shall distribute the funds using an allocation formula approved by the Commission.
- D. The Commission shall reserve the lesser of \$50,000 or 10 percent of the Fund to be used in the event of an unforeseen increase of victimization that causes an operational unit for a particular jurisdiction to lack the funds needed to provide compensation.
- E. If there is an unforeseen increase in victimization in a particular jurisdiction, the Commission shall designate an additional operational unit to accept claims from that jurisdiction or make a compensation award based on the criteria established by R10-4-108.
- F. If, at the end of a fiscal year, an operational unit has unexpended funds received from the Commission, the operational unit shall return the funds to the Commission within 90 days after the end of the fiscal year. The Commission shall deposit the returned funds in the Fund for use in the next fiscal year.
- G. Funds collected by an operational unit through subrogation or restitution may be retained by the operational unit to the extent authorized by the Commission and shall be used to pay compensation awards based on the criteria established by R10-4-108.
- H. An operational unit shall use funds to pay administrative costs only to the extent authorized by the Commission.
- I. An operational unit shall pay approved compensation program benefit expenses using benefit category cost rate schedules approved by the Commission. If the Commission has not approved a cost rate schedule for a benefit category, or if an eligible benefit cost is not covered by the approved rate schedule, the operational unit may negotiate a reasonable and customary cost with the service provider for the approved benefit expense.

Historical Note

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CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Section repealed; new Section R10-4-102 renumbered from R10-4-104 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).

R10-4-103. Statewide Operation

For any jurisdiction not served by an operational unit, the Commission shall operate a program in accordance with this Article, designate another operational unit as described in R10-4-104, or provide for a program by contract.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Amended effective June 12, 1997 (Supp. 97-2). Former Section R10-4-103 renumbered to R10-4-101; new Section R10-4-103 renumbered from R10-4-105 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).

R10-4-104. Operational Unit Requirements

- A. To be designated by the Commission as an operational unit for a jurisdiction, a public or private agency shall submit to the Commission a written request for designation.
- B. The Commission shall designate a public or private agency as the operational unit for a jurisdiction or jurisdictions:
 1. Only if the public or private agency agrees not to:

- a. Use Commission funds or federal funds to supplant funds otherwise available to compensate a victim or claimant;
 - b. Make a distinction between a resident and a non-resident in evaluating a claim; and
 - c. Make a distinction in evaluating a claim relating to a federal crime that occurs in Arizona and one relating to a state crime; and
2. Only if the public or private agency agrees to:
 - a. Forward to the Board a claim relating to an incident of criminally injurious conduct occurring in the public or private agency's jurisdiction or jurisdictions;
 - b. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct occurring in another state, the District of Columbia, Puerto Rico, or any other possession or territory of the United States that does not have a crime victim compensation program that meets the requirements of 42 U.S.C. 10602(b);
 - c. Forward to the Board a claim made by or on behalf of a resident of the public or private agency's jurisdiction or jurisdictions who is a victim or derivative victim of an incident of criminally injurious conduct occurring outside of the United States in an area without an accessible crime compensation program;
 - d. Notify the Commission of any change in the public or private agency's program procedures or program policies before the change takes effect and if the change is material, obtain written approval from the Commission before instituting the change;
 - e. Submit financial and program activity reports to the Commission, in a format required by the Commission, and at a frequency established annually by the Commission;
 - f. Provide an application form to a claimant;
 - g. Comply with all civil rights requirements;
 - h. Ensure that each claim is investigated and substantiated before forwarding the claim to the Board for a compensation award; and
 - i. Monitor a compensation award to ensure that amounts paid are consistent with this Article.
 - C. If more than one agency requests to be designated by the Commission as an operational unit for a jurisdiction, the Commission shall designate the agency that it determines is better able to evaluate claims and manage the expenditure of public funds. The Commission shall give preference to a public agency if both a public and private agency request designation.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Amended effective June 12, 1997 (Supp. 97-2). Former Section R10-4-104 renumbered to R10-4-102; new Section R10-4-104 renumbered from R10-4-106 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). New Section made by emergency

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rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).

R10-4-105. Crime Victim Compensation Board

- A. Each operational unit shall establish a Crime Victim Compensation Board that consists of an odd number of members with at least three members. Members of the Board shall not receive compensation for their services but are eligible for travel reimbursement under A.R.S. § 38-621.
- B. Board members serve a three-year term and are eligible for reappointment.
- C. When a Board is first established, approximately one-third of the members shall be appointed for a three-year term, one-third for a two-year term, and one-third for a one-year term. If a Board member is unable to complete the term of the Board member's appointment, the Commission Chairman shall appoint a new Board member for the unexpired term only.
- D. When a Board is first established and when a new member is appointed to an existing Board, the Commission Chairman shall choose the individual to be appointed from a list submitted by the operational unit.
- E. A majority of the Board membership constitutes a quorum that may transact the business of the Board.
- F. The Board shall elect from its membership a chairman and other necessary officers to serve terms determined by the Board.
- G. The Board shall make a compensation award according to this Article and perform other acts necessary for operation of the program.
- H. As required by A.R.S. Title 38, Chapter 3, Article 8, a Board member shall not participate in making any decision regarding a claim or compensation award if the Board member or a relative of the Board member, as defined at A.R.S. § 38-502, has a substantial interest in the decision.
- I. An employee of an operational unit shall not serve as a Board member.
- J. A newly appointed Board member shall meet all training requirements established by the Commission for new Board members within six months of the Board member's date of appointment.
- K. A Board member who is reappointed shall meet all training requirements established by the Commission for reappointed Board members within six months of the Board member's date of reappointment.
- L. A Board member shall not miss more than one-third of Board meetings in a year due to unexcused absence.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Former Section R10-4-105 renumbered to R10-4-103; new Section R10-4-105 renumbered from R10-4-107 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674

(July 28, 2023), effective June 1, 2023 (Supp. 23-3). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3). New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).

R10-4-106. Prerequisites for a Compensation Award

- A. The Board shall make a compensation award only if it determines that:
 1. Criminally injurious conduct:
 - a. Occurred in Arizona; or
 - b. Occurred outside of Arizona in an area without an accessible crime compensation program and affected a resident;
 2. The criminally injurious conduct directly resulted in the victim's physical injury, mental distress, medical condition, or death;
 3. The victim of the criminally injurious conduct or a person who submits a claim regarding criminally injurious conduct was not:
 - a. The perpetrator, an accomplice of the perpetrator, or a person who encouraged or in any way participated in or facilitated the criminally injurious conduct that is the subject of the claim;
 - b. At the time of the criminally injurious conduct that is the subject of the claim:
 - i. Serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough; or
 - ii. Incarcerated in any detention facility awaiting criminal sentencing or disposition.
 - c. At the time of claim submission to the operational unit for a jurisdiction:
 - i. Escaped from serving a sentence of imprisonment in any detention facility, home arrest program, or work furlough;
 - ii. Convicted of a federal crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the offense if the U.S. Attorney General and the Director of the Administrative Office of the U.S. Courts have issued a written determination that the entities administering federal victim compensation programs have access to an accurate and efficient criminal debt payment tracking system; or
 - iii. Convicted of a state crime and delinquent in paying a fine, monetary penalty, or restitution imposed for the crime if the delinquency is identified by the Arizona Administrative Office of the Courts or the Clerk of the Superior Court.
 - d. Wanted in Arizona on an active warrant, if warrant status is discovered anytime following submission of the claim.

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4. The criminally injurious conduct was reported to an appropriate law enforcement authority within 72 hours after its discovery;
 5. The victim, derivative victim, or claimant cooperated with law enforcement agencies;
 6. The victim, derivative victim, or claimant incurred economic loss as a direct result of the criminally injurious conduct that is not compensable by a collateral source; and
 7. A claim, as described in R10-4-107, was submitted to the operational unit within two years after discovery of the criminally injurious conduct.
- B.** The Board shall extend the time limits under subsections (A)(4) and (A)(7) if the Board determines there is good cause for a delay.
- C.** If a victim died as a result of criminally injurious conduct, the requirements under subsections (A)(3)(c)(ii), (A)(3)(c)(iii), and (A)(3)(d) are waived for the deceased victim. Expenses incurred by the deceased victim and eligible claimants may be covered.
- D.** If the Board determines that a compensation award does not solely benefit a claimant who is delinquent under subsections (A)(3)(c)(ii) and (A)(3)(c)(iii), the requirements under subsections (A)(3)(c)(ii) and (A)(3)(c)(iii) may be waived for:
1. A claimant who is the parent or legal guardian of a minor victim of criminally injurious; or
 2. A compensation award for expenses under R10-4-108(C)(3).
- Historical Note**
- Adopted effective December 31, 1986 (Supp. 86-6).
 Amended effective December 12, 1990 (Supp. 90-4).
 Amended effective October 28, 1994 (Supp. 94-4).
 Amended effective June 12, 1997 (Supp. 97-2). Former Section R10-4-106 renumbered to R10-4-104; new Section R10-4-106 renumbered from R10-4-108 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Former R10-4-106 renumbered to R10-4-108; new R10-4-106 made by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).
- R10-4-107. Submitting a Claim**
- A.** If the prerequisites in R10-4-106 are met, a natural person is eligible to submit a claim if the person is:
1. A victim;
 2. A derivative victim;
 3. A person authorized to act on behalf of a victim or a deceased victim's dependent; or
 4. A person who assumed an obligation for or paid an expense directly related to a victim's economic loss.
- B.** If a person is eligible under subsection (A) to submit a claim regarding more than one incident of criminally injurious conduct, the person shall submit a separate claim regarding each incident of criminally injurious conduct.
- C.** If more than one person is eligible under subsection (A) to submit a claim regarding an incident of criminally injurious conduct, each person shall submit a separate claim.
- D.** To apply for a compensation award, a person who is eligible under subsection (A) shall submit a claim, using a form that is available from the Commission, to the operational unit for the jurisdiction in which the incident of criminally injurious conduct occurred or to the operational unit for the jurisdiction in which a victim lives if the incident of criminally injurious conduct occurred in an area without an accessible victim compensation program. The claimant shall provide the following:
1. About the victim:
 - a. Full name,
 - b. Residential address,
 - c. Gender,
 - d. Date of birth,
 - e. Residential and work telephone numbers,
 - f. Statement of whether the victim is deceased,
 - g. Ethnicity,
 - h. Statement of whether the victim is a resident, and
 - i. Statement of whether the victim is disabled;
 2. About the claimant if the claimant is not the victim:
 - a. Full name;
 - b. Residential address;
 - c. Gender;
 - d. Date of birth;
 - e. Residential and work telephone numbers;
 - f. Relationship to the victim; and
 - g. If there are multiple victims or derivative victims of an incident of criminally injurious conduct, the name, residential address, and date of birth of each, and for derivative victims, the relationship to the victim;
 3. About the crime:
 - a. Type of crime;
 - b. Statement of whether the crime was related to domestic violence;
 - c. Statement of whether the crime was a federal crime;
 - d. Date on which crime was committed;
 - e. Date on which crime was reported to law enforcement authorities;
 - f. Name of law enforcement agency to which the crime was reported;
 - g. Name of law enforcement officer to whom the crime was reported;
 - h. Law enforcement report number;
 - i. Location of crime;
 - j. Name of perpetrator, if known; and
 - k. Brief description of the crime and resulting injuries;
 4. About a civil lawsuit:
 - a. Statement of whether the claimant has or will file a civil lawsuit related to the crime; and
 - b. If the answer to subsection (D)(4)(a) is yes, the name, address, and telephone number of the claimant's attorney;
 5. About benefits from collateral sources:

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- a. List of the benefits the claimant has received since the incident of criminally injurious conduct or is entitled to receive; and
- b. For each benefit identified:
 - i. Type of benefit,
 - ii. Contact address and telephone number; and
 - iii. Claimant's identification or policy number;
6. About the economic loss for which compensation is requested:
 - a. Medical expenses. A statement of whether the claim includes medical expenses and if so, the name, address, telephone number, account number, and date of service for each provider;
 - b. Mental health counseling and care expenses. A statement of whether the claim includes mental health counseling and care expenses and if so, the name, address, telephone number, account number, and date of service for each provider;
 - c. Work loss expenses. A statement of whether the claim includes work loss expenses and if so, the date on which the claimant was first unable to work, date on which the claimant returned to work, total time lost from work, hourly rate of pay, number of hours worked each week, number of hours worked each day, name, address, and telephone number of employer, and name of supervisor;
 - d. Funeral expenses. A statement of whether the claim includes funeral expenses and if so, the name, address, and telephone number of the provider and the amount paid; and
 - e. Crime scene cleanup expenses. A statement of whether the claim includes crime scene cleanup expenses and if so, the name, address, and telephone number of the provider and the amount paid;
 - f. Transportation costs. A statement of whether the claim includes transportation costs and if so, the reason for travel as listed under R10-4-108(C)(6) and if mileage is claimed, the date and mileage of each trip; and
7. The claimant's dated signature:
 - a. Certifying that the claimant is eligible to submit a claim and that the information provided is true and correct to the best of the claimant's knowledge;
 - b. Subrogating to the state and operational unit the claimant's right to receive benefits from a collateral source;
 - c. Authorizing the release of confidential information necessary to administer the claim; and
 - d. Authorizing the release to the Program of protected health information that relates to care provided as a result of the criminally injurious conduct and is necessary to verify the claim.
- E. A claimant shall submit the following in addition to the claim form submitted under subsection (D):
 1. A copy of all bills, contracts, receipts, and insurance statements relating to each expense claimed under subsection (D)(6);
 2. If work loss expenses are claimed, a signed statement on official letterhead:
 - a. From the claimant's employer verifying the information provided under subsection (D)(6)(c); and
 - b. If applicable, from the physician or mental health care provider indicating the claimant:
 - i. Was unable to work as a result of being a victim or derivative victim, the length of time the claimant was unable to work, and the date on which the claimant was or will be able to return to work; or
 - ii. Is totally and permanently disabled.
 3. Any documentation required by the operational unit to fully investigate and substantiate claimant eligibility and all claim expense requests.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-107 renumbered to R10-4-105; new Section R10-4-107 renumbered from R10-4-109 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Former R10-4-107 renumbered to R10-4-109; new R10-4-107 made by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).

R10-4-108. Compensation Award Criteria

- A. The Board shall meet at least every 60 days to decide, based on the findings made by the operational unit, the eligibility of the claimant, whether to make a compensation award, and the terms and amount of any compensation award. The Board shall make a decision within 60 days after the operational unit receives a complete and actionable claim under R10-4-107 unless good cause for delay exists. The Board shall inform the claimant in writing within 10 business days of the Board's decision.
- B. The Board shall not make a compensation award unless it determines that the prerequisites in R10-4-106 are met.
- C. The Board shall make a compensation award only for the following:
 1. Reasonable and customary medical expenses due to the victim's physical injury, medical condition, mental health condition, or death.
 - a. The Board shall include the following as a medical expense:
 - i. Repair of damage to a victim's prosthetic device, eyeglasses or other corrective lenses, or a dental device; and
 - ii. Durable medical equipment required for treatment of the victim.
 - b. The Board shall not include as a medical expense:
 - i. A charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or other institution that provides medical services

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- unless the Board determines that the private room is medically necessary; and
- ii. Any drug, substance, or chemical included under Schedule I of the Federal Controlled Substances Act 21 U.S.C. § 812(c).
2. Reasonable and customary work loss expenses for:
 - a. A victim whose ability to work is reduced due to physical injury, mental distress, or medical condition resulting from the criminally injurious conduct;
 - b. A victim or derivative victim to:
 - i. Make a medical or mental health counseling and care visit; or
 - ii. Attend a criminal court proceeding, clemency hearing, parole hearing, or execution directly related to the criminally injurious conduct.
 - c. A derivative victim listed in R10-4-101(10)(a) through (c) if the Board determines the death resulted in a loss of support from the victim to the derivative victim;
 - d. A parent or guardian of a minor victim to transport or accompany the minor victim to:
 - i. A medical or mental health counseling and care visit; or
 - ii. A criminal court proceeding, clemency hearing, parole hearing, or execution directly related to the criminally injurious conduct.
 - e. A derivative victim to make funeral arrangements for a deceased victim, or tend to the affairs of a deceased victim; or
 - f. A family member or guardian or a person living in the victim's household in a relationship similar to those listed in R10-4-101(10)(a) to provide non-skilled nursing care for the victim that is medically necessary as a result of the criminally injurious conduct;
 3. Reasonable and customary funeral expenses. Personal attendee expenses for clothing, travel, lodging, food, or per diem to attend a victim's funeral, Native American ceremony, or burial are not reasonable and customary funeral expenses and shall not be included in a claim for a compensation award;
 4. Reasonable and customary mental health counseling and care expenses due to a victim's or derivative victim's mental distress resulting from the criminally injurious conduct if:
 - a. The mental health counseling and care is provided by an individual who:
 - i. Is licensed for independent practice by the Board of Behavioral Health Examiners,
 - ii. Is a behavioral health professional as defined at A.A.C. R9-20-101, or
 - iii. Is authorized to perform mental health counseling and care by the laws of a federally recognized tribe; and
 - b. The mental health counseling and care expenses do not include a charge for a private room in a hospital, clinic, convalescent home, nursing care facility, or any other institution that provides medical services unless the Board determines that the private room is medically necessary;
 5. Reasonable and customary crime scene cleanup expenses due to a victim's homicide, aggravated assault, or sexual assault; and
 6. Reasonable and customary transportation costs related to:
 - a. Obtaining medical care as defined in subsection (C)(1),
 - b. Obtaining mental health counseling and care as defined in subsection (C)(4),
 - c. A victim or derivative victim attending a criminal court proceeding, clemency hearing, parole hearing, or execution directly related to the incident of criminally injurious conduct,
 - d. The victim obtaining a medical forensic examination or participating in a medical forensic interview, and
 - e. Responding to a substantiated threat to the safety or well-being of the victim or a derivative victim listed in R10-4-101(10)(d).
- D. The Board shall not make a compensation award to a claimant that exceeds:
 1. Twenty-five thousand dollars for all economic loss submitted under a claim as a result of an incident of criminally injurious conduct;
 2. The amount available to the operational unit and not committed to other compensation awards at the time the Board makes the compensation award determination;
 3. For medical expenses for a victim, the maximum amount specified in subsections (D)(1) and (D)(2).
 4. For work loss expenses:
 - a. Work loss expenses under subsections (C)(2)(a), (C)(2)(b), (C)(2)(d), (C)(2)(e), and (C)(2)(f), are limited to an amount per calendar week equal to 40 hours at the current minimum wage and the maximum amount specified in subsections (D)(1) and (D)(2),
 - b. Loss of support under subsection (C)(2)(c) may be awarded to the maximum allowed under subsections (D)(1) and (D)(2) in a lump sum or periodic payments;
 5. For mental health counseling and care expenses, \$5,000 per victim or derivative victim;
 6. For funeral expenses, \$10,000;
 7. For crime scene cleanup expenses, \$2,000 for cleanup provided by a professional service, of which \$500 may be for crime scene cleanup not provided by a professional service to include only repair or cleanup material costs for one-time use items; and
 8. For transportation costs, \$2,000 per victim or derivative victim paid as reimbursement of actual transportation expenses.
 - E. If the Board determines a victim is totally and permanently disabled, the Board may expedite a compensation award for the victim. The Board shall determine the amount of the expedited compensation award to the maximum allowed under subsection (D) and determine whether to provide the amount awarded in a lump sum or periodic payments.
 - F. The Board shall deny or reduce a compensation award to a claimant if:
 1. The victim or claimant has recouped or is eligible to recoup the economic loss from an obtainable and accessible collateral source, including benefits from a federal or federally financed program;
 2. The Board determines that the victim or claimant earned income from substitute work or unreasonably failed to perform available substitute work; or
 3. The Board determines that the incident of criminally injurious conduct that is the subject of the claim was due in substantial part to the victim's:
 - a. Negligence,

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- b. Intentional unlawful conduct that was the proximate cause of the incident of criminally injurious conduct, or
 - c. Conduct intended to provoke or aggravate that was the proximate cause of the incident of criminally injurious conduct.
- G.** The Board shall deny or reduce a compensation award under subsection (F)(3) in proportion to the degree to which the Board determines the victim is responsible for the incident of criminally injurious conduct that is the subject of the claim.
- H.** The Board shall deny a compensation award to a claimant if:
- 1. The Board determines that the victim or claimant did not cooperate fully with the appropriate law enforcement agency and the failure to cooperate fully was not due to a substantial medical, mental health, or safety risk. The Board shall use the following criteria to determine whether failure to cooperate fully with law enforcement warrants that a claim be denied:
 - a. The victim or claimant failed to assist in the prosecution of a person who engaged in the criminally injurious conduct or failed to appear as a witness for the prosecution;
 - b. The victim or claimant delayed assisting in the prosecution of a suspect and as a result, the suspect of the criminally injurious conduct escaped prosecution or the prosecution of the suspect was negatively affected; or
 - c. A law enforcement authority indicates to the Board that the victim or claimant delayed giving information pertaining to the criminally injurious conduct, failed to appear when requested without good cause, gave false or misleading information, or attempted to avoid law enforcement authorities.
 - 2. The Board determines that the victim or claimant knowingly made a false or misleading statement on the claim or in writing on supporting documents submitted to the Board or operational unit.
- I.** If there are insufficient funds to make a compensation award, the Board may;
- 1. Deny the claim,
 - 2. Make a partial award and reconsider the claim later during the fiscal year, or
 - 3. Extend the claim into a subsequent fiscal year.
- J.** The Board shall not make a compensation award to pay attorney's fees incurred by a victim or claimant.
- K.** The operational unit, in its discretion, may pay a compensation award directly to a claimant or to a provider.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
 Amended effective October 28, 1994 (Supp. 94-4).
 Amended effective June 12, 1997 (Supp. 97-2). Former Section R10-4-108 renumbered to R10-4-106; new Section R10-4-108 renumbered from R10-4-110 and amended by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Former R10-4-108 renumbered to R10-4-110; new R10-4-108 renumbered from R10-4-106 and amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4).
 Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). New Section made by emergency rulemak-

ing at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).

R10-4-109. Hearing; Request for Rehearing

- A.** If the prerequisites in R10-4-106 are met, the Board shall conduct a hearing regarding a claim submitted under this Article.
- B.** The Board shall provide a claimant with at least 10 business days' notice of a hearing or rehearing.
- C.** The Board shall provide written notice of its decision to the claimant within 10 business days after a hearing or rehearing.
- D.** The Board shall serve notice of a compensation-award denial or reduction by personal delivery or certified mail to the last known residence or place of business of the person being served. Service is complete upon personal delivery or five days after mailing by certified mail.
- E.** The operational unit may request a rehearing of a decision by the Board at any time and for any reason under this Article.
- F.** A claimant who is aggrieved by a decision of the Board made at a hearing may request a rehearing of the decision within 30 days after the Board serves notice of the decision. A claimant shall request a rehearing in writing and specify the grounds for the request.
- G.** A claimant may amend a request for a rehearing of a Board decision at any time before it is ruled on by the Board.
- H.** The Board may require additional written explanation of an issue raised in a request for rehearing of a Board decision and may provide for oral argument.
- I.** The Board shall grant a rehearing for any of the following reasons materially affecting a claimant's rights:
 - 1. Irregularity in the proceedings of the Board or its operational unit or any order or abuse of discretion that deprived the claimant of a fair Board decision;
 - 2. Misconduct of the Board, the operational unit, or staff of the operational unit;
 - 3. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original Board meeting;
 - 4. Error in the admission or rejection of evidence or other error of law occurring at the Board meeting; and
 - 5. The decision is not justified by the evidence or is contrary to law.
- J.** When a rehearing is granted, the Board shall ensure that the rehearing covers only the matters specified under subsection (I) that materially affect a claimant's rights.
- K.** The Board may affirm or modify a decision on all or part of the issues for any of the reasons listed in subsection (I). An order modifying a decision shall specify with particularity the grounds for the order.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6).
 Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-109 renumbered to R10-4-107 by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Section R10-4-109 renumbered from R10-4-107 and amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4).

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Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).

R10-4-110. State-level Claim Review

- A. A claimant who is aggrieved by a decision of a Board made at a rehearing under R10-4-109 may request a state-level claim review of the decision within 30 calendar days after the Board serves notice of the decision. The claimant shall request a state-level claim review in writing, specify the grounds for the request, and submit the request directly to the Commission.
- B. The State Claim Review Panel shall serve as the decision-making body for state-level claim reviews. The State Claim Review Panel shall consist of the following members:
 1. The Arizona Criminal Justice Commission Crime Victim Services Program Manager,
 2. A representative of the Office of the Attorney General, and
 3. A Board chair from an operational unit that is not the operational unit that originally heard the claim being reviewed.
- C. The State Claim Review Panel shall meet as needed to hear claimant requests for a state-level claim review. The State Claim Review Panel shall complete a state-level claim review within 30 calendar days after receiving the written request required under subsection (A).
- D. A claimant may amend a request for a state-level claim review of a Board decision at any time before it is ruled on by the State Claim Review Panel.
- E. When a state-level claim review is granted, the State Claim Review Panel shall ensure that the review:
 1. Considers only evidence previously presented to the Board, and
 2. Decides only whether the Board's decision was consistent with the standards in this Article.
- F. The State Claim Review Panel may affirm or overturn a decision made by a Board.
- G. A decision by the State Claim Review Panel is final. If the Panel overturns a decision made by a Board related to:
 1. Eligibility, the operational unit where the claim originated shall proceed with any further action related to the claim; or
 2. An economic loss, the operational unit where the claim originated shall pay the economic loss using compensation funds available to the operational unit.
- H. The State Claim Review Panel shall provide written notice of the Panel's decision to the claimant and the operational unit that originally heard the claim within 10 business days after the state-level claim review.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-110 renumbered to R10-4-108 by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). Section R10-4-110 renumbered from R10-4-108 and amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Section R10-4-110 renumbered to R10-4-111; new Section R10-4-110 made by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).

R10-4-111. Emergency Compensation Award

- A. After receiving a claim submitted under R10-4-107, an operational unit may grant one emergency compensation award for a claim if the operational unit determines there is a reasonable likelihood that:
 1. The person to whom the emergency compensation award is made is or will be an eligible claimant, and
 2. Serious hardship will result to the person if an immediate compensation award is not made.
- B. An operational unit that makes an emergency compensation award shall ensure that the emergency compensation award does not exceed \$1,000.
- C. If the Board decides under R10-4-108 to make a compensation award to the claimant, the Board shall ensure that the amount of the emergency compensation award is deducted from the final compensation award made to the claimant.

Historical Note

Adopted effective December 31, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Section repealed by final rulemaking at 6 A.A.R. 4727, effective November 20, 2000 (Supp. 00-4). New Section R10-4-111 renumbered from R10-4-110 and amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).

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ARTICLE 2. CRIME VICTIM ASSISTANCE PROGRAM**R10-4-201. Definitions**

In this Article:

1. "Commission" means the Arizona Criminal Justice Commission, established by A.R.S. § 41-2404.
2. "Crime" means conduct, completed or preparatory, committed in Arizona that is a misdemeanor or felony under state law regardless of whether the perpetrator of the conduct is convicted. Conduct arising out of owning, maintaining, or operating a motor vehicle, aircraft, or water vehicle is not a crime unless the person engaged in the conduct acts intentionally, knowingly, recklessly, or with criminal negligence, to cause physical injury, threat of physical injury, or death.
3. "Financial support from other sources" means that at least one-fifth of the budget for a victim assistance program is from sources, including in-kind contributions, other than the Fund.
4. "Fund" means the Victim Compensation and Assistance Fund established by A.R.S. § 41-2407.
5. "Immediate family" means spouse, child, stepchild, parent, stepparent, sibling, stepbrother, stepsister, grandparent, grandchild, or guardian.
6. "In-kind contribution" means a non-cash source of program support to which a cash value can be given.
7. "Subrogation" means the substitution of the state or a victim assistance program in the place of a victim to enforce a lawful claim against a third party to recover the cost of services to the victim paid for with financial support from the Fund or other sources.
8. "Victim" means a natural person against whom a crime is perpetrated and the victim's immediate family.

Historical Note

Adopted effective December 22, 1986 (Supp. 86-6). Section repealed; new Section R10-4-201 renumbered from R10-4-203 and amended by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).

R10-4-202. Administration of the Fund

- A. The Commission shall deposit in the Fund all funds received for victim assistance under this Chapter.
- B. The Commission shall make distributions from the Fund through a competitive grant process that complies with A.R.S. § 41-2701 et seq. and ensures statewide distribution when possible and effective and efficient use of the funds.
- C. At least six weeks before an application for a grant from the Fund is due, the Commission shall make a grant application

form and instructions available on its web site, which is www.azcjc.gov.

- D. To apply for a grant from the Fund, an authorized official of a public agency or private nonprofit organization that operates a program that meets the standards in R10-4-203 shall complete and submit to the Commission the application form referenced in subsection (C).
- E. The Commission's grant period coincides with the state's fiscal year. If funds received from the Commission are unexpended at the end of the grant period, the public agency or private nonprofit organization that received the funds shall return them to the Commission within 30 days after receiving a written request from the Commission. The Commission shall redeposit the unexpended funds in the Fund for use in the next fiscal year.

Historical Note

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Section repealed; new Section R10-4-202 renumbered from R10-4-204 and amended by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).

R10-4-203. Grant Eligibility Requirements

- A. A public agency or private nonprofit organization may apply for and receive a grant from the Commission if, in addition to the other requirements in this Section, the public agency or private nonprofit organization operates a project that:
 1. Provides services described in R10-4-204 benefiting victims or addressing victimization;
 2. Does not use Commission funds or federal funds to supplant funds otherwise available to the project for victim assistance;
 3. Uses volunteers effectively and efficiently to provide services;
 4. Promotes coordinated public and private efforts to assist victims or address victimization within the community served;
 5. Increases awareness of, and facilitates access to, available victim compensation benefits; and
 6. Complies with all applicable civil rights laws.
- B. To receive a grant from the Commission, a public agency or private nonprofit organization that operates a project shall demonstrate to the Commission that the project:
 1. Has financial support from other sources; and
 2. Has a history of providing effective services in accordance with subsection (A). The Commission shall deter-

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mine whether the project's services are effective based on:

- a. Evidence-based outcomes demonstrating project services are benefiting victims or addressing victimization, and
- b. Whether data indicate program results are achieved in a cost-effective manner.

C. To receive a grant from the Commission, a public agency or private nonprofit organization shall agree to:

1. Submit to the Commission financial reports, on a form provided by the Commission, at a frequency established by the Commission, containing detailed expenditures of funds received from the Commission and matching funds;
2. Report project activity to the Commission, on a form provided by the Commission, at a frequency established annually by the Commission.

Historical Note

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-203 renumbered to R10-4-201; new Section R10-4-203 renumbered from R10-4-205 and amended by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).

R10-4-204. Services

A. A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that the funds are used to provide only the following victim services or services addressing victimization:

1. Crisis intervention services to meet the urgent emotional or physical needs of a victim;
2. Emergency services such as:
 - a. Temporary shelter or relocation for a victim who cannot safely remain in current lodgings;
 - b. Emergency financial assistance for immediate needs related to transportation, food, shelter, and other necessities; and
 - c. Temporary repairs to doors, locks, and windows damaged as a result of a crime to prevent further victimization;
3. Support services, such as:
 - a. Assistance dealing with the effects of victimization;
 - b. Assistance dealing with other social services and criminal justice agencies;
 - c. Assistance in replacing, or obtaining the return of property kept as evidence;

- d. Assistance in dealing with the victim's landlord or employer; and
- e. Referral to other sources of assistance as needed;
4. Court-related services, such as:
 - a. Direct services or financial assistance that helps a victim participate in criminal justice proceedings, such as child care, meals, and parking expenses; and
 - b. Advocate services such as escorting a victim to criminal justice-related interviews, court proceedings, and assistance in accessing temporary protection services; and
5. Notification services, such as those found in A.R.S. Title 13, Chapter 40, Crime Victims' Rights.

B. A public agency or private nonprofit organization that receives a grant from the Commission may use the funds to:

1. Provide training for paid or volunteer staff of agencies who provide services directly benefitting victims;
2. Produce educational or outreach materials describing the services available, how to obtain program assistance, and volunteer opportunities; and
3. Provide training or services focused on preventing initial victimization or further victimization connected to violent crime.

C. A public agency or private nonprofit organization that receives a grant from the Commission shall ensure that funds are not used for the following:

1. Broad crime prevention efforts, other than those aimed at providing specific services addressing victimization;
2. General public relations programs;
3. Advocacy for a particular legislative or administrative reform;
4. General criminal justice agency improvement; or
5. A project in which victims are not the primary beneficiaries, or a project not directly addressing victimization.

Historical Note

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-204 renumbered to R10-4-202; new Section R10-4-204 renumbered from R10-4-206 and amended by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 4124, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 3309, effective February 3, 2013 (Supp. 12-4). Amended by final rulemaking at 24 A.A.R. 377, effective April 7, 2018 (Supp. 18-1). Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3). New Section made by emergency rulemaking at 29 A.A.R. 1700 (August 4, 2023) with an immediate effective date of July 14, 2023; effective for 180 days (Supp. 23-3). Section made by emergency rulemaking - renewal at 30 A.A.R. 315 (February 16, 2024) with an immediate effective date of January 22, 2024; effective for an additional 180 days (Supp. 24-1). Before the renewal of the emergency rule expired, a new Section was made by final rulemaking at 30 A.A.R. 2405 (July 26, 2024) with an immediate effective date of July 3, 2024 (Supp. 24-3).

R10-4-205. Expired**Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-205 renumbered to R10-4-203 by

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final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Renumbered Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

R10-4-206. Expired**Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Former Section R10-4-206 renumbered to R10-4-204 by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Renumbered Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

R10-4-207. Expired**Historical Note**

Adopted effective December 22, 1986 (Supp. 86-6). Amended effective October 28, 1994 (Supp. 94-4). Section repealed by final rulemaking at 6 A.A.R. 4660, effective November 20, 2000 (Supp. 00-4). Repealed Section expired under A.R.S. § 41-1056(J) at 29 A.A.R. 1674 (July 28, 2023), effective June 1, 2023 (Supp. 23-3).

ARTICLE 3. CRIMINAL JUSTICE ENHANCEMENT FUND**R10-4-301. Definitions**

In this Article:

1. "Commission" means the Arizona Criminal Justice Commission.
2. "Contact" means the individual representative of a recipient or the Arizona Sheriffs' Association, on behalf of the various county sheriffs' offices, who communicates with the Commission regarding the Fund.
3. "Enhance" or "enhancing," as used in A.R.S. § 41-2401(D), means to supplement rather than replace monies from other sources.
4. "Fund" means the Criminal Justice Enhancement Fund established by A.R.S. § 41-2401(A).
5. "Head" means:
 - a. The Director of the Arizona Department of Public Safety,
 - b. The Arizona Attorney General,
 - c. The Director of the Administrative Office of the Courts, and
 - d. The sheriff of each Arizona county.
6. "Recipient" means the Arizona Department of Public Safety, Arizona Department of Law, the Supreme Court, and each Arizona county sheriff's office.

Historical Note

Adopted effective September 11, 1986 (Supp. 86-5). R10-4-301 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4). Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1). New Section made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).

R10-4-302. Contact Information Required

- A. Within 60 days after this Article takes effect, each Head and the President of the Arizona Sheriffs' Association shall submit to the Commission the name, address, telephone and fax numbers, and e-mail of the contact.

- B. If any of the information submitted under subsection (A) changes, the Head or the President of the Arizona Sheriffs' Association shall provide immediate notice of the change to the Commission.

Historical Note

Adopted effective September 11, 1986 (Supp. 86-5). R10-4-302 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4). Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1). New Section made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).

R10-4-303. Fund Guidelines Required

- A. Within 60 days after this Article takes effect, the contact within the Arizona Department of Public Safety, Arizona Department of Law, and the Administrative Office of the Courts shall submit to the Commission the recipient's guidelines regarding the following:
 1. The procedure for handling Fund monies until they are allocated for expenditure,
 2. The procedure used to allocate Fund monies,
 3. The procedure used to ensure that Fund monies are expended as specified in A.R.S. § 41-2401(D), and
 4. The procedure used to assess the impact of the Fund monies on enhancing criminal justice in the manner specified in A.R.S. § 41-2401(D).
- B. Within 60 days after this Article takes effect, the contact for each county Sheriff's Office or the Arizona Sheriffs' Association shall submit to the Commission guidelines that meet the standard described in subsections (A)(3) and (4);
- C. Within 60 days after the guidelines submitted under subsections (A) and (B) are received, the Commission shall review the guidelines and assist the contact to make any changes necessary to protect Fund monies and ensure that Fund monies are expended as specified in A.R.S. § 41-2401.
- D. A recipient or the Arizona Sheriffs' Association shall review and, if necessary, update the guidelines. By October 1 of each year, the contact for each recipient or the Arizona Sheriffs' Association shall provide to the Commission the guidelines as revised or inform the Commission that no revision is necessary. Within 60 days after revised guidelines submitted under this subsection are received, the Commission shall review the revised guidelines and assist the contact to make any changes necessary to protect Fund monies and ensure that Fund monies are expended as specified in A.R.S. § 41-2401.

Historical Note

Adopted effective September 11, 1986 (Supp. 86-5). R10-4-303 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4). Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1). New Section made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).

R10-4-304. Records Required

- A. A Head shall ensure that the following records are maintained for the recipient:
 1. The amount of Fund monies available to the recipient,

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2. To whom Fund monies were disbursed and the amount of Fund monies disbursed,
 3. A detailed description of the manner in which the Fund monies are expended, and
 4. An assessment of the impact of the Fund monies on enhancing criminal justice.
- B.** A Head shall ensure that the records required under subsection (A) are:
1. Maintained for three years; and
 2. Made available, upon request, for review by the Commission and the Arizona Auditor General.
- C.** All reports required of a recipient by statute to be submitted to the Commission are subject to review and verification by the Commission.

Historical Note

Adopted effective September 11, 1986 (Supp. 86-5). R10-4-304 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4). Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1). New Section made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).

R10-4-305. Complaints

- A.** An individual who believes that Fund monies are being expended in a manner that is inconsistent with A.R.S. § 41-2401(D) may:
1. Submit a written complaint to the Commission; and
 2. If the complaint relates to an expenditure by a court, shall submit the complaint to the Director of the Administrative Office of the Courts.
- B.** An individual who submits a complaint shall ensure that the complaint includes sufficient information to enable the Commission to investigate the expenditure alleged to be inconsistent with A.R.S. § 41-2401(D).
- C.** Except as specified in subsection (E), if the Commission determines that an expenditure about which a complaint is submitted appears to be inconsistent with A.R.S. § 41-2401(D), the Commission shall ask the Head to explain the expenditure.
- D.** If the Commission determines that the expenditure is inconsistent with A.R.S. § 41-2401(D), the Commission shall take action allowed by law to remedy the expenditure.
- E.** The Director of the Administrative Office of the Courts shall:
1. Investigate an expenditure about which a complaint is submitted under subsection (A)(2),
 2. Determine whether the expenditure is inconsistent with A.R.S. § 41-2401(D), and
 3. Notify the Commission of the determination and any action taken to remedy the expenditure.

Historical Note

Adopted effective September 11, 1986 (Supp. 86-5). R10-4-305 repealed by summary action with an interim effective date of November 28, 1997; filed in the Office of the Secretary of State November 3, 1997 (Supp. 97-4). Adopted summary rules filed March 16, 1998; interim effective date of November 28, 1997, now the permanent effective date (Supp. 98-1). New Section made by final rulemaking at 17 A.A.R. 1469, effective September 10, 2011 (Supp. 11-3).

ARTICLE 4. DRUG AND GANG ENFORCEMENT ACCOUNT GRANTS**R10-4-401. Definitions**

In this Article:

“A-133 audit report” means a report on an audit conducted in accordance with the standards for obtaining consistency and uniformity among federal agencies for the audit of non-federal entities expending federal awards established by the Office of Management and Budget in Circular A-133.

“Account” means the Drug and Gang Enforcement Account established by A.R.S. § 41-2402.

“Applicant” means an approved agency or task force that submits an application for a grant from the Account.

“Approved agency” means a unit of state, county, local, or tribal government working to accomplish one or more of the goals established at A.R.S. § 41-2402(A).

“Approved project” means a planned endeavor to accomplish one or more of the goals established at A.R.S. § 41-2402(A) for which a grant is made from the Account.

“Commission” means the Arizona Criminal Justice Commission established by A.R.S. § 41-2404.

“Committee” means the Drug, Gang, and Violent Crime Committee of the Commission.

“Host agency” means an approved agency that submits a grant application and required reports on behalf of a task force.

“Matching funds” means non-federal and non-Account money or program income that a grant recipient adds to a grant from the Account and spends to accomplish the goals of an approved project.

“Program income” means funds generated as a result of the activities funded by a grant from the Account.

“Task force” means multiple approved agencies from different jurisdictions that collaborate to accomplish multiple goals established at A.R.S. § 41-2402(A).

Historical Note

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp. 88-3). Amended effective October 28, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1). Amended by final rulemaking at 14 A.A.R. 4654, effective January 31, 2009 (Supp. 08-4).

R10-4-402. General Information Regarding Grants

- A.** The Commission may annually request grant applications and make grant awards of Account funds.
- B.** The Commission’s ability to make grant awards is contingent upon the availability of Account funds.
- C.** The Commission shall publish its priorities for grant awards in a report of the state’s strategy for combating drugs, gangs, and violent crime.
- D.** The Commission shall make all information regarding grants, including the request for grant applications and application and report forms, available on its web site.

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- E. The Commission shall ensure that training regarding grant application procedures and grant management are made available to interested approved agencies.
 - F. The Commission shall provide oversight of all grants awarded, which may include conducting a financial review or audit of a grant recipient, to ensure that Account funds are expended in compliance with all terms of the grant agreement and all applicable state and federal laws.
 - G. The Commission may require that a grant recipient provide matching funds in the amount specified in the request for grant applications.
 - H. The Commission shall not require a grant recipient to provide matching funds that exceed 25% of the total project budget.
- 14. Objectives that are specific, measurable, and directly correlated to the goals of the proposed project;
 - 15. Detailed budget that includes:
 - a. Total amount to be expended on the proposed project including both Account and matching funds;
 - b. Estimated amount to be expended for various allowable expenses and the manner in which the estimate was determined;
 - c. Sources of the required matching funds; and
 - d. Statement of whether Account funds received will be used as matching funds for another grant program and if so, the name of the grant program and funding agency;
 - 16. Date of the jurisdiction's current A-133 audit report;
 - 17. Description of the internal controls the applicant will use to ensure compliance with all terms of the grant agreement;
 - 18. Description of plan to sustain the project if Account funds are no longer available; and
 - 19. Signature of the individual identified in subsection (B)(6) certifying that the information presented is correct and that if a grant is received, the applicant will comply with the terms of the grant agreement and all applicable state and federal laws.

Historical Note

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp. 88-3). Amended effective October 28, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1). Former Section R10-4-402 renumbered to R10-4-403; new Section made by final rulemaking 14 A.A.R. 4654, effective January 31, 2009 (Supp. 08-4). Section amended by final rulemaking at 24 A.A.R. 3425 effective December 4, 2018 (Supp. 18-4).

R10-4-403. Grant Application

- A. An approved agency or task force may submit an application for a grant from the Account. If application is made by a task force, members of the task force shall identify a host agency.
- B. An applicant shall access, complete, and submit to the Commission the application form that is available on the Commission's web site. The applicant shall provide the following information:
 - 1. Title of the application and proposed project;
 - 2. Purpose specified in A.R.S. § 41-2402(A) that the proposed project will address;
 - 3. Statement of whether the application is a request to continue a previously approved project;
 - 4. Name and address of the applicant;
 - 5. List of member agencies of the task force if the applicant is a task force;
 - 6. Name of the individual authorized to submit the application;
 - 7. Name of the individual responsible for administering and supervising the proposed project;
 - 8. Statement of the mission of the proposed project;
 - 9. Statement of the problem addressed by the proposed project including data reflecting:
 - a. The scope of the problem, and
 - b. The absence or inadequacy of current resources to address the problem;
 - 10. Summary of the proposed project that explains how the proposed project seeks to address the problem identified;
 - 11. Description of collaborative efforts among law enforcement, prosecution, community organizations, social service agencies, and others that will be involved with the proposed project;
 - 12. Description of the methodology that will be used to evaluate the effectiveness of the proposed project;
 - 13. Goals of the proposed project stating what the proposed project is intended to accomplish;
- C. In addition to submitting the application form required under subsection (B), an applicant shall submit to the Commission:
 - 1. A copy of the jurisdiction's current A-133 audit report or if the jurisdiction does not have a current A-133 audit report, a copy of all correspondence relating to an extension of time to have an audit completed;
 - 2. If the applicant is a task force, a letter on agency letterhead or another document from each member agency of the task force describing the manner in which the member intends to contribute to the proposed project; and
 - 3. If the applicant's jurisdiction applied directly for federal criminal justice grant funding:
 - a. Each applicant must disclose whether it has, or is proposed as a subrecipient under, any pending application for federally-funded grants or cooperative agreements that:
 - i. Include requests for funding to support the same project being proposed in the application for a grant from the Account; and
 - ii. Would cover identical cost items outlined in the budget submitted to the Commission as part of the application for a grant from the Account.
 - b. The applicant is to disclose applications made directly to federal awarding agencies, and also applications for subawards of federal funds (e.g. applications to state agencies that will subaward federal funds).

Historical Note

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp. 88-3). Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1). Former Section R10-4-403 renumbered to R10-4-404; new Section R10-4-403 renumbered from R10-4-402 and amended by final rulemaking at 14 A.A.C. 4654, effective January 31, 2009 (Supp. 08-4). Section amended by final rulemaking at 24 A.A.R. 3425 effective December 4, 2018 (Supp. 18-4).

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CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

R10-4-404. Application Evaluation; Standards for Award

- A. The Commission shall ensure that each application that is submitted timely and proposes a project eligible for funding from the Account is evaluated. After the applications are evaluated, the Committee shall forward a recommended allocation plan to the Commission. The Commission shall grant or deny funding within 90 days after the application deadline.
- B. If the Commission determines that it needs additional information to facilitate its review of an application, the Commission shall:
 1. Request the additional information from the applicant, or
 2. Request the applicant to amend the application.
- C. The Commission shall approve grant funding, in whole or in part, or deny funding using standards referenced under A.R.S. § 41-2402 and R10-4-402(C).
- D. The standards referenced in subsection (C) include an assessment of whether the proposed project:
 1. Is directed toward a problem that is demonstrated by statistical data;
 2. Is designed to address the identified problem;
 3. Is a coordinated effort among multiple approved agencies;
 4. Has specific goals;
 5. Has measurable objectives that relate to the goals;
 6. Has appropriate methods for evaluating achievement of objectives;
 7. Has a reasonable budget of allowable expenses;
 8. Has identified the required matching funds;
 9. Has internal controls to monitor expenditure of Account funds; and
 10. If the program was previously funded, all grant requirements were met timely and there were no reportable deficiencies during monitoring reviews.

Historical Note

Adopted as an emergency effective February 22, 1988, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 88-1). Emergency expired. Adopted without change as a permanent rule effective July 18, 1988 (Supp. 88-3). Amended effective October 28, 1994 (Supp. 94-4). Amended by final rulemaking at 7 A.A.R. 1007, effective February 8, 2001 (Supp. 01-1). Former Section 10-4-404 renumbered to R10-4-406; new Section R10-4-404 renumbered from R10-4-403 and amended by final rulemaking 14 A.A.R. 4654, effective January 31, 2009 (Supp. 08-4). Section amended by final rulemaking at 24 A.A.R. 3425 effective December 4, 2018 (Supp. 18-4).

R10-4-405. Request for Modification of Recommended Allocation Plan

- A. Commission staff shall provide an applicant with at least five days' notice of the Committee's recommended allocation plan and the date, time, and location of the meeting at which the Committee will make a decision about forwarding the recommended allocation plan to the Commission for its action.
- B. If an applicant disagrees with the recommended allocation plan, the applicant may verbally request that the Committee modify the recommended allocation plan. The Committee shall consider the request for modification before forwarding the recommended allocation plan to the Commission.
- C. Commission staff shall provide an applicant with at least five days' notice of the date, time, and location of the meeting at which the Commission will consider the recommended allocation plan.

- D. If an applicant disagrees with the recommendation of the Committee, the applicant may verbally request that the Commission modify the recommended allocation plan. The Commission shall consider the request for modification when making a final decision to award or deny a grant of Account funds to the applicant. The Commission's decision is final.

Historical Note

New Section made by final rulemaking at 14 A.A.R. 4654, effective January 31, 2009 (Supp. 08-4).

R10-4-406. Required Reports

- A. The Commission shall annually prepare and submit the report required under A.R.S. § 41-2405(A)(11). The Commission shall use data submitted by grant recipients as specified in the recipient's grant agreement to prepare the report.
- B. A grant recipient shall submit to the Commission financial, activity, and progress reports documenting the activities supported by the Account funds. The grant recipient shall submit the reports as specified in the grant agreement. The specific reports required are determined by the nature of the proposed project.
- C. The Commission shall not distribute Account funds to a grant recipient that fails to submit a required report within 60 days of its due date.
- D. A grant recipient shall cooperate with and participate in all assessment, evaluation, or data collection efforts authorized by the Commission.
- E. The Commission has the right to obtain, reproduce, publish, or use information provided in the required reports or assessment, evaluation, or data collection efforts. When in the best interest of the state, the Commission may authorize others to receive and use the information.

Historical Note

New Section R10-4-406 renumbered from R10-4-404 and amended by final rulemaking 14 A.A.R. 4654, effective January 31, 2009 (Supp. 08-4). Section amended by final rulemaking at 24 A.A.R. 3425 effective December 4, 2018 (Supp. 18-4).

ARTICLE 5. FULL-SERVICE FORENSIC CRIME LABORATORY ACCOUNT**R10-4-501. Definitions**

In this Article:

1. "Account" means the Full-service Forensic Crime Laboratories Account established by A.R.S. § 41-2421(J)(5).
2. "Commission" means the Arizona Criminal Justice Commission established by A.R.S. § 41-2404.
3. "Full-service forensic crime laboratory" means a facility that:
 - a. Is operated by a criminal justice agency that is a political subdivision of the state;
 - b. Employs at least one full-time forensic scientist who holds a minimum of a bachelor's degree in a physical or natural science;
 - c. Is registered as an analytical laboratory with the Drug Enforcement Administration of the United States Department of Justice for possession of all scheduled, controlled substances;
 - d. Is accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board; and

TITLE 10. LAW

CHAPTER 4. ARIZONA CRIMINAL JUSTICE COMMISSION

- e. Provides, at a minimum, services in the areas of controlled substances, forensic biology, DNA, blood and breath alcohol, firearms, and toolmarks.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 2294, effective August 5, 2006 (Supp. 06-2).

R10-4-502. Grant Solicitation Process

- A. The Commission shall annually publish and post on the Commission's internet site, which is www.azacjc.gov, a grant solicitation for distribution of Account monies. When the grant solicitation is posted, the Commission shall send an electronic notice of the posting to all Arizona criminal justice agencies that operate a full-service forensic crime laboratory.
- B. The Commission shall ensure that the grant solicitation contains:
 - 1. The Commission's goals for the grant program for the allocation year,
 - 2. Applicant eligibility criteria,
 - 3. The format in which a grant application is to be submitted,
 - 4. The date by which a grant application is to be submitted,
 - 5. Grant application evaluation criteria,
 - 6. Project expenses for which Account monies may be used,
 - 7. The period in which all Account monies must be expended,
 - 8. Account money reversion criteria and process, and
 - 9. The award denial appeal process.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 2294, effective August 5, 2006 (Supp. 06-2).

R10-4-503. Grant Application Evaluation; Decision of the Commission

- A. The Commission shall evaluate each grant application and make a decision to award or deny a grant within 120 days of the date by which grant applications are due.
- B. If the Commission determines additional information is needed to facilitate its evaluation of an application, the Commission shall request from the applicant:
 - 1. Additional information, or
 - 2. Application modification.

- C. An applicant from whom additional information or application modification is requested shall submit the information or modification to the Commission within 10 business days from the date of the request.
- D. After completing its evaluation of an application, the Commission shall vote to award, in whole or in part, or deny a grant based on:
 - 1. The grant criteria published in the grant solicitation;
 - 2. The amount of funds available for allocation; and
 - 3. Compliance with the application format.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 2294, effective August 5, 2006 (Supp. 06-2).

R10-4-504. Reports

Within 15 days after the end of each calendar quarter, a grantee shall submit a written report, on a form prescribed by the Commission, containing:

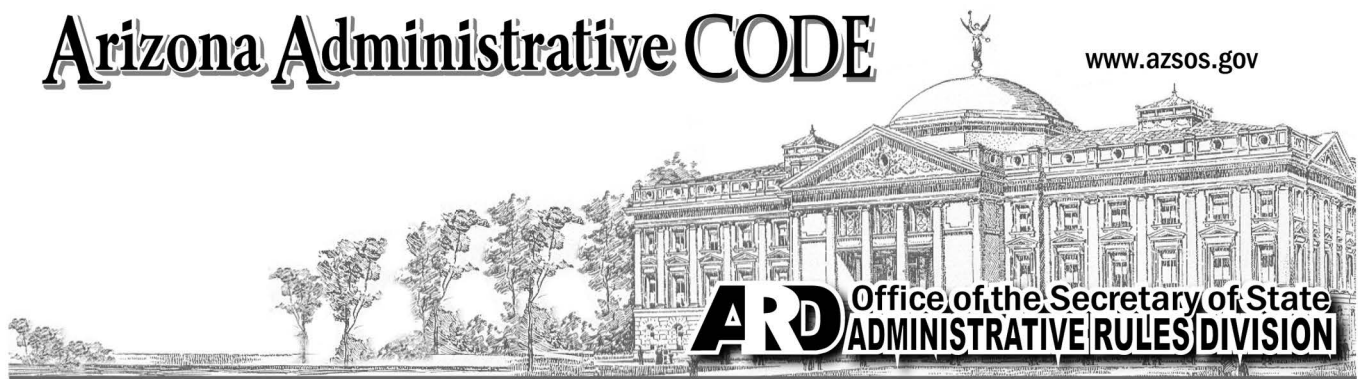
- 1. A financial report that includes itemized budget information, and
- 2. An activity report that documents activities supported by the grant funds and includes:
 - a. A narrative of activities undertaken during the reporting period;
 - b. An evaluation of progress toward achieving the goals and objectives in the grant application;
 - c. An evaluation of adherence to the time-frames in the grant application; and
 - d. A description of equipment purchased with grant funds during the reporting period, how the equipment is related to achieving the goals and objectives of the project, and the current status of the equipment, such as whether it is operational, waiting to be installed, or undergoing testing; and
- 3. A copy of any deliverable provided by a consultant paid with grant funds.

Historical Note

New Section made by final rulemaking at 7 A.A.R. 2217, effective May 11, 2001 (Supp. 01-2). Amended by final rulemaking at 12 A.A.R. 2294, effective August 5, 2006 (Supp. 06-2).

Arizona Administrative CODE

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18 A.A.C. 2

Supp. 24-3

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY - AIR POLLUTION CONTROL

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

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

This Chapter contains rules that were filed to be codified in the *Arizona Administrative Code* between the dates of
July 1, 2024 through September 30, 2024

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Questions about these rules? Contact:

Department: Department of Environmental Quality
Address: 1110 W. Washington St.
Air Quality Division, AQIP Section
Phoenix, AZ 85007
[Website:](#) <http://www.azdeq.gov/notices>
Name: Sierra Apillanes
Telephone: (602) 771-1593
Email: apillanes.sierra@azdeq.gov

The release of this Chapter in Supp. 24-3 replaces Supp. 23-3, 1-238 pages.

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

PREFACE

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

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

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

THE ADMINISTRATIVE CODE

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

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

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

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

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

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

RULE HISTORY

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

AUTHENTICATION OF PDF CODE CHAPTERS

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

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

HOW TO USE THE CODE

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

ARIZONA REVISED STATUTE REFERENCES

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

SESSION LAW REFERENCES

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

EXEMPTIONS FROM THE APA

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

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

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

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

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

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

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Administrative Rules Division

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TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY - AIR POLLUTION CONTROL

Authority: A.R.S. § 49-104 et seq.

Supp. 24-3

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and R9-3-321 through R9-3-323 repealed effective November 15, 1993 (Supp. 93-4).

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Article 17, consisting of Sections R18-2-1701 through R18-2-1709, expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

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Article 18, consisting of Sections R18-2-1801 through R18-2-1812 and Appendix 13, repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

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ARTICLE 1. GENERAL

R18-2-101. Definitions

The following definitions apply to this Chapter. Where the same term is defined in this Section and in the definitions Section for an Article of this Chapter, the Article-specific definition shall apply.

1. "Act" means the Clean Air Act of 1963 (P.L. 88-206; 42 U.S.C. 7401 through 7671q) as amended through December 31, 2011 (and no future editions).
2. "Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in subsections (2)(a) through (e), except that this definition shall not apply for calculating whether a significant emissions increase as defined in R18-2-401 has occurred, or for establishing a plantwide applicability limitation as defined in R18-2-401. Instead, the definitions of projected actual emissions and baseline actual emissions in R18-2-401 shall apply for those purposes.
 - a. In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period that precedes the particular date and that is representative of normal source operation. The Director may allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored or combusted during the selected time period.
 - b. The Director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.
 - c. For any emissions unit that is or will be located at a source with a Class I permit and has not begun normal operations on the particular date, actual emissions shall equal the unit's potential to emit on that date.
 - d. For any emissions unit that is or will be located at a source with a Class II permit and has not begun normal operations on the particular date, actual emissions shall be based on applicable control equipment requirements and projected conditions of operation.
 - e. This definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL. Instead, the definitions of projected actual emissions and baseline actual emissions in R18-2-401 shall apply for those purposes.
3. "Administrator" means the Administrator of the United States Environmental Protection Agency.
4. "Affected facility" means, with reference to a stationary source, any apparatus to which a standard is applicable.
5. "Affected source" means a source that includes one or more units which are subject to emission reduction requirements or limitations under Title IV of the Act.
6. "Affected state" means any state whose air quality may be affected by a source applying for a permit, permit revision, or permit renewal and that is contiguous to Arizona or that is within 50 miles of the permitted source.
7. "Afterburner" means an incinerator installed in the secondary combustion chamber or stack for the purpose of incinerating smoke, fumes, gases, unburned carbon, and other combustible material not consumed during primary combustion.
8. "Air contaminants" means smoke, vapors, charred paper, dust, soot, grime, carbon, fumes, gases, sulfuric acid mist aerosols, aerosol droplets, odors, particulate matter, wind-borne matter, radioactive materials, or noxious chemicals, or any other material in the outdoor atmosphere.
9. "Air curtain incinerator" means an incineration device designed and used to secure, by means of a fan-generated air curtain, controlled combustion of only wood waste and slash materials in an earthen trench or refractory-lined pit or bin.
10. "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in sufficient quantities, which either alone or in connection with other substances by reason of their concentration and duration are or tend to be injurious to human, plant or animal life, or cause damage to property, or unreasonably interfere with the comfortable enjoyment of life or property of a substantial part of a community, or obscure visibility, or which in any way degrade the quality of the ambient air below the standards established by the director. A.R.S. § 49-421(2).
11. "Air pollution control equipment" means equipment used to eliminate, reduce or control the emission of air pollutants into the ambient air.
12. "Air quality control region" (AQCR) means an area so designated by the Administrator pursuant to Section 107 of the Act and includes the following regions in Arizona:
 - a. Maricopa Intrastate Air Quality Control Region which is comprised of the County of Maricopa.
 - b. Pima Intrastate Air Quality Control Region which is comprised of the County of Pima.
 - c. Northern Arizona Intrastate Air Quality Control Region which encompasses the counties of Apache, Coconino, Navajo, and Yavapai.
 - d. Mohave-Yuma Intrastate Air Quality Control Region which encompasses the counties of La Paz, Mohave, and Yuma.
 - e. Central Arizona Intrastate Air Quality Control Region which encompasses the counties of Gila and Pinal.
 - f. Southeast Arizona Intrastate Air Quality Control Region which encompasses the counties of Cochise, Graham, Greenlee, and Santa Cruz.
13. "Allowable emissions" means the emission rate of a stationary source calculated using both the maximum rated capacity of the source, unless the source is subject to federally enforceable limits which restrict the operating rate or hours of operation, and the most stringent of the following:
 - a. The applicable standards as set forth in 40 CFR 60, 61 and 63;
 - b. The applicable emissions limitations approved into the state implementation plan, including those with a future compliance date; or,
 - c. The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.
14. "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.
15. "Applicable implementation plan" means those provisions of the state implementation plan approved by the Administrator or a federal implementation plan promul-

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- gated for Arizona or any portion of Arizona in accordance with Title I of the Act.
16. "Applicable requirement" means any of the following:
 - a. Any federal applicable requirement.
 - b. Any other requirement established pursuant to this Chapter or A.R.S. Title 49, Chapter 3.
 17. "Arizona Testing Manual" means sections 1 and 7 of the Arizona Testing Manual for Air Pollutant Emissions amended as of March 1992 (and no future editions).
 18. "ASTM" means the American Society for Testing and Materials.
 19. "Attainment area" means any area that has been identified in regulations promulgated by the Administrator as being in compliance with national ambient air quality standards.
 20. *"Begin actual construction" means, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. With respect to a change in method of operation this term refers to those onsite activities, other than preparatory activities, which mark the initiation of the change.*
 - a. For purposes of title I, parts C and D and section 112 of the clean air act, and for purposes of applicants that require permits containing limits designed to avoid the application of title I, parts C and D and section 112 of the clean air act, these activities include installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures but do not include any of the following, subject to subsection (20)(c):
 - i. Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpiling of topsoil.
 - ii. Installation of access roads, driveways and parking lots.
 - iii. Installation of ancillary structures, including fences, office buildings and temporary storage structures, that are not a necessary component of an emissions unit or associated air pollution control equipment for which the permit is required.
 - iv. Ordering and onsite storage of materials and equipment.
 - b. For purposes other than those identified in subsection (20)(a), these activities do not include any of the following, subject to subsection (20)(c):
 - i. Clearing and grading, including demolition and removal of existing structures and equipment, stripping and stockpiling of topsoil and earthwork cut and fill for foundations.
 - ii. Installation of access roads, parking lots, driveways and storage areas.
 - iii. Installation of ancillary structures, including fences, warehouses, storerooms and office buildings, provided none of these structures impacts the design of any emissions unit or associated air pollution control equipment.
 - iv. Ordering and onsite storage of materials and equipment.
 - v. Installation of underground pipework, including water, sewer, electric and telecommunications utilities.
 - vi. Installation of building and equipment supports, including concrete forms, footers, pilings, foundations, pads and platforms, provided none of these supports impacts the design of any emissions unit or associated air pollution control equipment.
 - c. An applicant's performance of any activities that are excluded from the definition of "begin actual construction" under subsection (20)(a) or (b) shall be at the applicant's risk and shall not reduce the applicant's obligations under this Chapter. The director shall evaluate an application for a permit or permit revision and make a decision on the same basis as if the activities allowed under subsection (20)(a) or (b) had not occurred. A.R.S. § 49-401.01(7).
 21. "Best available control technology" (BACT) means an emission limitation, including a visible emissions standard, based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major source or major modification, taking into account energy, environmental, and economic impact and other costs, determined by the Director in accordance with R18-2-406(A)(4) to be achievable for such source or modification.
 22. "Btu" means British thermal unit, which is the quantity of heat required to raise the temperature of one pound of water 1°F.
 23. "Categorical sources" means the following classes of sources:
 - a. Coal cleaning plants with thermal dryers;
 - b. Kraft pulp mills;
 - c. Portland cement plants;
 - d. Primary zinc smelters;
 - e. Iron and steel mills;
 - f. Primary aluminum ore reduction plants;
 - g. Primary copper smelters;
 - h. Municipal incinerators capable of charging more than 50 tons of refuse per day;
 - i. Hydrofluoric, sulfuric, or nitric acid plants;
 - j. Petroleum refineries;
 - k. Lime plants;
 - l. Phosphate rock processing plants;
 - m. Coke oven batteries;
 - n. Sulfur recovery plants;
 - o. Carbon black plants using the furnace process;
 - p. Primary lead smelters;
 - q. Fuel conversion plants;
 - r. Sintering plants;
 - s. Secondary metal production plants;
 - t. Chemical process plants, which shall not include ethanol production facilities that produce ethanol by natural fermentation included in North American Industry Classification System codes 325193 or 312140;
 - u. Fossil-fuel boilers, combinations thereof, totaling more than 250 million Btus per hour heat input;
 - v. Petroleum storage and transfer units with a total storage capacity more than 300,000 barrels;
 - w. Taconite ore processing plants;
 - x. Glass fiber processing plants;
 - y. Charcoal production plants;
 - z. Fossil-fuel-fired steam electric plants and combined cycle gas turbines of more than 250 million Btus per hour heat input.

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24. "Categorically exempt activities" means any of the following:
- Any combination of diesel-, natural gas- or gasoline-fired engines with cumulative power equal to or less than 145 horsepower.
 - Natural gas-fired engines with cumulative power equal to or less than 155 horsepower.
 - Gasoline-fired engines with cumulative power equal to or less than 200 horsepower.
 - Any of the following emergency or stand-by engines used for less than 500 hours in each calendar year, provided the permittee keeps records documenting the hours of operation of the engines:
 - Any combination of diesel-, natural gas- or gasoline-fired emergency engines with cumulative power equal to or less than 2,500 horsepower.
 - Natural gas-fired emergency engines with cumulative power equal to or less than 2,700 horsepower.
 - Gasoline-fired emergency engines with cumulative power equal to or less than 3,700 horsepower.
 - Any combination of boilers with a cumulative maximum design heat input capacity of less than 10 million Btu/hr.
25. "CFR" means the Code of Federal Regulations, amended as of July 1, 2011, (and no future editions), with standard references in this Chapter by Title and Part, so that "40 CFR 51" means Title 40 of the Code of Federal Regulations, Part 51.
26. "Charge" means the addition of metal bearing materials, scrap, or fluxes to a furnace, converter or refining vessel.
27. "Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post-combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam, that was not in widespread use as of November 15, 1990.
28. "Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy - Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology or similar projects funded through appropriations for the Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.
29. "Coal" means all solid fossil fuels classified as anthracite, bituminous, subbituminous, or lignite by ASTM D-388-91, (Classification of Coals by Rank).
30. "Combustion" means the burning of matter.
31. "Commence" means, as applied to construction of a source, or a major modification as defined in Article 4 of this Chapter, that the owner or operator has all necessary preconstruction approvals or permits and either has:
- Begun, or caused to begin, a continuous program of actual onsite construction of the source, to be completed within a reasonable time; or
 - Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.
32. "Construction" means any physical change or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit, which would result in a change in emissions.
33. "Continuous monitoring system" means a CEMS, CERMS, or CPMS.
34. "Continuous emissions monitoring system" or "CEMS" means the total equipment, required under the emission monitoring provisions in this Chapter, used to sample, condition (if applicable), analyze, and provide, on a continuous basis, a permanent record of emissions.
35. "Continuous emissions rate monitoring system" or "CERMS" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).
36. "Continuous parameter monitoring system" or "CPMS" means the total equipment, required under the emission monitoring provisions in this Chapter, to monitor process or control device operational parameters (for example, control device secondary voltages and electric currents) or other information (for example, gas flow rate, O₂ or CO₂ concentrations) and to provide, on a continuous basis, a permanent record of monitored values.
37. "Controlled atmosphere incinerator" means one or more refractory-lined chambers in which complete combustion is promoted by recirculation of gases by mechanical means.
38. "Conventional air pollutant" means any pollutant for which the Administrator has promulgated a primary or secondary national ambient air quality standard. A.R.S. § 49-401.01(12).
39. "Department" means the Department of Environmental Quality. A.R.S. § 49-101(2).
40. "Director" means the director of environmental quality who is also the director of the department. A.R.S. § 49-101(3).
41. "Discharge" means the release or escape of an effluent from a source into the atmosphere.
42. "Dust" means finely divided solid particulate matter occurring naturally or created by mechanical processing, handling or storage of materials in the solid state.
43. "Dust suppressant" means a chemical compound or mixture of chemical compounds added with or without water to a dust source for purposes of preventing air entrainment.
44. "Effluent" means any air contaminant which is emitted and subsequently escapes into the atmosphere.
45. "Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.
46. "Emission" means an air contaminant or gas stream, or the act of discharging an air contaminant or a gas stream, visible or invisible.
47. "Emission standard" or "emission limitation" means a requirement established by the state, a local government,

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- or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit the level of opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures for a source to assure continuous emission reduction.
48. "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any regulated air pollutant and includes an electric steam generating unit.
49. "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated under R18-2-311(D) to have a consistent and quantitatively known relationship to the reference method, under specified conditions.
50. "Excess emissions" means emissions of an air pollutant in excess of an emission standard as measured by the compliance test method applicable to such emission standard.
51. "Federal applicable requirement" means any of the following (including requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but have future effective compliance dates):
- Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including any revisions to that plan promulgated in 40 CFR 52.
 - Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rulemaking under Title I, including parts C or D, of the Act.
 - Any standard or other requirement under section 111 of the Act, including 111(d).
 - Any standard or other requirement under section 112 of the Act, including any requirement concerning accident prevention under section 112(r)(7) of the Act.
 - Any standard or other requirement of the acid rain program under Title IV of the Act or the regulations promulgated thereunder and incorporated pursuant to R18-2-333.
 - Any requirements established pursuant to section 504(b) or section 114(a)(3) of the Act.
 - Any standard or other requirement governing solid waste incineration, under section 129 of the Act.
 - Any standard or other requirement for consumer and commercial products, under section 183(e) of the Act.
 - Any standard or other requirement for tank vessels under section 183(f) of the Act.
 - Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the Act.
 - Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Act, unless the Administrator has determined that such requirements need not be contained in a Title V permit.
 - Any national ambient air quality standard or maximum increase allowed under R18-2-218 or visibility requirement under Part C of Title I of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(c) of the Act.
52. "Federal Land Manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.
53. "Federally enforceable" means all limitations and conditions which are enforceable by the Administrator under the Act, including all of the following:
- The requirements of the new source performance standards and national emission standards for hazardous air pollutants.
 - The requirements of such other state or county rules or regulations approved by the Administrator, including the requirements of state and county operating and new source review permit and registration programs that have been approved by the Administrator. Notwithstanding this subsection, the condition of any permit or registration designated as being enforceable only by the state is not federally enforceable.
 - The requirements of any applicable implementation plan.
 - Emissions limitations, controls, and other requirements, and any associated monitoring, recordkeeping, and reporting requirements that are included in a permit pursuant to R18-2-306.01 or R18-2-306.02.
54. "Federally listed hazardous air pollutant" means a pollutant listed pursuant to R18-2-1701(9).
55. "Final permit" means the version of a permit issued by the Department after completion of all review required by this Chapter.
56. "Fixed capital cost" means the capital needed to provide all the depreciable components.
57. "Fuel" means any material which is burned for the purpose of producing energy.
58. "Fuel burning equipment" means any machine, equipment, incinerator, device or other Article, except stationary rotating machinery, in which combustion takes place.
59. "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
60. "Fume" means solid particulate matter resulting from the condensation and subsequent solidification of vapors of melted solid materials.
61. "Fume incinerator" means a device similar to an afterburner installed for the purpose of incinerating fumes, gases and other finely divided combustible particulate matter not previously burned.
62. "Good engineering practice (GEP) stack height" means a stack height meeting the requirements described in R18-2-332.
63. "Hazardous air pollutant" means any federally listed hazardous air pollutant.
64. "Heat input" means the quantity of heat in terms of Btus generated by fuels fed into the fuel burning equipment under conditions of complete combustion.
65. "Incinerator" means any equipment, machine, device, contrivance or other Article, and all appurtenances thereof, used for the combustion of refuse, salvage materials or any other combustible material except fossil fuels, for the purpose of reducing the volume of material.
66. "Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the juris-

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diction of the United States and recognized by the United States as possessing power of self-government.

67. "Indian reservation" means any federally recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.
68. "Insignificant activity" means any of the following activities:
 - a. Liquid Storage and Piping
 - i. Petroleum product storage tanks containing the following substances, provided the applicant lists and identifies the contents of each tank with a volume of 350 gallons or more and provides threshold values for throughput or capacity or both for each such tank: diesel fuels and fuel oil in storage tanks with capacity of 40,000 gallons or less, lubricating oil, transformer oil, and used oil.
 - ii. Gasoline storage tanks with capacity of 10,000 gallons or less.
 - iii. Storage and piping of natural gas, butane, propane, or liquified petroleum gas, provided the applicant lists and identifies the contents of each stationary storage vessel with a volume of 350 gallons or more and provides threshold values for throughput or capacity or both for each such vessel.
 - iv. Piping of fuel oils, used oil and transformer oil, provided the applicant includes a system description.
 - v. Storage and handling of drums or other transportable containers where the containers are sealed during storage, and covered during loading and unloading, including containers of waste and used oil regulated under the federal Resource Conservation and Recovery Act, 42 U.S.C. 6901-6992(k). Permit applicants must provide a description of material in the containers and the approximate amount stored.
 - vi. Storage tanks of any size containing exclusively soaps, detergents, waxes, greases, aqueous salt solutions, aqueous solutions of acids that are not regulated air pollutants, or aqueous caustic solutions, provided the permit applicant specifies the contents of each storage tank with a volume of 350 gallons or more.
 - vii. Electrical transformer oil pumping, cleaning, filtering, drying and the re-installation of oil back into transformers.
 - b. Internal combustion engine-driven compressors, internal combustion engine-driven electrical generator sets, and internal combustion engine-driven water pumps used for less than 500 hours per calendar year for emergency replacement or standby service, provided the permittee keeps records documenting the hours of operation of this equipment.
 - c. Low Emitting Processes
 - i. Batch mixers with rated capacity of 5 cubic feet or less.
 - ii. Wet sand and gravel production facilities that obtain material from subterranean and subaqueous beds, whose production rate is 200 tons/hour or less, and whose permanent in-plant roads are paved and cleaned to control dust.

This does not include activities in emissions units which are used to crush or grind any non-metallic minerals.

- iii. Powder coating operations.
- iv. Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing.
- v. Blast-cleaning equipment using a suspension of abrasive in water and any exhaust system or collector serving them exclusively.
- vi. Plastic pipe welding.
- d. Site Maintenance
 - i. Housekeeping activities and associated products used for cleaning purposes, including collecting spilled and accumulated materials at the source, including operation of fixed vacuum cleaning systems specifically for such purposes.
 - ii. Sanding of streets and roads to abate traffic hazards caused by ice and snow.
 - iii. Street and parking lot striping.
 - iv. Architectural painting and associated surface preparation for maintenance purposes at industrial or commercial facilities.
- e. Sampling and Testing
 - i. Noncommercial (in-house) experimental, analytical laboratory equipment which is bench scale in nature, including quality control/quality assurance laboratories supporting a stationary source and research and development laboratories.
 - ii. Individual sampling points, analyzers, and process instrumentation, whose operation may result in emissions but that are not regulated as emission units.
- f. Ancillary Non-Industrial Activities
 - i. General office activities, such as paper shredding, copying, photographic activities, and blueprinting, but not to include incineration.
 - ii. Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) where the product is used at a source in the same manner as normal consumer use.
 - iii. Activities directly used in the diagnosis and treatment of disease, injury or other medical condition.
- g. Miscellaneous Activities
 - i. Installation and operation of potable, process and waste water observation wells, including drilling, pumping, filtering apparatus.
 - ii. Transformer vents.
69. "Kraft pulp mill" means any stationary source which produces pulp from wood by cooking or digesting wood chips in a water solution of sodium hydroxide and sodium sulfide at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.
70. "Lead" means elemental lead or alloys in which the predominant component is lead.
71. "Lime hydrator" means a unit used to produce hydrated lime product.

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72. "Lime plant" includes any plant which produces a lime product from limestone by calcination. Hydration of the lime product is also considered to be part of the source.
73. "Lime product" means any product produced by the calcination of limestone.
74. "Major modification" is defined as follows:
- a. A major modification is any physical change in or change in the method of operation of a major source that would result in both a significant emissions increase of any regulated NSR pollutant and a significant net emissions increase of that pollutant from the stationary source.
 - b. Any emissions increase or net emissions increase that is significant for nitrogen oxides or volatile organic compounds is significant for ozone.
 - c. For the purposes of this definition, none of the following is a physical change or change in the method of operation:
 - i. Routine maintenance, repair, and replacement;
 - ii. Use of an alternative fuel or raw material by reason of an order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792, or by reason of a natural gas curtailment plan under the Federal Power Act, 16 U.S.C. 792 - 825r;
 - iii. Use of an alternative fuel by reason of an order or rule under section 125 of the Act;
 - iv. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
 - v. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, any of the following:
 - (1) Use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before December 21, 1976, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976 under 40 CFR 52.21 or under Articles 3 or 4 of this Chapter; or
 - (2) Use of an alternative fuel or raw material by a stationary source that the source is approved to use under any permit issued under R18-2-403;
 - (3) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 21, 1976, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.
 - vi. For purposes of determining the applicability of R18-2-406 through R18-2-408 or R18-2-410, any of the following:
 - (1) Use of an alternative fuel or raw material by a stationary source that the source was capable of accommodating before January 6, 1975, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975 under 40 CFR 52.21 or under Articles 3 or 4 of this Chapter;
 - (2) Use of an alternative fuel or raw material by a stationary source that the source is approved to use under any permit issued under 40 CFR 52.21, or under R18-2-406; or
 - (3) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.
 - vii. Any change in ownership at a stationary source;
 - viii. [Reserved.]
 - ix. The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, if the project complies with:
 - (1) The SIP, and
 - (2) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated;
 - x. For electric utility steam generating units located in attainment and unclassifiable areas only, the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, if the project does not result in an increase in the potential to emit any regulated pollutant emitted by the unit. This exemption applies on a pollutant-by-pollutant basis; and
 - xi. For electric utility steam generating units located in attainment and unclassifiable areas only, the reactivation of a very clean coal-fired electric utility steam generating unit.
 - d. This definition shall not apply with respect to a particular regulated NSR pollutant when the major source is complying with the requirements of R18-2-412 for a PAL for that regulated NSR pollutant. Instead, the definition of PAL major modification in R18-2-401(20) shall apply.
75. "Major source" means:
- a. A major source as defined in R18-2-401.
 - b. A major source under section 112 of the Act:
 - i. For pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, including fugitive emission 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as described in Article 11 of this Chapter. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

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- ii. For radionuclides, "major source" shall have the meaning specified by the Administrator by rule.
 - c. A major stationary source, as defined in section 302 of the Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant including any major source of fugitive emissions of any such pollutant. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to a section 302(j) category.
76. "Malfunction" means any sudden and unavoidable failure of air pollution control equipment, process equipment or a process to operate in a normal and usual manner, but does not include failures that are caused by poor maintenance, careless operation or any other upset condition or equipment breakdown which could have been prevented by the exercise of reasonable care.
 77. "Minor source" means a source of air pollution which is not a major source for the purposes of Article 4 of this Chapter and over which the Director, acting pursuant to A.R.S. § 49-402(B), has asserted jurisdiction.
 78. "Minor source baseline area" means the air quality control region in which the source is located.
 79. "Mobile source" means any combustion engine, device, machine or equipment that operates during transport and that emits or generates air contaminants whether in motion or at rest. A.R.S. § 49-401.01(23).
 80. "Modification" or "modify" means a physical change in or change in the method of operation of a source that increases the emissions of any regulated air pollutant emitted by such source by more than any relevant de minimis amount or that results in the emission of any regulated air pollutant not previously emitted by more than such de minimis amount. An increase in emissions at a minor source shall be determined by comparing the source's potential to emit before and after the modification. The following exemptions apply:
 - a. A physical or operational change does not include routine maintenance, repair or replacement.
 - b. An increase in the hours of operation or if the production rate is not considered an operational change unless such increase is prohibited under any permit condition that is legally and practically enforceable by the department.
 - c. A change in ownership at a source is not considered a modification. A.R.S. § 49-401.01(24).
 81. "Monitoring device" means the total equipment, required under the applicable provisions of this Chapter, used to measure and record, if applicable, process parameters.
 82. "Motor vehicle" means any self-propelled vehicle designed for transporting persons or property on public highways.
 83. "Multiple chamber incinerator" means three or more refractory-lined combustion chambers in series, physically separated by refractory walls and interconnected by gas passage ports or ducts.
 84. "Natural conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.
 85. "National ambient air quality standard" means the ambient air pollutant concentration limits established by the Administrator pursuant to section 109 of the Act. A.R.S. § 49-401.01(25).
 86. "National emission standards for hazardous air pollutants" or "NESHAP" means standards adopted by the Administrator under section 112 of the Act.
 87. "Necessary preconstruction approvals or permits" means those permits or approvals required under the Act and those air quality control laws and rules which are part of the SIP.
 88. "Net emissions increase" means:
 - a. The amount by which the sum of subsections (88)(a)(i) and (ii) exceeds zero:
 - i. The increase in emissions of a regulated NSR pollutant from a particular physical change or change in the method of operation at a stationary source as calculated pursuant to R18-2-402(D); and
 - ii. Any other increases and decreases in actual emissions of the regulated NSR pollutant at the source that are contemporaneous with the particular change and are otherwise creditable.
 - iii. For purposes of calculating increases and decreases in actual emissions under subsection (88)(a)(ii), baseline actual emissions shall be determined as provided in the definition of baseline actual emissions in R18-2-401(2), except that R18-2-401(2)(a)(iii) and (b)(iv) shall not apply.
 - b. An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between:
 - i. The date five years before a complete application for a permit or permit revision authorizing the particular change is submitted or actual construction of the particular change begins, whichever occurs earlier, and
 - ii. The date that the increase from the particular change occurs.
 - c. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, an increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit or permit revision under R18-2-403, which permit is in effect when the increase in actual emissions from the particular change occurs. For purposes of determining the applicability of R18-2-406 through R18-2-408 or R18-2-410, an increase or decrease in actual emissions is creditable only if the Director has not relied on it in issuing a permit under R18-2-406, which permit is in effect when the increase in actual emissions from the particular change occurs.
 - d. An increase or decrease in actual emissions of sulfur dioxide, nitrogen oxides, PM₁₀, or PM_{2.5} which occurs before the applicable minor source baseline date, as defined in R18-2-218, is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.
 - e. An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

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- f. A decrease in actual emissions is creditable only to the extent that it satisfies all of the following conditions:
- The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions.
 - It is enforceable as a practical matter at and after the time that actual construction on the particular change begins.
 - It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
 - The emissions unit was actually operated and emitted the specific pollutant.
 - For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, the Director has not relied on it in issuing any permit, permit revision, or registration under Article 4, R18-2-302.01, or R18-2-334, and the state has not relied on it in demonstrating attainment or reasonable further progress.
- g. An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit, as defined in R18-2-401(24), that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
- h. Subsection (2)(a) shall not apply for determining creditable increases and decreases.
89. "New source" means any stationary source of air pollution which is subject to a new source performance standard.
90. "New source performance standards" or "NSPS" means standards adopted by the Administrator under section 111(b) of the Act.
91. "Nitric acid plant" means any facility producing nitric acid 30% to 70% in strength by either the pressure or atmospheric pressure process.
92. "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods set forth in the Appendices to 40 CFR 60.
93. "Nonattainment area" means an area so designated by the Administrator acting pursuant to section 107 of the Act as exceeding national primary or secondary ambient air standards for a particular pollutant or pollutants.
94. "Nonpoint source" means a source of air contaminants which lacks an identifiable plume or emission point.
95. "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.
96. "Operation" means any physical or chemical action resulting in the change in location, form, physical properties, or chemical character of a material.
97. "Owner or operator" means any person who owns, leases, operates, controls, or supervises an affected facility or a stationary source.
98. "Particulate matter" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.
99. "Particulate matter emissions" means all finely divided solid or liquid materials other than uncombined water, emitted to the ambient air as measured by applicable test methods and procedures described in R18-2-311.
100. "Permitting authority" means the department or a county department, agency or air pollution control district that is charged with enforcing a permit program adopted pursuant to A.R.S. § 49-480(A). A.R.S. § 49-401.01(28).
101. "Permitting exemption thresholds" for a regulated minor NSR pollutant means the following:
- | Regulated Air Pollutant | Emission Rate in tons per year (TPY) |
|---|--------------------------------------|
| PM _{2.5} (primary emissions only; levels for precursors are set below) | 5 |
| PM ₁₀ | 7.5 |
| SO ₂ | 20 |
| NO _x | 20 |
| VOC | 20 |
| CO | 50 |
| Pb | 0.3 |
102. "Person" means any public or private corporation, company, partnership, firm, association or society of persons, the federal government and any of its departments or agencies, the state and any of its agencies, departments or political subdivisions, as well as a natural person.
103. "Planning agency" means an organization designated by the governor pursuant to 42 U.S.C. 7504. A.R.S. § 49-401.01(29).
104. "PM_{2.5}" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated according to 40 CFR 53.
105. "PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method contained within 40 CFR 50 Appendix J or by an equivalent method designated in accordance with 40 CFR 53.
106. "PM₁₀ emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by applicable test methods and procedures described in R18-2-311.
107. "Plume" means visible effluent.
108. "Pollutant" means an air contaminant the emission or ambient concentration of which is regulated pursuant to this Chapter.
109. "Portable source" means any stationary source that is capable of being operated at more than one location.
110. "Potential to emit" or "potential emission rate" means the maximum capacity of a stationary source to emit a pollutant, excluding secondary emissions, under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is legally and practically enforceable by the Department or a county under A.R.S. Title 49, Chapter 3; any rule, ordinance, order or permit adopted or issued

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- under A.R.S. Title 49, Chapter 3 or the state implementation plan.
111. "Predictive Emissions Monitoring System" or "PEMS" means the total equipment, required under the emission monitoring provisions in this Chapter, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O₂ or CO₂ concentrations), and calculate and record the mass emissions rate (for example, lb/hr) on a continuous basis.
 112. "Primary ambient air quality standards" means the ambient air quality standards which define levels of air quality necessary, with an adequate margin of safety, to protect the public health, as specified in Article 2 of this Chapter.
 113. "Process" means one or more operations, including equipment and technology, used in the production of goods or services or the control of by-products or waste.
 114. "Project" means a physical change in, or change in the method of operation of, an existing major source.
 115. "Proposed final permit" means the version of a Class I permit or Class I permit revision that the Department proposes to issue and forwards to the Administrator for review in compliance with R18-2-307(A). A proposed final permit constitutes a final and enforceable authorization to begin actual construction of, but not to operate, a new Class I source or a modification to a Class I source.
 116. "Proposed permit" means the version of a permit for which the Director offers public participation under R18-2-330 or affected state review under R18-2-307(D).
 117. "Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with commencing commercial operations by a coal-fired utility unit after a period of discontinued operation if the unit:
 - a. Has not been in operation for the two-year period before enactment of the Clean Air Act Amendments of 1990, and the emissions from the unit continue to be carried in the Director's emissions inventory at the time of enactment;
 - b. Was equipped before shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85% and a removal efficiency for particulates of no less than 98%;
 - c. Is equipped with low-NO_x burners before commencement of operations following reactivation; and
 - d. Is otherwise in compliance with the Act.
 118. "Reasonable further progress" means the schedule of emission reductions defined within a nonattainment area plan as being necessary to come into compliance with a national ambient air quality standard by the primary standard attainment date.
 119. "Reasonably available control technology" (RACT) means devices, systems, process modifications, work practices or other apparatus or techniques that are determined by the Director to be reasonably available taking into account:
 - a. The necessity of imposing the controls in order to attain and maintain a national ambient air quality standard;
 - b. The social, environmental, energy and economic impact of the controls;
 - c. Control technology in use by similar sources; and
 - d. The capital and operating costs and technical feasibility of the controls.
 120. "Reclaiming machinery" means any machine, equipment device or other Article used for picking up stored granular material and either depositing this material on a conveyor or reintroducing this material into the process.
 121. "Reference method" means the methods of sampling and analyzing for an air pollutant as described in the Arizona Testing Manual; 40 CFR 50, Appendices A through K; 40 CFR 51, Appendix M; 40 CFR 52, Appendices D and E; 40 CFR 60, Appendices A through F; and 40 CFR 61, Appendices B and C, as incorporated by reference in 18 A.A.C. 2, Appendix 2.
 122. "Regulated air pollutant" means any of the following:
 - a. Any conventional air pollutant.
 - b. Nitrogen oxides and volatile organic compounds.
 - c. Any pollutant that is subject to a new source performance standard.
 - d. Any pollutant that is subject to a national emission standard for hazardous air pollutants or other requirements established under section 112 of the Act, including sections 112(g), (j), and (r), including the following:
 - i. Any pollutant subject to requirements under section 112(j) of the act. If the administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the act, any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the Act; and
 - ii. Any pollutant for which the requirements of section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement.
 - e. Any Class I or II substance subject to a standard promulgated under title VI of the Act.
 123. "Regulated minor NSR pollutant" means any pollutant for which a national ambient air quality standard has been promulgated and the following precursors for such pollutants:
 - a. VOC and nitrogen oxides as precursors to ozone.
 - b. Nitrogen oxides and sulfur dioxide as precursors to PM_{2.5}.
 124. "Regulated NSR pollutant" is defined as follows:
 - a. For purposes of determining the applicability of R18-2-403 through R18-2-405 and R18-2-411, regulated NSR pollutant means any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under this subsection as a constituent of or precursor to such pollutant, provided that such constituent or precursor pollutant may only be regulated under NSR as part of the regulation of the general pollutant. Precursors for purposes of NSR are the following:
 - i. Volatile organic compounds and nitrogen oxides are precursors to ozone in all areas.
 - ii. Sulfur dioxide is a precursor to PM_{2.5} in all areas.
 - iii. Nitrogen oxides are precursors to PM_{2.5} in all areas.
 - iv. VOC and ammonia are precursors to PM_{2.5} in PM_{2.5} nonattainment areas.

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- b. For all other purposes, regulated NSR pollutant means the pollutants identified in subsection (a) and the following:
 - i. Any pollutant that is subject to any new source performance standard except greenhouse gases as defined in 40 CFR 86.1818-12(a).
 - ii. Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act as of July 1, 2011.
 - iii. Any pollutant that is otherwise subject to regulation under the Act, except greenhouse gases as defined in 40 CFR 86.1818-12(a).
 - c. Notwithstanding subsections (124)(a) and (b), the term regulated NSR pollutant shall not include any or all hazardous air pollutants either listed in section 112 of the Act, or added to the list pursuant to section 112(b)(2) of the Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act.
 - d. PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On and after January 1, 2011, condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM_{2.5} and PM₁₀ in permits issued under Article 4.
125. "Repowering" means:
- a. Replacing an existing coal-fired boiler with one of the following clean coal technologies:
 - i. Atmospheric or pressurized fluidized bed combustion;
 - ii. Integrated gasification combined cycle;
 - iii. Magnetohydrodynamics;
 - iv. Direct and indirect coal-fired turbines;
 - v. Integrated gasification fuel cells; or
 - vi. As determined by the Administrator, in consultation with the United States Secretary of Energy, a derivative of one or more of the above technologies; and
 - vii. Any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.
 - b. Repowering also includes any oil, gas, or oil and gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the United States Department of Energy.
 - c. The Director shall give expedited consideration to permit applications for any source that satisfies the requirements of this subsection (and) is granted an extension under section 409 of the Act.
126. "Run" means the net period of time during which an emission sample is collected, which may be, unless otherwise specified, either intermittent or continuous within the limits of good engineering practice.
127. "Secondary ambient air quality standards" means the ambient air quality standards which define levels of air quality necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant, as specified in Article 2 of this Chapter.
128. "Secondary emissions" means emissions which are specific, well defined, quantifiable, occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not otherwise be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.
129. "Section 302(j) category" means:
- a. Any of the classes of sources listed in the definition of categorical source in subsection (23); or
 - b. Any category of affected facility which, as of August 7, 1980, is being regulated under section 111 or 112 of the Act.
130. "Shutdown" means the cessation of operation of any air pollution control equipment or process equipment for any purpose, except routine phasing out of process equipment.
131. "Significant" means, in reference to a significant emissions increase, a net emissions increase, a stationary source's potential to emit or a stationary source's maximum capacity to emit with any elective limits as defined in R18-2-301(13):
- a. A rate of emissions of conventional pollutants that would equal or exceed any of the following:
- | Pollutant | Emissions Rate |
|-------------------|---|
| Carbon monoxide | 100 tons per year (tpy) |
| Nitrogen oxides | 40 tpy |
| Sulfur dioxide | 40 tpy |
| PM ₁₀ | 15 tpy |
| PM _{2.5} | 10 tpy of direct PM _{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions. |
| Ozone | 40 tpy of VOC or nitrogen oxides |
| Lead | 0.6 tpy |
- b. For purposes of determining the applicability of R18-2-302(B)(2) or R18-2-406, in addition to the rates specified in subsection (131)(a), a rate of emissions of non-conventional pollutants that would equal or exceed any of the following:
- | Pollutant | Emissions Rate |
|---|----------------|
| Particulate matter | 25 tpy |
| Fluorides | 3 tpy |
| Sulfuric acid mist | 7 tpy |
| Hydrogen sulfide (H ₂ S) | 10 tpy |
| Total reduced sulfur (including H ₂ S) | 10 tpy |
| Reduced sulfur compounds (including H ₂ S) | 10 tpy |

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| <p>Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans) 3.5×10^{-6} tpy</p> <p>Municipal waste combustor metals (measured as particulate matter) 15 tpy</p> <p>Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride) 40 tpy</p> <p>Municipal solid waste landfill emissions (measured as nonmethane organic compounds) 50 tpy</p> <p>Any regulated NSR pollutant not specifically listed in this subsection (or) subsection (131)(a), except for ammonia. Any emission rate</p> | <p>undertake a program of construction of the stack to be completed in a reasonable time.</p> |
|--|---|
- c. In ozone nonattainment areas classified as serious or severe, the emission rate for nitrogen oxides or VOC determined under R18-2-405.
 - d. In a carbon monoxide nonattainment area classified as serious, a rate of emissions that would equal or exceed 50 tons per year, if the Administrator has determined that stationary sources contribute significantly to carbon monoxide levels in that area.
 - e. In $PM_{2.5}$ nonattainment areas, an emission rate that would equal or exceed 40 tons per year of VOC as a precursor of $PM_{2.5}$.
 - f. In $PM_{2.5}$ nonattainment areas, for purposes of determining the applicability of R18-2-403 or R18-2-404, an emission rate that would equal or exceed 40 tons per year of ammonia, as a precursor to $PM_{2.5}$. This subsection shall take effect on the effective date of the Administrator's action approving it as part of the state implementation plan.
 - g. Notwithstanding the emission rates listed in subsection (131)(a) or (b), for purposes of determining the applicability of R18-2-406, any emissions rate or any net emissions increase associated with a major source or major modification, which would be constructed within 10 kilometers of a Class I area and have an impact on the ambient air quality of such area equal to or greater than $1 \mu\text{g}/\text{m}^3$ (24-hour average).
132. "Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant as defined in this Section for that pollutant.
 133. "Smoke" means particulate matter resulting from incomplete combustion.
 134. "Source" means any building, structure, facility or installation that may cause or contribute to air pollution or the use of which may eliminate, reduce or control the emission of air pollution. A.R.S. § 49-401.01(23).
 135. "Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.
 136. "Stack in existence" means that the owner or operator had either:
 - a. Begun, or caused to begin, a continuous program of physical onsite construction of the stack;
 - b. Entered into binding agreements or contractual obligations, which could not be cancelled or modified without substantial loss to the owner or operator, to
- undertake a program of construction of the stack to be completed in a reasonable time.
 137. "Start-up" means the setting into operation of any air pollution control equipment or process equipment for any purpose except routine phasing in of process equipment.
 138. "State implementation plan" or "SIP" means the accumulated record of enforceable air pollution control measures, programs and plans adopted by the Director and submitted to and approved by the Administrator pursuant to 42 U.S.C. 7410.
 139. "Stationary rotating machinery" means any gas engine, diesel engine, gas turbine, or oil fired turbine operated from a stationary mounting and used for the production of electric power or for the direct drive of other equipment.
 140. "Stationary source" means any building, structure, facility or installation which emits or may emit any regulated NSR pollutant, any regulated air pollutant or any pollutant listed under section 112(b) of the act. "Building," "structure," "facility," or "installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" as described in the "Standard Industrial Classification Manual, 1987."
 141. "Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the Act, or a nationally-applicable regulation codified by the administrator in 40 CFR chapter I, subchapter C, that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity.
 142. "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized as a means of preventing emissions of sulfur dioxide or other sulfur compounds to the atmosphere.
 143. "Temporary clean coal technology demonstration project" means a clean coal technology demonstration project operated for five years or less, and that complies with the applicable implementation plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.
 144. "Temporary source" means a source which is portable, as defined in A.R.S. § 49-401.01(23) and which is not an affected source.
 145. "Total reduced sulfur" (TRS) means the sum of the sulfur compounds, primarily hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, that are released during kraft pulping and other operations and measured by Method 16 in 40 CFR 60, Appendix A.
 146. "Trivial activities" means activities and emissions units, such as the following, that may be omitted from a permit or registration application. Certain of the following listed activities include qualifying statements intended to exclude similar activities:
 - a. Low-Emitting Combustion

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- i. Combustion emissions from propulsion of mobile sources;
- ii. Emergency or backup electrical generators at residential locations;
- iii. Portable electrical generators that can be moved by hand from one location to another. "Moved by hand" means capable of being moved without the assistance of any motorized or non-motorized vehicle, conveyance, or device;
- b. Low- Or Non-Emitting Industrial Activities
 - i. Blacksmith forges;
 - ii. Hand-held or manually operated equipment used for buffing, polishing, carving, cutting, drilling, sawing, grinding, turning, routing or machining of ceramic art work, precision parts, leather, metals, plastics, fiberboard, masonry, carbon, glass, or wood;
 - iii. Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that do not result in emission of HAP metals. Brazing, soldering, and welding equipment, and cutting torches related to manufacturing and construction activities that emit HAP metals are insignificant activities based on size or production level thresholds. Brazing, soldering, and welding equipment, and cutting torches directly related to plant maintenance and upkeep and repair or maintenance shop activities that emit HAP metals are treated as trivial and listed separately in this definition;
 - iv. Drop hammers or hydraulic presses for forging or metalworking;
 - v. Air compressors and pneumatically operated equipment, including hand tools;
 - vi. Batteries and battery charging stations, except at battery manufacturing plants;
 - vii. Drop hammers or hydraulic presses for forging or metalworking;
 - viii. Equipment used exclusively to slaughter animals, not including other equipment at slaughterhouses, such as rendering cookers, boilers, heating plants, incinerators, and electrical power generating equipment;
 - ix. Hand-held applicator equipment for hot melt adhesives with no VOC in the adhesive formulation;
 - x. Equipment used for surface coating, painting, dipping, or spraying operations, except those that will emit VOC or HAP;
 - xi. CO2 lasers used only on metals and other materials that do not emit HAP in the process;
 - xii. Electric or steam-heated drying ovens and autoclaves, but not the emissions from the articles or substances being processed in the ovens or autoclaves or the boilers delivering the steam;
 - xiii. Salt baths using nonvolatile salts that do not result in emissions of any regulated air pollutants;
 - xiv. Laser trimmers using dust collection to prevent fugitive emissions;
 - xv. Process water filtration systems and demineralizers;
 - xvi. Demineralized water tanks and demineralizer vents;
 - xvii. Oxygen scavenging or de-aeration of water;
 - xviii. Ozone generators;
 - xix. Steam vents and safety relief valves;
 - xx. Steam leaks; and
 - xxi. Steam cleaning operations and steam sterilizers;
 - xxii. Use of vacuum trucks and high pressure washer/cleaning equipment within the stationary source boundaries for cleanup and in-source transfer of liquids and slurried solids to waste water treatment units or conveyances;
 - xxiii. Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing.
 - xxiv. Electric motors.
- c. Building and Site Maintenance Activities
 - i. Plant and building maintenance and upkeep activities, including grounds-keeping, general repairs, cleaning, painting, welding, plumbing, re-tarring roofs, installing insulation, and paving parking lots, if these activities are not conducted as part of a manufacturing process, are not related to the source's primary business activity, and do not otherwise trigger a permit revision. Cleaning and painting activities qualify as trivial activities if they are not subject to VOC or hazardous air pollutant control requirements;
 - ii. Repair or maintenance shop activities not related to the source's primary business activity, not including emissions from surface coating, de-greasing, or solvent metal cleaning activities, and not otherwise triggering a permit revision;
 - iii. Janitorial services and consumer use of janitorial products;
 - iv. Landscaping activities;
 - v. Routine calibration and maintenance of laboratory equipment or other analytical instruments;
 - vi. Sanding of streets and roads to abate traffic hazards caused by ice and snow;
 - vii. Street and parking lot striping;
 - viii. Caulking operations which are not part of a production process.
- d. Incidental, Non-Industrial Activities
 - i. Air-conditioning units used for human comfort that do not have applicable requirements under Title VI of the Act;
 - ii. Ventilating units used for human comfort that do not exhaust air pollutants into the ambient air from any manufacturing, industrial or commercial process;
 - iii. Tobacco smoking rooms and areas;
 - iv. Non-commercial food preparation;
 - v. General office activities, such as paper shredding, copying, photographic activities, pencil sharpening and blueprinting, but not including incineration;
 - vi. Laundry activities, except for dry-cleaning and steam boilers;
 - vii. Bathroom and toilet vent emissions;

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- viii. Fugitive emissions related to movement of passenger vehicles, if the emissions are not counted for applicability purposes under subsection (146)(c) of the definition of major source in this Section and any required fugitive dust control plan or its equivalent is submitted with the application;
- ix. Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) where the product is used at a source in the same manner as normal consumer use;
- x. Activities directly used in the diagnosis and treatment of disease, injury or other medical condition;
- xi. Circuit breakers;
- xii. Adhesive use which is not related to production.
- e. Storage, Piping and Packaging
 - i. Storage tanks, vessels, and containers holding or storing liquid substances that will not emit any VOC or HAP;
 - ii. Storage tanks, reservoirs, and pumping and handling equipment of any size containing soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, if appropriate lids and covers are used;
 - iii. Chemical storage associated with water and wastewater treatment where the water is treated for consumption and/or use within the permitted facility;
 - iv. Chemical storage associated with water and wastewater treatment where the water is treated for consumption and/or use within the permitted facility;
 - v. Storage cabinets for flammable products;
 - vi. Natural gas pressure regulator vents, excluding venting at oil and gas production facilities;
 - vii. Equipment used to mix and package soaps, vegetable oil, grease, animal fat, and nonvolatile aqueous salt solutions, if appropriate lids and covers are used;
- f. Sampling and Testing
 - i. Vents from continuous emissions monitors and other analyzers;
 - ii. Bench-scale laboratory equipment used for physical or chemical analysis, but not laboratory fume hoods or vents;
 - iii. Equipment used for quality control, quality assurance, or inspection purposes, including sampling equipment used to withdraw materials for analysis;
 - iv. Hydraulic and hydrostatic testing equipment;
 - v. Environmental chambers not using HAP gases;
 - vi. Soil gas sampling;
 - vii. Individual sampling points, analyzers, and process instrumentation, whose operation may result in emissions but that are not regulated as emission units;
- g. Safety Activities
 - i. Fire suppression systems;
 - ii. Emergency road flares;
- h. Miscellaneous Activities
 - i. Shock chambers;
 - ii. Humidity chambers;
 - iii. Solar simulators;
 - iv. Cathodic protection systems;
 - v. High voltage induced corona; and
 - vi. Filter draining.
- 147. "Unclassified area" means an area which the Administrator, because of a lack of adequate data, is unable to classify as an attainment or nonattainment area for a specific pollutant, and which, for purposes of this Chapter, is treated as an attainment area.
- 148. "Uncombined water" means condensed water containing analytical trace amounts of other chemical elements or compounds.
- 149. "Urban or suburban open area" means an unsubdivided tract of land surrounding a substantial urban development of a residential, industrial, or commercial nature and which, though near or within the limits of a city or town, may be uncultivated, used for agriculture, or lie fallow.
- 150. "Vacant lot" means a subdivided residential or commercial lot which contains no buildings or structures of a temporary or permanent nature.
- 151. "Vapor" means the gaseous form of a substance normally occurring in a liquid or solid state.
- 152. "Visibility impairment" means any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions.
- 153. "Visible emissions" means any emissions which are visually detectable without the aid of instruments and which contain particulate matter.
- 154. "Volatile organic compounds" or "VOC" means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions. This includes any such organic compound other than the following:
 - a. Methane;
 - b. Ethane;
 - c. Methylene chloride (dichloromethane);
 - d. 1,1,1-trichloroethane (methyl chloroform);
 - e. 1,1,2-trichloro-1,2,2-trifluoroethane (CFC-113);
 - f. Trichlorofluoromethane (CFC-11);
 - g. Dichlorodifluoromethane (CFC-12);
 - h. Chlorodifluoromethane (HCFC-22);
 - i. Trifluoromethane (HFC-23);
 - j. 1,2-dichloro 1,1,2,2-tetrafluoroethane (CFC-114);
 - k. Chloropentafluoroethane (CFC-115);
 - l. 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123);
 - m. 1,1,1,2-tetrafluoroethane (HFC-134(a));
 - n. 1,1-dichloro 1-fluoroethane (HCFC-141(b));
 - o. 1-chloro 1,1-difluoroethane (HCFC-142(b));
 - p. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);
 - q. Pentafluoroethane (HFC-125);
 - r. 1,1,2,2-tetrafluoroethane (HFC-134);
 - s. 1,1,1-trifluoroethane (HFC-143(a));
 - t. 1,1-difluoroethane (HFC-152(a));
 - u. Parachlorobenzotrifluoride (PCBTF);
 - v. Cyclic, branched, or linear completely methylated siloxanes;
 - w. Acetone;
 - x. Perchloroethylene (tetrachloroethylene);
 - y. 3,3-dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225(ca));

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- z. 1,3-dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225(cb));
- aa. 1,1,1,2,3,3,4,4,5,5,5-decafluoropentane (HFC 43-10mee);
- bb. Difluoromethane (HFC-32);
- cc. Ethylfluoride (HFC-161);
- dd. 1,1,1,3,3,3-hexafluoropropane (HFC-236(fa));
- ee. 1,1,2,2,3-pentafluoropropane (HFC-245(ca));
- ff. 1,1,2,3,3-pentafluoropropane (HFC-245(ea));
- gg. 1,1,1,2,3-pentafluoropropane (HFC-245(eb));
- hh. 1,1,1,3,3-pentafluoropropane (HFC-245(fa));
- ii. 1,1,1,2,3,3-hexafluoropropane (HFC-236(ea));
- jj. 1,1,1,3,3-pentafluorobutane (HFC-365(mfc));
- kk. Chlorofluoromethane (HCFC-31);
- ll. 1-chloro-1-fluoroethane (HCFC-151(a));
- mm. 1,2-dichloro-1,1,2-trifluoroethane (HCFC-123(a));
- nn. 1,1,1,2,2,3,3,4,4-nonafluoro-4-methoxy-butane (C₄F₉OCH₃);
- oo. 2-(difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OCH₃);
- pp. 1-ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (C₄F₉OC₂H₅);
- qq. 2-(ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane ((CF₃)₂CFCF₂OC₂H₅);
- rr. Methyl acetate; and
- ss. 1,1,1,2,2,3,3-heptafluoro-3-methoxypropane (n-C₃F₇OCH₃, HFE—7000);
- tt. 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE – 7500);
- uu. 1,1,1,2,3,3,3-hentafluoropropane (HFC 227ea);
- vv. Methyl formate (HCOOCH₃); and
- ww. (1) 1,1,1,2,2,3,4,5,5,5-decafluoro-3-methoxy-4-trifluoromethyl-pentane (HFE–7300);
- xx. Propylene carbonate;
- yy. Dimethyl carbonate; and
- zz. Trans -1,3,3,3-tetrafluoropropene;
- aaa. HCF₂OCF₂H (HFE-134);
- bbb. HCF₂OCF₂OCF₂H (HFE-236(cal2));
- ccc. HCF₂OCF₂CF₂OCF₂H (HFE-338(pcc13));
- ddd. HCF₂OCF₂OCF₂CF₂OCF₂H (H-Galden 1040x or H-Galden ZT 130 (or 150 or 180));
- eee. Trans 1-chloro-3,3,3-trifluoroprop-1-ene;
- fff. 2,3,3,3-tetrafluoropropene;
- ggg. 2-amino-2-methyl-1-propanol; and
- hhh. Perfluorocarbon compounds that fall into these classes:
 - i. Cyclic, branched, or linear, completely fluorinated alkanes.
 - ii. Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations.
 - iii. Cycle, branched, or linear, completely fluorinated tertiary amines with no unsaturations; or
 - iv. Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.
 - v. The following compound is VOC for purposes of all recordkeeping, emissions reporting, photochemical dispersion modeling and inventory requirements which apply to VOC and shall be uniquely identified in emission reports, but is not VOC for purposes of VOC emissions limitations or VOC content requirements: t-butyl acetate.

155. “Wood waste burner” means an incinerator designed and used exclusively for the burning of wood wastes consisting of wood slabs, scraps, shavings, barks, sawdust or other wood material, including those that generate steam as a by-product.

Historical Note

Former Section R9-3-101 repealed, new Section R9-3-101 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, paragraph (133) (Supp. 80-1). Editorial correction, paragraph (58) (Supp. 80-2). Amended effective July 9, 1980. Amended by adding new paragraphs (24), (55), (102), and (115) and renumbering accordingly, effective August 29, 1980 (Supp. 80-4). Amended effective May 28, 1982 (Supp. 82-3). Amended effective September 22, 1983 (Supp. 83-5). Amended paragraph (133), added paragraph (156) and renumbered accordingly effective September 28, 1984 (Supp. 84-5). Amended paragraph (29) by deleting (aa) and (bb) effective August 9, 1985 (Supp. 85-4). Former Section R9-3-101 renumbered without change as R18-2-101 (Supp. 87-3). Amended paragraph (98) effective December 1, 1988 (Supp. 88-4). Amended effective September 26, 1990 (Supp. 90-3). Amended effective November 15, 1993 (Supp. 93-4). Amended effective June 10, 1994 (Supp. 94-2). Amended effective October 7, 1994 (Supp. 94-4). Amended effective February 28, 1995 (Supp. 95-1). Amended effective August 1, 1995 (Supp. 95-3). Amended effective January 31, 1997; filed with the Office of Secretary of State January 10, 1997 (Supp. 97-1). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Amended by final rulemaking at 11 A.A.R. 5504, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 3630, effective February 1, 2020 (Supp. 19-4). Amended by final expedited rulemaking at 28 A.A.R. 1135 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2). Amended by final expedited rulemaking at 30 A.A.R. 2422 (July 26, 2024), with an immediate effective date of July 3, 2024 (Supp. 24-3).

R18-2-102. Incorporated Materials

- A. The following documents are incorporated by reference and are on file with the Office of the Secretary of State (1700 W. Washington St., Suite 103, Phoenix, AZ 85007) and the Department (1110 W. Washington St., Phoenix, AZ 85007):
1. Sections 1 and 7 of the Department’s “Arizona Testing Manual for Air Pollutant Emissions,” amended as of March 1992 (and no future editions).
 2. All ASTM test methods referenced in this Chapter as of the year specified in the reference (and no future amendments). They are available from the American Society for

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Testing and Materials, 1916 Race St., Philadelphia, PA 19103-1187.

3. The U.S. Government Printing Office's "Standard Industrial Classification Manual, 1987" (and no future editions).

- B.** The Code of Federal Regulations is published by the United States Government Printing Office, 732 North Capital Street, NW, Washington, DC 20401-0001, is on file with the Department of Environmental Quality, 1110 West Washington Street, Phoenix, Arizona 85007, and is available at the Arizona State Library, Archives & Public Records, 1700 West Washington Street, Phoenix, Arizona 85007 and at other Federal depository libraries in the state (see http://catalog.gpo.gov/fdlpdir/FDLPdir.jsp?st_12=AZ&flag=searchp). It is also available online at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>.

Historical Note

Adopted effective September 26, 1990 (Supp. 90-3).
 Amended effective February 3, 1993 (Supp. 93-1).
 Amended effective November 15, 1993 (Supp. 93-4).
 Amended effective June 10, 1994 (Supp. 94-2). Amended effective December 7, 1995 (Supp. 95-4). Amended by final rulemaking at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).
 Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-103. Applicable Implementation Plan; Savings

No rule adopted in this Chapter shall preempt or nullify any applicable requirement or emission standard in an applicable implementation plan unless the Director revises the applicable implementation plan in conformance with the requirements of 40 CFR 51, Subpart F, and the Administrator approves the revision.

Historical Note

Adopted effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

ARTICLE 2. AMBIENT AIR QUALITY STANDARDS; AREA DESIGNATIONS; CLASSIFICATIONS**R18-2-201. Particulate Matter: PM₁₀ and PM_{2.5}**

- A.** PM₁₀ Standards
1. The level of the primary and secondary ambient air quality standards for PM₁₀ is 150 micrograms per cubic meter of PM₁₀ – 24-hour average concentration.
 2. To determine attainment of the primary and secondary standards, a person shall measure PM₁₀ in the ambient air by:
 - a. A reference method based on 40 CFR 50, Appendix J, and designated according to 40 CFR 53; or
 - b. An equivalent method designated according to 40 CFR 53.
 3. The primary and secondary 24-hour ambient air quality standards for PM₁₀ are attained when the expected number of days per calendar year with a 24-hour average concentration above 150 micrograms per cubic meter, determined according to 40 CFR 50, Appendix K, is less than or equal to one.
- B.** PM_{2.5} Standards
1. The primary ambient air quality standards for PM_{2.5} are:
 - a. 12 micrograms per cubic meter of PM_{2.5} – annual arithmetic mean concentration.

- b. 35 micrograms per cubic meter of PM_{2.5} – 24-hour average concentration.
2. The secondary ambient air quality standards for PM_{2.5} are:
 - a. 15 micrograms per cubic meter of PM_{2.5} – annual arithmetic mean concentration.
 - b. 35 micrograms per cubic meter of PM_{2.5} – 24-hour average concentration.
3. To determine attainment of the primary and secondary standards, a person shall measure PM_{2.5} in the ambient air by:
 - a. A reference method based on 40 CFR 50, Appendix L, and designated according to 40 CFR 53; or
 - b. An equivalent method designated according to 40 CFR 53.
4. The primary annual ambient air quality standard for PM_{2.5} is met when the annual arithmetic mean concentration, determined according to 40 CFR 50, Appendix N, is less than or equal to 12 micrograms per cubic meter.
5. The secondary annual ambient air quality standard for PM_{2.5} is met when the annual arithmetic mean concentration, determined according to 40 CFR 50, Appendix N, is less than or equal to 15 micrograms per cubic meter.
6. The primary and secondary 24-hour ambient air quality standards for PM_{2.5} are met when the 98th percentile 24-hour concentration, determined according to 40 CFR 50, Appendix N, is less than or equal to 35 micrograms per cubic meter.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5).
 Former Section R9-3-201 repealed, new Section R9-3-201 adopted effective May 14, 1979 (Supp. 79-1).
 Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (E) (Supp. 80-2). Amended effective August 29, 1980 (Supp. 80-4). Amended subsection(B)(1) and deleted subsections (C) through (E) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-201 renumbered without change as Section R18-2-201 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Section corrected to include subsection (B), which was inadvertently omitted in Supp. 05-3 (Supp. 07-4).
 Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-202. Sulfur Oxides (Sulfur Dioxide)

- A.** The primary ambient air quality standards for sulfur oxides, measured as sulfur dioxide, are:
1. 0.03 parts per million (ppm) (80 µg/m³) -- annual arithmetic mean.
 2. 0.14 parts per million (ppm) (365 µg/m³) – maximum 24-hour concentration not to be exceeded more than once per calendar year.
 3. 75 parts per billion (ppb) – maximum one-hour concentration. The one-hour primary standard is met at an ambient air quality monitoring site when the three-year average of the annual 99th percentile of the daily maximum one-hour average concentrations is less than or equal to 75 parts per billion, as determined according to 40 CFR 50, Appendix T.

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- B. The secondary ambient air quality standard for sulfur oxides, measured as sulfur dioxide, is 0.5 parts per million (ppm) (1300 µg/m³) -- maximum three-hour concentration not to be exceeded more than once per year.
- C. The level of the standards shall be measured by a reference method based on 40 CFR 50, Appendix A or A-1, or by a Federal Equivalent Method designated according to 40 CFR 53.
- D. The standards in subsections (A)(1) and (2) shall apply:
 1. In an area designated nonattainment for a standard in subsections (A)(1) or (2) as of August 23, 2011, and areas not meeting a state implementation plan call for a standard in subsections (A)(1) or (2), until the state submits pursuant to section 191 of the Act, and the Administrator approves, a state implementation plan providing for attainment the standard in subsection (A)(3) in that area.
 2. In areas other than those identified in subsection (D)(1), until the effective date of the designation of that area, pursuant to section 107 of the act, for the standard in subsection (A)(3).

Historical Note

Amended effective December 22, 1976 (Supp. 76-5).
 Former Section R9-3-202 repealed, new Section R9-3-202 adopted effective May 14, 1979 (Supp. 79-1).
 Amended effective October 2, 1979 (Supp. 79-5).
 Amended effective August 29, 1980 (Supp. 80-4).
 Amended subsection (B) effective May 28, 1982 (Supp. 82-3). Amended by deleting subsections (C) through (E) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-202 renumbered without change as Section R18-2-202 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-203. Ozone

- A. The eight-hour average primary ambient air quality standard for ozone is 0.070 ppm.
- B. The eight-hour average secondary ambient air quality standard for ozone is 0.070 ppm.
- C. To determine attainment of the primary and secondary standards, a person shall measure ozone in the ambient air by:
 1. A reference method based on 40 CFR 50, Appendix D, and designated according to 40 CFR 53; or
 2. An equivalent method designated according to 40 CFR 53.
- D. The eight-hour average primary ambient air quality standard for ozone is met at an ambient air quality monitoring site when the three-year average of the annual fourth highest daily maximum eight-hour average ozone concentration is less than or equal to 0.070 ppm, determined according to 40 CFR 50, Appendix U.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5).
 Former Section R9-3-204 repealed, new Section R9-3-204 adopted effective May 14, 1979 (Supp. 79-1).
 Amended effective October 2, 1979 (Supp. 79-5).
 Amended effective August 29, 1980 (Supp. 80-4).
 Amended by deleting subsections (B) through (D) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-204 renumbered without change as Section R18-2-204 (Supp. 87-3). Section R18-2-103 renumbered from R18-2-204 and amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 11 A.A.R.

3305, effective October 3, 2005 (Supp. 05-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-204. Carbon monoxide

- A. The primary ambient air quality standards for carbon monoxide are:
 1. 9 parts per million (10 milligrams per cubic meter) -- maximum eight-hour concentration not to be exceeded more than once per year.
 2. 35 parts per million (40 milligrams per cubic meter) -- maximum one-hour concentration not to be exceeded more than once per year.
- B. An eight-hour average shall be considered valid if at least 75% of the hourly averages for the eight-hour period are available. In the event that only six or seven hourly averages are available, the eight-hour average shall be computed on the basis of the hours available using 6 or 7 as the divisor.
- C. When summarizing data for comparison with the standards, averages shall be stated to one decimal place. Comparison of the data with the levels of the standards in parts per million shall be made in terms of integers with fractional parts of 0.5 or greater rounding up.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5).
 Former Section R9-3-205 repealed, new Section R9-3-205 adopted effective May 14, 1979 (Supp. 79-1).
 Amended effective October 2, 1979 (Supp. 79-5).
 Amended effective August 29, 1980 (Supp. 80-4).
 Amended by deleting subsections (B) through (D) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-205 renumbered without change as Section R18-2-205 (Supp. 87-3). Former Section R18-2-204 renumbered to R18-2-203, new Section R18-2-204 renumbered from R18-2-205 and amended effective September 26, 1990 (Supp. 90-3).

R18-2-205. Nitrogen Oxides (Nitrogen Dioxide)

- A. The primary ambient air quality standards for oxides of nitrogen, measured in the ambient air as nitrogen dioxide, are:
 1. 53 parts per billion -- annual average concentration.
 2. 100 parts per billion -- one-hour average concentration.
- B. The secondary ambient air quality standard for nitrogen dioxide is 0.053 (parts per million (100 micrograms per cubic meter) -- annual arithmetic mean.
- C. The levels of the standards shall be measured by a reference method based on 40 CFR 50, Appendix F or a federal equivalent method designated in accordance with 40 CFR 53.
- D. The annual primary standard is met when the annual average concentration in a calendar year is less than or equal to 53 ppb, as determined in accordance with 40 CFR, Appendix S for the annual standard.
- E. The one-hour primary standard is met when the three-year average of the annual 98th percentile of the daily maximum one-hour average concentration is less than or equal to 100 parts per billion, as determined in accordance with 40 CFR 50, Appendix S.
- F. The secondary standard is attained when the annual arithmetic mean concentration in a calendar year is less than or equal to 0.053 ppm, rounded to three decimal places, with fractional parts equal to or greater than 0.0005 ppm rounded up. To demonstrate attainment, an annual mean shall be based upon hourly data that is at least 75% complete or upon data derived

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from the manual methods, that is at least 75% complete for the scheduled sampling days in each calendar quarter.

Historical Note

Amended effective December 22, 1976 (Supp. 76-5). Former Section R9-3-206 repealed, new Section R9-3-206 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective August 29, 1980 (Supp. 80-4). Amended by deleting subsections (B) through (D) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-206 renumbered without change as Section R18-2-206 (Supp. 87-3). Former Section R18-2-205 renumbered to R18-2-204, new Section R18-2-205 renumbered from R18-2-206 and amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-206. Lead

- A. The primary ambient air quality standard for lead and its compounds, measured as elemental lead, is 0.15 micrograms per cubic meter – maximum arithmetic mean averaged over a three-month period.
- B. The secondary ambient air quality standard for lead and its compounds, measured as elemental lead, is 0.15 micrograms per cubic meter – maximum arithmetic mean averaged over a three-month period.
- C. The level of the standards shall be measured by a reference method based on 40 CFR 50, Appendix G and designated in accordance with 40 CFR 53, or by an equivalent designated in accordance with part 53 of this chapter.
- D. The national primary and secondary ambient air quality standards for lead are met when the maximum arithmetic three-month mean concentration for a three-year period, as determined in accordance with 40 CFR 50, Appendix R, is less than or equal to 0.15 micrograms per cubic meter.
- E. The former primary and secondary ambient air quality standards for lead of 1.5 micrograms per cubic meter averaged over a calendar quarter shall apply to an area until one year after the effective date of the designation of that area, pursuant to section 107 of the Act, for the standards in subsections (A) and (B).

Historical Note

Former Section R9-3-207 repealed effective May 14, 1979 (Supp. 79-1). New Section R9-3-207 adopted effective October 2, 1979 (Supp. 79-5). Amended effective August 29, 1980 (Supp. 80-4). Amended by deleting subsections (B) through (D) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-207 renumbered without change as Section R18-2-207 (Supp. 87-3). Former Section R18-2-206 renumbered to R18-2-205, new Section R18-2-206 renumbered from R18-2-207 and amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-207. Renumbered**Historical Note**

Former Section R9-3-207 renumbered to R18-2-206 effective September 26, 1990 (Supp. 90-3).

R18-2-208. Reserved**R18-2-209. Reserved****R18-2-210. Attainment, Nonattainment, and Unclassifiable****Area Designations**

40 CFR 81.303 as amended as of July 1, 2014 (and no future amendments or editions) is incorporated by reference as an applicable requirement and on file with the Department of Environmental Quality. 40 CFR 81.303 is available from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4). Amended effective December 7, 1995 (Supp. 95-4). Amended by final rulemaking at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3281, effective September 27, 2004 (Supp. 04-3). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-211. Reserved**R18-2-212. Reserved****R18-2-213. Reserved****R18-2-214. Reserved****R18-2-215. Ambient air quality monitoring methods and procedures**

- A. Only those methods which have been either designated by the Administrator as reference or equivalent methods or approved by the Director shall be used to monitor ambient air.
- B. Quality assurance, monitor siting, and sample probe installation procedures shall be in accordance with procedures described in the Appendices to 40 CFR 58.
- C. The Director may approve other procedures upon a finding that the proposed procedures are substantially equivalent or superior to procedures in the Appendices to 40 CFR 58.

Historical Note

Adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-215 renumbered without change as Section R18-2-215 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3).

R18-2-216. Interpretation of Ambient Air Quality Standards and Evaluation of Air Quality Data

Unless otherwise specified, interpretation of all ambient air quality standards contained in this Article shall be in accordance with 40 CFR 50, incorporated by reference in Appendix 2 of this Chapter.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-216 repealed, new Section R9-3-216 adopted effective August 29, 1980 (Supp. 80-4). Former Section R9-3-216 renumbered without change as Section R18-2-216 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-217. Designation and Classification of Attainment Areas

- A. All areas shall be classified as either Class I, Class II or Class III.

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- B.** All of the following areas which were in existence on August 7, 1977 shall be Class I areas irrespective of attainment status and shall not be redesignated:
1. International parks;
 2. National wilderness areas which exceed 5,000 acres in size;
 3. National memorial parks which exceed 5,000 acres in size; and
 4. National parks which exceed 6,000 acres in size.
- C.** Areas which were redesignated as Class I under regulations promulgated before August 7, 1977, shall remain Class I, but may be redesignated as provided in this Section.
- D.** Any other area, unless otherwise specified in the legislation creating such an area, is initially designated Class II, but may be redesignated as provided in this Section.
- E.** The following areas shall be designated only as Class I or II:
1. An area which as of August 7, 1977, exceeds 10,000 acres in size and is one of the following:
 - a. A national monument,
 - b. A national primitive area,
 - c. A national preserve,
 - d. A national recreational area,
 - e. A national wild and scenic river,
 - f. A national wildlife refuge,
 - g. A national lakeshore or seashore.
 2. A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.
- F.** Except as otherwise provided in subsections (B) to (E), the Governor may redesignate areas of the state as Class I or Class II, provided that the following requirements are fulfilled:
1. At least one public hearing is held in or near the area affected in accordance with 40 CFR 51.102;
 2. Other states, Indian governing bodies and Federal Land Managers, whose land may be affected by the proposed redesignation are notified at least 30 days prior to the public hearing.
 3. A discussion document of the reasons for the proposed redesignation including a description and analysis of health, environmental, economic, social and energy effects of the proposed redesignation is prepared by the Governor or the Governor's designee. The discussion document shall be made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing shall contain appropriate notification of the availability of such discussion document.
 4. Prior to the issuance of notice respecting the redesignation of an area which includes any federal lands, the Governor or the Governor's designee has provided written notice to the appropriate Federal Land Manager and afforded the Federal Land Manager adequate opportunity, not in excess of 60 days, to confer with the state respecting the redesignation and to submit written comments and recommendations. The Governor or the Governor's designee shall publish a list of any inconsistency between such redesignation and such recommendations, together with the reasons for making such redesignation against the recommendation of the Federal Land Manager, if any Federal Land Manager has submitted written comments and recommendations.
 5. The redesignation is proposed after consultation with the elected leadership of local governments in the area covered by the proposed redesignation.
 6. The redesignation is submitted to the Administrator as a revision to the SIP.
- G.** Except as otherwise provided in subsections (B) to (E), the Governor may redesignate areas of the state as Class III if all of the following criteria are met:
1. Such redesignation meets the requirements of subsection (F);
 2. Such redesignation has been approved after consultation with the appropriate committee of the legislature if it is in session or with the leadership of the legislature if it is not in session.
 3. The general purpose units of local government representing a majority of the residents of the area to be redesignated concur in the redesignation;
 4. Such redesignation shall not cause, or contribute to, a concentration of any air pollutant which exceeds any national ambient air quality standard or any maximum increase allowed under R18-2-218;
 5. For any new major source as defined in R18-2-401 or a major modification of such source which may be permitted to be constructed and operated only if the area in question is redesignated as Class III, any permit application and materials submitted as part of the application shall be available for public inspection prior to any public hearing on the redesignation of the area as Class III.
 6. The redesignation is submitted to the Administrator as a revision to the SIP.
- H.** A redesignation shall not be effective until approved by the Administrator as part of an applicable implementation plan. If the Administrator disapproves the redesignation, the classification of the area shall be that which was in effect before the disapproved redesignation.
- I.** Lands within the exterior boundaries of Indian reservations may be redesignated only by the appropriate Indian governing body.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (A), paragraph (5), subparagraph (d) (Supp. 80-2). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-217 renumbered without change as Section R18-2-217 (Supp. 87-3). Amended and subsection (B) renumbered to Section R18-2-218 effective September 26, 1990 (Supp. 90-3). Amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-218. Limitation of Pollutants in Classified Attainment Areas

- A.** Areas designated as Class I, II, or III shall be limited to the following increases in air pollutant concentrations occurring over the baseline concentration; provided that for any period other than an annual period, the applicable maximum allowable increase may be exceeded once per year at any one location:

CLASS I

Maximum Allowable Increase (Micrograms per cubic meter)

Particulate matter: PM_{2.5}

Annual arithmetic mean	1
24-hr maximum	2

Particulate matter: PM₁₀

Annual arithmetic mean	4
24-hour maximum	8

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Sulfur dioxide:	
Annual arithmetic mean	2
24-hour maximum	5
3-hour maximum	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5

CLASS II

Particulate matter: PM _{2.5}	
Annual arithmetic mean	4
24-hr maximum	9
Particulate matter: PM ₁₀	
Annual arithmetic mean	17
24-hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	512
Nitrogen dioxide:	
Annual arithmetic mean	25

CLASS III

Particulate matter: PM _{2.5}	
Annual arithmetic mean	8
24-hr maximum	18
Particulate matter: PM ₁₀	
Annual arithmetic mean	34
24-hour maximum	60
Sulfur dioxide:	
Annual arithmetic mean	40
24-hour maximum	182
3-hour maximum	700
Nitrogen dioxide:	
Annual arithmetic mean	50

B. The baseline concentration is that ambient concentration level which exists in the baseline area at the time of the applicable minor source baseline data.

1. The major source baseline date is:
 - a. January 6, 1975, for sulfur dioxide and PM₁₀.
 - b. February 8, 1988, for nitrogen dioxide.
 - c. October 20, 2010, for PM_{2.5}.
2. The minor source baseline date shall be the earliest date after the trigger date on which a major source as defined in R18-2-401 or major modification subject to 40 CFR 52.21 or R18-2-406 submits a complete application under the relevant regulations.
 - a. The trigger date is:
 - i. August 7, 1977, for PM₁₀ and sulfur dioxide.
 - ii. February 8, 1988, for nitrogen dioxide.
 - iii. October 20, 2011, for PM_{2.5}.
 - b. Any minor source baseline date established originally for total suspended particulates shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except

that the Department may rescind any such minor source baseline date where it can be shown, to the satisfaction of the Department, that the emissions increase from the major source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM-10 emissions.

3. A baseline concentration shall be determined for each pollutant for which there is a minor source baseline date and shall include both:
 - a. The actual emissions representative of sources in existence on the minor source baseline date, except as provided in subsection (B)(4); and
 - b. The allowable emissions of major sources as defined in R18-2-401 which commenced construction before the major source baseline date but were not in operation by the applicable minor source baseline date.
4. The following shall not be included in the baseline concentration and shall affect the applicable maximum allowable increase:
 - a. Actual emissions from any major source as defined in R18-2-401 on which construction commenced after the major source baseline date; and
 - b. Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.
- C.** The baseline date shall be established for each pollutant for which maximum allowable increases or other equivalent measures have been established if both:
 1. The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 or R18-2-406; and
 2. In the case of a major source as defined in R18-2-401, the pollutant would be emitted in significant amounts, or in the case of a major modification, there would be a significant net emissions increase of the pollutant.
- D.** The baseline area shall be the AQCR that contains the area, designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act, in which the major source as defined in R18-2-401 or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the minor source baseline date is established, as follows: greater than or equal to 1 microgram per cubic meter (annual average) for sulfur dioxide, nitrogen dioxide or PM₁₀; or greater than or equal to 0.3 microgram per cubic meter (annual average) for PM_{2.5}.
 1. Area redesignations under section 107(d)(1)(A)(ii) or (iii) of the Act that would redesignate a baseline area may not intersect or be smaller than the area of impact of any new major source as defined in R18-2-401 or a major modification which either:
 - a. Establishes a minor source baseline date, or
 - b. Is subject to either 40 CFR 52.21 or R18-2-406 and would be constructed in Arizona.
 2. Any baseline area established originally for total suspended particulates shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that such baseline area shall not remain in effect if the Department rescinds the corresponding minor source baseline date in accordance with subsection (B)(2)(b).

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- E. The maximum allowable concentration of any air pollutant in any area to which subsection (A) applies shall not exceed a concentration for each pollutant equal to the concentration permitted under the national ambient air quality standards.
- F. For purposes of determining compliance with the maximum allowable increases in ambient concentrations of an air pollutant, the following concentrations of such pollutant shall not be taken into account:
1. Concentration of such pollutant attributable to the increase in emissions from major and stationary sources which have converted from the use of petroleum products, or natural gas, or both, by reason of a natural gas curtailment order which is in effect under the provisions of sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792, over the emissions from such sources before the effective date of such order;
 2. The concentration of such pollutant attributable to the increase in emissions from major and stationary sources which have converted from using gas by reason of a natural gas curtailment plan in effect pursuant to the Federal Power Act, 16 U.S.C. 792 - 825r, over the emissions from such sources before the effective date of the natural gas curtailment plan;
 3. Concentrations of PM₁₀ or PM_{2.5} attributable to the increase in emissions from construction or other temporary emission related activities of a new or modified source;
 4. The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration; and
 5. Concentrations attributable to the temporary increase in emissions of sulfur dioxide, nitrogen oxides, PM_{2.5}, or PM₁₀ from major sources as defined in R18-2-401 when the following conditions are met:
 - a. The permits issued to such sources specify the time period during which the temporary emissions increase of sulfur dioxide, nitrogen oxides, PM_{2.5} or PM₁₀ would occur. Such time period shall not be renewable and shall not exceed two years.
 - b. The temporary emissions increase will not:
 - i. Impact any Class I area or any area where a maximum increase allowed by subsection (A) is known to be violated; or
 - ii. Cause or contribute to the violation of a national ambient air quality standard.
 - c. The operating permit issued to such sources specifies that, at the end of the time period described in subsection (F)(5)(a), the emissions levels from the sources would not exceed the levels occurring before the temporary emissions increase was approved.
 6. The exception granted by subsections (F)(1) and (2) with respect to maximum increases allowed under subsection (A) shall not apply more than five years after the effective date of the order or natural gas curtailment plan on which the exception is based.
- G. If the Director or the Administrator determines that the SIP is substantially inadequate to prevent significant deterioration or that an applicable maximum allowable increase as specified in subsection (A) is being violated, the SIP shall be revised to correct the inadequacy or the violation. The SIP shall be revised within 60 days of such a finding by the Director or

within 60 days following notification by the Administrator, or by such later date as prescribed by the Administrator after consultation with the Director.

- H. The Director shall review the adequacy of the SIP on a periodic basis and within 60 days of such time as information becomes available that an applicable maximum allowable increase is being violated.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (A), paragraph (5), subparagraph (d) (Supp. 80-2). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-217 renumbered without change as Section R18-2-217 (Supp. 87-3). Former Section R18-2-218 renumbered to R18-2-219, new Section R18-2-218 renumbered from R18-2-217(B) and amended effective September 26, 1990 (Supp. 90-3). Amended effective November 15, 1993 (Supp. 93-4). Amended effective February 28, 1995 (Supp. 95-1). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-219. Repealed**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-218 repealed, new Section R9-3-218 adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-218 renumbered without change as Section R18-2-218 (Supp. 87-3). Former Section R18-2-219 renumbered to R18-2-220, new Section R18-2-219 renumbered from R18-2-218 and amended effective September 26, 1990 (Supp. 90-3). Section repealed by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-220. Air Pollution Emergency Episodes

- A. Procedures shall be implemented by the Director in order to prevent the occurrence of ambient air pollutant concentrations which would cause significant harm to the health of persons, as specified in subsection (B)(4). The procedures and actions required for each stage are described in the Department's "Procedures for Prevention of Emergency Episodes," amended as of August 2018 (and no future edition), which is incorporated herein by reference and on file with the Department.
- B. The following stages are identified by air quality criteria in order to provide for sequential emissions reductions, public notification and increased Department monitoring and forecast responsibilities. The declaration of any stage, and the area of the state affected, shall be based on air quality measurements and meteorological analysis and forecast.
1. A Stage I air pollution alert shall be declared when any of the alert level concentrations listed in subsection (B)(4) are exceeded at any monitoring site and when meteorological conditions indicate that there will be a continuance or recurrence of alert level concentrations for the same pollutant during the subsequent 24-hour period. If, 48 hours after an alert has been initially declared, air pollution concentrations and meteorological conditions do not improve, the warning stage control actions shall be implemented but no warning shall be declared, unless air quality has deteriorated to the extent described in subsection (B)(2).

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2. A Stage II air pollution warning shall be declared when any of the warning level concentrations listed in subsection (B)(4) are exceeded at any monitoring site and when meteorological conditions indicate that there will be a continuance or recurrence of concentrations of the same pollutant exceeding the warning level during the subsequent 24-hour period. If, 48 hours after a warning has been initially declared, air pollution concentrations and meteorological conditions do not improve, the emergency stage shall be declared and its control actions implemented.
3. A Stage III air pollution emergency shall be declared when any of the emergency level concentrations listed in subsection (B)(4) are exceeded at any monitoring site and when meteorological conditions indicate that there will be a continuance or recurrence of concentrations of the same pollutant exceeding the emergency level during the subsequent 24-hour period.
4. Summary of emergency episode and significant harm levels:

Pollutant	Averaging Time	Alert	Warning	Emergency	Significant Harm
Carbon monoxide (mg/m ³)	1-hr	--	--	--	144
	4-hr	--	--	--	86.3
	8-hr	17	34	46	57.5
Nitrogen dioxide (µg/m ³)	1-hr	1,130	2,260	3,000	3,750
	24-hr	282	565	750	938
Ozone (ppm)	1-hr	.2	.4	.5	.6
PM _{2.5} (µg/m ³)	24-hr	140.5	210.5	280.5	350.5
PM ₁₀ (µg/m ³)	24-hr	350	420	500	600
Sulfur dioxide (µg/m ³)	24-hr	800	1,600	2,100	2,620

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Editorial correction, subsection (B), paragraph (2) (Supp. 80-1). Editorial correction, subsection (A) (Supp. 80-2). Former Section R9-3-219 repealed, new Section R9-3-219 adopted effective May 28, 1982 (Supp. 82-3). Former Section R9-3-219 renumbered without change as Section R18-2-219 (Supp. 87-3). Section R18-2-220 renumbered from R18-2-219 and amended effective September 26, 1990 (Supp. 90-3). Section amended by final rulemaking at 25 A.A.R. 888, effective May 18, 2019 (Supp. 19-1).

ARTICLE 3. PERMITS AND PERMIT REVISIONS**R18-2-301. Definitions**

The following definitions apply to this Article:

1. "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to produce results adequate for the Director's determination of compliance in accordance with R18-2-311(D).
2. "Billable permit action" means the issuance or denial of a new permit, significant permit revision, or minor permit revision, or the renewal of an existing permit.
3. "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered to the capacity rating of the machine or equipment.
4. "CEM" means a continuous emission monitoring system as defined in R18-2-101.
5. "Complete" means, in reference to an application for a permit, permit revision or registration, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of a permit, permit revisions or registration processing does not preclude the Director from requesting or accepting any additional information.
6. "Dispersion technique" means any technique which attempts to affect the concentration of a pollutant in the ambient air by any of the following:
 - a. Using that portion of a stack which exceeds good engineering practice stack height;
 - b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or
- c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This shall not include any of the following:
 - i. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.
 - ii. The merging of exhaust gas streams under any of the following conditions:
 - (1) The source owner or operator demonstrates that the facility was originally designed and constructed with such merged gas streams;
 - (2) After July 8, 1985, such merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant, applying only to the emission limitation for that pollutant; or
 - (3) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior

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to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the reviewing agency shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the reviewing agency shall deny credit for the effects of such merging in calculating the allowable emissions for the source.

- iii. Smoke management in agricultural or silvicultural prescribed burning programs.
 - iv. Episodic restrictions on residential woodburning and open burning.
 - v. Techniques which increase final exhaust gas plume rise where the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.
7. "Emissions allowable under the permit" means a permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or an emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.
8. "Fossil fuel-fired steam generator" means a furnace or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.
9. "Fuel oil" means Number 2 through Number 6 fuel oils as specified in ASTM D-396-90a (Specification for Fuel Oils), gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D-2880-90a (Specification for Gas Turbine Fuel Oils), or diesel fuel oils Numbers 2-D and 4-D as specified in ASTM D-975-90a (Specification for Diesel Fuel Oils).
10. "Itemized bill" means a breakdown of the permit processing time into the categories of pre-application activities, completeness review, substantive review, and public involvement activities, and within each category, a further breakdown by employee name.
11. "Major source threshold" means the lowest applicable emissions rate for a pollutant that would cause the source to be a major source at the particular time and location, under the definition of major source in R18-2-101.
12. "Maximum capacity to emit" means the maximum amount a source is capable of emitting under its physical and operational design without taking any limitations on operations or air pollution controls into account.
13. "Maximum capacity to emit with any elective limits" means the maximum amount a source is capable of emitting under its physical and operational design taking into account the effect on emissions of any elective limits included in the source's registration under R18-2-302.01(F).
14. "Minor NSR Modification" means any of the following changes that do not qualify as a major source or major modification:
- a. Any physical change in or change in the method of operation of an emission unit or a stationary source that either:
 - i. Increases the potential to emit of a regulated minor NSR pollutant by an amount greater than or equal to the permitting exemption thresholds, or
 - ii. Results in emissions of a regulated minor NSR pollutant not previously emitted by such emission unit or stationary source in an amount greater than or equal to the permitting exemption thresholds.
 - b. Construction of one or more new emissions units that have the potential to emit regulated minor NSR pollutants at an amount greater than or equal to the permitting exemption threshold.
 - c. A change covered by subsections (12)(a) or (b) constitutes a minor NSR modification regardless of whether there will be a net decrease in total source emissions or a net increase in total source emissions that is less than the permitting exemption threshold as a result of decreases in the potential to emit of other emission units at the same stationary source.
 - d. For the purposes of this subsection (the) following do not constitute a physical change or change in the method of operation:
 - i. A change consisting solely of the construction of, or changes to, a combination of emissions units qualifying as a categorically exempt activity.
 - ii. For a stationary source that is required to obtain a Class II permit under R18-2-302 and that is subject to source-wide emissions caps under R18-2-306.01 or R18-2-306.02, a change that will not result in the violation of the existing emissions cap for that regulated minor NSR pollutant.
 - iii. Replacement of an emission unit by a unit with a potential to emit regulated minor NSR pollutants that is less than or equal to the potential to emit of the existing unit, provided the replacement does not cause an increase in emissions at other emission units at the stationary source. A unit installed under this provision is subject to any limits applicable to the unit it replaced.
 - iv. Routine maintenance, repair, and replacement.
 - v. Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 792, or by reason of a natural gas curtailment plan under the Federal Power Act, 16 U.S.C. 792 to 825r.
 - vi. Use of an alternative fuel by reason of an order or rule under Section 125 of the Act.
 - vii. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.
 - viii. Use of an alternative fuel or raw material by a stationary source that either:
 - (1) The source was capable of accommodating before December 12, 1976, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter; or
 - (2) The source is approved to use under any permit issued under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.

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- ix. An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition established after December 12, 1976, under 40 CFR 52.21, or under Articles 3 or 4 of this Chapter.
- x. Any change in ownership at a stationary source.
- xi. The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, if the project complies with:
 - (1) The SIP, and
 - (2) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.
- xii. For electric utility steam generating units located in attainment and unclassifiable areas only, the installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, if the project does not result in an increase in the potential to emit any regulated pollutant emitted by the unit. This exemption applies on a pollutant-by-pollutant basis.
- xiii. For electric utility steam generating units located in attainment and unclassifiable areas only, the reactivation of a very clean coal-fired electric utility steam generating unit.
- e. For purposes of this subsection:
 - i. "Potential to emit" means the lower of a source's or emission unit's potential to emit or its allowable emissions.
 - ii. In determining potential to emit, the fugitive emissions of a stationary source shall not be considered unless the source belongs to a section 302(j) category.
 - iii. All of the roadways located at a stationary source constitute a single emissions unit.
- 15. "NAICS" means the five- or six-digit North American Industry Classification System-United States, 1997, number for industries used by the U.S. Department of Commerce.
- 16. "Permit processing time" means all time spent by Air Quality Division staff or consultants on tasks specifically related to the processing of an application for the issuance or renewal of a particular permit or permit revision, including time spent processing an application that is denied.
- 17. "Quantifiable" means, with respect to emissions, including the emissions involved in equivalent emission limits and emission trades, capable of being measured or otherwise determined in terms of quantity and assessed in terms of character. Quantification may be based on emission factors, stack tests, monitored values, operating rates and averaging times, materials used in a process or production, modeling, or other reasonable measurement practices.
- 18. "Registration" means a registration under R18-2-302.01.
- 19. "Replicable" means, with respect to methods or procedures, sufficiently unambiguous that the same or equivalent results would be obtained by the application of the method or procedure by different users.
- 20. "Responsible official" means one of the following:
 - a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:
 - i. The facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars); or
 - ii. The delegation of authority to such representatives is approved in advance by the permitting authority;
 - b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively;
 - c. For a municipality, state, federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this Article, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA); or
 - d. For affected sources:
 - i. The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the Act or the regulations promulgated thereunder are concerned; and
 - ii. The designated representative for any other purposes under 40 CFR 70.
- 21. "Screening model" means air dispersion modeling performed with screening techniques in accordance with 40 CFR 51, Appendix W as of June 30, 2017 (and no future amendments or additions).
- 22. "Small source" means a source with a potential to emit, without controls, less than the rate defined as permitting exemption thresholds in R18-2-101, but required to obtain a permit solely because it is subject to a standard under 40 CFR 63.
- 23. "Startup" means the setting in operation of a source for any purpose.
- 24. "Synthetic minor" means a source with a permit that contains voluntarily accepted emissions limitations, controls, or other requirements (for example, a cap on production rates or hours of operation, or limits on the type of fuel) under R18-2-306.01 to reduce the potential to emit to a level below the major source threshold.

Historical Note

Former Section R18-2-301 renumbered to R18-2-302, new Section R18-2-301 adopted effective September 26, 1990 (Supp. 90-3). Correction to table in subsection (A)(13) (Supp. 93-1). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective August 1, 1995 (Supp. 95-3). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 343, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 7 A.A.R. 5670, effective January 1, 2002 (Supp. 01-4). Amended

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by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 3630, effective February 1, 2020 (Supp. 19-4).

R18-2-302. Applicability; Registration; Classes of Permits

- A.** Except as otherwise provided in this Article, no person shall begin actual construction of, operate, or make a modification to any stationary source subject to regulation under this Article, without obtaining a registration, permit or permit revision from the Director.
- B.** Class I and II permits and registrations shall be required as follows:
1. A Class I permit shall be required for a person to begin actual construction of or operate any of the following:
 - a. Any major source,
 - b. Any solid waste incineration unit required to obtain a permit pursuant to Section 129(e) of the Act,
 - c. Any affected source, or
 - d. Any stationary source in a source category designated by the Administrator pursuant to 40 CFR 70.3 and adopted by the Director by rule.
 2. Unless a Class I permit is required, a Class II permit shall be required for:
 - a. A person to begin actual construction of or operate any stationary source that emits, or has the maximum capacity to emit with any elective limits, any regulated NSR pollutant in an amount greater than or equal to the significant level.
 - b. A person to make a physical or operational change to a stationary source that would cause the source to emit, or have the maximum capacity to emit with any elective limits, any regulated NSR pollutant in an amount greater than or equal to the significant level.
 - c. A person to begin actual construction of or modify a stationary source that otherwise would be subject to registration but that the Director has determined requires a permit under R18-2-302.01(C)(4) or (D).
 3. Unless a Class I or II permit is required, registration shall be required for:
 - a. A person to begin actual construction of or operate any stationary source that emits or has the maximum capacity to emit any regulated minor NSR pollutant in an amount greater than or equal to a permitting exemption threshold.
 - b. A person to begin actual construction of or operate any stationary source subject to a standard under section 111 of the Act, except that a stationary source is not required to register solely because it is subject to any of the following standards:
 - i. 40 CFR 60, Subpart AAA (Residential Wood Heaters).
 - ii. 40 CFR 60, Subpart IIII (Stationary Compression Ignition Internal Combustion Engines).
 - iii. 40 CFR 60, Subpart JJJJ (Stationary Spark Ignition Internal Combustion Engines).
 - iv. 40 CFR 60, Subpart QQQQ (Residential Hydronic Heaters and Forced-Air Furnaces).
 - c. A person to begin actual construction of or operate any stationary source, including an area source, subject to a standard under section 112 of the Act, except that a stationary source is not required to register solely because it is subject to any of the following standards:
 - i. 40 CFR 61.145.
 - ii. 40 CFR 63, Subpart ZZZZ (Reciprocating Internal Combustion Engines).
 - iii. 40 CFR 63, Subpart WWWW (Ethylene Oxide Sterilizers).
 - iv. 40 CFR 63, Subpart CCCCCC (Gasoline Distribution).
 - v. 40 CFR 63, Subpart HHHHHH (Paint Stripping and Miscellaneous Surface Coating Operations).
 - vi. 40 CFR 63, Subpart JJJJJJ (Industrial, Commercial, and Institutional Boilers Area Sources), published at 76 FR 15554 (March 21, 2011).
 - vii. A regulation or requirement under section 112(r) of the Act.
 - d. A physical or operational change to a source that would cause the source to emit or have the maximum capacity to emit any regulated minor NSR pollutant in an amount greater than or equal to the permitting exemption threshold.
- C.** Notwithstanding subsections (A) and (B), the following stationary sources do not require a permit or registration unless the source is a major source, or unless operation without a permit would result in a violation of the Act:
1. A stationary source that consists solely of a single categorically exempt activity plus any combination of trivial activities.
 2. Agricultural equipment used in normal farm operations. "Agricultural equipment used in normal farm operations" does not include equipment classified as a source that requires a permit under Title V of the Act, or that is subject to a standard under 40 CFR 60, 61 or 63.
- D.** No person may construct or reconstruct any major source of hazardous air pollutants, unless the Director determines that maximum achievable control technology emission limitation (MACT) for new sources under Section 112 of the Act will be met. If MACT has not been established by the Administrator, such determination shall be made on a case-by-case basis pursuant to 40 CFR 63.40 through 63.44, as incorporated by reference in R18-2-1101(B). For purposes of this subsection, constructing and reconstructing a major source shall have the meaning prescribed in 40 CFR 63.41.
- E.** Elective limits or controls adopted under R18-2-302.01(F) shall not be considered in determining whether a source requires registration or a Class I permit but shall be considered in determining any of the following:
1. Whether the registration is subject to the public participation requirements of R18-2-330, as provided in R18-2-302.01(B)(3).
 2. Whether review for possible interference with attainment or maintenance of ambient standards is required under R18-2-302.01(C).
 3. Whether the source requires a Class II permit, as provided in subsections (B)(2)(a) or (b).
- F.** The fugitive emissions of a stationary source shall not be considered in determining whether the source requires a Class II permit under subsections (B)(2)(a) or (b) or a registration under subsections (B)(3)(a) or (d), unless the source belongs to a section 302(j) category. If a permit is required for a stationary source, the fugitive emissions of the source shall be subject to all of the requirements of this Article.

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- G. Notwithstanding subsections (A) and (B), a person may begin actual construction, but not operation, of a source requiring a Class I permit or Class I permit revision upon the Director's issuance of the proposed final permit or proposed final permit revision.

Historical Note

Amended effective August 7, 1975 (Supp. 75-1).
 Amended as an emergency effective December 15, 1975 (Supp. 75-2). Amended effective May 10, 1976 (Supp. 76-3). Amended effective April 12, 1977 (Supp. 77-2).
 Amended effective March 24, 1978 (Supp. 78-2). Former Section R9-3-301 repealed, new Section R9-3-301 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended effective May 28, 1982 (Supp. 82-3). Amended subsections (B) and (C) effective September 22, 1983 (Supp. 83-5). Amended subsection (B), paragraph (3) effective September 28, 1984 (Supp. 84-5). Former Section R9-3-301 renumbered without change as Section R18-2-301 (Supp. 87-3). Former Section R18-2-302 renumbered to R18-2-302.01, new Section R18-2-302 renumbered from R18-2-301 and amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-302.01. Source Registration Requirements

- A. Application. An application for registration shall be submitted on the form specified by the Director and shall include the following information:
1. The name of the applicant.
 2. The physical location of the source, including the street address, city, county, zip code and latitude and longitude coordinates.
 3. The source's maximum capacity to emit with any elective limits each regulated minor NSR pollutant.
 4. Identification of any elective limits or controls adopted under subsection (F).
 5. In the case of a modification, each increase in the source's maximum capacity to emit with any elective limits that exceeds the applicable threshold in subsection (G)(1)(a).
 6. Identification of the method used to determine the maximum capacity to emit under R18-2-302(B)(3)(a), a change in the maximum capacity to emit under R18-2-302(B)(3)(d), or the maximum capacity to emit with any elective limits under subsection (G)(1)(a).
 7. Process information for the source, including a list of emission units, design capacity, operations schedule, and identification of emissions control devices.
- B. Registration Processing Procedures.
1. The Department shall complete a review of a registration application for administrative completeness within 30 calendar days, calculated in accordance with A.A.C. R18-1-503, after its receipt.
 2. The Department shall complete a substantive review and take final action on a registration application within 60 calendar days if no hearing is requested, and 90 calendar days if a hearing is requested, calculated in accordance with A.A.C. R18-1-504, after the application is administratively complete.
3. Except as provided in subsection (B)(5), a registration for construction of a source shall be subject to the public notice and participation requirements of R18-2-330. The materials relevant to the registration decision made available to the public under R18-2-330(D) shall include any determination made or modeling conducted by the Director under subsection (C).
 4. The Department shall also send a copy of the notice required by subsection (B)(3) to the administrator through the appropriate regional office, and to all other state and local air pollution control agencies having jurisdiction in the region in which the source subject to the registration will be located. The notice shall also be sent to any other agency in the region having responsibility for implementing the procedures required under 40 CFR 51, Subpart I.
 5. A registration for construction of a source shall not be subject to subsections (B)(3) or (4), if the source's maximum capacity to emit with any elective limits each regulated minor NSR pollutant is less than the applicable permitting exemption threshold.
- C. Review for National Ambient Air Quality Standards Compliance; Requirement to Obtain a Permit.
1. The Director shall review each application for registration of a source with the maximum capacity to emit with any elective limits any regulated minor NSR pollutant in an amount equal to or greater than the permitting exemption threshold. The purpose of the review shall be to determine whether the new or modified source may interfere with attainment or maintenance of a national ambient air quality standard in any area. In making the determination required by this subsection, the Director shall take into account the following factors:
 - a. The source's emission rates, including fugitive emission rates, taking into account any elective limits or controls adopted under subsection (F).
 - b. The location of emission units within the facility and their proximity to the ambient air.
 - c. The terrain in which the source is or will be located.
 - d. The source type.
 - e. The location and emissions of nearby sources.
 - f. Background concentrations of regulated minor NSR pollutants.
 2. The Director may undertake the review specified in subsection (C)(1) for a source with the maximum capacity to emit with any elective limits regulated minor NSR pollutants in an amount less than the permitting exemption threshold.
 3. If the Director determines under subsections (C)(1) or (C)(2) that a source's emissions may interfere with attainment or maintenance of a national ambient air quality standard, the Director shall perform a screening model run for each regulated minor NSR pollutant for which that determination has been made.
 4. If the Director determines, based on performance of the screening model pursuant to subsection (C)(3), that a source's emissions, taking into account any elective limits or controls adopted under subsection (F), will interfere with attainment or maintenance of a national ambient air quality standard, the Director shall deny the application for registration. Notwithstanding R18-2-302(B)(3), the owner or operator of the source shall be required to obtain

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a permit under R18-2-302 and shall comply with R18-2-334 before beginning actual construction of the source or modification.

- D. Requirement to Obtain a Permit.** Notwithstanding R18-2-302(B)(3)(b) and (c), the Director shall deny an application for registration for a source subject to a standard under section 111 or 112 of the Act and require the owner or operator to obtain a permit under R18-2-302, if the Director determines based on the following factors that the requirement to obtain a permit is warranted:

1. The size and complexity of the source.
2. The complexity of the section 111 or 112 standard applicable to the source.
3. The public health or environmental risks posed by the pollutants subject to regulation under the section 111 or 112 standard.

- E. Registration Contents.** A registration shall contain the following elements:

1. Enforceable emission limitations and standards, including operational requirements and limitations, that ensure compliance with all applicable SIP requirements at the time of issuance and any testing, monitoring, recordkeeping and reporting obligations imposed by the applicable requirement or by R18-2-312.
2. Any elective limits or controls and associated operating, maintenance, monitoring and recordkeeping requirements adopted pursuant to subsection (F).
3. A requirement to retain any records required by the registration at the source for at least three years in a form that is suitable for expeditious inspection and review.
4. For any source that has adopted elective limits or controls under subsection (F), a requirement to submit an annual compliance report on the form provided by the Director in the registration.

- F. Elective Limits or Controls.** The owner or operator of a source requiring registration may elect to include any of the following emission limitations in the registration, provided the Department approves the limitation and the registration also includes the operating, maintenance, monitoring, and recordkeeping requirements specified below for the limitation.

1. A limitation on the hours of operation of any process or combination of processes.
 - a. The registration shall express the limitation in terms of hours per rolling 12-month period and shall specify the process or combination of processes subject to the limitation.
 - b. The owner or operator shall maintain a log or readily available business records showing actual operating hours through the preceding operating day for the process or processes subject to the limitation.
2. A limitation on the production rate for any process or combination of processes.
 - a. The registration shall express the limitation in terms of an appropriate unit of mass or production per rolling 12-month period and shall specify the process or combination of processes subject to the limitation.
 - b. The owner or operator shall maintain a log or readily available business records showing the actual production rate through the preceding operating day for the process or processes subject to the limitation. The owner or operator shall update the log or business records at least once per operating day.
3. A requirement to operate a fabric filter for the control of particulate matter emissions.

- a. The owner or operator shall operate the fabric filter at all times that the emission unit controlled by the fabric filter is operated.
- b. The owner or operator shall inspect the fabric filter at least once per month for tears and leaks and shall promptly repair any tears or leaks identified. If the fabric filter is subject to a limit on the opacity of emissions, the inspection shall include an opacity observation in accordance with the applicable reference method.

- c. The owner or operator shall operate and maintain the fabric filter in substantial compliance with the manufacturer's operation and maintenance recommendations.

- d. The owner or operator shall keep a log or readily available business records of the inspections required by subsection (F)(3)(b) and the maintenance activities required by subsection (F)(3)(c). The owner or operator shall update the log or business records within 24 hours after an inspection or maintenance activity is performed.

- e. The registration shall identify the fabric filters and processes subject to this requirement.

4. Limitations on the total amount of VOC or hazardous air pollutants in solvents, coatings or other process materials used at the registered source.

- a. The registration shall identify the pollutants and processes covered by the limitations and shall express the limitations in terms of pounds per rolling 12-month period.

- b. The owner or operator shall maintain a log or readily available business records showing the concentration of each covered VOC or hazardous air pollutant in each VOC or hazardous air pollutant containing material used at the source. The owner or operator shall update the records whenever the concentration in any material changes or a new material is used. The presence at the source of a current material safety data sheet for a material used without dilution or other alteration satisfies this requirement.

- c. The owner or operator shall maintain a spreadsheet or database to record the amount of each material containing a covered VOC or hazardous air pollutant used. The spreadsheet or database shall calculate the total pounds of the VOC or hazardous air pollutant used by multiplying the concentration of VOC or hazardous air pollutant in a material by the amount of material used and shall employ appropriate units of measurement and conversion factors. The owner or operator shall update the spreadsheet or database at least once per operating day.

- G. Revised Registrations.**

1. Unless a Class II permit is required under R18-2-302(B)(2)(b), the owner or operator of a registered source shall file a revised registration on the occurrence of any of the following:

- a. A modification to the source that would result in an increase in the source's maximum capacity to emit with any elective limits exceeding any of the following amounts:

- i. 2.5 tons per year for NO_x, SO₂, PM₁₀, PM_{2.5}, VOC or CO.
- ii. 0.3 tons per year for lead.

- b. Relocation of a portable source.

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- c. The transfer of the source to a new owner.
- 2. The requirements of subsection (B) shall not apply to a revised registration. The owner or operator may begin actual construction and operation of the modified, relocated or transferred source on filing the revised registration.

H. Registration Term.

- 1. A source's registration shall expire five years after the date of issuance of the last registration for the source or any modification to the source.
- 2. A source shall submit an application for renewal of a registration not later than six months before expiration of the registration's term.
- 3. If a source submits a timely and complete application for renewal of a registration, the source's authorization to operate under its existing registration shall continue until the Director takes final action on the application.
- 4. The Director may terminate a registration under R18-2-321(C). If the Director terminates a registration under R18-2-321(C)(3), the owner or operator shall be required to apply for a permit for the source under R18-2-302.

- I.** Issuance of a registration shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

Historical Note

Amended effective August 7, 1975 (Supp. 75-1); Former Section R9-3-302 repealed, new Section R9-3-302 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-302 repealed, new Section R9-3-302 adopted effective October 2, 1979 (Supp. 79-5). Former Section R9-3-302 repealed, new Section R9-3-302 adopted effective May 28, 1982 (Supp. 82-3). Former Section R9-3-302 renumbered without change as Section R18-2-302 (Supp. 87-3). Section R18-2-302.01 renumbered from Section R18-2-302 and amended effective September 26, 1990 (Supp. 90-3). Section repealed effective November 15, 1993 (Supp. 93-4). New Section made by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 3630, effective February 1, 2020 (Supp. 19-4).

R18-2-303. Transition from Installation and Operating Permit Program to Unitary Permit Program; Registration Transition; Minor NSR Transition

- A.** An installation or operating permit issued before September 1, 1993, and the authority to operate, as provided in Laws 1992, Ch. 299, § 65, continues in effect until the installation or operating permit is terminated, or until the Director issues or denies a Class I or Class II permit to the source, whichever is earlier.
- B.** The terms and conditions of installation permits issued before September 1, 1993, or in permits or permit revisions issued under R18-2-302 and authorizing the construction or modification of a stationary source, remain federal applicable requirements unless modified or revoked by the Director.
- C.** All sources in existence on September 1, 2012, requiring a registration shall provide notice to the Director by no later than December 1, 2012, on a form provided by the Director.
- D.** All sources requiring a registration that are in existence on the date R18-2-302.01 becomes effective under R18-2-302.01(I) may submit applications for registration at any time after R18-

2-302.01 is effective and shall submit an application no later than 180 days after receipt of written notice from the Director that an application is required.

- E.** Sources in existence on December 2, 2015 are not subject to R18-2-334, unless the source undertakes a minor NSR modification after that date. Notwithstanding any other provision of this Chapter, R18-2-334 shall apply only to applications for permits or permit revisions filed after December 2, 2015.

Historical Note

Amended effective August 7, 1975 (Supp. 75-1). Amended effective August 6, 1976 (Supp. 76-4). Former Section R9-3-303 repealed, new Section R9-3-303 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-303 repealed, new Section R9-3-303 adopted effective October 2, 1979 (Supp. 79-5). Amended effective May 28, 1982 (Supp. 82-3). Amended subsection (D), paragraph (1) effective September 28, 1984 (Supp. 84-5). Former Section R9-3-303 renumbered without change as Section R18-2-303 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-304. Permit Application Processing Procedures

- A.** Unless otherwise noted, this Section applies to each source requiring a Class I or II permit or permit revision.
- B.** Standard Application Form and Required Information. To apply for a permit required by this Chapter, applicants shall complete the applicable standard application form provided by the Director and supply all information required by the form's filing instructions. The application forms and filing instructions for Class I Permits shall at a minimum require submission of the following elements:
 - 1. Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager/contact.
 - 2. A description of the source's processes and products (by Standard Industrial Classification (SIC) Code), including those associated with any proposed alternative operating scenarios (AOS) identified by the source.
 - 3. The following emission-related information:
 - a. All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except as otherwise provided in R18-2-304(F)(8). The Director shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under R18-2-326.
 - b. Identification and description of all points of emissions described in subsection (B)(3)(a) in sufficient detail to establish the basis for fees and applicability of requirements.
 - c. Emissions rate in tons per year (tpy) and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method. For emissions units subject to an annual emissions cap, tpy can be reported as part of the

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- aggregate emissions associated with the cap, except where more specific information is needed, including where necessary to determine and/or assure compliance with an applicable requirement.
- d. The following information to the extent it is needed to determine or regulate emissions: fuels, fuel use, raw materials, production rates, and operating schedules.
 - e. Identification and description of air pollution control equipment and compliance monitoring devices or activities.
 - f. Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the Class I source.
 - g. Other information required by any applicable requirement (including information related to stack height limitations in R18-2-332).
 - h. Calculations on which the information in subsections (B)(3)(a) through (g) is based.
4. The following air pollution control requirements:
 - a. Citation and description of all applicable requirements, and
 - b. Description of or reference to any applicable test method for determining compliance with each applicable requirement.
 5. Other specific information that may be necessary to implement and enforce other applicable requirements or to determine the applicability of such requirements.
 6. An explanation of any proposed exemptions from otherwise applicable requirements.
 7. Additional information as determined to be necessary by the Director to define proposed AOS identified by the source pursuant to R18-2-306(A)(11) or to define permit terms and conditions implementing any AOS under R18-2-306(A)(11) or implementing R18-2-317, R18-2-306(A)(12), R18-2-306(A)(14), or R18-2-306.02. The permit application shall include documentation demonstrating that the source has obtained all authorizations required under the applicable requirements relevant to any proposed AOS, or a certification that the source has submitted all relevant materials to the Director for obtaining such authorizations.
 8. A compliance plan for all Class I sources that contains all of the following:
 - a. A description of the compliance status of the source with respect to all applicable requirements.
 - b. A description as follows:
 - i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
 - ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
 - iii. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements.
 - iv. For applicable requirements associated with a proposed AOS, a statement that the source will meet such requirements upon implementation of the AOS. If a proposed AOS would implicate an applicable requirement that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis.
 - c. A compliance schedule as follows:
 - i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements.
 - ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet, in a timely manner, applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.
 - iii. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction non-compliance with, the applicable requirements on which it is based.
 - iv. For applicable requirements associated with a proposed AOS, a statement that the source will meet such requirements upon implementation of the AOS. If a proposed AOS would implicate an applicable requirement that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet, in a timely manner, applicable requirements that become effective during the permit term will satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement.
 - d. A schedule for submission of certified progress reports no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation.
 - e. The compliance plan content requirements specified in subsection (B)(8) shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under title IV of the Act with regard to the schedule and methods the source will use to achieve compliance with the acid rain emissions limitations.
9. Requirements for compliance certification, including the following:
 - a. A certification of compliance with all applicable requirements by a responsible official, which shall include:

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- i. Identification of the applicable requirement that is the basis of the certification;
 - ii. The method used for determining the compliance status of the source, including a description of monitoring, recordkeeping, and reporting requirements and test methods;
 - iii. The compliance status; and
 - iv. Such other facts as the Director may require;
 - b. A schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the permitting authority;
 - c. A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the Act; and
 - d. A certification of truth, accuracy, and completeness pursuant to R18-2-304(I).
 - 10. The use of nationally-standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under title IV of the act.
- C. The Director, either upon the Director's own initiative or on the request of a permit applicant, may waive a requirement that specific information or data be submitted in the application for a Class II permit for a particular source or category of sources if the Director determines that the information or data would be unnecessary to determine all of the following:
- 1. The applicable requirements to which the source may be subject;
 - 2. That the source is so designed, controlled, or equipped with such air pollution control equipment that it may be expected to operate without emitting or without causing to be emitted air contaminants in violation of the provisions of A.R.S. Title 49, Chapter 3, Article 2 and this Chapter;
 - 3. The fees to which the source may be subject; and
 - 4. A proposed emission limitation, control, or other requirement that meets the requirements of R18-2-306.01 or R18-2-306.02.
- D. A timely application is:
- 1. For a source, that becomes subject to the permit program as a result of a change in regulation and not as a result of construction or a physical or operational change, one that is submitted within 12 months after the source becomes subject to the permit program.
 - 2. For purposes of permit renewal, a timely application is one that is submitted at least six months, but not more than 18 months, prior to the date of permit expiration.
 - 3. Any source under R18-2-326(A)(3) which becomes subject to a standard promulgated by the Administrator pursuant to section 112(d) of the Act shall, within 12 months of the date on which the standard is promulgated, submit an application for a permit revision demonstrating how the source will comply with the standard.
- E. If an applicable implementation plan allows the determination of an alternative emission limit, a source may, in its application, propose an emission limit that is equivalent to the emission limit otherwise applicable to the source under the applicable implementation plan. The source shall also demonstrate that the equivalent limit is quantifiable, accountable, enforceable, and subject to replicable compliance determination procedures.
- F. A complete application shall comply with all of the following:
- 1. To be complete, an application shall provide all information required by subsection (B) (standard application form section). An application for permit revision only need supply information related to the proposed change, unless the source's proposed permit revision will change the permit from a Class II permit to a Class I permit. A responsible official shall certify the submitted information consistent with subsection (I) (Certification of Truth, Accuracy, and Completeness).
 - 2. An application for a new permit or permit revision shall contain an assessment of the applicability of the requirements of Article 4 of this Chapter. If the applicant determines that the proposed new source is a major source as defined in R18-2-401, or the proposed permit revision constitutes a major modification as defined in R18-2-101, then the application shall comply with all applicable requirements of Article 4.
 - 3. An application for a new permit or permit revision shall contain an assessment of the applicability of Minor New Source Review requirements in R18-2-334. If the applicant determines that the proposed new source is subject to R18-2-334, or the proposed permit revision constitutes a Minor NSR Modification, then the application shall comply with all applicable requirements of R18-2-334.
 - 4. Except for proposed new major sources or major modifications subject to the requirements of Article 4 of this Chapter, an application for a new permit, a permit revision, or a permit renewal shall be deemed to be complete unless, within 60 days of receipt of the application, the Director notifies the applicant by certified mail that the application is not complete.
 - 5. If a source wishes to voluntarily enter into an emissions limitation, control, or other requirement pursuant to R18-2-306.01, the source shall describe that emissions limitation, control, or other requirement in its application, along with proposed associated monitoring, recordkeeping, and reporting requirements necessary to demonstrate that the emissions limitation, control, or other requirement is permanent, quantifiable, and otherwise enforceable as a practical matter.
 - 6. If, while processing an application that has been determined or deemed to be complete, the Director determines that additional information is necessary to evaluate or take final action on that application, the Director may request such information in writing and set a reasonable deadline for a response. Except for minor permit revisions as set forth in R18-2-319, a source's ability to continue operating without a permit, as set forth in subsection (K), shall be in effect from the date the application is determined to be complete until the final permit is issued, provided that the applicant submits any requested additional information by the deadline specified by the Director.
 - 7. The completeness determination shall not apply to revisions processed through the minor permit revision process.
 - 8. Activities which are insignificant pursuant to the definition of insignificant activities in R18-2-101 shall be listed in the application. Except as necessary to complete the assessment required by subsections (F)(2) or (3), the application need not provide emissions data regarding insignificant activities. If the Director determines that an activity listed as insignificant does not meet the require-

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ments of the definition of insignificant activities in R18-2-101 or that emissions data for the activity is required to complete the assessment required by subsections (F)(2) or (3), the Director shall notify the applicant in writing and specify additional information required.

9. If a permit applicant requests terms and conditions allowing for the trading of emission increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap that is established in the permit independent of otherwise applicable requirements, the permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable.
 10. The Director is not in disagreement with a notice of confidentiality submitted with the application pursuant to A.R.S. § 49-432.
- G.** A source applying for a Class I permit that has submitted information with an application under a claim of confidentiality pursuant to A.R.S. § 49-432 and R18-2-305 shall submit a copy of such information directly to the Administrator.
- H.** Duty to Supplement or Correct Application. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a proposed permit.
- I.** Certification of Truth, Accuracy, and Completeness. Any application form, report, or compliance certification submitted pursuant to this Chapter shall contain certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Article shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
- J.** Action on Application.
1. The Director shall issue or deny each permit according to the provisions of A.R.S. § 49-427. The Director may issue a permit with a compliance schedule for a source that is not in compliance with all applicable requirements at the time of permit issuance.
 2. In addition, a permit may be issued, revised, or renewed only if all of the following conditions have been met:
 - a. The application received by the Director for a permit, permit revision, or permit renewal shall be complete according to subsection (F).
 - b. Except for revisions qualifying as administrative or minor under R18-2-318 and R18-2-319, all of the requirements for public notice and participation under R18-2-330 shall have been met.
 - c. For Class I permits, the Director shall have complied with the requirements of R18-2-307 for notifying and responding to affected states, and if applicable, other notification requirements of R18-2-402(D)(2) and R18-2-410(C)(2).
 - d. For Class I and II permits, the conditions of the permit shall require compliance with all applicable requirements.
 - e. For permits for which an application is required to be submitted to the Administrator under R18-2-307(A), and to which the Administrator has properly objected to its issuance in writing within 45 days of receipt of the proposed final permit and all necessary supporting information from the Department, the Director has revised and submitted a proposed final permit in response to the objection and EPA has not objected to this proposed final permit within 45 days of receipt.
 - f. For permits to which the Administrator has objected to issuance pursuant to a petition filed under 40 CFR 70.8(d), the Administrator's objection has been resolved.
 - g. For a Class II permit that contains voluntary emission limitations, controls, or other requirements established pursuant to R18-2-306.01, the Director shall have complied with the requirement of R18-2-306.01(C) to provide the Administrator with a copy of the proposed permit.
 3. If the Director denies a permit under this Section, a notice shall be served on the applicant by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the denial and a statement that the permit applicant is entitled to a hearing.
 4. The Director shall provide a statement that sets forth the legal and factual basis for the proposed permit conditions including references to the applicable statutory or regulatory provisions. The Director shall send this statement to any person who requests it and, for Class I permits, to the Administrator.
 5. Priority shall be given by the Director to taking action on applications for construction or modification submitted pursuant to Title I, Parts C (Prevention of Significant Deterioration) and D (New Source Review) of the Act.
- K.** Requirement for a Permit. Except as noted under the provisions in R18-2-317 and R18-2-319, no source may operate after the time that it is required to submit a timely and complete application, except in compliance with a permit issued pursuant to this Chapter. However, if a source under R18-2-326(A)(3) submits a timely and complete application for continued operation under a permit revision or renewal, the source's failure to have a permit is not a violation of this Article until the Director takes final action on the application. This protection shall cease to apply if, subsequent to the completeness determination, the applicant fails to submit, by the deadline specified in writing by the Director, any additional information identified as being needed to process the application. This subsection does not affect a source's obligation to obtain a permit revision before making a modification to the source.

Historical Note

Amended effective August 7, 1975 (Supp. 75-1). Former Section R9-3-304 repealed, new Section R9-3-304 formerly Section R9-3-305 renumbered and amended effective August 6, 1976 (Supp. 76-4). Former Section R9-3-304 repealed, new Section R9-3-304 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-304 repealed, new Section R9-3-304 adopted effective May 28, 1982 (Supp. 82-3). Former Section R9-3-304 renumbered without change as Section R18-2-304 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective October 7, 1994 (Supp. 94-4). Amended effective August 1, 1995 (Supp. 95-3). The reference to R18-2-101(54) in subsec-

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tion (E)(8) corrected to reference R18-2-101(57) (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 343, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 3630, February 1, 2020 (Supp. 19-4).

R18-2-305. Public Records; Confidentiality

- A. The Director shall make all permits, including all elements required to be in the permit pursuant to R18-2-306, available to the public. No permit shall be issued unless the information required by R18-2-306 is present in the permit.
- B. A notice of confidentiality pursuant to A.R.S. § 49-432(C) shall:
 1. Precisely identify the information in the documents submitted which is considered confidential.
 2. Contain sufficient supporting information to allow the Director to evaluate whether such information satisfies the requirements related to trade secrets or, if applicable, how the information, if disclosed, is likely to cause substantial harm to the person's competitive position.
- C. Within 30 days of receipt of a notice of confidentiality that complies with subsection (B) above, the Director shall make a determination as to whether the information satisfies the requirements for trade secret or competitive position pursuant to A.R.S. § 49-432(C)(1) and so notify the applicant in writing. If the Director agrees with the applicant that the information covered by the notice of confidentiality satisfies the statutory requirements, the Director shall include a notice in the file for the permit or permit application that certain information has been considered confidential.
- D. If the Director takes action pursuant to A.R.S. § 49-432(D) and obtains a final order authorizing disclosure, the Director shall place the information in the public file and shall notify any person who has requested disclosure. If the court determines that the information is not subject to disclosure, the Director shall provide the notice specified in subsection (C) above.

Historical Note

Amended effective August 7, 1975 (Supp. 75-1).
 Amended as an emergency effective December 15, 1975 (Supp. 75-2). Amended effective May 10, 1976 (Supp. 76-3). Former Section R9-3-306 renumbered as Section R9-3-305 effective August 6, 1976. References changed to conform (Supp. 76-4). Amended effective April 12, 1977 (Supp. 77-2). Amended effective March 24, 1978 (Supp. 78-2). Former Section R9-3-305 repealed, new Section R9-3-305 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-305 repealed, new Section R9-3-305 adopted effective May 28, 1982 (Supp. 82-3). Former Section R9-3-305 renumbered without change as R18-2-305 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-306. Permit Contents

- A. Each permit issued by the Director shall include the following elements:
 1. The date of issuance and the permit term.
 2. Enforceable emission limitations and standards, including operational requirements and limitations that ensure

compliance with all applicable requirements at the time of issuance and operational requirements and limitations that have been voluntarily accepted under R18-2-306.01.

- a. The permit shall specify and reference the origin of and authority for each term or condition and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.
 - b. The permit shall state that, if an applicable requirement of the Act is more stringent than an applicable requirement of regulations promulgated under Title IV of the Act, both provisions shall be incorporated into the permit and shall be enforceable by the Administrator.
 - c. Any permit containing an equivalency demonstration for an alternative emission limit submitted under R18-2-304(E) shall contain provisions to ensure that any resulting emissions limit has been demonstrated to be quantifiable, accountable, enforceable, and based on replicable procedures.
 - d. The permit shall specify applicable requirements for fugitive emission limitations, regardless of whether the source category in question is included in the list of sources contained in the definition of major source in R18-2-101.
3. Each permit shall contain the following requirements with respect to monitoring:
 - a. All monitoring and analysis procedures or test methods required under applicable monitoring and testing requirements, including:
 - i. Monitoring and analysis procedures or test methods under 40 CFR 64;
 - ii. Other procedures and methods promulgated under sections 114(a)(3) or 504(b) of the Act; and
 - iii. Monitoring and analysis procedures or test methods required under R18-2-306.01.
 - b. 40 CFR 64 as adopted July 1, 1998, is incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. If more than one monitoring or testing requirement applies, the permit may specify a streamlined set of monitoring or testing provisions if the specified monitoring or testing is adequate to assure compliance at least to the same extent as the monitoring or testing applicable requirements not included in the permit as a result of such streamlining;
 - c. If the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit as reported under subsection (A)(4). The monitoring requirements shall ensure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement, and as otherwise required under R18-2-306.01. Recordkeeping provisions may be sufficient to meet the requirements of this subsection; and

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- d. As necessary, requirements concerning the use, maintenance, and, if appropriate, installation of monitoring equipment or methods.
4. The permit shall incorporate all applicable recordkeeping requirements including recordkeeping requirements established under R18-2-306.01, for the following:
 - a. Records of required monitoring information that include the following:
 - i. The date, place as defined in the permit, and time of sampling or measurement;
 - ii. The date any analyses was performed;
 - iii. The name of the company or entity that performed the analysis;
 - iv. A description of the analytical technique or method used;
 - v. The results of any analysis; and
 - vi. The operating conditions existing at the time of sampling or measurement;
 - b. Retention of records of all required monitoring data and support information for a period of at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation and copies of all reports required by the permit.
5. The permit shall incorporate all applicable reporting requirements including reporting requirements established under R18-2-306.01 and require the following:
 - a. Submittal of reports of any required monitoring. All instances of deviations from permit requirements shall be clearly identified in the reports. All required reports shall be certified by a responsible official consistent with R18-2-304(I) and R18-2-309(A)(5) and shall be submitted with the following frequency:
 - i. For a Class I permit, at least once every six months;
 - ii. For a Class II permit, at least once per year.
 - b. Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of the deviations, and any corrective actions or preventive measures taken. Where the applicable requirement contains a definition of prompt or otherwise specifies a timeframe for reporting deviations, that definition or timeframe shall govern. Where the applicable requirement does not address the timeframe for reporting deviations, the permittee shall submit reports of deviations in compliance with the following schedule:
 - i. Notice that complies with timeframe in R18-2-310.01(A) is prompt for deviations that constitute excess emissions;
 - ii. Except as otherwise provided in the permit, notice that complies with subsection (A)(5)(a) is prompt for all other types of deviation.
6. A permit condition prohibiting emissions exceeding any allowances the source lawfully holds under Title IV of the Act or the regulations promulgated thereunder.
 - a. A permit revision is not required for increases in emissions that are authorized by allowances acquired under the acid rain program, if the increases do not require a permit revision under any other applicable requirement.
 - b. A limit shall not be placed on the number of allowances held by the source. The source shall not, however, use allowances as a defense to noncompliance with any other applicable requirement.
 - c. Any allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Act.
 - d. Any permit issued under the requirements of this Chapter and Title V of the Act to a unit subject to the provisions of Title IV of the Act shall include conditions prohibiting all of the following:
 - i. Annual emissions of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide held by the owner or operator of the unit or the designated representative of the owner or operator,
 - ii. Exceedances of applicable emission rates,
 - iii. Use of any allowance before the year for which it is allocated, and
 - iv. Contravention of any other provision of the permit.
7. A severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portion of the permit.
8. Provisions stating the following:
 - a. The permittee shall comply with all conditions of the permit including all applicable requirements of Arizona air quality statutes A.R.S. Title 49, Chapter 3, and the air quality rules, 18 A.A.C. 2. Any permit noncompliance is grounds for enforcement action; for a permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application. Noncompliance with any federally enforceable requirement in a permit is a violation of the Act.
 - b. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
 - c. The permit may be revised, reopened, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.
 - d. The permit does not convey any property rights of any sort, or any exclusive privilege to the permit holder.
 - e. The permittee shall furnish to the Director, within a reasonable time, any information that the Director may request in writing to determine whether cause exists for revising, revoking and reissuing, or terminating the permit, or to determine compliance with the permit. Upon the Director's request, the permittee shall also furnish to the Director copies of records required to be kept by the permit. For information claimed to be confidential, the permittee shall furnish a copy of the records directly to the Administrator along with a claim of confidentiality.
 - f. For any major source operating in a nonattainment area for all pollutants for which the source is classified as a major source, the source shall comply with reasonably available control technology.

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9. A provision to ensure that the source pays fees to the Director under A.R.S. § 49-426(E), R18-2-326, and R18-2-511.
 10. A provision stating that a permit revision shall not be required under any approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes provided for in the permit.
 11. Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application as approved by the Director. The terms and conditions shall:
 - a. Require the source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating;
 - b. Extend the permit shield described in R18-2-325 to all terms and conditions under each such operating scenario; and
 - c. Ensure that the terms and conditions of each such alternative scenario meet all applicable requirements and the requirements of this Chapter.
 12. Terms and conditions, if the permit applicant requests them, and as approved by the Director, for the trading of emissions increases and decreases in the permitted facility, to the extent that the applicable requirements provide for trading the increases and decreases without a case-by-case approval of each emissions trade. The terms and conditions:
 - a. Shall include all terms required under subsections (A) and (C) to determine compliance;
 - b. Shall not extend the permit shield in subsection (D) to all terms and conditions that allow the increases and decreases in emissions;
 - c. Shall not include trading that involves emission units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades; and
 - d. Shall meet all applicable requirements and requirements of this Chapter.
 13. Terms and conditions, if the permit applicant requests them and they are approved by the Director, setting forth intermittent operating scenarios including potential periods of downtime. If the terms and conditions are included, the state's emissions inventory shall not reflect the zero emissions associated with the periods of downtime.
 14. Upon request of a permit applicant, the Director shall issue a permit that contains terms and conditions allowing for the trading of emission increases and decreases in the permitted facility solely for the purpose of complying with a federally enforceable emission cap established in the permit independent of otherwise applicable requirements. The permit applicant shall include in its application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The Director shall not include in the emissions trading provisions any emissions units for which emissions are not quantifiable or for which there are no replicable procedures to enforce the emissions trades. The permit shall also require compliance with all applicable requirements. Changes made under this subsection (shall) not include modifications under any provision of Title I of the Act and shall not exceed emissions allowable under the permit. The terms and conditions shall provide, for Class I sources, for notice that conforms to R18-2-317(D) and (E), and for Class II sources, for logging that conforms to R18-2-317.02(B)(5). In addition, the notices for Class I and Class II sources shall describe how the increases and decreases in emissions will comply with the terms and conditions of the permit.
 15. Other terms and conditions as are required by the Act, A.R.S. Title 49, Chapter 3, Articles 1 and 2, and the rules adopted in 18 A.A.C. 2.
- B. Federally-enforceable Requirements.**
1. The following permit conditions shall be enforceable by the Administrator and citizens under the Act:
 - a. Except as provided in subsection (B)(2), all terms and conditions in a Class I permit, including any provision designed to limit a source's potential to emit;
 - b. Terms or conditions in a Class II permit setting forth federal applicable requirements; and
 - c. Terms and conditions in any permit entered into voluntarily under R18-2-306.01, as follows:
 - i. Emissions limitations, controls, or other requirements; and
 - ii. Monitoring, recordkeeping, and reporting requirements associated with the emissions limitations, controls, or other requirements in subsection (B)(1)(c)(i).
 2. Notwithstanding subsection (B)(1)(a), the Director shall specifically designate as not being federally enforceable under the Act any terms and conditions included in a Class I permit that are not required under the Act or under any of its applicable requirements.
- C. Each permit shall contain a compliance plan as specified in R18-2-309.**
- D. Each permit shall include the applicable permit shield provisions under R18-2-325.**
- E. Emergency provision.**
1. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, including acts of God, that requires immediate corrective action to restore normal operation and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.
 2. An emergency constitutes an affirmative defense to an action brought for noncompliance with technology-based emission limitations if the conditions of subsection (E)(3) are met.
 3. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An emergency occurred and the permittee can identify the cause or causes of the emergency;
 - b. At the time of the emergency the permitted facility was being properly operated;
 - c. During the period of the emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emissions standards or other requirements in the permit; and
 - d. The permittee submitted notice of the emergency to the Director by certified mail, facsimile, or hand

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delivery within two working days of the time when emission limitations were exceeded due to the emergency. This notice shall contain a description of the emergency, any steps taken to mitigate emissions, and corrective action taken.

4. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.
 5. This provision is in addition to any emergency or upset provision contained in any applicable requirement.
- F.** A Class I permit issued to a major source shall require that revisions be made under R18-2-321 to incorporate additional applicable requirements adopted by the Administrator under the Act that become applicable to a source with a permit with a remaining permit term of three or more years. A revision shall not be required if the effective date of the applicable requirement is after the expiration of the permit. The revisions shall be made as expeditiously as practicable, but not later than 18 months after the promulgation of the standards and regulations. Any permit revision required under this subsection (shall) comply with R18-2-322 for permit renewal and shall reset the five-year permit term.

Historical Note

Adopted effective August 7, 1975 (Supp. 75-1). Former Section R9-3-307 renumbered as Section R9-3-306 effective August 6, 1976. Reference changed to conform (Supp. 76-4). Former Section R9-3-306 repealed, new Section R9-3-306 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 28, 1984 (Supp. 84-5). Former Section R9-3-306 renumbered without change as R18-2-306 (Supp. 87-3). Amended subsection (I) effective December 1, 1988 (Supp. 88-4). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective August 1, 1995 (Supp. 95-3). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 343, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-306.01. Permits Containing Voluntarily Accepted Emission Limitations and Standards

- A.** A source may voluntarily propose in its application, and accept in its permit, emissions limitations, controls, or other requirements that are permanent, quantifiable, and otherwise enforceable as a practical matter in order to avoid classification as a source that requires a Class I permit or to avoid one or more other applicable requirements. For the purposes of this Section, "enforceable as a practical matter" means that specific means to assess compliance with an emissions limitation, control, or other requirement are provided for in the permit in a manner that allows compliance to be readily determined by an inspection of records and reports.
- B.** In order for a source to obtain a permit containing voluntarily accepted emissions limitations, controls, or other requirements, the source shall demonstrate all of the following in its permit application:

1. The emissions limitations, controls, or other requirements to be imposed for the purpose of avoiding an applicable requirement are at least as stringent as the emissions limitations, controls, or other requirements that would otherwise be applicable to that source, including those that originate in an applicable implementation plan; and the permit does not waive, or make less stringent, any limitations or requirements contained in or issued pursuant to an applicable implementation plan, or that are otherwise federally enforceable.
 2. All voluntarily accepted emissions limitations, controls, or other requirements will be permanent, quantifiable, and otherwise enforceable as a practical matter.
- C.** At the same time as notice of proposed issuance is first published pursuant to A.R.S. § 49-426(D), the Director shall send a copy of any Class II permit proposed to be issued pursuant to this Section to the Administrator for review during the comment period described in the notice pursuant to R18-2-330(C)(3).
- D.** The Director shall send a copy of each final permit issued pursuant to this Section to the Administrator.

Historical Note

Adopted effective August 1, 1995 (Supp. 95-3). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-306.02. Expired**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Section expired under A.R.S. § 41-1056(J) at 22 A.A.R. 2982, effective September 15, 2016 (Supp. 16-3).

R18-2-307. Permit Review by the EPA and Affected States

- A.** Except as provided in R18-2-304(G) and as waived by the Administrator, for each Class I permit, a copy of each of the following shall be provided to the Administrator as follows:
 1. The applicant shall provide a complete copy of the application including any attachments, compliance plans, and other information required by R18-2-304(F) at the time of submittal of the application to the Director.
 2. The Director shall provide the proposed final permit after public and affected state review.
 3. The Director shall provide the final permit at the time of issuance.
- B.** The Director shall keep all records associated with all permits for a minimum of five years from issuance.
- C.** No permit for which an application is required to be submitted to the Administrator under subsection (A) shall be issued if the Administrator properly objects to its issuance in writing within 45 days of receipt of the proposed final permit from the Department and all necessary supporting information.
- D.** Review by Affected States.
 1. For each Class I permit, the Director shall provide notice of each proposed permit to any affected state on or before the time that the Director provides this notice to the public as required under R18-2-330 except to the extent R18-2-319 requires the timing of the notice to be different.
 2. If the Director refuses to accept a recommendation of any affected state submitted during the public or affected state review period, the Director shall notify the Administrator and the affected state in writing. The notification shall

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include the Director's reasons for not accepting any such recommendation and shall be provided to the Administrator as part of the submittal of the proposed final permit. The Director shall not be required to accept recommendations that are not based on federal applicable requirements or requirements of state law.

- E. Any person who petitions the Administrator pursuant to 40 CFR 70.8(d) shall notify the Department by certified mail of such petition as soon as possible, but in no case more than 10 days following such petition. Such notice shall include the grounds for objection and whether such objections were raised during the public comment period. If the Administrator objects to the permit as a result of a petition filed under this subsection, the Director shall not issue the permit until EPA's objection has been resolved, except that a petition for review does not stay the effectiveness of a permit or its requirements if the permit was issued after the end of the 45-day administrative review period and prior to the Administrator's objection.
- F. If the Director has issued a permit prior to receipt of the Administrator's objection under subsection (E), and the Administrator indicates that it should be revised, terminated, or revoked and reissued, the Director shall reopen the permit in accordance with R18-2-321 and may thereafter issue only a revised permit that satisfies the Administrator's objection. In any case, the source shall not be in violation of the requirement to have submitted a timely and complete application.
- G. Prohibition on Default Issuance.
 - 1. No Class I permit including a permit renewal or revision shall be issued until affected states and the Administrator have had an opportunity to review the proposed permit.
 - 2. No permit or renewal shall be issued unless the Director has acted on the application.

Historical Note

Adopted effective August 7, 1975 (Supp. 75-1). Former Section R9-3-307 renumbered as Section R9-3-306 effective August 6, 1976 (Supp. 76-4). New Section R9-3-307 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-307 repealed, new Section R9-3-307 adopted effective May 28, 1982 (Supp. 82-3). Amended subsection (B)(4)(b) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-307 renumbered without change as R18-2-307 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-308. Emission Standards and Limitations

Wherever applicable requirements apply different standards or limitations to a source for the same item, all applicable requirements shall be included in the permit.

Historical Note

Adopted effective August 7, 1975 (Supp. 75-1). Former Section R9-3-308 repealed, new Section R9-3-308 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-308 renumbered without change as R18-2-308 (Supp. 87-3). Amended effective December 1, 1988 (Supp. 88-4). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-309. Compliance Plan; Certification

All permits shall contain the following elements with respect to compliance:

- 1. The elements required by R18-2-306(A)(3), (4), and (5).

- 2. Requirements for certifications of compliance with terms and conditions contained in the permit, including emissions limitations, standards, and work practices. Permits shall include each of the following:
 - a. The frequency of submissions of compliance certifications, which shall not be less than annually;
 - b. The means to monitor the compliance of the source with its emissions limitations, standards, and work practices;
 - c. A requirement that the compliance certification include all of the following (the identification of applicable information may cross-reference the permit or previous reports, as applicable):
 - i. The identification of each term or condition of the permit that is the basis of the certification;
 - ii. The identification of the methods or other means used by the owner or operator for determining the compliance status with each term and condition during the certification period. The methods and other means shall include, at a minimum, the methods and means required under R18-2-306(A)(3). If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with section 113(c)(2) of the Act, which prohibits knowingly making a false certification or omitting material information;
 - iii. The status of compliance with the terms and conditions of the permit for the period covered by the certification, including whether compliance during the period was continuous or intermittent. The certification shall be based on the methods or means designated in subsection (2)(c)(ii). The certification shall identify each deviation and take it into account in the compliance certification. For emission units subject to 40 CFR 64, the certification shall also identify as possible exceptions to compliance any period during which compliance is required and in which an excursion or exceedance defined under 40 CFR 64 occurred; and
 - iv. Other facts the Director may require to determine the compliance status of the source.
 - d. A requirement that permittees submit all compliance certifications to the Director. Class I permittees shall also submit compliance certifications to the Administrator.
 - e. Additional requirements specified in sections 114(a)(3) and 504(b) of the Act or pursuant to R18-2-306.01.
- 3. A requirement for any document required to be submitted by a permittee, including reports, to contain a certification by a responsible official of truth, accuracy, and completeness. This certification and any other certification required under this Section shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
- 4. Inspection and entry provisions that require that upon presentation of proper credentials, the permittee shall allow the Director to:
 - a. Enter upon the permittee's premises where a source is located, emissions-related activity is conducted, or

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- records are required to be kept under the conditions of the permit;
- b. Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;
 - c. Inspect, at reasonable times, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;
 - d. Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements; and
 - e. Record any inspection by use of written, electronic, magnetic, or photographic media.
5. A compliance plan that contains all the following:
 - a. A description of the compliance status of the source with respect to all applicable requirements;
 - b. A description as follows:
 - i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with the requirements;
 - ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet the requirements on a timely basis; and
 - iii. For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements;
 - c. A compliance schedule as follows:
 - i. For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with the requirements;
 - ii. For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis. A statement that the source will meet in a timely manner applicable requirements that become effective during the permit term shall satisfy this provision, unless a more detailed schedule is expressly required by the applicable requirement;
 - iii. A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. The schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirement for which the source will be in noncompliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. The schedule of compliance shall supplement, and shall not sanction noncompliance with, the applicable requirements on which it is based.
 - d. A schedule for submission of certified progress reports no less frequently than every six months for sources required to have a schedule of compliance to remedy a violation. The progress reports shall contain:
 - i. Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones, or compliance were achieved; and
 - ii. An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.
 6. The compliance plan content requirements specified in subsection (5) shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the Act, and incorporated under R18-2-333 with regard to the schedule and each method the source will use to achieve compliance with the acid rain emissions limitations.
 7. If there is a Federal Implementation Plan (FIP) applicable to the source, a provision that compliance with the FIP is required.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amendment filed September 18, 1979, effective following the adoption of Article 7. Nonferrous Smelter Orders.

Amended effective October 2, 1979 (Supp. 79-5). Article 7. Nonferrous Smelter Orders adopted effective January 8, 1980. Amendment filed September 18, 1979 effective January 8, 1980 (Supp. 80-2). Amended effective September 28, 1984 (Supp. 84-5). Former Section R9-3-309 renumbered without change as R18-2-309 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective October 7, 1994 (Supp. 94-4). Amended effective August 1, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 343, effective December 20, 1999 (Supp. 99-4).

Amended by final rulemaking at 10 A.A.R. 2833, effective June 17, 2004 (Supp. 04-2).

R18-2-310. Affirmative Defenses for Excess Emissions Due to Malfunctions, Startup, and Shutdown**A. Applicability.**

This rule establishes affirmative defenses for certain emissions in excess of an emission standard or limitation and applies to all emission standards or limitations except for standards or limitations:

1. Promulgated pursuant to Sections 111 or 112 of the Act,
2. Promulgated pursuant to Titles IV or VI of the Clean Air Act,
3. Contained in any Prevention of Significant Deterioration (PSD) or New Source Review (NSR) permit issued by the U.S. E.P.A.,
4. Contained in R18-2-715(F), or
5. Included in a permit to meet the requirements of R18-2-406(A)(5).

B. Affirmative Defense for Malfunctions.

Emissions in excess of an applicable emission limitation due to malfunction shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to malfunction has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has

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complied with the reporting requirements of R18-2-310.01 and has demonstrated all of the following:

1. The excess emissions resulted from a sudden and unavoidable breakdown of process equipment or air pollution control equipment beyond the reasonable control of the operator;
2. The air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;
3. If repairs were required, the repairs were made in an expeditious fashion when the applicable emission limitations were being exceeded. Off-shift labor and overtime were utilized where practicable to ensure that the repairs were made as expeditiously as possible. If off-shift labor and overtime were not utilized, the owner or operator satisfactorily demonstrated that the measures were impracticable;
4. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;
5. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;
6. The excess emissions were not part of a recurring pattern indicative of inadequate design, operation, or maintenance;
7. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in Article 2 of this Chapter that could be attributed to the emitting source;
8. The excess emissions did not stem from any activity or event that could have been foreseen and avoided, or planned, and could not have been avoided by better operations and maintenance practices;
9. All emissions monitoring systems were kept in operation if at all practicable; and
10. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

C. Affirmative Defense for Startup and Shutdown.

1. Except as provided in subsection (C)(2), and unless otherwise provided for in the applicable requirement, emissions in excess of an applicable emission limitation due to startup and shutdown shall constitute a violation. The owner or operator of a source with emissions in excess of an applicable emission limitation due to startup and shutdown has an affirmative defense to a civil or administrative enforcement proceeding based on that violation, other than a judicial action seeking injunctive relief, if the owner or operator of the source has complied with the reporting requirements of R18-2-310.01 and has demonstrated all of the following:
 - a. The excess emissions could not have been prevented through careful and prudent planning and design;
 - b. If the excess emissions were the result of a bypass of control equipment, the bypass was unavoidable to prevent loss of life, personal injury, or severe damage to air pollution control equipment, production equipment, or other property;
 - c. The source's air pollution control equipment, process equipment, or processes were at all times maintained and operated in a manner consistent with good practice for minimizing emissions;

- d. The amount and duration of the excess emissions (including any bypass operation) were minimized to the maximum extent practicable during periods of such emissions;
- e. All reasonable steps were taken to minimize the impact of the excess emissions on ambient air quality;
- f. During the period of excess emissions there were no exceedances of the relevant ambient air quality standards established in Article 2 of this Chapter that could be attributed to the emitting source;
- g. All emissions monitoring systems were kept in operation if at all practicable; and
- h. The owner or operator's actions in response to the excess emissions were documented by contemporaneous records.

2. If excess emissions occur due to a malfunction during routine startup and shutdown, then those instances shall be treated as other malfunctions subject to subsection (B).

D. Affirmative Defense for Malfunctions During Scheduled Maintenance.

If excess emissions occur due to a malfunction during scheduled maintenance, then those instances will be treated as other malfunctions subject to subsection (B).

E. Demonstration of Reasonable and Practicable Measures.

For an affirmative defense under subsections (B) or (C), the owner or operator of the source shall demonstrate, through submission of the data and information required by this Section and R18-2-310.01, that all reasonable and practicable measures within the owner or operator's control were implemented to prevent the occurrence of the excess emissions.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective June 19, 1981 (Supp. 81-3). Amended Arizona Testing Manual for Air Pollutant Emissions, effective September 22, 1983 (Supp. 83-5). Amended Arizona Testing Manual for Air Pollutant Emissions, as of September 15, 1984, effective August 9, 1985 (Supp. 85-4). Amended effective September 28, 1984 (Supp. 84-5). Former Section R9-3-310 renumbered without change as R18-2-310 (Supp. 87-3). Amended effective February 26, 1988 (Supp. 88-1). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Section repealed; new Section adopted by final rulemaking at 7 A.A.R. 1164, effective February 15, 2001 (Supp. 01-1).

R18-2-310.01. Reporting Requirements

- A.** The owner or operator of any source shall report to the Director any emissions in excess of the limits established by this Chapter or the applicable permit. The owner or operator of any registered source may report excess emissions in accordance with this Section in order to qualify for the affirmative defense established in R18-2-310. The report shall be in two parts as specified below:
 1. Notification by telephone or facsimile within 24 hours of the time the owner or operator first learned of the occurrence of excess emissions that includes all available information from subsection (B).
 2. Detailed written notification by submission of an excess emissions report within 72 hours of the notification under subsection (A)(1).
- B.** The excess emissions report shall contain the following information:

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1. The identity of each stack or other emission point where the excess emissions occurred;
 2. The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;
 3. The time and duration or expected duration of the excess emissions;
 4. The identity of the equipment from which the excess emissions emanated;
 5. The nature and cause of the emissions;
 6. The steps taken, if the excess emissions were the result of a malfunction, to remedy the malfunction and the steps taken or planned to prevent the recurrence of the malfunctions;
 7. The steps that were or are being taken to limit the excess emissions; and
 8. If the source's permit contains procedures governing source operation during periods of startup or malfunction and the excess emissions resulted from startup or malfunction, a list of the steps taken to comply with the permit procedures.
- C. In the case of continuous or recurring excess emissions, the notification requirements of this Section shall be satisfied if the source provides the required notification after excess emissions are first detected and includes in the notification an estimate of the time the excess emissions will continue. Excess emissions occurring after the estimated time period or changes in the nature of the emissions as originally reported shall require additional notification pursuant to subsections (A) and (B).

Historical Note

New Section adopted by final rulemaking at 7 A.A.R. 1164, effective February 15, 2001 (Supp. 01-1).
Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-311. Test Methods and Procedures

- A. Except as otherwise specified in this Chapter, the applicable procedures and testing methods contained in the Arizona Testing Manual; 40 CFR 52, Appendices D and E; 40 CFR 60, Appendices A through F; and 40 CFR 61, Appendices B and C shall be used to determine compliance with the requirements established in this Chapter or contained in permits issued pursuant to this Chapter.
- B. Except as otherwise provided in this subsection the opacity of visible emissions shall be determined by Reference Method 9 of the Arizona Testing Manual or by alternative method ALT-082 approved by the Administrator on May 15, 2012. A permit may specify a method, other than Method 9 or ALT-082, for determining the opacity of emissions from a particular emissions unit, if the method has been promulgated by the Administrator in 40 CFR 60, Appendix A or approved by the Administrator as an alternative method.
- C. Except as otherwise specified in this Chapter, the heat content of solid fuel shall be determined according to ASTM method D-3176-89, (Practice for Ultimate Analysis of Coal and Coke) and ASTM method D-2015-91, (Test Method for Gross Calorific Value of Coal and Coke by the Adiabatic Bomb Calorimeter).
- D. Except for ambient air monitoring and emissions testing required under Articles 9 and 11 of this Chapter, alternative and equivalent test methods in any test plan submitted to the

Director may be approved by the Director for the duration of that plan provided that the following three criteria are met:

1. The alternative or equivalent test method measures the same chemical and physical characteristics as the test method it is intended to replace.
2. The alternative or equivalent test method has substantially the same or better reliability, accuracy, and precision as the test method it is intended to replace.
3. Applicable quality assurance procedures are followed in accordance with the Arizona Testing Manual, 40 CFR 60 or other quality assurance methods which are consistent with principles contained in the Arizona Testing Manual or 40 CFR 60 as approved by the Director.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Amended effective September 28, 1984 (Supp. 84-5). Former Section R9-3-311 renumbered without change as R18-2-311 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-312. Performance Tests

- A. Except as provided in subsection (J), within 60 days after a source subject to the permit requirements of this Article has achieved the capability to operate at its maximum production rate on a sustained basis but no later than 180 days after initial start-up of such source and at such other times as may be required by the Director, the owner or operator of such source shall conduct performance tests and furnish the Director a written report of the results of the tests.
- B. Performance tests shall be conducted and data reduced in accordance with the test method and procedures contained in the Arizona Testing Manual unless the Director:
 1. Specifies or approves, in specific cases, the use of a reference method with minor changes in methodology;
 2. Approves the use of an equivalent method;
 3. Approves the use of an alternative method the results of which he has determined to be adequate for indicating whether a specific source is in compliance; or
 4. Waives the requirement for performance tests because the owner or operator of a source has demonstrated by other means to the Director's satisfaction that the source is in compliance with the standard.
 5. Nothing in this Section shall be construed to abrogate the Director's authority to require testing.
- C. Performance tests shall be conducted under such conditions as the Director shall specify to the plant operator based on representative performance of the source. The owner or operator shall make available to the Director such records as may be necessary to determine the conditions of the performance tests. Operations during periods of start-up, shutdown, and malfunction shall not constitute representative conditions of performance tests unless otherwise specified in the applicable standard.
- D. The owner or operator of a permitted source shall provide the Director two weeks prior notice of the performance test to afford the Director the opportunity to have an observer present.
- E. The owner or operator of a permitted source shall provide, or cause to be provided, performance testing facilities as follows:
 1. Sampling ports adequate for test methods applicable to such facility.

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2. Safe sampling platform(s).
 3. Safe access to sampling platform(s).
 4. Utilities for sampling and testing equipment.
- F.** Each performance test shall consist of three separate runs using the applicable test method. Each run shall be conducted for the time and under the conditions specified in the applicable standard. For the purpose of determining compliance with an applicable standard, the arithmetic means of results of the three runs shall apply. In the event that a sample is accidentally lost or conditions occur in which one of the three runs is required to be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the owner or operator's control, compliance may, upon the Director's approval, be determined using the arithmetic means of the results of the two other runs. If the Director, or the Director's designee is present, tests may only be stopped with the Director's or such designee's approval. If the Director, or the Director's designee is not present, tests may only be stopped for good cause, which includes forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the operator's control. Termination of testing without good cause after the first run is commenced shall constitute a failure of the test.
- G.** Except as provided in subsection (H) compliance with the emission limits established in this Chapter or as prescribed in permits issued pursuant to this Chapter shall be determined by the performance tests specified in this Section or in the permit.
- H.** In addition to performance tests specified in this Section, compliance with specific emission limits may be determined by:
1. Opacity tests.
 2. Emission limit compliance tests specifically designated as such in the regulation establishing the emission limit to be complied with.
 3. Continuous emission monitoring, where applicable quality assurance procedures are followed and where it is designated in the permit or in an applicable requirement to show compliance.
- I.** Nothing in this Section shall be so construed as to prevent the utilization of measurements from emissions monitoring devices or techniques not designated as performance tests as evidence of compliance with applicable good maintenance and operating requirements.
- J.** The owner or operator of a source subject to this Section may request an extension to the performance test deadline due to a force majeure event as follows:
1. If a force majeure event is about to occur, occurs, or has occurred for which the owner or operator intends to assert a claim of force majeure, the owner or operator shall notify the Director in writing as soon as practicable following the date the owner or operator first knew, or through due diligence should have known that the event may cause or caused a delay in testing beyond the regulatory deadline. The notification must occur before the performance test deadline unless the initial force majeure or a subsequent force majeure event delays the notice, and in such cases, the notification shall be given as soon as practicable.
 2. The owner or operator shall provide to the Director a written description of the force majeure event and a rationale for attributing the delay in testing beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct

the performance test. The performance test shall be conducted as soon as practicable after the force majeure event occurs.

3. The decision as to whether or not to grant an extension to the performance test deadline is solely within the discretion of the Director. The Director shall notify the owner or operator in writing of approval or disapproval of the request for an extension as soon as practicable.
4. Until an extension of the performance test deadline has been approved by the Director under subsections (1), (2), and (3), the owner or operator remains subject to the requirements of this Section.
5. For purposes of this subsection, a "force majeure event" means an event that will be or has been caused by circumstances beyond the control of the source, its contractors, or any entity controlled by the source that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe despite the source's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the source.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective September 28, 1984 (Supp. 84-5). Former Section R9-3-312 renumbered without change as R18-2-312 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-313. Existing Source Emission Monitoring

- A.** Every source subject to an existing source performance standard as specified in this Chapter shall install, calibrate, operate, and maintain all monitoring equipment necessary for continuously monitoring the pollutants and other gases specified in this Section for the applicable source category.
1. Applicability.
 - a. Fossil-fuel fired steam generators, as specified in subsection (C)(1), shall be monitored for opacity, nitrogen oxides emissions, sulfur dioxide emissions, and oxygen or carbon dioxide.
 - b. Fluid bed catalytic cracking unit catalyst regenerators, as specified in subsection (C)(4), shall be monitored for opacity.
 - c. Sulfuric acid plants, as specified in subsection (C)(3), shall be monitored for sulfur dioxide emissions.
 - d. Nitric acid plants, as specified in subsection (C)(2), shall be monitored for nitrogen oxides emissions.
 2. Emission monitoring shall not be required when the source of emissions is not operating.
 3. Variations.
 - a. Unless otherwise prohibited by the Act, the Director may approve, on a case-by-case basis, alternative monitoring requirements different from the provisions of this Section if the installation of a continuous emission monitoring system cannot be implemented by a source due to physical plant limitations or extreme economic reasons. Alternative monitoring procedures shall be specified by the Director on a case-by-case basis and shall include, as a minimum, annual manual stack tests for the pollutants identified for each type of source in this Sec-

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tion. Extreme economic reasons shall mean that the requirements of this Section would cause the source to be unable to continue in business.

- b. Alternative monitoring requirements may be prescribed when installation of a continuous emission monitoring system or monitoring device specified by this Section would not provide accurate determinations of emissions (e.g., condensed, uncombined water vapor may prevent an accurate determination of opacity using commercially available continuous emission monitoring systems).
 - c. Alternative monitoring requirements may be prescribed when the affected facility is infrequently operated (e.g., some affected facilities may operate less than one month per year).
4. Monitoring system malfunction: A temporary exemption from the monitoring and reporting requirements of this Section may be provided during any period of monitoring system malfunction, provided that the source owner or operator demonstrates that the malfunction was unavoidable and is being repaired expeditiously.
- B.** Installation and performance testing required under this Section shall be completed and monitoring and recording shall commence within 18 months of the effective date of this Section.
- C.** Minimum monitoring requirements:
1. Fossil-fuel fired steam generators: Each fossil-fuel fired steam generator, except as provided in the following subsections, with an annual average capacity factor of greater than 30%, as reported to the Federal Power Commission for calendar year 1976, or as otherwise demonstrated to the Department by the owner or operator, shall conform with the following monitoring requirements when such facility is subject to an emission standard for the pollutant in question.
 - a. A continuous emission monitoring system for the measurement of opacity which meets the performance specifications of this Section shall be installed, calibrated, maintained, and operated in accordance with the procedures of this Section by the owner or operator of any such steam generator of greater than 250 million Btu per hour heat input except where:
 - i. Gaseous fuel is the only fuel burned; or
 - ii. Oil or a mixture of gas and oil are the only fuels burned and the source is able to comply with the applicable particulate matter and opacity regulations without utilization of particulate matter collection equipment, and where the source has never been found to be in violation through any administrative or judicial proceedings, or accepted responsibility for any violation of any visible emission standard.
 - b. A continuous emission monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this Section shall be installed, calibrated, using sulfur dioxide calibration gas mixtures or other gas mixtures approved by the Director, maintained and operated on any fossil-fuel fired steam generator of greater than 250 million Btu per hour heat input which has installed sulfur dioxide pollutant control equipment.
 - c. A continuous emission monitoring system for the measurement of nitrogen oxides which meets the performance specification of this Section shall be installed, calibrated using nitric oxide calibration gas mixtures or other gas mixtures approved by the Director, maintained and operated on fossil-fuel fired steam generators of greater than 1000 million Btu per hour heat input when such facility is located in an air quality control region where the Director has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient air quality standard specified in R18-2-205, unless the source owner or operator demonstrates during source compliance tests as required by the Department that such a source emits nitrogen oxides at levels 30% or more below the emission standard within this Chapter.
 - d. A continuous emission monitoring system for the measurement of the percent oxygen or carbon dioxide which meets the performance specifications of this Section shall be installed, calibrated, operated, and maintained on fossil-fuel fired steam generators where measurements of oxygen or carbon dioxide in the flue gas are required to convert either sulfur dioxide or nitrogen oxides continuous emission monitoring data, or both, to units of the emission standard within this Chapter.
 2. Nitric acid plants: Each nitric acid plant of greater than 300 tons per day production capacity, the production capacity being expressed as 100% acid located in an air quality control region where the Director has specifically determined that a control strategy for nitrogen dioxide is necessary to attain the ambient air quality standard specified in R18-2-205, shall install, calibrate using nitrogen dioxide calibration gas mixtures, maintain, and operate a continuous emission monitoring system for the measurement of nitrogen oxides which meets the performance specifications of this Section for each nitric acid producing facility within such plant.
 3. Sulfuric acid plants: Each sulfuric acid plant as defined in R18-2-101, of greater than 300 tons per day production capacity, the production being expressed as 100% acid, shall install, calibrate using sulfur dioxide calibration gas mixtures or other gas mixtures approved by the Director, maintain and operate a continuous emission monitoring system for the measurement of sulfur dioxide which meets the performance specifications of this Section for each sulfuric acid producing facility within such a plant.
 4. Fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries. Each catalyst regenerator for fluid bed catalytic cracking units of greater than 20,000 barrels per day fresh-feed capacity shall install, calibrate, maintain and operate a continuous emission monitoring system for the measurement of opacity which meets the performance specifications of this Section for each regenerator within such refinery.
- D.** Minimum specifications: Owners or operators of monitoring equipment installed to comply with this Section shall demonstrate compliance with the following performance specifications.
1. The performance specifications set forth in Appendix B of 40 CFR 60 are incorporated herein by reference and shall be used by the Director to determine acceptability of monitoring equipment installed pursuant to this Section. However where reference is made to the Administrator in Appendix B of 40 CFR 60, the Director may allow the

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use of either the state-approved reference method or the federally approved reference method as published in 40 CFR 60. The performance specifications to be used with each type of monitoring system are listed below.

- a. Continuous emission monitoring systems for measuring opacity shall comply with performance specification 1.
- b. Continuous emission monitoring systems for measuring nitrogen oxides shall comply with performance specification 2.
- c. Continuous emission monitoring systems for measuring sulfur dioxide shall comply with performance specification 2.
- d. Continuous emission monitoring systems for measuring sulfur dioxide shall comply with performance specification 3.
- e. Continuous emission monitoring systems for measuring carbon dioxide shall comply with performance specification 3.
2. Calibration gases: Span and zero gases shall be traceable to National Bureau of Standards reference gases whenever these reference gases are available. Every six months from date of manufacture, span and zero gases shall be reanalyzed by conducting triplicate analyses using the reference methods in Appendix A of 40 CFR 60 (Chapter 1) as amended: For sulfur dioxide, use Reference Method 6; for nitrogen oxides, use Reference method 7; and for carbon dioxide or oxygen, use Reference Method 3. The gases may be analyzed at less frequent intervals if longer shelf lives are guaranteed by the manufacturer.
3. Cycling time: Time includes the total time required to sample, analyze, and record an emission measurement.
 - a. Continuous emission monitoring systems for measuring opacity shall complete a minimum of one cycle of sampling and analyzing for each successive six-minute period.
 - b. Continuous emission monitoring systems for measuring oxides of nitrogen, carbon dioxide, oxygen, or sulfur dioxide shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.
4. Monitor location: All continuous emission monitoring systems or monitoring devices shall be installed such that representative measurements of emissions of process parameter (i.e., oxygen, or carbon dioxide) from the affected facility are obtained. Additional guidance for location of continuous emission monitoring systems to obtain representative samples are contained in the applicable performance specifications of Appendix B of 40 CFR 60.
5. Combined effluents: When the effluents from two or more affected facilities of similar design and operating characteristics are combined before being released to the atmosphere through more than one point, separate monitors shall be installed.
6. Zero and drift: Owners or operators of all continuous emission monitoring systems installed in accordance with the requirements of this Section shall record the zero and span drift in accordance with the method prescribed by the manufacturer's recommended zero and span check at least once daily, using calibration gases specified in subsection (C) as applicable, unless the manufacturer has recommended adjustments at shorter intervals, in which case such recommendations shall be followed; shall adjust the zero span whenever the 24-hour zero drift or 24-hour calibration drift limits of the applicable performance specifications in Appendix B of Part 60, Chapter 1, Title 40 CFR are exceeded.
7. Span: Instrument span should be approximately 200% of the expected instrument data display output corresponding to the emission standard for the source.
- E. Minimum data requirement: The following subsections set forth the minimum data reporting requirements for sources employing continuous monitoring equipment as specified in this Section. These periodic reports do not relieve the source operator from the reporting requirements of R18-2-310.01.
 1. The owners or operators of facilities required to install continuous emission monitoring systems shall submit to the Director a written report of excess emissions for each calendar quarter and the nature and cause of the excess emissions, if known. The averaging period used for data reporting shall correspond to the averaging period specified in the emission standard for the pollutant source category in question. The required report shall include, as a minimum, the data stipulated in this subsection.
 2. For opacity measurements, the summary shall consist of the magnitude in actual percent opacity of all six-minute opacity averages greater than any applicable standards for each hour of operation of the facility. Average values may be obtained by integration over the averaging period or by arithmetically averaging a minimum of four equally spaced, instantaneous opacity measurements per minute. Any time periods exempted shall be deleted before determining any averages in excess of opacity standards.
 3. For gaseous measurements the summary shall consist of emission averages in the units of the applicable standard for each averaging period during which the applicable standard was exceeded.
 4. The date and time identifying each period during which the continuous emission monitoring system was inoperative, except for zero and span checks and the nature of system repair or adjustment shall be reported. The Director may require proof of continuous emission monitoring system performance whenever system repairs or adjustments have been made.
 5. When no excess emissions have occurred and the continuous emission monitoring system(s) have not been inoperative, repaired, or adjusted, such information shall be included in the report.
 6. Owners or operators of affected facilities shall maintain a file of all information reported in the quarterly summaries, and all other data collected either by the continuous emission monitoring system or as necessary to convert monitoring data to the units of the applicable standard for a minimum of two years from the date of collection of such data or submission of such summaries.
- F. Data reduction: Owners or operators of affected facilities shall use the following procedures for converting monitoring data to units of the standard where necessary.
 1. For fossil-fuel fired steam generators the following procedures shall be used to convert gaseous emission monitoring data in parts per million to g/million cal (lb/million Btu) where necessary.
 - a. When the owner or operator of a fossil-fuel fired steam generator elects under subsection (C)(1)(d) to measure oxygen in the flue gases, the measurements

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of the pollutant concentration and oxygen concentration shall each be on a consistent basis (wet or dry).

- i. When measurements are on a wet basis, except where wet scrubbers are employed or where moisture is otherwise added to stack gases, the following conversion procedure shall be used:

$$E(Q) = C(ws)F(w)\left[\frac{20.9}{20.9(1 - B(wa)) - \%O(2ws)}\right]$$

- ii. When measurements are on a wet basis and the water vapor content of the stack gas is determined at least once every 15 minutes the following conversion procedure shall be used:

$$E(Q) = C(ws)F\left[\frac{20.9}{20.9(1 - B(wa))\%O(2ws)}\right]$$

Use of this equation is contingent upon demonstrating the ability to accurately determine B(ws) such that any absolute error in B(ws) will not cause an error of more than $\pm 1.5\%$ in the term:

$$\left[\frac{20.9}{20.9(1 - B(wa)) - \%O(2ws)}\right]$$

- iii. When measurements are on a dry basis, the following conversion procedure shall be used:

$$E(Q) = CF\left[\frac{20.9}{20.9 - \%O(2ws)}\right]$$

- b. When the owner or operator elects under subsection (C)(1)(d) to measure carbon dioxide in the flue gases, the measurement of the pollutant concentration and the carbon dioxide concentration shall each be on a consistent basis (wet or dry) and the following conversion procedure used;

$$E(Q) = CF(c)\left[\frac{100}{\%CO(2)}\right]$$

- c. The values used in the equations under subsection (F)(1) above are derived as follows:

E(Q) = pollutant emission, g/million cal (lb/million Btu).

C = pollutant concentration, g/dscm (lb/dscf), determined by multiplying the average concentration (ppm) for each hourly period by 4.16×10^{-5} M g/dscm per ppm (2.64×10^{-9} M lb/dscf per ppm) where M = pollutant molecular weight, g/g-mole (lb/lb-mole), M = 64 for sulfur dioxide and 46 for oxides of nitrogen.

C(ws) = pollutant concentrations at stack conditions, g/wscm (lb/wscf), determined by multi-

plying the average concentration (ppm) for each one-hour period by 4.15×10^{-5} M lb/wscm per ppm (2.59×10^{-5} M lb/wscf per ppm) where M = pollutant molecular weight, g/g mole (lb/lb mole). M = 64 for sulfur dioxide and 46 for nitrogen oxides.

%O(2), %CO(2) = Oxygen or carbon dioxide volume (expressed as percent) determined with equipment specified under subsection (D)(1)(d).

F, F(c) = A factor representing a ratio of the volume of dry flue gases generated to the calorific value of the fuel combusted (F), a factor representing a ratio of the volume of carbon dioxide generated to the calorific value of the fuel combusted (F(c)), respectively. Values of F and F(c) are given in 40 CFR 60.45(f) (Chapter 1).

F(w) = A factor representing a ratio of the volume of wet flue gases generated to the calorific value of the fuel combusted. Values of F(w) are given in Reference Method 19 of the Arizona Testing Manual.

B(wa) = Proportion by volume of water vapor in the ambient air. Approval may be given for determination of B(wa) by on-site instrumental measurement provided that the absolute accuracy of the measurement technique can be demonstrated to be within $\pm 0.7\%$ water vapor. Estimation methods for B(wa) are given in Reference Method 19 of the Arizona Testing Manual.

B(ws) = Proportion by volume of water vapor in the stack gas.

2. For sulfuric acid plants as defined in R18-2-101, the owner or operator shall:
 - a. Establish a conversion factor three times daily according to the procedures of 40 CFR 60.84(b) (Chapter 1),
 - b. Multiply the conversion factor by the average sulfur dioxide concentration in the flue gases to obtain average sulfur dioxide emissions in Kg/metric ton (lb/short ton), and
 - c. Report the average sulfur dioxide emission for each averaging period in excess of the applicable emission standard in the quarterly summary.
3. For nitric acid plants, the owner or operator shall:
 - a. Establish a conversion factor according to the procedures of 40 CFR 60.73(b) (Chapter 1),
 - b. Multiply the conversion factor by the average nitrogen oxides concentration in the flue gases to obtain the nitrogen oxides emissions in the units of the applicable standard,
 - c. Report the average nitrogen oxides emission for each averaging period in excess of applicable emission standard in the quarterly summary.
4. The Director may allow data reporting or reduction procedures varying from those set forth in this Section if the owner or operator of a source shows to the satisfaction of the Director that his procedures are at least as accurate as those in this Section. Such procedures may include but are not limited to the following:
 - a. Alternative procedures for computing emission averages that do not require integration of data (e.g., some facilities may demonstrate that the variability

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of their emissions is sufficiently small to allow accurate reduction of data based upon computing averages from equally spaced data points over the averaging period).

- b. Alternative methods of converting pollutant concentration measurements to the units of the emission standards.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (C), paragraph (1), subparagraph (d) (Supp. 80-2). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-313 renumbered without change as R18-2-313 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 1164, effective February 15, 2001 (Supp. 01-1).

R18-2-314. Quality Assurance

Facilities subject to the permit requirements of this Article shall submit a quality assurance plan to the Director that meets the requirements of R18-2-311(D)(3) within 12 months of the effective date of this Section. Facilities subject to the requirements of R18-2-313 shall submit a quality assurance plan as specified in the permit.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-314 renumbered without change as R18-2-314 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-315. Posting of Permit

- A. Any person who has been granted an individual or general permit shall post such permit or a certificate of permit issuance on location where the equipment is installed in such a manner as to be clearly visible and accessible. All equipment covered by the permit shall be clearly marked with one of the following:
 1. The current permit number,
 2. A serial number or other equipment number that is also listed in the permit to identify that piece of equipment.
- B. A copy of the complete permit shall be kept on the site.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-315 renumbered without change as R18-2-315 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-316. Notice by Building Permit Agencies

All agencies of the county or political subdivisions of the county that issue or grant building permits or approvals shall examine the plans and specifications submitted by an applicant for a permit or approval to determine if an air pollution permit will possibly be required under the provisions of this Chapter. If it appears that an air pollution permit will be required, the agency or political subdivision shall give written notice to the applicant to contact the Director and shall furnish a copy of that notice to the Director.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-316 renumbered without change as R18-2-316 (Supp. 87-3).

R18-2-317. Facility Changes Allowed Without Permit Revi-**sions - Class I**

- A. A facility with a Class I permit may make changes that contravene an express permit term without a permit revision if all of the following apply:
 1. The changes are not modifications under any provision of Title I of the Act or under A.R.S. § 49-401.01(24);
 2. The changes do not exceed the emissions allowable under the permit whether expressed therein as a rate of emissions or in terms of total emissions;
 3. The changes do not violate any applicable requirements or trigger any additional applicable requirements;
 4. The changes satisfy all requirements for a minor permit revision under R18-2-319(A);
 5. The changes do not contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements; and
 6. The changes do not constitute a minor NSR modification.
- B. The substitution of an item of process or pollution control equipment for an identical or substantially similar item of process or pollution control equipment shall qualify as a change that does not require a permit revision, if the substitution meets all of the requirements of subsections (A), (D), and (E).
- C. Except for sources with authority to operate under general permits, permitted sources may trade increases and decreases in emissions within the permitted facility, as established in the permit under R18-2-306(A)(12), if an applicable implementation plan provides for the emissions trades without applying for a permit revision and based on the seven working days notice prescribed in subsection (D). This provision is available if the permit does not provide for the emissions trading as a minor permit revision.
- D. For each change under subsections (A) through (C), a written notice by certified mail or hand delivery shall be received by the Director and the Administrator a minimum of seven working days in advance of the change. Notifications of changes associated with emergency conditions, such as malfunctions necessitating the replacement of equipment, may be provided less than seven working days in advance of the change but must be provided as far in advance of the change or, if advance notification is not practicable, as soon after the change as possible.
- E. Each notification shall include:
 1. When the proposed change will occur;
 2. A description of the change;
 3. Any change in emissions of regulated air pollutants;
 4. The pollutants emitted subject to the emissions trade, if any;
 5. The provisions in the implementation plan that provide for the emissions trade with which the source will comply and any other information as may be required by the provisions in the implementation plan authorizing the trade;
 6. If the emissions trading provisions of the implementation plan are invoked, then the permit requirements with which the source will comply; and
 7. Any permit term or condition that is no longer applicable as a result of the change.
- F. The permit shield described in R18-2-325 shall not apply to any change made under subsections (A) through (C). Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to requirements of the implementation plan authorizing the emissions trade.

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- G. Except as otherwise provided for in the permit, making a change from one alternative operating scenario to another as provided under R18-2-306(A)(11) shall not require any prior notice under this Section.
- H. The Director shall make available to the public monthly summaries of all notices received under this Section.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-317 renumbered without change as R18-2-317 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-317.01. Facility Changes that Require a Permit Revision - Class II

- A. The following changes at a source with a Class II permit shall require a permit revision:
1. A change that would trigger a new applicable requirement or violate an existing applicable requirement.
 2. Establishment of, or change in, an emissions cap under R18-2-306.02;
 3. A change that will require a case-by-case determination of an emission limitation or other standard, or a source-specific determination of ambient impacts, or a visibility or increment analysis;
 4. A change that results in emissions that are subject to monitoring, recordkeeping or reporting under R18-2-306(A)(3), (4), or (5) if the emissions cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;
 5. A change that will authorize the burning of used oil, used oil fuel, hazardous waste, or hazardous waste fuel, or any other fuel not currently authorized by the permit;
 6. A change that requires the source to obtain a Class I permit;
 7. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better pollutant removal efficiency;
 8. Establishment or revision of a limit under R18-2-306.01;
 9. Increasing operating hours or rates of production above the permitted level;
 10. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results:
 - a. From removing equipment that results in a permanent decrease in actual emissions, if the source keeps onsite records of the change in a log that satisfies Appendix 3 of this Chapter and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or
 - b. From a change in an applicable requirement; and
 11. A minor NSR modification.
- B. A source with a Class II permit may make any physical change or change in the method of operation without revising the source's permit unless the change is specifically prohibited in the source's permit or is a change described in subsection (A). A change that does not require a permit revision may still be subject to requirements in R18-2-317.02.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3).

Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-317.02. Procedures for Certain Changes that Do Not Require a Permit Revision - Class II

- A. Except for a physical change or change in the method of operation at a Class II source requiring a permit revision under R18-2-317.01, or a change subject to logging or notice requirements in subsections (B) or (C), a change at a Class II source shall not be subject to revision, notice, or logging requirements under this Chapter.
- B. Except as otherwise provided in the conditions applicable to an emissions cap created under R18-2-306.02, the following changes may be made if the source keeps onsite records of the changes according to Appendix 3:
1. Implementing an alternative operating scenario, including raw material changes;
 2. Changing process equipment, operating procedures, or making any other physical change if the permit requires the change to be logged;
 3. Engaging in any new insignificant activity listed in the definition of insignificant activities in R18-2-101 but not listed in the permit;
 4. Replacing an item of air pollution control equipment listed in the permit with an identical (same model, different serial number) item. The Director may require verification of efficiency of the new equipment by performance tests; and
 5. A change that results in a decrease in actual emissions if the source wants to claim credit for the decrease in determining whether the source has a net emissions increase for any purpose. The logged information shall include a description of the change that will produce the decrease in actual emissions. A decrease that has not been logged is creditable only if the decrease is quantifiable, enforceable, and otherwise qualifies as a creditable decrease.
- C. Except as provided in the conditions applicable to an emissions cap created under R18-2-306.02, the following changes may be made if the source provides written notice to the Department in advance of the change as provided below:
1. Replacing an item of air pollution control equipment listed in the permit with one that is not identical but that is substantially similar and has the same or better pollutant removal efficiency: seven days. The Director may require verification of efficiency of the new equipment by performance tests;
 2. A physical change or change in the method of operation that increases actual emissions more than 10% of the major source threshold for any conventional pollutant but does not require a permit revision: seven days;
 3. Replacing an item of air pollution control equipment listed in the permit with one that is not substantially similar but that has the same or better efficiency: 30 days. The Director may require verification of efficiency of the new equipment by performance tests;
 4. A change that would trigger an applicable requirement that already exists in the permit: 30 days unless otherwise required by the applicable requirement;
 5. A change that amounts to reconstruction of the source or an affected facility: seven days. For purposes of this subsection, reconstruction of a source or an affected facility shall be presumed if the fixed capital cost of the new components exceeds 50% of the fixed capital cost of a

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comparable entirely new source or affected facility and the changes to the components have occurred over the 12 consecutive months beginning with commencement of construction; and

6. A change that will result in the emissions of a new regulated air pollutant above an applicable regulatory threshold but that does not trigger a new applicable requirement for that source category: 30 days. For purposes of this requirement, an applicable regulatory threshold for a conventional air pollutant shall be 10% of the applicable major source threshold for that pollutant.
- D. For each change under subsection (C), the written notice shall be by certified mail or hand delivery and shall be received by the Director the minimum amount of time in advance of the change. Notifications of changes associated with emergency conditions, such as malfunctions necessitating the replacement of equipment, may be provided with less than required notice, but must be provided as far in advance of the change, or if advance notification is not practicable, as soon after the change as possible. The written notice shall include:
 1. When the proposed change will occur,
 2. A description of the change,
 3. Any change in emissions of regulated air pollutants, and
 4. Any permit term or condition that is no longer applicable as a result of the change.
- E. A source may implement any change in subsection (C) without the required notice by applying for a minor permit revision under R18-2-319 and complying with R18-2-319(D)(2) and (G).
- F. The permit shield described in R18-2-325 shall not apply to any change made under this Section, other than implementation of an alternate operating scenario under subsection (B)(1).
- G. Notwithstanding any other part of this Section, the Director may require a permit to be revised for any change that, when considered together with any other changes submitted by the same source under this Section over the term of the permit, constitutes a change under R18-317.01(A).
- H. If a source change is described under both subsections (B) and (C), the source shall comply with subsection (C). If a source change is described under both subsection (C) and R18-2-317.01(B), the source shall comply with R18-2-317.01(B).
- I. A copy of all logs required under subsection (B) shall be filed with the Director within 30 days after each anniversary of the permit issue date. If no changes were made at the source requiring logging, a statement to that effect shall be filed instead.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3).

Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-318. Administrative Permit Amendments

- A. Except for provisions pursuant to Title IV of the Act, an administrative permit amendment is a permit revision that does any of the following:
 1. Corrects typographical errors;
 2. Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;
 3. Requires more frequent monitoring or reporting by the permittee;
 4. Allows for a change in ownership or operational control of a source as approved under R18-2-323 where the

Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility coverage, and liability between the current and new permittee has been submitted to the Director;

- B. Administrative permit amendments to Title IV provisions of the permit shall be governed by regulations promulgated by the Administrator under Title IV of the Act.
- C. The Director shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request, and for Class I permits may incorporate such changes without providing notice to the public or affected states provided that it designates any such permit revisions as having been made pursuant to this Section.
- D. The Director shall submit a copy of Class I permits revised under this Section to the Administrator.
- E. Except for administrative permit amendments involving a transfer under R18-2-323, the source may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-318 renumbered without change as R18-2-318 (Supp. 87-3). Amended subsection (A) effective December 1, 1988 (Supp. 88-4). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-318.01. Annual Summary Permit Amendments for Class II Permits

The Director may amend any Class II permit annually without following R18-2-321 in order to incorporate changes reflected in logs or notices filed under R18-2-317.02. The amendment shall be effective to the anniversary date of the permit. The Director shall make available to the public for any source:

1. A complete record of logs and notices sent to the Department under R18-2-317.02; and
2. Any amendments or revisions to the source's permit.

Historical Note

New Section adopted by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3).

R18-2-319. Minor Permit Revisions

- A. Minor permit revision procedures may be used only for those changes at a Class I source that satisfy all of the following:
 1. Do not violate any applicable requirement;
 2. Do not involve substantive changes to existing monitoring, reporting, or recordkeeping requirements in the permit;
 3. Do not require or change a case-by-case determination of an emission limitation or other standard, or a source-specific determination of ambient impacts, or an analysis of impacts on visibility or maximum increases allowed under R18-2-218;
 4. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement and that the source has assumed in order to avoid an applicable requirement to which the source would otherwise be subject. The terms and conditions include:
 - a. A federally enforceable emissions cap that the source would assume to avoid classification as a modification under any provision of Title I of the Act; and

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- b. An alternative emissions limit approved under regulations promulgated under the section 112(i)(5) of the Act.
 - 5. Are not modifications under any provision of Title I of the Act;
 - 6. Are not changes in fuels not represented in the permit application or provided for in the permit;
 - 7. Are not minor NSR modifications subject to R18-2-334; and
 - 8. Are not required to be processed as a significant permit revision under R18-2-320.
- B.** Minor permit revision procedures shall be used for the following changes at a Class II source:
- 1. A change that triggers a new applicable requirement if all of the following apply:
 - a. The change is not a minor NSR modification subject to R18-2-334;
 - b. A case-by-case determination of an emission limitation or other standard is not required; and
 - c. The change does not require the source to obtain a Class I permit.
 - 2. A change that increases emissions above the permitted level unless the increase otherwise creates a condition that requires a significant permit revision;
 - 3. A change in fuel from fuel oil or coal, to natural gas or propane, if not authorized in the permit;
 - 4. A change that results in emissions subject to monitoring, recordkeeping, or reporting under R18-2-306(A)(3),(4), or (5) and that cannot be measured or otherwise adequately quantified by monitoring, recordkeeping, or reporting requirements already in the permit;
 - 5. A decrease in the emissions permitted under an emissions cap unless the decrease requires a change in the conditions required to enforce the cap or to ensure that emissions trades conducted under the cap are quantifiable and enforceable; and
 - 6. Replacement of an item of air pollution control equipment listed in the permit with one that does not have the same or better efficiency.
- C.** As approved by the Director, minor permit revision procedures may be used for permit revisions involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that the minor permit revision procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by the Administrator.
- D.** An application for minor permit revision shall be on the standard application form provided under R18-2-304(B) and include the following:
- 1. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;
 - 2. For Class I sources, and any source that is making the change immediately after it files the application, the source's suggested draft permit;
 - 3. Certification by a responsible official, consistent with standard permit application requirements, that the proposed revision meets the criteria for use of minor permit revision procedures and a request that the procedures be used;
- E.** EPA and affected state notification. For Class I permits, within five working days of receipt of an application for a minor permit revision, the Director shall notify the Administrator and affected states of the requested permit revision in accordance with R18-2-307.
- F.** For Class I permits, the Director shall not issue a final permit revision until after the Administrator's 45-day review period or until the Administrator has notified the Director that the Administrator will not object to issuance of the permit revision, whichever is first, although the Director may approve the permit revision before that time. Within 90 days of the Director's receipt of an application under minor permit revision procedures, or 15 days after the end of the Administrator's 45-day review period, whichever is later, the Director shall do one or more of the following:
- 1. Issue the permit revision as proposed,
 - 2. Deny the permit revision application,
 - 3. Determine that the proposed permit revision does not meet the minor permit revision criteria and should be reviewed under the significant revision procedures, or
 - 4. Revise the proposed permit revision and transmit to the Administrator the new proposed permit revision as required in R18-2-307.
- G.** The source may make the change proposed in its minor permit revision application immediately after it files the application. After a Class I source makes a change allowed by the preceding sentence, and until the Director takes any of the actions specified in subsection (F), the source shall comply with both the applicable requirements governing the change and the proposed revised permit terms and conditions. During this time period, the Class I source need not comply with the existing permit terms and conditions it seeks to modify. However, if the Class I source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to revise may be enforced against it.
- H.** The permit shield under R18-2-325 shall not extend to minor permit revisions.
- I.** Notwithstanding any other part of this Section, the Director may require a permit to be revised under R18-2-320 for any change that, when considered together with any other changes submitted by the same source under this Section or R18-2-317.02 over the life of the permit, do not satisfy subsection (A) for Class I sources or subsection (B) for Class II sources.
- J.** The Director shall make available to the public monthly summaries of all applications for minor permit revisions.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-319 renumbered without change as R18-2-319 (Supp. 87-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-320. Significant Permit Revisions

- A.** For Class I sources, a significant revision shall be used for an application requesting a permit revision that does not qualify as a minor permit revision or as an administrative amendment. A significant revision that is only required because of a change described in R18-2-319(A)(6) or (7) shall not be considered a significant permit revision under part 70 for the purposes of 40 CFR 64.5(a)(2). Every significant change in existing monitoring permit terms or conditions and every relaxation of report-

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ing or recordkeeping permit terms or conditions shall follow significant revision procedures.

- B.** A source with a Class II permit shall make the following changes only after the permit is revised following the public participation requirements of R18-2-330:
1. Establishing or revising a voluntarily accepted emission limitation or standard as described by R18-2-306.01 or R18-2-306.02, except a decrease in the limitation authorized by R18-2-319(B)(5);
 2. Making any change in fuel not authorized by the permit and that is not fuel oil or coal, to natural gas or propane;
 3. A change that is a minor NSR modification subject to R18-2-334;
 4. A change that relaxes monitoring, recordkeeping, or reporting requirements, except when the change results from:
 - a. Removing equipment that results in a permanent decrease in actual emissions, if the source keeps onsite records of the change in a log that satisfies Appendix 3 of this Chapter and if the requirements that are relaxed are present in the permit solely for the equipment that was removed; or
 - b. A change in an applicable requirement.
 5. A change that will cause the source to violate an existing applicable requirement including the conditions establishing an emissions cap;
 6. A change that will require any of the following:
 - a. A case-by-case determination of an emission limitation or other standard;
 - b. A source-specific determination of ambient impacts, or an analysis of impacts on visibility or maximum allowable increases allowed under R18-2-218; or
 - c. A case-by-case determination of a monitoring, recordkeeping, and reporting requirement.
 7. A change that requires the source to obtain a Class I permit.
- C.** Any modification to a major source of federally listed hazardous air pollutants, and any reconstruction of a source, or a process or production unit, under section 112(g) of the Act and regulations promulgated thereunder, shall follow significant permit revision procedures and any rules adopted under A.R.S. § 49-426.03.
- D.** Significant permit revisions shall meet all requirements of this Article for applications, public participation, review by affected states, and review by the Administrator that apply to permit issuance and renewal. Notwithstanding R18-2-330(C), the Director may provide notice for changes requiring a significant permit revision solely under subsections (B)(2), (4) or (6)(c) by posting a notice on the Department's web site, sending e-mails to persons who have requested electronic notification of the Department's proposed air quality permit actions and by mailing a copy of the notice as provided in R18-2-330(C)(1).
- E.** When an existing source applies for a significant permit revision to revise its permit from a Class II permit to a Class I permit, it shall submit a Class I permit application in accordance with R18-2-304. The Director shall issue the entire permit, and not just the portion being revised, in accordance with Class I permit content and issuance requirements, including requirements for public, affected state, and EPA review, contained in R18-2-307 and R18-2-330.

Historical Note

Adopted effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November

15, 1993 (Supp. 93-4). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 343, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-321. Permit Reopenings; Revocation and Reissuance; Termination**A. Reopening for Cause.**

1. Each issued permit shall include provisions specifying the conditions under which the permit shall be reopened prior to the expiration of the permit. A permit shall be reopened and revised under any of the following circumstances:
 - a. Additional applicable requirements under the Act become applicable to a major source with a remaining permit term of three or more years. Such a reopening shall be completed not later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to R18-2-322(B). Any permit revision required pursuant to this subsection shall comply with provisions in R18-2-322 for permit renewal and shall reset the five-year permit term.
 - b. Additional requirements, including excess emissions requirements, become applicable to an affected source under the acid rain program. Upon approval by the Administrator, excess emissions offset plans shall be deemed to be incorporated into the Class I permit.
 - c. The Director or the Administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
 - d. The Director or the Administrator determines that the permit needs to be revised or revoked to assure compliance with the applicable requirements.
2. Proceedings to reopen and issue a permit, including appeal of any final action relating to a permit reopening, shall follow the same procedures as apply to initial permit issuance and shall, except for reopenings under subsection (A)(1)(a), affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.
3. Reopenings under subsection (A)(1) shall not be initiated before a notice of such intent is provided to the source by the Director at least 30 days in advance of the date that the permit is to be reopened, except that the Director may provide a shorter time period in the case of an emergency.
4. When a permit is reopened and revised pursuant to this Section, the Director may make appropriate revisions to the permit shield established pursuant to R18-2-325.

- B.** Within 10 days of receipt of notice from the Administrator that cause exists to reopen a Class I permit, the Director shall notify the source. The source shall have 30 days to respond to the Director. Within 90 days of receipt of notice from the Administrator that cause exists to reopen a permit, or within any extension to the 90 days granted by EPA, the Director

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shall forward to the Administrator and the source a proposed determination of termination, revision, or revocation and reissuance of the permit. Within 90 days of receipt of an EPA objection to the Director's proposal, the Director shall resolve the objection and act on the permit.

- C. The Director may issue a notice of termination of a permit or registration issued pursuant to this Chapter if:
1. The Director has reasonable cause to believe that the permit or registration was obtained by fraud or misrepresentation.
 2. The person applying for the permit or registration failed to disclose a material fact required by the application form or the regulation applicable to the permit or registration, of which the applicant had or should have had knowledge at the time the application was submitted.
 3. The terms and conditions of the permit or registration have been or are being violated.
- D. If the Director issues a notice of termination under this Section, the notice shall be served on the permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the revocation and a statement that the permittee is entitled to a hearing.

Historical Note

Adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-321 renumbered without change as R18-2-321 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-322. Permit Renewal and Expiration

- A. A permit being renewed is subject to the same procedural requirements, including any for public participation and affected states and Administrator review, that would apply to that permit's initial issuance.
- B. Except as provided in R18-2-303(A), permit expiration terminates the source's right to operate unless a timely application for renewal that is sufficient under A.R.S. § 41-1064 has been submitted in accordance with R18-2-304. Any testing that is required for renewal shall be completed before the proposed permit is issued by the Director.
- C. The Director shall act on an application for a permit renewal within the same time-frames as on an initial permit.

Historical Note

Adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-322 renumbered without change as R18-2-322 (Supp. 87-3). Amended effective December 1, 1988 (Supp. 88-4). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-323. Permit Transfers

- A. Except as provided in A.R.S. § 49-429 and subsection (B), a Class I or II permit may be transferred to another person if the person who holds the permit gives notice to the Director in writing at least 30 days before the proposed transfer. The notice shall contain the following:
1. The permit number and expiration date;
 2. The name, address, and telephone number of the current permit holder;
 3. The name, address and telephone number of the person to receive the permit;
 4. The name and title of the individual within the organization who is accepting responsibility for the permit along

with a signed statement by that person indicating such acceptance;

5. A description of the equipment to be transferred;
 6. A written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee;
 7. Provisions for the payment of any fees pursuant to R18-2-326 or R18-2-501 that will be due and payable before the effective date of transfer;
 8. Sufficient information about the source's technical and financial capabilities of operating the source to allow the Director to make the decision in subsection (B) including:
 - a. The qualifications of each person principally responsible for the operation of the source;
 - b. A statement by the chief financial officer of the new permittee that it is financially capable of operating the facility in compliance with the law, and the information that provides the basis for that statement;
 - c. A brief description of any action for the enforcement of any federal or state law, or any county, city, or local government ordinance relating to the protection of the environment, instituted against any person employed by the new permittee and principally responsible for operating the facility during the five years preceding the date of application. In lieu of this description, the new permittee may submit a copy of the certificate of disclosure or 10-K form required under A.R.S. § 49-109, or a statement that this information has been filed in compliance with A.R.S. § 49-109.
- B. The Director shall deny the transfer if the Director determines that the organization receiving the permit is not capable of operating the source in compliance with A.R.S. Title 49, Chapter 3, Article 2, the provisions of this Chapter or the provisions of the permit. Notice of the denial shall be sent to the original permit holder by certified mail stating the reason for the denial within 10 working days of the Director's receipt of the application. If the transfer is not denied within 10 working days after receipt of the notice, it shall be deemed approved.
- C. To appeal the transfer denial:
1. Both the transferor and transferee shall petition the Office of Administrative Hearings in writing for a public hearing; and
 2. All parties shall follow the appeal process for a permit.
- D. The Director shall make available to the public monthly summaries of all notices received under this Section.

Historical Note

Adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-323 renumbered without change as R18-2-323 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Section repealed, new Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 12 A.A.R. 4698, effective February 3, 2007 (Supp. 06-4).

R18-2-324. Portable Sources

- A. A portable source that will operate for the duration of its permit solely in one county that has established a local air pollution control program pursuant to A.R.S. § 49-479 shall obtain a permit from that county. A portable source with a county permit shall not operate in any other county. A portable source that has a permit issued by the Director and obtains a county permit shall request that the Director terminate the permit.

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Upon issuance of the county permit, the permit issued by the Director is no longer valid.

- B.** A portable source which has a county permit but proposes to operate outside that county shall obtain a permit from the Director. A portable source that has a permit issued by a county and obtains a permit issued by the Director shall request that the county terminate the permit. Upon issuance of a permit by the Director, the county permit is no longer valid. Before commencing operation in the new county, the source shall notify the Director and the control officer who has jurisdiction in the county that includes the new location according to subsection (C).
- C.** A portable source may be transferred from one location to another provided that the owner or operator of such equipment notifies the Director and any control officer who has jurisdiction over the geographic area that includes the new location of the transfer prior to the transfer. The notification required under this subsection shall include:
1. A description of the equipment to be transferred including the permit number for such equipment;
 2. A description of the present location;
 3. A description of the new location;
 4. The date on which the equipment is to be moved; and
 5. The date on which operation of the equipment will begin at the new location.
- D.** Any permit for a portable source shall contain conditions that will assure compliance with all applicable requirements at all authorized locations.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-325. Permit Shields

- A.** Each Class I or II permit issued under this Chapter shall specifically identify all federal, state, and local air pollution control requirements applicable to the source at the time the permit is issued. The permit shall state that compliance with the conditions of the permit shall be deemed compliance with any applicable requirement as of the date of permit issuance, provided that such applicable requirements are included and expressly identified in the permit. The Director may include in a permit determinations that other requirements specifically identified are not applicable. Any permit under this Chapter that does not expressly state that a permit shield exists shall not provide such a shield.
- B.** Nothing in this Section or in any permit shall alter or affect the following:
1. The provisions of Section 303 of the Act (emergency orders), including the authority of the Administrator under that Section;
 2. The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance;
 3. The applicable requirements of the acid rain program, consistent with Section 408(a) of the Act;
 4. The ability of the Administrator or the Director to obtain information from a source pursuant to Section 114 of the Act, or any provision of state law;
 5. The authority of the Director to require compliance with new applicable requirements adopted after the permit is issued.

- C.** In addition to the provisions of R18-2-321, a permit may be reopened by the Director and the permit shield revised when it is determined that standards or conditions in the permit are based on incorrect information provided by the applicant.

Historical Note

Emergency rule adopted effective September 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule re-adopted without change effective December 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency expired; text deleted (Supp. 93-1). New Section adopted effective November 15, 1993 (Supp. 93-4).

R18-2-326. Fees Related to Individual Permits

- A.** Source Categories. The owner or operator of a source required to have an air quality permit from the Director shall pay the fees described in this Section unless authorized to operate under a general permit issued under Article 5. The fees are based on a source being classified in one of the following three categories:
1. Class I Title V sources are those required or that elect to have a permit under R18-2-302(B)(1).
 2. Class II Title V sources are those required to have a permit under R18-2-302(B)(2) and that are subject to new source performance standards or national emission standards for hazardous air pollutants.
 3. Class II Non-Title V sources are those required to have a permit under R18-2-302(B)(2) and that are not subject to new source performance standards or national emission standards for hazardous air pollutants.
- B.** Fees for Permit Actions.
1. The owner or operator of a Class I Title V source, Class II Title V source, or Class II Non-Title V source shall pay to the Director the following:
 - a. \$133.50 per hour, adjusted annually under subsection (H), for all permit processing time required for a billable permit action; and
 - b. The actual costs of public notice conducted according to R18-2-330.
 2. The Director may require periodic payment of permit processing fees based on the most recent accounting of time spent processing the permit including any fees for contractors.
 3. Upon completion of permit processing activities other than issuance or denial of the permit or permit revision, the Director shall send notice of the decision to the applicant along with a final itemized bill. The maximum fee for any billable permit action for a non-Title V source is \$25,000. Except as provided in subsection (G), the Director shall not issue a permit or permit revision until the final bill is paid in full.
- C.** Class I Title V Fees. The owner or operator of a Class I Title V source that has undergone initial startup by January 1 shall annually pay to the Director an administrative fee plus an emissions-based fee as follows:
1. The applicable administrative fee from the table below, as adjusted annually under subsection (H). The fee is due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

Class I Title V Source Category	Administrative Fee
Aerospace	\$20,800
Air Curtain Incinerator	\$750

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Cement Plants	\$63,690
Combustion/Boilers	\$15,480
Compressor Stations	\$12,730
Electronics	\$20,490
Expandable Foam	\$14,680
Foundries	\$19,520
Landfills	\$15,960
Lime Plants	\$60,160
Copper & Nickel Mines	\$15,000
Gold Mines	\$15,000
Mobile Home Manufacturing	\$14,830
Paper Mills	\$20,480
Paper Coaters	\$15,480
Petroleum Products Terminal Facilities	\$22,730
Polymeric Fabric Coaters	\$20,480
Reinforced Plastics	\$15,480
Semiconductor Fabrication	\$26,930
Copper Smelters	\$63,690
Utilities - Fossil Fuel Fired Except Coal	\$16,440
Utilities - Coal Fired	\$32,570
Vitamin/Pharmaceutical Manufacturing	\$15,800
Wood Furniture	\$15,480
Others	\$20,490
Others with Continuous Emissions Monitoring	\$20,490

2. An emissions-based fee of \$38.25 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year ending 12 months earlier. The fee is adjusted annually under subsection (C)(2)(d) and due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.
- For purposes of this Section, "actual emissions" means the quantity of all regulated pollutants emitted during the calendar year, as determined by the annual emissions inventory under R18-2-327.
 - For purposes of this Section, regulated pollutants consist of the following:
 - Nitrogen oxides and any volatile organic compounds;
 - Conventional air pollutants, except carbon monoxide and ozone;
 - Any pollutant that is subject to any standard promulgated under Section 111 of the Act, including fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur, and reduced sulfur compounds; and
 - Any federally listed hazardous air pollutant.
 - For purposes of this Section, the following emissions of regulated pollutants are excluded from a source's actual emissions:
 - Emissions of any regulated pollutant from the source in excess of 4,000 tons per year;
 - Emissions of any regulated pollutant already included in the actual emissions for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM₁₀;

- Emissions from insignificant activities listed in the permit application for the source under R18-2-304(F)(8);
 - Fugitive emissions of PM₁₀ from activities other than crushing, belt transfers, screening, or stacking; and
 - Fugitive emissions of VOC from solution-extraction units.
- d. The Director shall adjust the rate for emission-based fees every November 1, after December 4, 2007, by multiplying \$38.25 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

- D. Class II Title V Fees. The owner or operator of a Class II Title V source that has undergone initial startup by January 1 shall pay the applicable administrative fee from the table below, adjusted under subsection (H), for that calendar year, and annually thereafter. The fee is due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

Class II Title V Source Category	Administrative Fee
Synthetic minor sources, except portable sources	Administrative fee from Class I Title V table for category
Stationary	\$8,070
Portables	\$8,070
Small Source	\$750

- E. Class II Non-Title V Fees. The owner or operator of a Class II Non-Title V source that has undergone initial startup by January 1 shall pay the applicable inspection fee from the table below, adjusted under subsection (H), for that calendar year, and annually thereafter. The fee is due by February 1 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

Class II Non-Title V Source Category	Inspection Fee
Stationary	\$5,230
Portables	\$5,230
Gasoline Service Stations	\$750

- F. The Director shall mail the owner or operator of each source an invoice for all fees due under subsections (C), (D), or (E) by December 1.
- G. Any person who receives a final itemized bill from the Director under this Section for a billable permit action may request an informal review of the hours billed and may pay the bill under protest as provided below:
- The request shall be made in writing, and received by the Director within 30 days of the date of the final bill. Unless the Director and person agree otherwise, the informal review shall take place within 30 days after the Director's receipt of the request. The Director shall arrange the date and location of the informal review with the person at least 10 business days before the informal review. The Director shall review whether the amounts of time billed are correct and reasonable for the tasks

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involved. The Director shall mail his or her decision on the informal review to the person within 10 business days after the informal review date.

2. The Director's decision after informal review shall become final unless, within 30 days after person's receipt of the informal review decision, the person requests a hearing under R18-1-202.
 3. If the final itemized bill is paid under protest, the Director shall take final action on the permit or permit revision.
- H.** The Director shall adjust the hourly rate every November 1, to the nearest 10 cents per hour, after December 4, 2007, by multiplying \$133.50 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Director shall adjust the administrative or inspection fees listed in subsections (C), (D), and (E) every November 1, to the nearest \$10, beginning December 4, 2007, by multiplying the administrative or inspection fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2007. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.
- I.** An applicant for a Class I or Class II permit or permit revision may request that the Director provide accelerated processing of the application by providing the Director written notice 60 days before filing the application. The request shall be accompanied by an initial fee of \$15,000. The fee is non-refundable to the extent of the Director's costs for accelerating the processing if the Director undertakes the accelerated processing described below:
1. If an applicant requests accelerated permit processing, the Director may, to the extent practicable, undertake to process the permit or permit revision according to the following schedule:
 - a. For applications for initial Class I and II permits under R18-2-302 or significant permit revisions under R18-2-320, the Director shall issue or deny the proposed permit or permit revision within 120 days after the Director determines that the application is complete.
 - b. For minor permit revisions under R18-2-319, the Director shall issue or deny the permit revision within 60 days after receiving a complete application.
 2. At any time after an applicant requests accelerated permit processing, the Director may require additional advance payments based on the most recent estimate of additional costs.
 3. Upon completion of permit processing activities but before issuance or denial of the permit or permit revision, the Director shall send notice of the decision to the applicant along with a final bill. The maximum fee for any billable permit action for a non-Title V source is \$25,000. The final bill shall include all regular permit processing and other fees due, and, in addition, the difference between the cost of accelerating the permit application, including any costs incurred by the Director in contracting for, hiring, or supervising the work of outside consultants, and all advance payments submitted for accelerated processing. In the event all payments made exceed actual accelerated permit costs, the Director shall refund the excess advance payments. Nothing in this subsection affects the public participation requirements of R18-2-

330, or EPA and affected state review as required under R18-2-307 or R18-2-319.

- J.** Inactive Sources. The owner or operator of a permitted source that has undergone initial startup but was shut down for the entire preceding year shall pay 50 percent of the administrative or inspection fee required under subsections (C), (D), or (E). The owner or operator of a source claiming inactive status under this subsection shall submit a letter to the Director by December 15 of the calendar year for which the source was inactive. Termination of a permit does not relieve a source of any past fees due.
- K.** If an applicant uses the Tier 4 method for conducting a risk management analysis (RMA) according to R18-2-1708(B), the applicant shall pay any costs incurred by the Director in contracting for, hiring or supervising work of outside consultants.
- L.** Transition.
1. Subsections (A) through (J) of this Section are effective December 4, 2007. The first administrative or inspection fees are due on February 1, 2008.
 2. Except as provided in subsection (b), all fees incurred after December 4, 2007, are payable in accordance with the rates contained in this Section.
 - a. Emission-based fees for calendar year 2006 shall be billed at \$38.25 per ton and be due February 1, 2008.
 - b. The hourly rates and maximum fees for a new permit or permit revision are those in effect when the application for the permit or revision is determined to be complete.
 - c. Fees accrued but not yet paid before the effective date of this Section remain as obligations to be paid to the Department.

Historical Note

Emergency rule adopted effective September 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule re-adopted without change effective December 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency expired; text deleted (Supp. 93-1). New Section adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 5670, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 10 A.A.R. 4767, effective November 4, 2004 (Supp. 04-4). Amended by final rulemaking at 13 A.A.R. 4379, effective December 4, 2007 (Supp. 07-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final expedited rulemaking at 30 A.A.R. 2422 (July 26, 2024), with an immediate effective date of July 3, 2024 (Supp. 24-3).

R18-2-326.01. Expired**Historical Note**

New Section made by exempt rulemaking at 16 A.A.R. 844, effective July 1, 2010 (Supp. 10-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R. 613, effective February 14, 2017 (Supp. 17-1).

R18-2-327. Emissions Inventory Questionnaire and Emissions Statement

- A.** Emissions Inventory Questionnaire Requirements
1. Every source subject to permit requirements under this Chapter shall complete and submit to the Director an emissions inventory questionnaire as follows:
 - a. Sources Requiring a Class I Permit under R18-2-302(B). Sources requiring a Class I permit under

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- R18-2-302(B) shall complete and submit to the Director an emissions inventory questionnaire no later than June 1 of each year.
- b. Sources Requiring a Class II Permit under R18-2-302(B)
 - i. Sources requiring a Class II permit under R18-2-302(B) shall complete and submit to the Director an emissions inventory questionnaire no later than June 1 every three years beginning June 1, 2021.
 - ii. At the Director's request, sources requiring a Class II permit under R18-2-302(B) may be required to complete and submit emissions inventory questionnaires in addition to the triennial emissions inventory questionnaire required under subsection (A)(1)(b)(i). The Director shall notify the owner or operator of the source in writing of the decision to require additional emissions inventory questionnaires.
 2. These requirements apply whether or not a permit has been issued and whether or not a permit application has been filed.
 3. The emissions inventory questionnaire shall be on an electronic or paper form provided by the Director and shall include the following information for the previous calendar year:
 - a. The source's name, description, mailing address, contact person and contact person phone number, and physical address and location, if different than the mailing address.
 - b. Process information for the source, including design capacity, throughput, operations schedule, and emissions control devices, their description and efficiencies.
 - c. The actual quantity of emissions from permitted emission points and fugitive emissions as provided in the permit, including documentation of the method of measurement, calculation, or estimation, determined pursuant to subsection (C), of the following regulated air pollutants:
 - i. Any single regulated air pollutant in a quantity greater than 1 ton or the amount listed for the pollutant in the definition of "significant" in R18-2-101(131)(a) or (b), whichever is less.
 - ii. Any combination of regulated air pollutants in a quantity greater than 2 1/2 tons.
 - d. A certification by a responsible official of truth, accuracy, and completeness. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
 4. An amendment to an emissions inventory questionnaire, containing the documentation required by subsection (A)(3), shall be submitted to the Director by any source whenever it discovers or receives notice, within two years of the original submittal, that incorrect or insufficient information was submitted to the Director by a previous emissions inventory questionnaire. The amendment shall be submitted to the Director within 30 days of discovery or receipt of notice. If the incorrect or insufficient information resulted in an incorrect annual emissions fee, the Director shall require that additional payment be made or shall apply an amount as a credit to a future annual emissions fee. The submittal of an amendment under this subsection shall not subject the owner or operator to an enforcement action or a civil or criminal penalty if the original submittal of incorrect or insufficient information was not due to willful neglect.
 5. The Director may require submittal of supplemental emissions inventory questionnaires for air contaminants pursuant to A.R.S. §§ 49-422, 49-424, and 49-426.03 through 49-426.08.
- B. Emissions Statement Requirements**
1. Any stationary source located in an ozone nonattainment area that has actual emissions of 25 tons or more of nitrogen oxides (NO_x) or volatile organic compounds (VOCs) during the calendar year shall complete and submit to the Director an emissions statement no later than June 1 of the following year, except as provided in subsection (B)(5).
 2. The emissions statement shall be on an electronic or paper form provided by the Director and shall require the following information for the previous calendar year:
 - a. The source's name, description, mailing address, contact person and contact person phone number, and physical address and location, if different than the mailing address.
 - b. Process information for the source, including design capacity, throughput, operations schedule, and emissions control devices, their description and efficiencies.
 - c. Actual emissions of NO_x and VOC including documentation of the method of measurement, calculation, or estimation, determined pursuant to subsection (C).
 - d. A certification by a responsible official of truth, accuracy, and completeness. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
 3. If either NO_x or VOC annual emissions are greater than or equal to 25 tons, the other pollutant shall be included in the emissions statement even if less than 25 tons.
 4. An amendment to an emissions statement, containing the documentation required by subsection (B)(2), shall be submitted to the Director by any source whenever it discovers or receives notice, within two years of the original submittal, that incorrect or insufficient information was submitted to the Director by a previous emissions statement. The amendment shall be submitted to the Director within 30 days of discovery or receipt of notice. The submittal of an amendment under this subsection shall not subject the owner or operator to an enforcement action or a civil or criminal penalty if the original submittal of incorrect or insufficient information was not due to willful neglect.
 5. A source that submits an emissions inventory questionnaire under subsection (A) is exempt from subsection (B) requirements for that submission year.
- C. Emissions Estimation Methodology**
1. Actual quantities of emissions shall be determined using the following emission factors or data.
 - a. Whenever available, emissions estimates shall either be calculated from continuous emissions monitors certified pursuant to 40 CFR 75, Subpart C and ref-

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erenced appendices, or data quality assured pursuant to Appendix F of 40 CFR 60.

- b. When sufficient data pursuant to subsection (C)(1)(a) is not available, emissions estimates shall be calculated from data from source performance tests conducted pursuant to R18-2-312 in the calendar year being reported or, when not available, conducted in the most recent calendar year representing the operating conditions of the year being reported.
 - c. When sufficient data pursuant to subsections (C)(1)(a) or (b) is not available, emissions estimates shall be calculated using emissions factors from EPA Publication No. AP-42 "Compilation of Air Pollutant Emission Factors," Volume I: Stationary Point and Area Sources, Fifth Edition, 1995, U.S. Environmental Protection Agency, Research Triangle Park, NC, including Supplements A through F and all updates published through July 1, 2011 (and no future editions). AP-42 is incorporated by reference and is on file with the Department of Environmental Quality and can be obtained from the Government Printing Office, 732 North Capitol Street, NW, Washington, D.C. 20401, telephone (202) 512-1800, or by downloading the document from the website for the EPA Clearinghouse for Emission Inventories and Emission Factors.
 - d. When sufficient data pursuant to subsections (C)(1)(a) through (c) is not available, emissions estimates shall be calculated from material balance using engineering knowledge of process.
 - e. When sufficient data pursuant to subsections (C)(1)(a) through (d) is not available, emissions estimates shall be calculated by equivalent methods approved by the Director. The Director shall only approve methods that are demonstrated as accurate and reliable as one of the methods in subsections (C)(1)(a) through (d).
2. Actual quantities of emissions calculated under subsection (C) shall be determined on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored, or combusted.

Historical Note

Emergency rule adopted effective September 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule re-adopted without change effective December 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency expired; text deleted (Supp. 93-1). New Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective December 7, 1995 (Supp. 95-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 26 A.A.R. 3092, effective January 19, 2021 (Supp. 20-4.)

R18-2-328. Conditional Orders

- A. The Director may grant to any person a conditional order for each air pollution source which allows such person to vary from any provision of A.R.S. Title 49, Chapter 3, Article 2, or this Chapter, for any non-federally enforceable requirement of a permit issued pursuant to this Chapter if the Director makes each of the following findings:

1. Issuance of the conditional order will not endanger public health or the environment, impede attainment or maintenance of the national ambient air quality standards, or constitute a violation of the Act; and
 2. Either of the following is true:
 - a. There has been a breakdown of equipment or upset of operations beyond the control of the petitioner which causes the source to be out of compliance with the requirements of this Chapter; the source was in compliance with the requirements of this Chapter before the breakdown or upset, and the breakdown or upset may be corrected within a reasonable time;
 - b. There is no reasonable relationship between the economic and social cost of, and benefits to be obtained from, achieving compliance.
- B. The following procedures shall apply to a person seeking a conditional order:
 1. The person shall file a petition for a conditional order with the Director. The petition shall contain at a minimum:
 - a. A description of the breakdown or upset;
 - b. A description of corrective action being undertaken to bring the source back into compliance;
 - c. An estimate of emissions related to the breakdown or upset;
 - d. A compliance schedule with a date of final compliance and interim dates as appropriate;
 - e. A detailed analysis of the economic and social costs and benefits of achieving compliance with the requirement for which the variance is sought, if the petition is based on subsection (A)(2)(b).
 2. If the issuance of the conditional order requires a public hearing pursuant to R18-2-330, the Director shall set the hearing date within 30 days after the filing of the petition and the hearing shall be held within 60 days after the filing of the petition.
 3. Notice of the filing of a petition for a conditional order and of the hearing date on said petition shall be published in the manner provided in A.R.S. § 49-444 and R18-2-330.
 - C. Decisions on petitions for a conditional order shall be made as follows:
 1. For any conditional order that requires a revision to the SIP, the Director shall comply with the requirements contained in 40 CFR 51, Subpart F.
 2. For any other conditional order, the Director shall grant or deny the petition with such terms and conditions as are listed in subsection (E)(2) within 30 days after the conclusion of any required hearing, or, if no hearing is held, within 60 days after the filing of the petition.
 - D. A fee to cover the costs of processing conditional orders may be charged by the Director prior to issuance consistent with R18-2-326(I) or (J). The fee shall be deposited in the permit administration fund established in A.R.S. § 49-455.
 - E. The terms of a conditional order or its renewal shall conform to the following:
 1. A conditional order issued by the Director shall be valid for such period as the Director prescribes but in no event for more than one year in the case of a source that is required to obtain a permit pursuant to this Chapter and Title V of the Act, and three years in the case of any other source that is required to obtain a permit pursuant to this Chapter.

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2. The terms and conditions which are imposed as a condition to the granting or the continued existence of a conditional order shall include:
 - a. A detailed plan for completion of corrective steps needed to conform to the provisions of A.R.S. Title 49, Chapter 3, Article 2, this Chapter, and the requirements of any permit issued pursuant to this Chapter;
 - b. A requirement that necessary construction shall begin as expeditiously as practicable and proceed as specified in the compliance schedule;
 - c. Written reports, at least quarterly, of the status of the source and construction progress;
 - d. The right of the Director to make periodic inspection of the facilities for which the conditional order is granted;
 - e. Such additional terms and conditions as the Director finds necessary to meet the requirements of this Section and A.R.S. § 49-437.
3. A holder of a conditional order may petition the Director to renew the order. The total term of the initial period and all renewals shall not exceed three years from the date of initial issuance of the order. Petitions for renewal may be filed at any time not more than 60 days nor less than 30 days prior to the expiration of the order. The Director, within 30 days of receipt of a petition, shall renew the conditional order for one year if the petitioner is in compliance and conforming with the terms and conditions imposed. The Director may refuse to renew the conditional order if, after a public hearing held within 30 days of receipt of a petition, the Director finds that the petitioner is not in compliance and conforming with the terms and conditions of the conditional order. If, after a period of three years from the date of original issuance, the petitioner is not in compliance and conforming with the terms and conditions, the Director may renew a conditional order for a total term of two additional years only if the Director finds that failure to comply and conform is due to conditions beyond the control of such petitioner.
4. If the Director amends or adopts any rule imposing conditions on the operation of an air pollution source which have become effective as to the source by reason of the action of the Director or otherwise, and which require the implementation of control strategies necessitating the installation of additional or different air pollution control equipment, the Director may renew a conditional order for an additional term. The term of the renewal shall be governed by the preceding subsections of this Section, except that the total term of the renewal shall not exceed two years.
5. A conditional order issued by the Director shall be effective when issued unless:
 - a. The conditional order varies from the requirements of the applicable implementation plan, in which case the conditional order shall be submitted to the Administrator as a revision to the applicable implementation plan pursuant to Section 110(I) of the Act and shall become effective upon approval by the Administrator.
 - b. The conditional order varies from the requirements of a permit issued for a facility that is required to obtain a permit pursuant to Title V of the Act, in which case the conditional order shall be submitted to the Administrator if required by Section 505 of

the Act and shall be effective at the end of the review period specified in such section, unless objected to within such period by the Administrator.

- F. Violation of the terms and conditions of the conditional order shall subject the source to suspension or revocation of the conditional order in accordance with A.R.S. § 49-441.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4).

R18-2-329. Permits Containing the Terms and Conditions of Federal Delayed Compliance Orders (DCO) or Consent Decrees

- A. The terms and conditions of either a delayed compliance order (DCO) or consent decree shall be incorporated into a permit through a permit revision. In the event the permit expires prior to the expiration of the DCO or consent decree, the DCO or consent decree shall be incorporated into any permit renewal.
- B. The owner or operator of a source subject to a DCO or consent decree shall submit to the Director a quarterly report of the status of the source and construction progress and copies of any reports to the Administrator required under the order or decree. The Director may require additional reporting requirements and conditions in permits issued under this Article.
- C. For the purpose of this Chapter, sources subject to a consent decree issued by a federal court shall meet the same requirements as those subject to a DCO.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4).

R18-2-330. Public Participation

- A. The Director shall provide public notice, an opportunity for public comment, and an opportunity for a hearing before taking any of the following actions:
 1. The issuance or denial of a permit or permit renewal,
 2. The issuance or denial of a significant permit revision,
 3. The revocation and reissuance or reopening of a permit,
 4. The grant of any conditional orders pursuant to R18-2-328,
 5. The issuance or denial of a registration for the construction of a source, except as provided in R18-2-302.01(B)(5).
- B. The Director shall provide public notice of receipt of complete applications for permits or permit revisions subject to Article 4 of this Chapter by publishing a notice in a newspaper of general circulation in the county where the source is or will be located.
- C. The Director shall provide the notice required pursuant to subsection (A) as follows:
 1. The Director shall publish the notice once each week for two consecutive weeks in two newspapers of general circulation in the county where the source is or will be located.
 2. The Director shall mail a copy of the notice to persons on a mailing list developed by the Director consisting of those persons who have requested in writing to be placed on such a mailing list.
 3. The notice shall include the following:
 - a. Identification of the affected facility;
 - b. Name and address of the permittee or applicant;
 - c. Name and address of the permitting authority processing the permit action;
 - d. The activity or activities involved in the permit action;

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- e. The emissions change involved in any permit revisions;
 - f. The air contaminants to be emitted;
 - g. If applicable, that a notice of confidentiality has been filed under R18-2-305;
 - h. If applicable, that the source has submitted a risk management analysis under R18-2-1708;
 - i. A statement that any person may submit written comments, or a written request for a public hearing, or both, on the proposed permit action, along with the deadline for such requests or comments;
 - j. The name, address, and telephone number of a person from the Department from whom additional information may be obtained;
 - k. Locations where the materials identified in subsection (D) may be reviewed and the times at which they shall be available for public inspection.
 - l. The Director shall include a statement in the public notice if the permit or permit revision would result in the generation of emission reduction credits under R18-2-1204, or the utilization of emission reduction credits under R18-2-1206.
- D. By no later than the date notice is first published under subsection (A), the Department shall make copies of the following materials available at a public location in the same county as the stationary source that is the subject of the application and at the closest Department office:
- 1. The application;
 - 2. The proposed permit or permit revision, if applicable;
 - 3. The Department's analysis in support of the grant or denial of the permit or permit revision; and
 - 4. All other materials available to the Director that are relevant to the permit decision.
- E. The Director shall hold a public hearing to receive comments on petitions for conditional orders which would vary from requirements of the applicable implementation plan. For all other actions involving a proposed permit, the Director shall hold a public hearing only upon written request. If a public hearing is requested, the Director shall schedule the hearing and publish notice as described in A.R.S. § 49-444 and subsection (D). The Director shall give notice of any public hearing at least 30 days in advance of the hearing.
- F. At the time the Director publishes the first notice under subsection (C)(1), the applicant shall post a notice containing the information required in subsection (C)(3) at the site where the source is or may be located. Consistent with federal, state, and local law, the posting shall be prominently placed at a location under the applicant's legal control, adjacent to the nearest public roadway, and visible to the public using the public roadway. If a public hearing is to be held, the applicant shall place an additional posting providing notice of the hearing. Any posting shall be maintained until the public comment period is closed.
- G. The Director shall provide at least 30 days from the date of its first notice for public comment to receive comments and requests for a hearing. The Director shall keep a record of the commenters and of the issues raised during the public participation process and shall prepare written responses to all comments received. At the time a final proposed permit is submitted to EPA, in the case of a Class I permit, or a final decision is made, in the case of a Class II permit, the record and copies of the Director's responses shall be made available to the applicant and all commenters.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). R18-2-330 has been corrected to include subsection (D)(12), which was omitted when the Section was amended in the 02-1 supplement (Supp. 05-1). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-331. Material Permit Conditions

- A. For the purposes of A.R.S. §§ 49-464(G) and 49-514(G), a "material permit condition" shall mean a condition which satisfies all of the following:
- 1. The condition is in a permit or permit revision issued by the Director or a control officer after November 15, 1993.
 - 2. The condition is identified within the permit as a material permit condition.
 - 3. The condition is one of the following:
 - a. An enforceable emission standard imposed to avoid classification as a major modification or major source or to avoid triggering any other applicable requirement;
 - b. A requirement to install, operate, or maintain a maximum achievable control technology or hazardous air pollutant reasonably available control technology required under Article 17 of this Chapter;
 - c. A requirement for the installation or certification of a monitoring device;
 - d. A requirement for the installation of air pollution control equipment;
 - e. A requirement for the operation of air pollution control equipment;
 - f. An opacity standard required by Section 111 or Title I, Part C or D of the Act.
 - 4. Violation of the condition is not covered by A.R.S. § 49-464(A) through (F), or (H) through (J) or A.R.S. § 49-514(A) through (F), or (H) through (J).
- B. For the purposes of subsections (A)(3)(c), (d), and (e), a permit condition shall not be material where the failure to comply resulted from circumstances which were outside the control of the source. As used in this Section, "circumstances outside the control of the source" shall mean circumstances where the violation resulted from a sudden and unavoidable breakdown of the process or the control equipment, resulted from unavoidable conditions during a start up or shut down or resulted from upset of operations.
- C. For purposes of this Section, the term "emission standard" shall have the meaning specified in A.R.S. §§ 49-464(U) and 49-514(T).

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4). Amended effective June 4, 1998 (Supp. 98-2). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2).

R18-2-332. Stack Height Limitation

- A. The degree of emission limitation required of any source for control of any pollutant shall not be affected by so much of the source's stack height that exceeds good engineering practice or by any other dispersion technique, except as provided in subsection (B). This Section does not require the plan to restrict, in any manner, the actual stack height of any source.
- B. Subsection (A) shall not apply to:

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1. Stacks in existence, or dispersion techniques implemented, on or before December 31, 1970, unless the stationary source or emission unit emitting pollutants through the stack, or employing the dispersion technique, was constructed, reconstructed or underwent a major modification after December 31, 1970; or
 2. Coal-fired steam electric generating units, subject to the provisions of Section 118 of the Act which commenced operation before July 1, 1957, with stacks constructed under a construction contract awarded before February 8, 1974.
- C. Good engineering practice stack height is the greater of the following heights:
1. 213.25 feet (65 meters) measured from the ground-level elevation at the base of the stack;
 2. The result of one of the following equations, where "Hg" = good engineering practice stack height measured from the ground-level elevation at the base of the stack; "H" = height of nearby structures measured from the ground-level elevation at the base of the stack; and "L" = lesser dimension (height or projected width) of nearby structures:
 - a. For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable preconstruction permits or approvals required under 40 CFR 51 and 52, $H_g = 2.5H$, provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation; or
 - b. For all other stacks, $H_g = H + 1.5L$, provided that EPA, the Director, or local control agency may require the use of a field study or fluid model to verify good engineering practice stack height for the source;
 3. The height demonstrated by a fluid model or a field study approved by the reviewing agency, which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.
- D. As used in this Section:
1. For a specific structure or terrain feature, "nearby" means:
 - a. For purposes of applying the formulae in subsection (C)(2), that distance up to five times the lesser of the height or the width dimension of a structure but not greater than 0.8 km (1/2 mile).
 - b. For conducting demonstrations under subsection (C)(3), not greater than 0.8 km (1/2 mile). An exception is that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to 10 times the maximum height (Ht) of the feature, not to exceed 2 miles if such feature achieved a height (Ht) 0.8 km from the stack that is at least 40% of the good engineering practice stack height determined by the formula provided in subsection (C)(2)(b), or 85 feet (26 meters), whichever is greater, as measured from the ground-level elevation at the base of the stack.
 2. "Excessive concentrations" means:
 - a. For sources seeking credit for stack height exceeding that established under subsection (C)(2), a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and which contributes to a total concentration due to emissions from all sources that is greater than a national ambient air quality standard. For sources subject to R18-2-406, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes or eddy effects produced by nearby structures or nearby terrain features which individually is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects and greater than the applicable maximum allowable increase contained in R18-2-218. The allowable emission rate to be used in making demonstrations under subsection (C)(3) shall be prescribed by the new source performance standard which is applicable to the source category unless the owner or operator demonstrates that this emission rate is infeasible. Where such demonstrations are approved by the Director, an alternative emission rate shall be established in consultation with the source owner or operator;
 - b. For sources seeking credit after October 11, 1983, for increases in existing stack heights up to the heights established under subsection (C)(2), either:
 - i. A maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects as provided in subsection (D)(2)(a), except that emission rate specified by any applicable SIP (or, in the absence of such a limit, the actual emission rate) shall be used; or
 - ii. The actual presence of a local nuisance caused by the existing stack, as determined by the Director; and
 - c. For sources seeking credit after January 12, 1979, for a stack height determined under subsection (C)(2), where the Director requires the use of a field study or fluid model to verify good engineering practice stack height, for sources seeking stack height credit after November 9, 1984, based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit after December 31, 1970, based on the aerodynamic influence of structures not adequately represented by the equations in subsection (C)(2), a maximum ground-level concentration due in whole or in part to downwash, wakes, or eddy effects that is at least 40% in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.
- E. Before the Director issues a permit or permit revision under R18-2-334 or Article 4 to a source based on a good engineering practice stack height that exceeds the height allowed by subsections (B)(1) or (2), the Director shall notify the public of the availability of the demonstration study and provide opportunity for a public hearing in accordance with the requirements of R18-2-330.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4).
 Amended by final rulemaking at 23 A.A.R. 333, effective
 March 21, 2017 (Supp. 17-1).

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R18-2-333. Acid Rain

- A.** 40 CFR 72, 74, 75 and 76 and all accompanying appendices, adopted as of June 28, 2013, (and no future amendments) are incorporated by reference as applicable requirements. These standards are on file with the Department and shall be applied by the Department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.
- B.** When used in 40 CFR 72, 74, 75 or 76, "Permitting Authority" means the Arizona Department of Environmental Quality and "Administrator" means the Administrator of the United States Environmental Protection Agency.
- C.** If the provisions or requirements of the regulations incorporated in this Section conflict with any of the remaining portions of this Title, the regulations incorporated in this Section apply and take precedence.

Historical Note

Adopted effective October 7, 1994 (Supp. 94-4).
 Amended effective December 7, 1995 (Supp. 95-4).
 Amended effective December 4, 1997 (Supp. 97-4).
 Amended by final rulemaking at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 4170, effective October 11, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3281, effective September 27, 2004 (Supp. 04-3). Amended by final rulemaking at 11 A.A.R. 5504, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4). Amended by final expedited rulemaking at 21 A.A.R. 2747, effective December 13, 2015 (Supp. 15-4).

R18-2-334. Minor New Source Review

- A.** Applicability.
1. Except as provided in subsection (A)(4), this Section shall apply to the following activities:
 - a. Construction of any new Class I or Class II source, including the construction of any source requiring a Class II permit under R18-2-302.01(C)(4); or
 - b. Any minor NSR modification to a Class I or Class II source.
 2. This Section shall apply to a regulated minor NSR pollutant emitted by a new stationary source subject to this Section, if the source will have the potential to emit that pollutant at an amount equal to or greater than the permitting exemption threshold.
 3. This Section shall apply to an increase in emissions of a regulated minor NSR pollutant from a minor NSR modification, if the modification would increase the source's potential to emit that pollutant by an amount equal to or greater than the permitting exemption threshold.
 4. This Section shall not apply to the emissions of a pollutant from any of the activities identified in this subsection, if the emissions of that pollutant are subject to Article 4 of this Chapter.
- B.** No person shall begin actual construction of a new stationary source, or minor NSR modification, subject to this Section without first obtaining a permit, a permit revision, a proposed final permit, or a proposed final permit revision from the Director in accordance with R18-2-304.
- C.** The Director shall not issue a proposed final Class I permit or permit revision or a Class II permit or permit revision subject

to this Section to a person proposing to construct a new source or make a minor NSR modification unless the source or modification meets one of the following conditions for each regulated minor NSR pollutant subject to this Section:

1. The owner or operator elects to implement RACT.
 - a. In the case of a new source, the owner or operator shall implement RACT for each emissions unit that has the potential to emit a regulated minor NSR pollutant in an amount equal to or greater than 20% of the permitting exemption threshold.
 - b. In the case of a minor NSR modification, the owner or operator shall implement RACT for each emissions unit that will experience an increase in the potential to emit a regulated minor NSR pollutant equal to or greater than 20% of the permitting exemption threshold.
 - c. When it is technically feasible and otherwise consistent with the definition of RACT to apply the same devices, systems, process modifications, work practices or other apparatus or techniques to a group of emissions units, that group of emissions units shall be treated as a single emissions unit for purposes of subsections (C)(1)(a) and (b). The following are examples of situations to which this subsection (may) apply:
 - i. Emissions from a group of emissions units can be vented to a single control device.
 - ii. A low-VOC coating can be used in several spray-painting booths.
2. An ambient air quality assessment demonstrates that emissions from the source or minor NSR modification will not interfere with attainment or maintenance of a national ambient air quality standard in any area.
 - a. An owner or operator may elect to have the Director perform a screening model of its emissions. If the results of the screening model indicate that the source or minor NSR modification will interfere with attainment or maintenance of a national ambient air quality standard, the owner or operator may perform a more refined model to make the demonstration required by this subsection.
 - b. The requirements of this subsection shall be satisfied, if the results of the screening or more refined model conducted pursuant to subsection (B)(2)(a) demonstrate either of the following:
 - i. Ambient concentrations resulting from emissions from the source or modification combined with existing concentrations of regulated minor NSR pollutants will not interfere with attainment or maintenance of a national ambient air quality standard.
 - ii. Emissions from the source or minor modification will have an ambient impact below the significance levels as defined in R18-2-401.
 - c. The assessment required by this subsection shall take into account any limitations, controls or emissions decreases that are or will be enforceable in the permit or permit revision for the source.
- D.** RACT Determinations.
 1. Except as otherwise provided in this subsection, the Director shall determine RACT on the basis of a case-by-case analysis performed by the permit applicant of the emission reduction methods available for each emission

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- unit subject to the RACT requirement under subsection (C)(1).
2. The Director shall accept a requirement proposed by a permit applicant as RACT under subsection (C)(1) if it complies with the most recently adopted of the following guidelines or standards in effect at the time of the application:
 - a. A control technique guideline issued by the Administrator under section 108(f)(1) of the Act.
 - b. An emissions standard established or revised by the Administrator for the same type of source under section 111 or 112 of the Act after November 15, 1990.
 - c. An applicable requirement of this Chapter or of air quality control regulations adopted by a County under A.R.S. § 49-479 that has been specifically identified as constituting RACT.
 - d. A RACT standard imposed on the same type of source by a general permit.
 - e. A RACT standard imposed on the same type of source under this Section no more than 10 years before submission of the application by the permit applicant. To facilitate identification of previously imposed RACT standards, the Director shall establish an online database of RACT determinations made under this Section.
 - E. Notwithstanding an election to adopt RACT under subsection (C)(1), a permit applicant subject to this Section shall conduct an ambient air quality impact assessment under subsection (C)(2) upon the Director's request. The Director shall make such a request, if there is reason to believe that a source or minor NSR modification could interfere with attainment or maintenance of a national ambient air quality standards. In making that determination, the Director shall take into consideration:
 1. The source's emission rates.
 2. The location of emission units within the facility and their proximity to the ambient air.
 3. The terrain in which the source is or will be located.
 4. The source type.
 5. The location and emissions of nearby sources.
 6. Background concentrations of regulated minor NSR pollutants.
 - F. The Director shall deny an application for a Class I permit or permit revision or a Class II permit or permit revision subject to this Section, if an assessment conducted pursuant to subsection (C)(2) demonstrates that the source or modification will interfere with attainment or maintenance of a national ambient air quality standard.
 - G. A copy of the notice required by R18-2-330 for permits or significant permit revisions subject to this Section must also be sent to the Administrator through the appropriate regional office, and to all other state and local air pollution control agencies having jurisdiction in the region in which the source subject to the permit or permit revision will be located. The notice also must be sent to any other agency in the region having responsibility for implementing the procedures required under 40 CFR 51, Subpart I.
 - H. All modeling required pursuant to this Section shall be conducted in accordance with 40 CFR 51, Appendix W as of June 30, 2017 (and no future amendments or additions).
 - I. The Director shall specify those conditions in the permit that are implemented pursuant to this Section. The specified conditions shall be included in subsequent permit renewals unless modified pursuant to this Section or Article 4 of this Chapter.
 - J. The issuance of a permit or permit revision under this Section shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

Historical Note

New Section made by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 3630, effective February 1, 2020 (Supp. 19-4).

ARTICLE 4. PERMIT REQUIREMENTS FOR NEW MAJOR SOURCES AND MAJOR MODIFICATIONS TO EXISTING MAJOR SOURCES
R18-2-401. Definitions

The following definitions apply to this Article:

1. "Adverse impact on visibility" means visibility impairment that interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of a federal Class I area, as determined according to R18-2-410. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with times of visitor use of the federal Class I area and the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.
2. "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with subsections (2)(a) through (d).
 - a. For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the five-year period immediately preceding when the owner or operator begins actual construction of the project. The Director shall allow the use of a different time period upon a determination that it is more representative of normal source operation.
 - i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
 - ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.
 - iii. For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.
 - iv. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsection (2)(a)(ii).
 - b. For any existing emissions unit (other than an electric utility steam generating unit), baseline actual

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emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the Administrator for a permit required under 40 CFR 52.21 or by the Director for a permit required under the state implementation plan, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990.

- i. The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.
- ii. The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period. This provision applies to excess emissions associated with a malfunction.
- iii. The average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major source must currently comply, had such major source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under 40 CFR 63, the baseline actual emissions need only be adjusted if the state of Arizona has taken credit for such emissions reductions in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G).
- iv. For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units affected by the project. A different consecutive 24-month period may be used for each regulated NSR pollutant.
- v. The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsection (2)(b)(ii) or (iii).
- c. For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.
- d. For a PAL for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units in accordance with the procedures in subsection (2)(a), for other existing emissions units in accordance with the procedures contained in subsection (2)(b), and for new emis-

sions units in accordance with the procedures contained in subsection (2)(c).

3. "Basic design parameter" means:
 - a. Except as provided in subsection (3)(c), for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on Btu content shall be used for determining the basic design parameters for a coal-fired electric utility steam generating unit.
 - b. Except as provided in subsection (3)(c), the basic design parameters for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.
 - c. If the owner or operator believes the basic design parameters in subsections (3)(a) and (b) are not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Director an alternative basic design parameters for the source's process unit. If the Director approves of the use of an alternative basic design parameters, the Director shall issue a permit that is legally enforceable that records such basic design parameters and requires the owner or operator to comply with such parameters.
 - d. The owner or operator shall use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameters specified in subsections (3)(a) and (b).
 - e. If design information is not available for a process unit, then the owner or operator shall determine the process unit's basic design parameters using the maximum value achieved by the process unit in the five-year period immediately preceding the planned activity.
 - f. Efficiency of a process unit is not a basic design parameter.
 - g. The replacement activity shall not cause the process unit to exceed any emission limitation, or operational limitation that has the effect of constraining emissions, that applies to the process unit and that is legally enforceable.
4. "Complete" means, in reference to an application for a permit or permit revision, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the Department from requesting or accepting any additional information.
5. "Dispersion technique" means any technique that attempts to affect the concentration of a pollutant in the ambient air by any of the following:

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- a. Using that portion of a stack that exceeds good engineering practice stack height;
- b. Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or
- c. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams that increases the exhaust gas plume rise. This shall not include any of the following:
 - i. The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream.
 - ii. The merging of exhaust gas streams under any of the following conditions:
 - (1) The source owner or operator demonstrates that the facility was originally designed and constructed with the merged gas streams;
 - (2) After July 8, 1985, the merging is part of a change in operation at the facility that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant, applying only to the emission limitation for that pollutant; or
 - (3) Before July 8, 1985, the merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. Where there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Department shall presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by such intent, the Department shall deny credit for the effects of the merging in calculating the allowable emissions for the source.
 - iii. Smoke management in agricultural or silvicultural prescribed burning programs.
 - iv. Episodic restrictions on residential woodburning and open burning.
 - v. Techniques that increase final exhaust gas plume rise if the resulting allowable emissions of sulfur dioxide from the facility do not exceed 5,000 tons per year.
6. "Existing emissions unit" is any emissions unit that is currently in existence and that is not a new emissions unit. A replacement unit is an existing emissions unit.
7. "Federal Class I area" means an area designated as Class I under R18-2-217.
8. "High terrain" means any area having an elevation of 900 feet or more above the base of the stack of a source.
9. "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice, or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.
10. "Low terrain" means any area other than high terrain.
11. "Lowest achievable emission rate" (LAER) means, for any source, the more stringent rate of emissions based on one of the following:
 - a. The most stringent emissions limitation that is contained in any implementation plan approved or promulgated under sections 110 or 172 of the Act for the class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that the limitation is not achievable; or
 - b. The most stringent emissions limitation that is achieved in practice by the class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. The application of this term shall not permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under the applicable new source performance standards.
12. "Major emissions unit" means:
 - a. Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area; or
 - b. Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant for nonattainment areas. For example, in accordance with the definition of major stationary source in section 182(c) of the Act, an emissions unit would be a major emissions unit for VOC if the emissions unit is located in a serious ozone nonattainment area and it emits or has the potential to emit 50 or more tons of VOC per year.
13. "Major source" is defined as follows:
 - a. For purposes of determining the applicability of R18-2-403 through R18-2-405 or R18-2-411, major source means any stationary source that emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant, except that the following thresholds shall apply in areas subject to subpart 2, subpart 3 or subpart 4 of part D, Title I of the Act:

Pollutant Emitted	Nonattainment Pollutant and Classification	Quantity Threshold tons/year or more
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Carbon Monoxide (CO)	CO, Serious, if stationary sources contribute significantly to CO levels in the area as determined under rules issued by the Administrator	50
VOC	Ozone, Serious	50
VOC	Ozone, Severe	25
PM ₁₀	PM ₁₀ , Serious	70
PM _{2.5}	PM _{2.5} Serious	70
PM _{2.5} precursors identified in R18-2-101(124)(a)	PM _{2.5} Serious	70
NO _x	Ozone, Serious	50
NO _x	Ozone, Severe	25

- b. For purposes of determining the applicability of R18-2-406 through R18-2-408 or R18-2-410, major source means any stationary source that emits, or has the potential to emit, 100 tons per year or more of any regulated NSR pollutant if the source is classified as a categorical source, or 250 tons per year or more of any regulated NSR pollutant if the source is not classified as a categorical source;
 - c. A major source includes a physical change that would occur at a stationary source, not otherwise qualifying under subsection (13)(a) or (b) as a major source, if the change would constitute a major source by itself.
 - d. A major source that is major for VOC or nitrogen oxides shall be considered major for ozone.
 - e. The fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Article whether it is a major source, unless the source belongs to a section 302(j) category.
14. "Mandatory federal Class I area" means an area identified in R18-2-217(B).
 15. "New emissions unit" means any emissions unit which is (or will be) newly constructed and which has existed for less than two years from the date such emissions unit first operated.
 16. "Plantwide applicability limitation" or "PAL" means an emission limitation that is based on the baseline actual emissions of all emissions units at the stationary source that emit or have the potential to emit the PAL pollutant, expressed in tons per year, for a pollutant at a major source, that is enforceable as a practical matter and established source-wide in accordance with this Section.
 17. "PAL allowable emissions" means "allowable emissions" as defined in R18-2-101, except that the allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.
 18. PAL effective date generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.
 19. "PAL effective period" means the period beginning with the PAL effective date and ending 10 years later.
 20. "PAL major modification" means any physical change in or change in the method of operation of the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.
 21. "PAL permit" means the permit issued by the Director that establishes a PAL for a major source under Article 3 or 4 of this Chapter.
 22. "PAL pollutant" means the pollutant for which a PAL is established at a major source.
 23. "Projected actual emissions" means:
 - a. The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant during any 12-month period in the 60 calendar months following the date the unit resumes regular operation after the project, or in any 12-month period in the 120 calendar months following that date if the project involves increasing the design capacity or potential to emit of any emissions unit for that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major source.
 - b. In determining the projected actual emissions before beginning actual construction, the owner or operator of the major source:
 - i. Shall consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the county, state or federal regulatory authorities, and compliance plans under these regulations; and
 - ii. Shall include fugitive emissions to the extent quantifiable;
 - iii. Shall include emissions associated with start-ups, shutdowns, and malfunctions; and
 - iv. Shall exclude, only for calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or
 - c. In lieu of using the method set out subsections 23(b)(i) through (iv), the owner or operator may elect to use the emissions unit's potential to emit, in tons per year.
 24. "Replacement unit" means an emissions unit for which all the criteria listed in subsections (24)(a) through (d) are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.
 - a. The emissions unit is a reconstructed unit within the meaning of 40 CFR 60.15(b)(1), or the emissions unit completely takes the place of an existing emissions unit.
 - b. The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

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- c. The replacement does not alter the basic design parameters of the process unit.
- d. The replaced emissions unit is permanently removed from the major source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.
25. "Resource recovery project" means any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse. Only energy conversion facilities that utilize solid waste that provides more than 50% of the heat input shall be considered a resource recovery project under this Article.
26. "Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.
27. "Significance levels" means the following ambient concentrations for the enumerated pollutants:

Averaging Time					
Pollutant	Annual	24-Hour	8-Hour	3-Hour	1-Hour
SO ₂	1 µg/m ³	5 µg/m ³		25 µg/m ³	
NO ₂	1 µg/m ³				
CO			0.5 mg/m ³		2 mg/m ³
PM ₁₀	1 µg/m ³	5 µg/m ³			
PM _{2.5} federal Class I area	0.06 µg/m ³	0.07 µg/m ³			
PM _{2.5} federal Class II area	0.3 µg/m ³	1.2 µg/m ³			
PM _{2.5} federal Class III area	0.3 µg/m ³	1.2 µg/m ³			

Except for the annual pollutant concentrations, the Department shall deem that exceedance of significance levels has occurred when the ambient concentration of the above pollutant is exceeded more than once per year at any one location. If the concentration occurs at a specific location and at a time when the national ambient air quality standards for the pollutant are not violated, the significance level does not apply.

28. "Small emissions unit" means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-401 renumbered without change as Section R18-2-401 (Supp. 87-3). Section R18-2-401 renumbered to R18-2-601. New Section R18-2-401 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22,

1999 (Supp. 99-3). Typographical error corrected in R18-2-401(9)(a) (Supp. 00-4). Amended by final rulemaking at 13 A.A.R. 1134, effective May 5, 2007 (Supp. 07-1). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-402. General

- A. The preconstruction review requirements of this Article shall apply to the construction of any new major source or any project at an existing major source.
- B. The requirements of R18-2-403 through R18-2-410 apply to the construction of any new major source or any major modification of any existing major source, except as this Article otherwise provides.
- C. No person shall begin actual construction of a new major source or a major modification subject to the requirements of R18-2-403 through R18-2-410 without first obtaining a proposed final permit from the Director, pursuant to R18-2-307(A)(2), stating that the major source or major modification shall meet those requirements.
- D. The requirements of this Article apply to projects at major sources in accordance with the following principles.
- Except as otherwise provided in subsection (E), a project is a major modification for a regulated NSR pollutant if it causes both a significant emissions increase and a significant net emissions increase. The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.
 - The procedure for calculating before beginning actual construction whether a significant emissions increase will occur depends upon the types of emissions units being modified as set forth in subsections (D)(3) through (6). The procedure for calculating before beginning actual construction whether a significant net emissions increase will occur at the major source is set forth in the definition of net emissions increase in R18-2-101. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.
 - Actual-to-projected-actual applicability test for projects that only involve existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions, for each existing emissions unit, equals or exceeds the significant amount for that pollutant.
 - Actual-to-potential applicability test for projects that only involve new emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit from each new emissions unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.
 - [Reserved.]
 - Hybrid applicability test for projects that involve both new emissions units and existing emissions units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in subsections (D)(3) through (D)(4), as applicable with

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respect to each emissions unit, equals or exceeds the significant amount for that pollutant.

- E. Any major source with a PAL for a regulated NSR pollutant shall comply with R18-2-412.
- F. This subsection applies with respect to any regulated NSR pollutant emitted from projects at existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility, within the meaning of subsection (F)(6), that a project that is not a part of a major modification may result in a significant emissions increase of such pollutant and the owner or operator elects to use the method specified in R18-2-401(23)(b)(i) through (iv) of the definition of projected actual emissions for calculating projected actual emissions.
 1. Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:
 - a. A description of the project;
 - b. Identification of the emissions unit(s) with emissions of a regulated NSR pollutant that could be affected by the project;
 - c. A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions the amount of emissions excluded under R18-2-401(23)(b)(iv) of the definition of projected actual emissions, and an explanation for why such amount was excluded; and
 - d. Any netting calculations, if applicable.
 2. If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator shall provide a copy of the information set out in subsection (F)(1) to the Director. Nothing in this subsection shall be construed to require the owner or operator of such a unit to obtain any determination from the Director before beginning actual construction.
 3. The owner or operator shall monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in subsection (F)(1)(b); and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of five years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at such emissions unit. For purposes of this subsection, fugitive emissions (to the extent quantifiable) shall be monitored if the emissions unit is part of a section 302(j) category or if the emissions unit is located at a major stationary source that belongs to a section 302(j) category.
 4. The owner or operator shall submit a report to the Director if for a calendar year the annual emissions, in tons per year, from the project identified in subsection (F)(1) exceed the sum of the baseline actual emissions, as documented and maintained under subsection (F)(1)(c), by a significant amount for that regulated NSR pollutant, and if the emissions differ from the preconstruction projection as documented and maintained under subsection (F)(1)(c). The owner or operator shall submit the report to the Director within 60 days after the end of the calendar year. The report shall contain the following:
 - a. The name, address and telephone number of the major source;
 - b. The annual emissions as calculated pursuant to subsection (F)(3); and
 - c. Any other information that the owner or operator wishes to include in the report, such as an explanation as to why the emissions differ from the preconstruction projection.
 5. Notwithstanding subsection (F)(4), if any existing emissions unit identified in subsection (F)(1)(b) is an electric utility steam generating unit, the owner or operator shall submit a report to the Director within 60 days after the end of each calendar year during which the owner or operator must generate records under subsection (F)(3). The report shall document the unit's post-project annual emissions during the calendar year that preceded submission of the report.
 6. A "reasonable possibility" under subsection (F) occurs when the owner or operator calculates the project to result in one of the following:
 - a. A projected actual emissions increase of at least 50% of the amount that is a significant emissions increase (without reference to the amount that is a significant net emissions increase) for the regulated NSR pollutant.
 - b. A projected actual emissions increase that, added to the amount of emissions excluded under subsection R18-2-401(23)(b)(iv) of the definition of projected actual emissions, sums to at least 50% of the amount that is a significant emissions increase (without reference to the amount that is a significant net emissions increase) for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of subsection (F)(6)(b), and not also within the meaning of subsection (F)(6)(a), subsections (F)(2) through (5) do not apply to the project.
 7. The owner or operator of the source shall make the information required to be documented and maintained under subsection (F) available for review upon request for inspection by the Department or the general public.
- G. An application for a permit or permit revision under this Article, other than a PAL permit pursuant to R18-2-412, shall not be considered complete unless the application demonstrates that:
 1. The requirements in subsection (H) are met;
 2. The more stringent of the applicable new source performance standards or the existing source performance standards in Article 7 of this Chapter are applied to the proposed new major source or major modification of a major source;
 3. The visibility requirements contained in R18-2-410 are satisfied;
 4. All applicable provisions of Article 3 of this Chapter are met;
 5. The new major source or major modification will be in compliance with whatever emission limitation, design, equipment, work practice or operational standard, or combination thereof is applicable to the source or modification. The degree of emission limitation required for control of any pollutant under this Article shall not be affected in any manner by:
 - a. Stack height in excess of GEP stack height except as provided in R18-2-332; or

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- b. Any other dispersion technique, unless implemented prior to December 31, 1970;
 - 6. The new major source or major modification will not exceed the applicable standards for hazardous air pollutants contained in this Chapter;
 - 7. The new major source or major modification will not exceed the limitations, if applicable, on emission from nonpoint sources contained in Article 6 of this Chapter;
 - 8. The new major source or major modification will not have an adverse impact on visibility, as determined according to R18-2-410.
- H.** Except for assessing air quality impacts within federal Class I areas, the air impact analysis required to be conducted as part of a permit application shall initially consider only the geographical area located within a 50 kilometer radius from the point of greatest emissions for the new major source or major modification. The Director, on his own initiative or upon receipt of written notice from any person shall have the right at any time to request an enlargement of the geographical area for which an air quality impact analysis is to be performed by giving the person applying for the permit or permit revision written notice thereof, specifying the enlarged radius to be so considered. In performing an air impact analysis for any geographical area with a radius of more than 50 kilometers, the person applying for the permit or permit revision may use monitoring or modeling data obtained from major sources having comparable emissions or having emissions which are capable of being accurately used in such demonstration, and which are subjected to terrain and atmospheric stability conditions which are comparable or which may be extrapolated with reasonable accuracy for use in such demonstration.
- I.** The Director shall comply with following requirements with respect to an application for a permit or permit revision subject to this Article:
- 1. Within 60 days after receipt of the application, or any addition to the application, the Director shall advise the applicant of any deficiency. The date of receipt of a complete application shall be, for the purpose of this Section, the date on which the Director receives all required information. The permit application shall not be deemed complete if the Director fails to meet the requirements of this subsection.
 - 2. Within one year after receipt of a complete application, the Director shall do all of the following:
 - a. Make a preliminary determination as to whether the permit or permit revision should be granted or denied.
 - b. Make the application, all materials the applicant submitted, the preliminary determination, and materials relating to the application available under R18-2-330(D).
 - c. Notify the public of the application, the preliminary determination and the opportunity for a public hearing and to submit written comments in accordance with R18-2-330(C). In the case of an application subject to R18-2-406, the notice shall include the degree of consumption of the maximum allowable increases allowed under R18-2-218 that is expected to occur as a result of emissions from the proposed source or modification.
 - d. Take final action on the application by denying the permit or permit revision or issuing a proposed final permit or permit revision.
 - e. Notify the applicant in writing of the approval or denial and make the notification, comments on the proposed action, and materials supporting the final action available for public inspection at the location where materials relating to the proposed action were placed under R18-2-330(D).
 - 3. A copy of any notice required by R18-2-330 and subsection (I)(2)(c) shall be sent to the permit applicant, to the Administrator, and to the following officials and agencies having cognizance over the location where the proposed major source or major modification would occur:
 - a. The air pollution control officer, if one exists, for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;
 - b. The county manager for the county wherein the proposed or existing source that is the subject of the permit or permit revision application is located;
 - c. The city or town managers of the city or town which contains, and any city or town the boundaries of which are within 5 miles of, the location of the proposed or existing source that is the subject of the permit or permit revision application;
 - d. Any regional land use planning agency with authority for land use planning in the area where the proposed or existing source that is the subject of the permit or permit revision application is located; and
 - e. Any state, Federal Land Manager, or Indian governing body whose lands may be affected by emissions from the proposed source or modification.
 - J.** The authority to construct and operate a new major source or major modification under a permit or permit revision issued under this Article shall terminate if the owner or operator does not commence the proposed construction or major modification within 18 months of issuance or if, during the construction or major modification, the owner or operator suspends work for more than 18 months. The Director may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months of the projected and approved commencement date.

Historical Note

Amended effective August 6, 1976 (Supp. 76-4). Former Section R9-3-402 repealed, new Section R9-3-402 adopted effective May 14, 1979 (Supp. 79-1). Amended and adopted by reference Open Burning Guidelines for Air Pollution Control effective September 22, 1983 (Supp. 83-5). Former Section R9-3-402 renumbered without change as Section R18-2-402 (Supp. 87-3). Section R18-2-402 renumbered to R18-2-602, new Section R18-2-402 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-403. Permits for Sources Located in Nonattainment Areas

- A.** Except as provided in subsections (C) through (G) below, no permit or permit revision shall be issued under this Article to a person proposing to construct a new major source or make a

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major modification that is major for the pollutant for which the area is designated nonattainment unless:

1. The person demonstrates that the new major source or the major modification will meet an emission limitation which is the lowest achievable emission rate (LAER) for that source for that regulated NSR pollutant.
 2. The person demonstrates that all existing major sources owned or operated by that person (or any entity controlling, controlled by, or under common control with that person) in the state are in compliance with, or on a schedule of compliance for, all conditions contained in permits of each of the sources and all other applicable emission limitations and standards under the Act and this Chapter.
 3. The person demonstrates that emission reductions for the specific pollutant(s) from source(s) in existence in the allowable offset area of the new major source or major modification (whether or not under the same ownership) meet the offset requirements of R18-2-404.
 4. The Administrator has not determined that the applicable implementation plan is not being adequately implemented for the nonattainment area in which the proposed source is to be constructed or modified in accordance with the requirements in this Section.
- B.** No permit or permit revision under this Article shall be issued to a person proposing to construct a new major source or make a major modification to a major source located in a nonattainment area unless:
1. The person performs an analysis of alternative sites, sizes, production processes, and environmental control techniques for such new major source or major modification; and
 2. The Director determines that the analysis demonstrates that the benefits of the new major source or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.
- C.** At such time that a particular source or modification becomes a major source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as restriction on hours of operation, then the requirements of this Section shall apply to the source or modification as though construction had not yet commenced on the source or modification.
- D.** Secondary emissions shall not be considered in determining the potential to emit of a new source or modification and therefore whether the new source or modification is major. However, if a new source or modification is subject to this Section on the basis of its direct emissions, a permit or permit revision under this Article to construct the new source or modification shall be denied unless the requirements of R18-2-403(A)(3) and R18-2-404 are met for reasonably quantifiable secondary emissions caused by the new source or modification.
- E.** A permit to construct a new major source or major modification shall be denied unless the conditions specified in subsections (A)(1), (2), and (3) are met for fugitive emissions caused by the new source or modification. However, these conditions shall not apply to a new major source or major modification that would be a major source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential emissions of the source or modification, and the source does not belong to a section 302(j) category.

- F.** The requirements of subsection (A)(3) shall not apply to temporary emissions units, such as pilot plants, portable facilities that will be relocated outside of the nonattainment area and the construction phase of a new source, if those units will operate for no more than 24 months in the nonattainment area, are otherwise in compliance with the requirement to obtain a permit under this Chapter and are in compliance with the conditions of that permit.
- G.** A decrease in actual emissions shall be considered in determining the potential of a new source or modification to emit only to the extent that the Director has not relied on it in issuing any permit or permit revision under this Article or the state has not relied on it in demonstrating attainment or reasonable further progress.
- H.** The Director shall transmit to the Administrator a copy of each permit application relating to a major stationary source or major modification under this Section. Within 30 days of the issuance of any permit under this Section, the Director shall also submit control technology information from the permit to the Administrator for the purposes listed in Section 173(d) of the Act.
- I.** The issuance of a permit or permit revision under this Article in accordance with this Section shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

Historical Note

Former Section R9-3-403 repealed, new Section R9-3-403 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-403 renumbered without change as Section R18-2-403 (Supp. 87-3). Section R18-2-403 renumbered to R18-2-603, new Section R18-2-403 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-404. Offset Standards

- A.** Increased emissions by a major source or major modification subject to R18-2-403 of each pollutant for which the area has been designated as nonattainment and for which the source or modification is classified as major shall be offset by real reductions in the actual emissions of the pollutant. Offsets shall be for the same regulated NSR Pollutant. Except as provided in R18-2-405 and subsection (J), the ratio of the total actual reductions to the emissions increase shall be at least 1 to 1.
- B.** Except as provided in subsections (B)(1) or (2), for sources and modifications subject to this Section, the baseline for determining credit for emissions reductions is the emissions limit for the source generating the offset credit under the applicable implementation plan in effect at the time the application for a permit or permit revision is filed.
1. The offset baseline shall be the actual emissions of the source from which offset credit is obtained where either of the following conditions is satisfied:
 - a. The demonstration of reasonable further progress and attainment of ambient air quality standards is based upon the actual emissions of sources located within a designated nonattainment area for which the preconstruction review program was adopted.
 - b. The applicable implementation plan does not contain an emissions limitation for that source or source category.

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2. Where the emissions limit under the applicable implementation plan allows greater emissions than the potential to emit of the source, emissions offset credit will be allowed only for control below this potential.
- C. For an existing fuel combustion source, emissions offset credit shall be based on the allowable emissions under the applicable implementation plan for the type of fuel being burned at the time the application to construct is filed. If the existing source commits to switch to a cleaner fuel at some future date, emissions offset credit based on the allowable or actual emissions for the fuels involved is not acceptable, unless the permit for the existing source is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emissions reduction should the source switch back to a fuel generating higher emissions. The owner or operator of the existing source must demonstrate that adequate long-term supplies of the new fuel are available before granting emissions offset credit for fuel switches.
- D. Offset Credit for Shutdowns.
1. Emissions reductions achieved by shutting down an existing emission unit or curtailing production or operating hours may be credited for offsets if they meet both of the following conditions.
 - a. The reductions are surplus, permanent, quantifiable, and federally enforceable.
 - b. The shutdown or curtailment occurred after the last day of the base year for the SIP planning process. For purposes of this subsection, the Director may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units. However, in no event may credit be given for shutdowns that occurred before August 7, 1977.
 2. Emissions reductions achieved by shutting down an existing emissions unit or curtailing production or operating hours and that do not meet the requirements in subsection (D)(1)(b) may be credited only if one of the following conditions is satisfied:
 - a. The shutdown or curtailment occurred on or after the date the construction permit application is filed.
 - b. The applicant can establish that the proposed new emissions unit is a replacement for the shutdown or curtailed emissions unit, and the emissions reductions achieved by the shutdown or curtailment met the requirements of subsection (D)(1)(a).
- E. No emissions credit may be allowed for replacing one hydrocarbon compound with another of lesser reactivity, except for those compounds listed in Table 1 of EPA's "Recommended Policy on Control of Volatile Organic Compounds," 42 FR 35314 (July 8, 1977).
- F. All emission reductions claimed as offset credits shall be federally enforceable by the time a proposed final permit is issued to the owner or operator of the major source subject to this Section and shall be in effect by the time the new or modified source subject to the permit commences operation.
- G. The owner or operator of a major source or major modification subject to this Section must obtain offset credits from the same source or from other sources in the same nonattainment area, except that the Director may allow the owner or operator to obtain offset credits from another nonattainment area if both of the following conditions are satisfied:
1. The other area has an equal or higher nonattainment classification than the area in which the source is located.
 2. Emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located.
- H. Credit for an emissions reduction can be claimed to the extent that the Director has not relied on it in issuing any permit under this Article, R18-2-334, or the state has not relied on it in a demonstration of attainment or reasonable further progress.
- I. The total tonnage of increased emissions, in tons per year, resulting from a major modification that must be offset under this Section shall be determined by summing the difference between the allowable emissions after the modification and the actual emissions before the modification for each emissions unit.
- J. In ozone nonattainment areas classified as marginal, total emissions of VOC and oxides of nitrogen from other sources shall offset those proposed or permitted from the major source or major modification by a ratio of at least 1.10 to 1. In ozone nonattainment areas classified as moderate, total emissions of VOC and oxides of nitrogen from other sources shall offset those proposed or permitted from the major source or major modification by a ratio of at least 1.15 to 1. New major sources and major modifications in serious and severe ozone nonattainment areas shall comply with this Section and R18-2-405.

Historical Note

Former Section R9-3-404 repealed, new Section R9-3-404 adopted effective May 14, 1979 (Supp. 79-1).

Amended by adding subsection (C) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-404 renumbered without change as Section R18-2-404 (Supp. 87-3).

Amended subsection (C) effective December 1, 1988 (Supp. 88-4). Section R18-2-404 renumbered to R18-2-604, new Section R18-2-404 adopted effective November 15, 1993 (Supp. 93-4). Amended effective February 28, 1995 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final expedited rulemaking at 28 A.A.R. 1135 (May 27, 2022), with an immediate effective date of May 4, 2022 (Supp. 22-2).

R18-2-405. Special Rule for Major Sources of VOC or Nitrogen Oxides in Ozone Nonattainment Areas Classified as Serious or Severe

- A. Applicability. The provisions of this Section only apply to stationary sources of VOC or nitrogen oxides in ozone nonattainment areas classified as serious or severe. Unless otherwise provided in this Section, all requirements of Articles 3 and 4 of this Chapter apply.
- B. "Significant" means, in reference to an emissions increase or a net emissions increase, any increase in actual emissions of volatile organic compounds or nitrogen oxides that would result from any physical change in, or change in the method of operation of, a major source, if the emissions increase of volatile organic compounds or nitrogen oxides exceeds 25 tons per year.
- C. For any major source that emits or has the potential to emit less than 100 tons of VOC or oxides of nitrogen per year, a

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physical or operational change that results in a significant increase in VOC or oxides of nitrogen, respectively, from any discrete operation, unit, or other pollutant emitting activity at the source shall constitute a major modification, except that the increase shall not constitute a major modification, if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of VOC or oxides of nitrogen, as applicable, from other operations, units or activities at the source at an internal offset ratio of at least 1.3 to 1. If the owner or operator does not make such an election, the change shall constitute a major modification but BACT shall be substituted for LAER when applying R18-2-403(A)(1) to the major modification.

- D. For any stationary source that emits or has the potential to emit 100 tons or more of VOC or oxides of nitrogen per year, a physical or operational change that results in any significant increase in VOC from any discrete operation, unit or other pollutant emitting activity at the source or oxides of nitrogen, respectively, shall constitute a major modification except that if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of VOC or oxides of nitrogen, as applicable, from other operations, units or activities within the source at an internal offset ratio of at least 1.3 to 1, R18-2-403(A)(1) shall not apply to the change.
- E. For any new major source or major modification that is classified as major because of emissions or potential to emit VOC or nitrogen oxides in an ozone nonattainment area classified as serious, the increase in emissions of these pollutants from the source or modification shall be offset at a ratio of 1.2 to 1. The offset shall be made in accordance with the provisions of R18-2-404.
- F. For any new major source or major modification that is classified as such because of emissions or potential to emit VOC or nitrogen oxides in an ozone nonattainment area classified as severe, the increase in emissions of these pollutants from the source or modification shall be offset at a ratio of 1.3 to 1. These offsets shall be made in accordance with the provisions of R18-2-404.

Historical Note

Former R9-3-405, Other industries, renumbered R9-3-406, new Section adopted effective September 17, 1975 (Supp. 75-1). Former Section R9-3-405 repealed, new Section R9-3-405 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-405 renumbered without change as Section R18-2-405 (Supp. 87-3). Section R18-2-405 renumbered to R18-2-605, new Section R18-2-405 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-406. Permit Requirements for Sources Located in Attainment and Unclassifiable Areas

- A. Except as provided in subsections (B) through (J) and R18-2-408 (Innovative control technology), no permit or permit revision under this Article shall be issued to a person proposing to construct a new major source or make a major modification to a major source that would be constructed in an area designated as attainment or unclassifiable for any regulated NSR pollutant unless the source or modification meets the following conditions:

1. A new major source shall apply best available control technology (BACT) for each regulated NSR pollutant for which the potential to emit is significant.
2. A major modification shall apply BACT for each regulated NSR pollutant for which the project would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.
3. For phased construction projects, the determination of BACT shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of BACT for the source.
4. BACT shall be determined on a case-by-case basis and may constitute application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment, clean fuels, or innovative fuel combustion techniques, for control of such pollutant. In no event shall such application of BACT result in emissions of any pollutant, which would exceed the emissions allowed by any applicable new source performance standard or national emission standard for hazardous air pollutants or by the applicable implementation plan. If the Director determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof may be prescribed instead to satisfy the requirement for the application of BACT. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results.
5. The person applying for the permit or permit revision under this Article performs an air impact analysis and monitoring as specified in R18-2-407, and the analysis demonstrates that allowable emission increases from the proposed new major source or major modification, in conjunction with all other applicable emission increases or reductions, including secondary emissions, would not cause or contribute to concentrations of conventional air pollutants in violation of:
 - a. Any national ambient air quality standard in any air quality control region; or
 - b. Any applicable maximum increase allowed under R18-2-218 over the baseline concentration in any area.
6. Air quality models:
 - a. All estimates of ambient concentrations required under this Section shall be based on the applicable air quality models, databases, and other requirements specified in 40 CFR 51, Appendix W, "Guideline On Air Quality Models," as of June 30, 2017 (and no future amendments or editions), which shall be referred to hereinafter as "Guideline" and is adopted by reference and is on file with the Department.

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- b. Where an air quality impact model specified in the "Guideline" is not applicable, the model may be modified or another model substituted. Such a change shall be subject to notice and opportunity for public comment under R18-2-330. Written approval of the EPA Administrator shall be obtained for any modification or substitution.
- B.** This Section and R18-2-407 shall not apply to a new major source or major modification to a source with respect to a particular pollutant if the person applying for the permit or permit revision under this Article demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment for the pollutant. This exemption shall not apply to an area designated nonattainment for a revoked national ambient air quality standard in 40 CFR 81.
- C.** This Section, R18-2-407, and R18-2-410(B), (F), and (G) shall not apply to a new major source or a major modification if the source or modification would be a major source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential emissions of the source or modification, and the source does not belong to a section 302(j) category.
- D.** This Section, R18-2-407, and R18-2-410(B), (F), and (G) shall not apply to a new major source or major modification to a source when the owner or operator of the source is a nonprofit health or educational institution.
- E.** This Section, R18-2-407, and R18-2-410(B), (F) and (G) shall not apply to a portable source which would otherwise be a new major source or major modification to an existing source if all of the following conditions are satisfied:
1. The portable source proposes to relocate and will operate for no more than 24 months at its new location.
 2. The source is subject to a permit or permit revision issued under this Section or 40 CFR 52.21.
 3. The source is in compliance with the conditions of that permit or permit revision.
 4. Emissions from the source will not impact a federal Class I area or an area where an applicable maximum increase allowed under R18-2-218 is known to be violated.
 5. Reasonable notice is given to the Director prior to the relocation identifying the proposed new location and the probable duration of operation at the new location at least 10 calendar days in advance of the proposed relocation, unless a different time duration is previously approved by the Director.
- F.** Subsection (A)(5), R18-2-407, and R18-2-410(B) shall not apply to a proposed major source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification, would be temporary and impact no federal Class I area and no area where a maximum increase allowed under R18-2-218 is known to be violated.
- G.** Subsection (A)(5), R18-2-407, and R18-2-410(B) as they relate to any maximum allowable increase for a Class II area shall not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of best available control technology would be less than 50 tons per year.
- H.** Subsection (A)(5)(b) shall not apply to a stationary source or modification with respect to any maximum increase allowed for nitrogen oxides under R18-2-218 if the owner or operator of the source or modification submitted an application for a permit under the applicable permit program approved or promulgated under the Act before the provisions embodying the maximum allowable increase took effect as part of the state implementation plan and the Director subsequently determined that the application as submitted before that date was complete.
- I.** Subsection (A)(5)(b) shall not apply to a stationary source or modification with respect to any maximum increase allowed for PM₁₀ under R18-2-218 if the owner or operator of the source or modification submitted an application for a permit under the applicable permit program approved under the Act before the provisions embodying the maximum allowable increases for PM₁₀ took effect as part of the state implementation plan and the Director subsequently determined that the application as submitted before that date was complete. Instead, subsection (A)(5)(b) shall apply with respect to the maximum allowable increases for total suspended particulate as in effect on the date the application was submitted.
- J.** Subsection (A)(5)(a) shall not apply to a stationary source or modification with respect to the national ambient air quality standards for PM_{2.5} in effect on March 18, 2013 if either of the following is true:
1. The Director determined a permit application subject to this Section was complete on or before December 14, 2012. Instead, subsection (A)(5)(a) shall apply with respect to the national ambient air quality standards for PM_{2.5} in effect at the time the Director determined the permit application to be complete.
 2. The Director first published before March 18, 2013 a public notice of a proposed permit subject to this Section. Instead, subsection (A)(5)(a) shall apply with respect to the national ambient air quality standards for PM_{2.5} in effect at the time of first publication of the public notice.
- K.** Subsection (A)(5)(a) shall not apply to a stationary source or modification with respect to the revised national ambient air quality standards for ozone published on October 26, 2015 if:
1. The Director has determined the permit application subject to this Section to be complete on or before October 1, 2015. Instead, subsection (A)(5)(a) shall apply with respect to the national ambient air quality standards for ozone in effect at the time the Director determined the permit application to be complete.
 2. The Director has first published, before December 25, 2015, a public notice of a preliminary determination or draft permit for the permit application subject to this Section. Instead, subsection (A)(5)(a) shall apply with respect to the national ambient air quality standards for ozone in effect at the time the Director determined the permit application to be complete.
- L.** The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make a determination required under this Section. The owner or operator shall also provide information regarding:
1. The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact, and
 2. The air quality impacts and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.
- M.** The issuance of a permit or permit revision under this Article in accordance with this Section shall not relieve the owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, state, or federal law.

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- N. At such time that a particular source or modification becomes a major source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this Section shall apply to the source or modification as though construction had not yet commenced on the source or modification.

Historical Note

Former Section R9-3-405, renumbered effective September 17, 1975 (Supp. 75-1). Former Section R9-3-406 repealed, new Section R9-3-406 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-406 renumbered without change as Section R18-2-406 (Supp. 87-3). Section R18-2-406 renumbered to R18-2-606, new Section R18-2-406 adopted effective November 15, 1993 (Supp. 93-4). Amended effective February 28, 1995 (Supp. 95-1). The references to R18-2-101(97)(a) in subsection (A)(1) and (2) amended to reference R18-2-101(104)(a) (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 3630, effective February 1, 2020 (Supp. 19-4).

R18-2-407. Air Quality Impact Analysis and Monitoring Requirements

- A. Any application for a permit or permit revision under R18-2-406 to construct a new major source or major modification to a major source shall contain an analysis of ambient air quality in the area that the new major source or major modification would affect for each of the following pollutants:
1. For the new source, each pollutant that it would have the potential to emit in a significant amount;
 2. For the modification, each pollutant for which it would result in a significant net emissions increase.
- B. With respect to any such pollutant for which no national ambient air quality standard exists, the analysis shall contain all air quality monitoring data as the Director determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of the pollutant would affect.
- C. With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.
- D. In general, the continuous air quality monitoring data that is required shall have been gathered over a period of at least one year and shall represent at least the year preceding receipt of the application, except that, if the Director determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not to be less than four months), the data that is required shall have been gathered over at least that shorter period.
- E. The owner or operator of a proposed stationary source or modification to a source of volatile organic compounds who satisfies all conditions of 40 CFR 51, Appendix S, Section IV, may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required under subsections (B), (C), and (D) above.

- F. Post-construction monitoring. The owner or operator of a new major source or major modification shall, after construction of the source or modification, conduct such ambient monitoring as the Director determines is necessary to determine the effect emissions from the new source or modification may have, or are having, on air quality in any area.
- G. Operations of monitoring stations. The owner or operator of a new major source or major modification shall meet the requirements of 40 CFR 58, Appendix B, during the operation of monitoring stations for purposes of satisfying subsections (B) through (F) above.
- H. The requirements of subsections (B) through (G) above shall not apply to a new major source or major modification to an existing source with respect to monitoring for a particular pollutant if:
1. The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the following amounts:
 - a. Carbon Monoxide - 575 $\mu\text{g}/\text{m}^3$, eight-hour average;
 - b. Nitrogen dioxide - 14 $\mu\text{g}/\text{m}^3$, annual average;
 - c. $\text{PM}_{2.5}$ - 0 $\mu\text{g}/\text{m}^3$, 24-hour average;
 - d. PM_{10} - 10 $\mu\text{g}/\text{m}^3$, 24-hour average;
 - e. Sulfur dioxide - 13 $\mu\text{g}/\text{m}^3$, 24-hour average;
 - f. Lead - 0.1 $\mu\text{g}/\text{m}^3$, 3-month average;
 - g. Fluorides - 0.25 $\mu\text{g}/\text{m}^3$, 24-hour average;
 - h. Total reduced sulfur - 10 $\mu\text{g}/\text{m}^3$, one-hour average;
 - i. Hydrogen sulfide - 0.04 $\mu\text{g}/\text{m}^3$, one-hour average;
 - j. Reduced sulfur compounds - 10 $\mu\text{g}/\text{m}^3$, one-hour average;
 - k. Ozone - net emissions increases of less than 100 tons per year of volatile organic compounds or oxides of nitrogen;
 2. The concentrations of the pollutant in the area that the new source or modification would affect are less than the concentrations listed in subsection (H)(1); or
 3. The pollutant is not listed in subsection (H)(1).

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-407 renumbered without change as Section R18-2-407 (Supp. 87-3). Section R18-2-407 renumbered to R18-2-607, new Section R18-2-407 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-408. Innovative Control Technology

- A. Notwithstanding the provisions of R18-2-406(A)(1) through (3), the owner or operator of a proposed new major source or major modification may request that the Director approve a system of innovative control technology rather than the best available control technology requirements otherwise applicable to the new source or modification.
- B. The Director shall approve the installation of a system of innovative control technology if the following conditions are met:
1. The owner or operator of the proposed source or modification satisfactorily demonstrates that the proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;
 2. The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under R18-2-406(A)(1) or (2) by a

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date specified in the permit or permit revision under this Article for the source. Such date shall not be later than four years from the time of start-up or seven years from the issuance of a permit or permit revision under this Article;

3. The source or modification would meet requirements equivalent to those in R18-2-406(A) based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified in the permit or permit revision under this Article.
 4. Before the date specified in the permit or permit revision under this Article, the source or modification would not:
 - a. Cause or contribute to any violation of an applicable national ambient air quality standard; or
 - b. Impact any area where an applicable maximum increase allowed under R18-2-208 is known to be violated.
 5. All other applicable requirements including those for public participation have been met.
 6. The Director receives the consent of the governors of other affected states.
 7. The requirements of R18-2-410 for federal Class I areas will be met for all periods during the life of the source or modification.
- C. The Director shall withdraw any approval to employ a system of innovative control technology made under this Section if:
1. The proposed system fails by the specified date to achieve the required continuous emissions reduction rate; or
 2. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or
 3. The Director decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.
- D. If the new source or major modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn in accordance with subsection (C) above, the Director may allow the owner or operator of the source or modification up to an additional three years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Former Section R9-3-408 renumbered without change as Section R18-2-408 (Supp. 87-3). Section R18-2-408 renumbered to R18-2-608, new Section R18-2-408 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-409. Air Quality Models

- A. Where the Director requires a person requesting a permit or permit revision under this Article to perform air quality impact modeling to obtain such permit or permit revision under this Article, the modeling shall be performed in a manner consistent with the Guideline specified in R18-2-406(A)(6)(a).
- B. Where the person requesting a permit or permit revision under this Article can demonstrate that an air quality impact model specified in the Guideline is inappropriate, the model may be modified or another model substituted. However, before such

modification or substitution can occur, the Director shall make a written finding that:

1. No model in the Guideline is appropriate for a particular permit or permit revision under this Article under consideration, or
 2. The data base required for the appropriate model in the Guideline is not available, and
 3. The model proposed as a substitute or modification is likely to produce results equal or superior to those obtained by models in the Guideline, and
 4. The model proposed as a substitute or modification has been approved by the Administrator.
- C. The substitution or modification of an air quality model under this Section shall be included in the public notice under R18-2-330(C).

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-409 renumbered without change as Section R18-2-409 (Supp. 87-3). Section R18-2-409 renumbered to R18-2-609, new Section R18-2-409 adopted effective November 15, 1993 (Supp. 93-4).

R18-2-410. Visibility and Air Quality Related Value Protection

- A. Applicability.
 1. All of the requirements of this Section apply to a new major source or major modification that would be constructed in an area that is designated attainment or unclassifiable.
 2. Subsections (B) to (D) apply to the following:
 - a. A new major source or major modification that may have an impact on any integral vista of a mandatory federal Class I area, if it is identified in accordance with 40 CFR 51.304 by the Federal Land Manager at least twelve months before submission of a complete permit application for the source or modification, except where the Federal Land Manager has provided notice and opportunity for public comment on the integral vista, in which case the review must include impacts on any integral vista identified at least six months before submission of a complete permit application. This subsection shall not apply if the Director determines under 40 CFR 51.304(d) that the identification was not in accordance with the identification criteria.
 - b. A new major source or major modification that proposes to locate in an area designated as nonattainment and that may have an impact on visibility in any mandatory federal Class I area.
- B. Application Requirements. Any application for a permit or permit revision to construct a major source or major modification subject to this Section shall contain:
 1. An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the new source or modification and general commercial, residential, industrial, and other growth associated with the new source or modification. The applicant need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.
 2. An analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the new source or modification.
- C. Notification Requirements.

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1. The Director shall provide written notice of the application for a permit or permit revision subject to this Section to the Administrator, the Federal Land Manager and the federal official charged with direct responsibility for management of any lands within any Class I area that may be affected by the source or modification. The notice shall be provided within 30 days of receipt of the application and at least 60 days before any public hearing on the application. The notice shall:
 - a. Include a copy of the application and all information relevant to the permit or permit revision under this Article;
 - b. Include an analysis of the anticipated impacts of the proposed source on visibility in any federal Class I area; and
 - c. Provide for no less than a 30-day period within which written comments may be submitted.
 2. The Director shall notify the individuals identified in subsection (C)(1) within 30 days of receipt of any advance notification of any such permit or permit revision.
 3. The Director shall notify the individuals identified in subsection (C)(1) of the preliminary determination for the application under R18-2-402(I)(2)(c) and shall make available any materials used in making that determination.
 4. The Director shall provide notice to the administrator of every action related to the consideration of such permit or permit revision.
- D. Consideration of Federal Land Manager Analysis.**
1. The Federal Land Manager and the federal official charged with direct responsibility for management of federal Class I areas have an affirmative responsibility to protect the air quality related values, including visibility, of any such areas and to consider, in consultation with the Administrator, whether a proposed source or modification would have an adverse impact on such values.
 2. The Director shall consider any analysis performed by the Federal Land Manager and provided within 30 days of the notification required by subsection (C)(1) that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in a federal Class I area or integral vista.
 3. In considering the analysis, the Director shall ensure that the source's emissions will be consistent with making reasonable progress toward the national visibility goal referred to in 40 CFR 51.300(a), taking into account the costs of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source.
 4. If the Director concurs with the analysis, the Director shall deny the permit or permit revision.
 5. If the Director finds that the analysis does not demonstrate to the satisfaction of the Director that an adverse impact on visibility will result in the federal Class I area or integral vista, the Director shall, in the notice required by R18-2-402(I)(2)(c), either explain that decision or give notice as to where the explanation can be obtained.
- E. Federal Land Manager Analysis Showing Adverse Impact Despite Compliance with Maximum Allowable Increases for Class I Area.**
1. Within 30 days after the notification required by subsection (C)(3), the Federal Land Manager may present to the Director a demonstration that the emissions attributed to a new major source or major modification would have an adverse impact on visibility or other specifically defined air quality related values of any mandatory federal Class I area, even though the change in air quality resulting from emissions attributable to the source or modification will not cause or contribute to concentrations that exceed the maximum increases allowed for the area in R18-2-218.
- F. Class I Variance with Federal Land Manager Concurrence.**
1. The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that emissions from the source will have no adverse impact on the air quality related values (including visibility) of federal Class I areas, even though the change in air quality resulting from emissions from the source or modification are projected to cause or contribute to concentrations that exceed the maximum increases allowed for a Class I area under R18-2-218.
 2. If the Federal land manager concurs with the demonstration and so certifies to the Director, the Director may issue the permit, provided that:
 - a. Applicable requirements are otherwise met; and
 - b. The permit contains emission limits necessary to assure that emissions of sulfur dioxide, PM_{2.5}, PM₁₀, and nitrogen oxides will not cause increases in ambient concentrations of those pollutants exceeding the following maximum allowable increases over minor source baseline concentrations:
- | Pollutant | Maximum allowable increase (micrograms per cubic meter) |
|------------------------|---|
| PM _{2.5} : | |
| Annual arithmetic mean | 4 |
| 24-hr maximum | 9 |
| PM ₁₀ : | |
| Annual arithmetic mean | 17 |
| 24-hr maximum | 30 |
| Sulfur dioxide: | |
| Annual arithmetic mean | 20 |
| 24-hr maximum | 91 |
| 3-hr maximum | 325 |
| Nitrogen dioxide | |
| Annual arithmetic mean | 25 |
- G. Class I Sulfur Dioxide Variance by Governor with Concurrence by Federal Land Manager or President.**
1. The owner or operator of a proposed source or modification that cannot be approved under subsection (F) may demonstrate to the Governor that the source cannot be constructed by reason of any maximum allowable increase for sulfur dioxide for a period of twenty-four hours or less applicable to any Class I area and, in the case of mandatory federal Class I areas, that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from the maximum allowable increase. If the

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variance is granted, the Director shall issue a permit or permit to the source or modification pursuant to the requirements of subsection (G)(3), provided that the applicable requirements of R18-2-406 are otherwise met.

2. In any case where the Governor recommends a variance in which the Federal Land Manager does not concur, the recommendations of the Governor and the Federal Land Manager shall be transmitted to the President. The President may approve the Governor's recommendation if the President finds that the variance is in the national interest. If the variance is approved, the Director shall issue a permit pursuant to subsection (G)(3), provided that the applicable requirements of R18-2-406 are otherwise met.
3. In the case of a permit issued pursuant to subsections (G)(1) or (G)(2) the source or modification shall comply with emission limitations necessary to assure that emissions of sulfur dioxide from the source or modification will not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations that would exceed the following maximum allowable increases over the baseline concentration and to assure that the emissions will not cause or contribute to concentrations that exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

Maximum Allowable Increase [Micrograms per cubic meter]		
Period of exposure	Terrain areas	
	Low	High
24-hr maximum	36	62
3-hr maximum	130	221

- H. Visibility Monitoring. The Director may require monitoring of visibility in any federal Class I area near a proposed major source or major modification for such purposes and by such means as the Director deems necessary and appropriate.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-410 renumbered without change as Section R18-2-410 (Supp. 87-3). Section R18-2-410 renumbered to R18-2-610, new Section R18-2-410 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-411. Permit Requirements for Sources that Locate in Attainment or Unclassifiable Areas and Cause or Contribute to a Violation of Any National Ambient Air Quality Standard

- A. Except as provided in subsections (C) or (D), the Director shall deny a permit or permit revision to any major source or major modification that would locate in any attainment or unclassified area, if the source or modification would cause or contribute to a violation of any national ambient air quality standard.
- B. A major source or major modification will be considered to cause or contribute to a violation of a national ambient air quality standard when the source or modification would, at a minimum, cause an increase in the concentrations of a regulated NSR pollutant that exceeds the significance level at any locality that does not, or as a result of the increase would not, meet the standard.

- C. A proposed major source or major modification subject to subsection (A) may reduce the impact of its emissions upon air quality by obtaining sufficient emission reductions to, at a minimum, compensate for its adverse ambient impact where the major source or major modification would otherwise cause or contribute to a violation of any national ambient air quality standard.
- D. Subsection (A) shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as non-attainment pursuant to section 107 of the Act.

Historical Note

Adopted effective November 15, 1993 (Supp. 93-4). Section repealed by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). New Section made by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-412. PALs

- A. Applicability.
 1. The Director may approve the use of a PAL for any existing major source if the PAL meets the requirements of this Section.
 2. Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of this Section, and complies with the PAL permit:
 - a. Is not a major modification for the PAL pollutant,
 - b. Does not have to be approved under R18-2-403 or R18-2-406, and
 - c. Is not subject to the provisions in R18-2-403(C) or R18-2-406(M).
 3. Except as provided under subsection (A)(2)(c), a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established prior to the effective date of the PAL.
- B. Permit application requirements. As part of a permit application requesting a PAL, the owner or operator of a major source shall submit the following information to the Director for approval:
 1. A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source shall indicate which, if any, federal or state applicable requirements, emission limitations, or work practices apply to each unit.
 2. Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions shall include emissions associated not only with operation of the unit, but also emissions associated with the startup, shutdown and malfunction.
 3. The calculation procedures that the major source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subsection (L)(1).
- C. General requirements for establishing PALs.
 1. The Director is allowed to establish a PAL at a major source, provided that at a minimum, the following requirements are met:

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- a. The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month sum, rolled monthly). For each month during the first 11 months from the PAL effective date, the major source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.
 - b. The PAL shall be established in a PAL permit that meets the requirements in subsection (D).
 - c. The PAL permit shall contain all the requirements of subsection (F).
 - d. The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major source.
 - e. Each PAL shall regulate emissions of only one pollutant.
 - f. Each PAL shall have a PAL effective period of 10 years.
 - g. The owner or operator of the major source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in subsections (K) through (M) for each emissions unit under the PAL through the PAL effective period.
 2. At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases for purposes of offsets under R18-2-404 unless the level of the PAL is reduced by the amount of such emissions reductions and such reductions would be creditable in the absence of the PAL.
- D. Action on PAL permit application.** A PAL permit application shall be processed in accordance with one of the following:
1. As an initial Class I permit pursuant to R18-2-304.
 2. As a renewal of a Class I permit pursuant to R18-2-322.
 3. As a significant revision to a Class I permit pursuant to R18-2-320.
- E. Setting the 10-year actuals PAL level.**
1. Except as provided in subsection (E)(2), the PAL level for a major source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the source; plus an amount equal to the applicable significant level for the PAL pollutant. When establishing the PAL level, only one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Director shall specify a reduced PAL level(s) (in tons/yr) in the PAL permit to become effective on the future compliance date(s) of any applicable federal or state regulatory requirement(s) that the Director is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 ppm NO_x to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of such unit(s).
 2. For newly constructed units (which do not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in subsection (E)(1), the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.
- F. Contents of the PAL permit.** The PAL permit must contain, at a minimum, the following information:
1. The PAL pollutant and the applicable source-wide emission limitation in tons per year.
 2. The PAL permit effective date and the expiration date of the PAL (PAL effective period).
 3. Specification in the PAL permit that if a major source owner or operator applies to renew a PAL in accordance with subsection (I) before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the Director.
 4. A requirement that emission calculations for compliance purposes must include emissions from startups, shutdowns, and malfunctions.
 5. A requirement that, once the PAL expires, the major source is subject to the requirements of subsection (H).
 6. The calculation procedures that the major source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total as required by subsection (L)(1).
 7. A requirement that the major source owner or operator monitor all emissions units in accordance with the provisions under subsection (K).
 8. A requirement to retain the records required under subsection (L) onsite. Such records may be retained in an electronic format.
 9. A requirement to submit the reports required under subsection (M) by the required deadlines.
 10. Any other requirements that the Director deems necessary to implement and enforce the PAL.
- G. PAL effective period and reopening of the PAL permit.**
1. PAL effective period. The Director shall specify a PAL effective period of 10 years.
 2. Reopening of the PAL permit.
 - a. During the PAL effective period, the Director must reopen the PAL permit to:
 - i. Correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL,
 - ii. Reduce the PAL if the owner or operator of the major source creates creditable emissions reductions for use as offsets under R18-2-404, and
 - iii. Revise the PAL to reflect an increase in the PAL as provided under subsection (J).
 - b. The Director shall have discretion to reopen the PAL permit for the following:
 - i. Reduce the PAL to reflect new federal applicable requirements with compliance dates after the PAL effective date;

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- ii. Reduce the PAL consistent with any other requirement, that is enforceable as a practical matter, and that the state may impose on the major source under the State Implementation Plan; and
 - iii. Reduce the PAL if the Director determines that a reduction is necessary to avoid causing or contributing to a violation of a national ambient air quality standard or a maximum increase allowed under R18-2-208, or to an adverse impact on an air quality related value that has been identified for a federal Class I area by a Federal Land Manager and for which information is available to the general public.
- c. Except for the permit reopening in subsection (G)(2)(a)(i) for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of subsection (D).
- H. Expiration of a PAL. Any PAL that is not renewed in accordance with the procedures in subsection (I) shall expire at the end of the PAL effective period, and the following requirements shall apply.
 - 1. Each emissions unit (or each group of emissions units) that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to the following procedures.
 - a. Within the time-frame specified for PAL renewals in subsection (I)(2), the major source shall submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate) by distributing the PAL allowable emissions for the major source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as would be required under subsection (I)(5), such distribution shall be made as if the PAL had been adjusted.
 - b. The Director shall decide how the PAL allowable emissions will be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Director determines is appropriate.
 - 2. Each emissions unit(s) shall comply with the allowable emission limitation on a 12-month rolling basis. The Director may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.
 - 3. Until the Director issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subsection (H)(1)(b), the source shall continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.
 - 4. Any physical change or change in the method of operation at the major source will be subject to the nonattainment major NSR requirements if such change meets the definition of major modification.
 - 5. The major source owner or operator shall continue to comply with any applicable requirements that may have applied either during the PAL effective period or before the PAL effective period except for those emission limitations that had been established pursuant to R18-2-403(C) or R18-2-406(H), but were eliminated by the PAL in accordance with subsection (A)(2)(c).
- I. Renewal of a PAL.
 - 1. The Director shall follow the procedures specified in subsection (D) in approving any request to renew a PAL for a major source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During such public review, any person may propose a PAL level for the source for consideration by the Director.
 - 2. Application deadline. A major source owner or operator shall submit a timely application to the Director to request renewal of a PAL. A timely application is one that is submitted at least six months prior to, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.
 - 3. Application requirements. The application to renew a PAL permit shall contain the following information.
 - a. The information required in subsections (B)(1) through (3).
 - b. A proposed PAL level.
 - c. The sum of the potential to emit of all emissions units under the PAL (with supporting documentation).
 - d. Any other information the owner or operator wishes the Director to consider in determining the appropriate level for renewing the PAL.
 - 4. PAL adjustment. In determining whether and how to adjust the PAL, the Director shall consider the options outlined in subsections (I)(4)(a) and (b). However, in no case may any such adjustment fail to comply with subsection (I)(4)(c).
 - a. If the emissions level calculated in accordance with subsection (E) is equal to or greater than 80% of the PAL level, the Director may renew the PAL at the same level without considering the factors set forth in subsection (I)(4)(b); or
 - b. The Director may set the PAL at a level that the Director determines to be more representative of the source's baseline actual emissions, or that the Director determines to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors as specifically identified by the Director in the Director's written rationale.
 - c. Notwithstanding subsections (I)(4)(a) and (b):
 - i. If the potential to emit of the major source is less than the PAL, the Director shall adjust the PAL to a level no greater than the potential to emit of the source; and
 - ii. The Director shall not approve a renewed PAL level higher than the current PAL, unless the PAL has been increased in accordance with subsection (J).

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5. If the compliance date for an applicable requirement that applies to the PAL source occurs during the PAL effective period, and if the Director has not already adjusted for such requirement, the PAL shall be adjusted at the time of PAL permit renewal or renewal of the source's Class I permit, whichever occurs first.
- J. Increasing a PAL during the PAL effective period.**
1. The Director may increase a PAL emission limitation only if the following requirements are met:
 - a. The owner or operator of the major source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. Such application shall identify the emissions unit(s) contributing to the increase in emissions so as to cause the major source's emissions to equal or exceed its PAL.
 - b. As part of this application, the major source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT or LAER equivalent controls, plus the sum of the PAL allowable emissions of the new or modified emissions unit(s) exceeds the PAL. The level of control that would result from BACT or LAER equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT or LAER analysis at the time the application is submitted, as applicable for the particular PAL pollutant, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.
 - c. The owner or operator obtains a major NSR permit for all emissions unit(s) identified in subsection (J)(1)(a), regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions unit(s) shall comply with any emissions requirements resulting from the major NSR process (for example, BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.
 - d. The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.
 2. The Director shall calculate the new PAL level as the sum of the PAL allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of BACT or LAER equivalent controls as determined in accordance with subsection (J)(1)(b), plus the sum of the baseline actual emissions of the small emissions units.
 3. The PAL permit shall be revised to reflect the increased PAL level pursuant to the public notice requirements of subsection (D).
- K. Monitoring requirements for PALs.**
1. General requirements.
 - a. Each PAL permit must contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.
 - b. The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in subsections (K)(2)(a) through (d) and must be approved by the Director.
 - c. Notwithstanding subsection (K)(1)(b), the owner or operator may also employ an alternative monitoring approach if approved by the Director as meeting the requirements of subsection (K)(1)(a).
 - d. Failure to use a monitoring system that meets the requirements of this Section renders the PAL invalid.
 2. Minimum performance requirements for approved monitoring approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in subsections (K)(3) through (9):
 - a. Mass balance calculations for activities using coatings or solvents,
 - b. CEMS,
 - c. CPMS or PEMS, and
 - d. Emission factors.
 3. Mass balance calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:
 - a. Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;
 - b. Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and
 - c. Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Director determines there is site-specific data or a site-specific monitoring program to support another content within the range.
 4. CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions shall meet the following requirements:
 - a. CEMS must comply with applicable Performance Specifications found in 40 CFR 60, Appendix B; and
 - b. CEMS must sample, analyze and record data at least every 15 minutes while the emissions unit is operating.
 5. CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

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- a. The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameter(s) and the PAL pollutant emissions across the range of operation of the emissions unit; and
- b. Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Director, while the emissions unit is operating.
- 6. Emission factors. An owner or operator using emission factors to monitor PAL pollutant emissions shall meet the following requirements:
 - a. All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;
 - b. The emissions unit shall operate within the designated range of use for the emission factor, if applicable; and
 - c. If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within six months of PAL permit issuance, unless the Director determines that testing is not required.
- 7. A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.
- 8. Notwithstanding the requirements in subsections (K)(3) through (7), where an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameter(s) and the PAL pollutant emissions rate at all operating points of the emissions unit, the Director shall, at the time of permit issuance:
 - a. Establish default value(s) for determining compliance with the PAL based on the highest potential emissions reasonably estimated at such operating point(s), or
 - b. Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameter(s) and the PAL pollutant emissions is a violation of the PAL.
- 9. Re-validation. All data used to establish the PAL pollutant must be re-validated through performance testing or other scientifically valid means approved by the Director. Such testing must occur at least once every five years after issuance of the PAL.
- L. Recordkeeping requirements.
 - 1. The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of this Section and with the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for five years from the date of such record.
 - 2. The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus five years:
 - a. A copy of the PAL permit application and any applications for revisions to the PAL, and
 - b. Each annual certification of compliance pursuant to R18-2-309(2) and the data relied on in certifying compliance.
- M. Reporting and notification requirements. The owner or operator shall submit semi-annual monitoring reports and prompt deviation reports to the Director in accordance with R18-2-306(A)(5). The reports shall meet the following requirements:
 - 1. Semi-annual report. The semi-annual report shall be submitted to the Director within 30 days of the end of each reporting period. This report shall contain the following information:
 - a. The identification of owner and operator and the permit number.
 - b. Total annual emissions (tons/year) based on a 12-month rolling total for each month in the reporting period recorded pursuant to subsection (L)(1).
 - c. All data relied upon, including, but not limited to, any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions.
 - d. A list of any emissions units modified or added to the major source during the preceding six-month period.
 - e. The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.
 - f. A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by subsection (K)(7).
 - g. A certification by the responsible official consistent with R18-2-304(I).
 - 2. Deviation report. The major source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL permit requirements, including periods where no monitoring is available, in accordance with R18-2-306(A)(5). The reports shall contain the following information:
 - a. The identification of owner and operator and the permit number,
 - b. The PAL permit requirement that experienced the deviation or that was exceeded,
 - c. Emissions resulting from the deviation or the exceedance, and
 - d. A certification by the responsible official consistent with R18-2-304(I).
 - 3. Re-validation results. The owner or operator shall submit to the Director the results of any re-validation test or method within three months after completion of such test or method.

Historical Note

New Section made by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

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ARTICLE 5. GENERAL PERMITS

R18-2-501. Applicability

- A. The Director may issue general permits for a facility class that contains 10 or more facilities that are similar in nature, have substantially similar emissions, and would be subject to the same or substantially similar requirements governing operations, emissions, monitoring, reporting, or recordkeeping. "Similar in nature" refers to facility size, processes, and operating conditions.
- B. The Director may issue general permits, in accordance with subsection (A), with emission limitations, controls, or other requirements that meet the requirements of R18-2-306.01. A source that seeks to vary from such a general permit, and obtain an emission limitation, control, or other requirement not contained in that general permit, shall apply for a permit pursuant to Article 3 of this Chapter.
- C. General permits shall not be issued for affected sources except as provided in regulations promulgated by the Administrator under Title IV of the Act.
- D. Unless otherwise stated, the provisions of Article 3 shall apply to general permits.

Historical Note

Former Section R18-2-501 renumbered to R18-2-502, new Section R18-2-501 adopted effective September 26, 1990 (Supp. 90-3). Former Section R18-2-501 renumbered to R18-2-701; new Section adopted effective November 15, 1993 (Supp. 93-4). Amended effective August 1, 1995 (Supp. 95-3).

R18-2-502. General Permit Development

- A. The Director may issue a general permit on the Director's own initiative or in response to a petition.
- B. Any person may submit a petition to the Director requesting the issuance of a general permit for a defined class of facilities. The petition shall propose a particular class of facilities, and list the approximate number of facilities in the proposed class along with their size, processes, and operating conditions, and demonstrate how the class meets the criteria for a general permit as specified in R18-2-501 and A.R.S. § 49-426(H). The Director shall provide a written response to the petition within 120 days of receipt.
- C. General permits shall be issued for classes of facilities using the same engineering principles that applies to permits for individual sources and following the public notice requirements of R18-2-504.
- D. General permits shall include all of the following:
 - 1. All elements required by R18-2-306(A) except R18-2-306(A)(2)(b) and (6).
 - 2. The process for individual sources to apply for coverage under the general permit.
- E. General permits may include conditions imposed under R18-2-515.

Historical Note

Former Section R9-3-501 repealed, new Section R9-3-501 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (D) effective June 19, 1981 (Supp. 81-3). Amended subsections (C) and (D) effective February 2, 1982 (Supp. 82-1). Amended subsection (D) effective May 25, 1982 (Supp. 82-3). Former Section R9-3-501 renumbered without change as Section R18-2-501 (Supp. 87-3). Former Section R18-2-502 repealed, new Section

R18-2-502 renumbered from R18-2-501 and amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-502 renumbered to R18-2-702; new Section R18-2-502 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-503. Application for Coverage under General Permit

- A. Once the Director has issued a general permit, any source which is a member of the class of facilities covered by the general permit may apply to the Director for authority to operate under the general permit. At the time the Director issues a general permit, the Director may also establish a specific application form with filing instructions for sources in the category covered by the general permit. Applicants shall complete the specific application form or, if a specific form has not been adopted, the standard application form provided under R18-2-304(B). The specific application form shall, at a minimum, require the applicant to submit the following information:
 - 1. Information identifying and describing the source, its processes, and operating conditions in sufficient detail to allow the Director to determine qualification for, and to assure compliance with, the general permit.
 - 2. A compliance plan that meets the requirements of R18-2-514.
- B. For sources required to obtain a permit under Title V of the Act, the Director shall provide the Administrator with a permit application summary form and any relevant portion of the permit application and compliance plan. To the extent possible, this information shall be provided in computer-readable format compatible with the Administrator's national database management system.
- C. The Director shall act on the application for coverage under a general permit as expeditiously as possible. The source may operate under the terms of the applicable general permit during that time. The Director may defer acting on an application under this subsection (if) the Director has provided notice of intent to renew or not renew the permit.
- D. The Director shall deny an application for coverage from any Class I source that is subject to case-by-case standards or requirements.
- E. Upon notification from the Director of the availability of a web portal to apply for and obtain a general permit, an applicant shall file all applications and conduct all transactions related to the general permit through the portal.

Historical Note

Former Section R9-3-503 repealed, new Section R9-3-503 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (C), paragraph (6) effective June 19, 1981 (Supp. 81-3). Amended subsection (C) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-503 renumbered without change as Section R18-2-503 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-503 renumbered to R18-2-703; new Section R18-2-503 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-504. Public Notice

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- A. This Section applies to issuance, revision, or renewal of a general permit.
- B. The Director shall provide public notice for any proposed new general permit, for any revision of an existing general permit, and for renewal of an existing general permit.
- C. The Director shall publish notice of the proposed general permit once each week for two consecutive weeks in a newspaper of general circulation in each county and shall provide at least 30 days from the date of the first notice for public comment. The notice shall describe the following:
 - 1. The proposed permit;
 - 2. The category of sources that would be affected;
 - 3. The air contaminants which the Director expects to be emitted by a typical facility in the class and the class as a whole;
 - 4. The Director's proposed actions and effective date for the actions;
 - 5. Locations where documents relevant to the proposed permit will be available during normal business hours;
 - 6. The name, address, and telephone number of a person within the Department who may be contacted for further information;
 - 7. The address where any person may submit comments or request a public hearing and the date and time by which comments or a public hearing request are required to be received;
 - 8. The process by which sources may obtain authorization to operate under the general permit.
- D. A copy of the notice required by subsection (C), shall be sent to the Administrator through the appropriate regional office, and to all other state and local air pollution control agencies in the state. The notice shall also be sent to any other agency in the state having responsibility for implementing the procedures required under 40 CFR 51, I. For general permits under which operation may be authorized in lieu of Class I permits, the Director shall provide the proposed final permit to the Administrator after public and affected state review. No Class I permit shall be issued if the Administrator properly objects to its issuance in writing within 45 days from receipt of the proposed final permit and any necessary supporting information from the Director.
- E. By no later than the date notice is first published under subsection (A), the Department shall make copies of the following materials available at a public location in each county and at each Department office:
 - 1. The proposed general permit;
 - 2. The Department's analysis in support of the grant of the general permit;
 - 3. All other materials available to the Director that are relevant to the permit decision.
- F. Written comments to the Director shall include the name of the person and the person's agent or attorney and shall clearly set forth reasons why the general permit should or should not be issued pursuant to the criteria for issuance in A.R.S. §§ 49-426 and 49-427 and this Chapter.
- G. At the time a general permit is issued, the Director shall make available a response to all relevant comments on the proposed permit raised during the public comment period and during any requested public hearing. The response shall specify which provisions, if any, of the proposed permit have been changed and the reason for the changes. The Director shall also notify in writing any petitioner and each person who has submitted written comments on the proposed general permit or requested notice of the final permit decision.

Historical Note

Former Section R9-3-504 repealed, new Section R9-3-504 adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-504 renumbered without change as Section R18-2-504 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-504 renumbered to R18-2-704; new Section R18-2-504 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-505. General Permit Renewal

- A. The Director shall review and may renew general permits every five years. A source's authorization to operate under a general permit shall coincide with the term of the general permit regardless of when the authorization began during the five-year period, except as provided in R18-2-510(C). In addition to the public notice required to issue a proposed permit under R18-2-504, the Director shall notify in writing all sources who have been granted, or who have applications pending for, authorization to operate under the permit. The written notice shall describe the source's duty to reapply and may include requests for information required under the proposed permit.
- B. At the time a general permit is renewed, the Director shall notify in writing all sources who were granted coverage under the previous permit and shall require them to submit a timely renewal application. For purposes of general permits, a timely application is one that is submitted within the time-frame specified by the Director in the written notification. Until such time that a timely application is submitted, the source shall continue to comply with the previously issued general permit coverage. Upon submittal of a timely application, the source shall comply with the renewed permit. Failure to submit a timely application terminates the source's right to operate.

Historical Note

Former Section R9-3-1007 renumbered effective January 13, 1976 (Supp. 76-1). Former Section R9-3-505 repealed, new Section R9-3-505 adopted effective May 14, 1979 (Supp. 79-1). Editorial corrections, subsection (B), paragraph (5), and subsection (D), paragraph (1), subparagraph (d) (Supp. 80-2). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (B) effective May 28, 1982 (Supp. 82-3). Amended subsection (B) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-505 renumbered without change as Section R18-2-505 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-505 renumbered to R18-2-705; new Section R18-2-505 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-506. Relationship to Individual Permits

Any source covered under a general permit may request to be excluded from coverage by applying for an individual source permit. Coverage under the general permit shall terminate on the date the individual permit is issued.

Historical Note

Former Section R9-3-1008 renumbered effective January 13, 1976 (Supp. 76-1). Former Section R9-3-506 repealed, new Section R9-3-506 adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980

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(Supp. 80-4). Amended subsection (C), paragraph (1) effective June 19, 1981 (Supp. 81-3). Former Section R9-3-506 renumbered without change as Section R18-2-506 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-506 renumbered to R18-2-706; new Section R18-2-506 adopted effective November 15, 1993 (Supp. 93-4).

R18-2-507. Repealed**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-507 renumbered without change as Section R18-2-507 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-507 renumbered to R18-2-707; new Section R18-2-507 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Repealed by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-508. Repealed**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (B) effective May 28, 1982 (Supp. 82-3). Amended subsection (B) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-508 renumbered without change as Section R18-2-508 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-508 renumbered to R18-2-708; new Section R18-2-508 adopted effective November 15, 1993 (Supp. 93-4). Repealed by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-509. General Permit Appeals

Any person who filed a comment on a proposed general permit as provided in R18-2-504 may appeal the terms and conditions of the general permit, as they apply to the facility class covered under a general permit, by filing an appeal with the Office of Administrative Hearings within 30 days after receipt of notice that the general permit has been issued.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-509 renumbered without change as Section R18-2-509 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-509 renumbered to R18-2-709; new Section R18-2-509 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 12 A.A.R. 4698, effective February 3, 2007 (Supp. 06-4).

R18-2-510. Terminations of General Permits and Revocations of Authority to Operate under a General Permit

- A. The Director may terminate a general permit at any time if:
1. The Director has determined that the emissions from the sources in the facility class cause or contribute to ambient air quality standard violations which are not adequately addressed by the requirements in the general permit, or
 2. The Director has determined that the terms and conditions of the general permit no longer meet the requirements of A.R.S. §§ 49-426 and 49-427.

- B. The Director shall provide written notice to all sources operating under a general permit prior to termination of a general permit. Such notice shall include an explanation of the basis for the proposed action. Within 180 days of receipt of the notice of the expiration, termination or cancellation of any general permit, sources notified shall submit an application to the Director for an individual permit.
- C. The Director may require a source authorized to operate under a general permit to apply for and obtain an individual source permit at any time if the source is not in compliance with the terms and conditions of the general permit.
- D. If the Director revokes a source's authority to operate under a general permit pursuant to subsection (C), the Director shall notify the permittee by certified mail, return receipt requested. The notice shall include a statement detailing the grounds for the revocation of authority and a statement that the permittee is entitled to a hearing. A source previously authorized to operate under a general permit may operate under the terms of the general permit until the earlier of the date it submits a complete application for an individual permit, at which time it may operate under that application, or 180 days after receipt of the notice of revocation of authority to operate under the general permit.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsections (E)(3) and (E)(4) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-510 renumbered without change as Section R18-2-510 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-510 renumbered to R18-2-710; new Section R18-2-510 adopted effective November 15, 1993 (Supp. 93-4).

R18-2-511. Fees Related to General Permits

- A. Permit Processing Fee. The owner or operator of a source that applies for authority to operate under a general permit shall pay to the Director \$500 with the submittal of each application. This fee applies to the owner or operator of any source who intends to continue operating under the authority of a general permit that has been proposed for renewal. This fee also applies to requests for new Authorizations to Operate (ATOs) for new equipment.
- B. Administrative or Inspection Fee. The owner or operator of a source required to have a general permit, that has undergone initial startup by January 1, shall pay, for each calendar year, the applicable administrative or inspection fee from the table below, by February 1 or 60 days after the Director mails the invoice, whichever is later.

General Permit Source Category	Administrative Fee
Class I Title V General Permits	Administrative fee for category from R18-2-326(C)
Class II Title V Small Source	\$750
Other Class II Title V General Permits	\$4,520
	Inspection Fee
Class II Non-Title V Crematories	\$1,500
Other Class II Non-Title V General Permits	\$3,020

Historical Note

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Former Section R18-2-511 renumbered to R18-2-711; new Section R18-2-511 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 5670, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 10 A.A.R. 4767, effective November 4, 2004 (Supp. 04-4). Amended by final rulemaking at 13 A.A.R. 4379, effective December 4, 2007 (Supp. 07-4).

R18-2-512. Changes to Facilities Granted Coverage under General Permits

- A. This Section applies to changes made at a facility that has been granted coverage under a general permit.
- B. Facility Changes that Require New Authorization to Operate. The following changes at a source that has been granted coverage under a general permit shall be made only after the source requests new authorization to operate from the Director:
 - 1. Adding new emissions units that require new authorization to operate,
 - 2. Installing replacement emissions units that require authorization to operate.
- C. Facility Changes that Do Not Require Authorization to Operate. The following changes at a source that has been granted coverage under a general permit shall be made only after the source provides notification to the Department:
 - 1. Adding new emissions units that do not require authorization to operate,
 - 2. Installing a replacement emissions unit with a higher capacity that does not require authorization to operate,
 - 3. Adding or replacing air pollution control equipment.
- D. A source that has been granted coverage under a general permit shall keep a record of any physical change or change in the method of operation that could affect emissions. The record shall include a description of the change and the date the change occurred.
- E. For sources that submit a request or notification under subsections (B) or (C), the applicant shall provide information identifying and describing the source, its processes, and operating conditions in sufficient detail to allow the Director to determine continued qualification for, and to assure compliance with, the general permit. The Director shall act on a request for new authority to operate under a general permit as expeditiously as possible. The source may operate under the terms of the applicable general permit during that time.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-512 renumbered without change as Section R18-2-512 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-712 effective November 15, 1993 (Supp. 93-4). New Section made by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-513. Portable Sources Covered under a General Permit

- A. This Section applies to sources that have been granted coverage under a general permit that allows for the operation of a source at more than one location.
- B. General permits developed by the Director for portable sources shall contain conditions that assure compliance with all applicable requirements at all authorized locations.

- C. Owners and operators that hold multiple coverages under the same general permit:
 - 1. Shall have separate coverage under the general permit for each location at which each portable source operates.
 - 2. Until the Director notifies permittees of the availability of a web portal under R18-2-503(E), may move equipment between portable sources without obtaining a new authorization to operate. At no time shall an owner or operator move equipment to a portable source if the move would cause emissions from the portable source to exceed emission limitations in the general permit. Equipment from a portable source covered by one general permit shall not be moved to a portable source covered by a different general permit, unless the owner or operator obtains a new authorization to operate under the general permit covering the new location.
 - 3. After the Director notifies permittees of the availability of a web portal under R18-2-503(E), must use the portal to obtain authorizations to operate for each location at which the equipment will operate.

- D. A portable source that will operate for the duration of its permit solely in one county that has established a local air pollution control program pursuant to A.R.S. § 49-479 shall obtain a permit from that county. A portable source with a county permit shall not operate in any other county. A portable source that has been granted coverage under a general permit that subsequently obtains a county permit shall request that the Director terminate the coverage under the general permit. Upon issuance of the county permit, the coverage under the general permit issued by the Director is no longer valid.

- E. A portable source which has a county permit but proposes to operate outside that county may obtain coverage under a general permit from the Director. A portable source that has a permit issued by a county and obtains coverage under a general permit issued by the Director shall request that the county terminate the permit. Upon issuance of coverage under a general permit by the Director, the county permit is no longer valid. Before commencing operation in the new county, the source shall notify the Director and the control officer who has jurisdiction in the county that includes the new location according to subsection (F).

- F. A portable source granted coverage under a general permit may be transferred from one location to another provided that the owner or operator of the portable source notifies the Director and any control officer who has jurisdiction over the geographic area that includes the new location of the transfer prior to the transfer. The notification required under this subsection (shall) include:
 - 1. A description of the equipment to be transferred including the permit number and as appropriate the Authorization-to-Operate number for each piece of equipment;
 - 2. A description of the present location;
 - 3. A description of the new location;
 - 4. The date on which the equipment is to be moved;
 - 5. The date on which operation of the equipment will begin at the new location;
 - 6. A complete list of all equipment requiring authorization to operate that may be located at the new location; and
 - 7. Revised emissions calculations demonstrating that the equipment at the new location continues to qualify for the general permit under which the portable source has coverage.

Historical Note

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Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (A), paragraph (2) (Supp. 80-2). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-513 renumbered without change as Section R18-2-513 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-713 effective November 15, 1993 (Supp. 93-4). New Section made by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-514. General Permit Compliance Certification

- A. A compliance certification submitted by the owner or operator of a stationary source covered by a general permit shall be on a form provided by the Director and shall include the following information:
1. The source's name, mailing address, contact person and contact person phone number, permit number, compliance reporting period, and physical address and location, if different than the mailing address.
 2. A certification of truth, accuracy, and completeness signed by the facility's responsible officer.
 3. Process information for the source, including design capacity, operations schedule, hours of operation, and total production.
 4. Method of documenting compliance and the status of compliance with all recordkeeping, reporting, monitoring, and testing requirements and all emission limitations and standards imposed in the permit.
- B. Upon notification from the Director of the availability of a web portal to complete and submit a compliance certification, the owner or operator shall complete and submit all compliance certifications through the portal.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-514 renumbered without change as Section R18-2-514 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-714 effective November 14, 1993 (Supp. 93-4). New Section made by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-515. Minor NSR in General Permits

- A. A general permit may include emission standards designed to assure that a stationary source covered by the permit will comply with minor new source review under R18-2-334(C). The emission standards may consist of any combination of the following:
1. Limits designed to assure that emissions from a stationary source that is a member of the class of facilities covered by the permit will not interfere with attainment or maintenance of a NAAQS.
 2. Limits imposing reasonably available control technology.
- B. Except as provided in subsection (C), if a general permit includes emission standards under subsection (A), then any stationary source that is a member of the class of facilities covered by the permit or any minor NSR modification to such a source may comply with R18-2-334 by obtaining coverage under the permit.

- C. An owner or operator seeking coverage under a general permit in order to obtain authorization to construct or make a minor NSR modification to a stationary source shall instead apply for an individual permit, if the Department determines there is reason to believe the source or modification could interfere with attainment or maintenance of any national ambient air quality standard. In making this determination, the Department:
1. Shall consider the factors in R18-2-334(E)(1) to (6).
 2. Shall consider whether the dispersion characteristics of the source are likely to result in higher ambient concentrations of a conventional pollutant than the modeling assumptions used to establish an emission standard under subsection (A)(1).
 3. May apply a screening model to the source's emissions.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Section R9-3-515 will be repealed and new Section R9-3-515 adopted effective following the adoption of Article 7. Nonferrous Smelter Orders, filed September 18, 1979 for public hearing (Supp. 79-5). Section R9-3-515 adopted effective May 14, 1979, amended effective October 2, 1979 (Supp. 79-5). Article 7. Nonferrous Smelter Orders adopted effective January 8, 1980. Section R9-3-515 filed September 18, 1979 for public hearing and effective following the adoption of Article 7 now amended and effective January 8, 1980 (Supp. 80-1). Amended as an emergency effective March 6, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-2). Emergency adoption effective March 6, 1980 now adopted and amended effective July 9, 1980. Amended subsection (C), paragraph (1) effective August 29, 1980 (Supp. 80-4). Amended as an emergency effective October 9, 1980, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 80-5). Former emergency adoption effective October 9, 1980, now adopted and amended effective June 19, 1981 (Supp. 81-3). Amended subsection (B), paragraph (1) effective February 2, 1982 (Supp. 82-1). Amended effective May 25, 1982 (Supp. 82-3). Amended subsections ((C)(3) and (C)(5) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-515 renumbered without change as Section R18-2-515 (Supp. 87-3). Section amended and subsections (C)(1)(h) through (C)(7) renumbered to R18-2-515.01 and subsections (C)(8) through (C)(9) renumbered to R18-2-515.02 effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-715 effective November 15, 1993 (Supp. 93-4). New Section made by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

R18-2-515.01. Renumbered**Historical Note**

Section R18-2-515.01 renumbered from R18-2-515(C)(1)(h) through (C)(7) and amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-715.01 effective November 15, 1993 (Supp. 93-4).

R18-2-515.02. Renumbered**Historical Note**

R18-2-515.02 renumbered from R18-2-515(C)(8) through (C)(9) and amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-715.02 effective November 15, 1993 (Supp. 93-4).

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R18-2-516. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-4). Former Section R9-3-516 renumbered without change as Section R18-2-516 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-716 effective November 15, 1993 (Supp. 93-4).

R18-2-517. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (C), paragraph (1) (Supp. 80-1). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-517 renumbered without change as Section R18-2-517 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-2). Renumbered to R18-2-717 effective November 15, 1993 (Supp. 93-4).

R18-2-518. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended effective September 22, 1983 (Supp. 83-4). Former Section R9-3-518 renumbered without change as Section R18-2-518 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-718 effective November 15, 1993 (Supp. 93-4).

R18-2-519. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Editorial correction, subsection (A), paragraph (1) (Supp. 80-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-519 renumbered without change as Section R18-2-519 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-719 effective November 15, 1993 (Supp. 93-4).

R18-2-520. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Editorial correction, subsection (A), paragraph (1) (Supp. 80-2). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-520 renumbered without change as Section R18-2-520 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-720 effective November 15, 1993 (Supp. 93-4).

R18-2-521. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-521 renumbered without change as Section R18-2-521 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-721 effective November 15, 1993 (Supp. 93-4).

R18-2-522. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective May 28, 1982 (Supp. 82-3). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-522 renumbered without change as Section R18-2-522 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-722 effective November 15, 1993 (Supp. 93-4).

R18-2-523. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-523 renumbered without change as Section R18-2-523 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-2). Renumbered to R18-2-723 effective November 15, 1993 (Supp. 93-4).

R18-2-524. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Amended subsection (A) effective September 22, 1983 (Supp. 83-5). Former Section R9-3-524 renumbered without change as Section R18-2-524 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-724 effective November 15, 1993 (Supp. 93-4).

R18-2-525. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Editorial correction, subsection (B) (Supp. 79-6). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-525 renumbered without change as Section R18-2-525 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-725 effective November 15, 1993 (Supp. 93-4).

R18-2-526. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-526 renumbered without change as Section R18-2-526 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-726 effective November 15, 1993 (Supp. 93-4).

R18-2-527. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-527 renumbered without change as Section R18-2-527 (Supp. 87-3). Amended effective September

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26, 1990 (Supp. 90-3). Renumbered to R18-2-727 effective November 15, 1993 (Supp. 93-4).

R18-2-528. Renumbered**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Former Section R9-3-528 renumbered without change as Section R18-2-528 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-728 effective November 15, 1993 (Supp. 93-4).

R18-2-529. Renumbered**Historical Note**

Adopted effective September 22, 1983 (Supp. 83-5). Former Section R9-3-529 renumbered without change as Section R18-2-529 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-729 effective November 15, 1993 (Supp. 93-4).

R18-2-530. Renumbered**Historical Note**

Adopted effective September 26, 1990 (Supp. 90-3). Renumbered to R18-2-730 effective November 15, 1993 (Supp. 93-4).

ARTICLE 6. EMISSIONS FROM EXISTING AND NEW NONPOINT SOURCES**R18-2-601. General**

For purposes of this Article, any source of air contaminants which due to lack of an identifiable emission point or plume cannot be considered a point source, shall be classified as a nonpoint source. In applying this criteria, such items as air curtain incinerators, heater-planners, and conveyor transfer points shall be considered to have identifiable plumes. Any affected facility subject to regulation under Article 7 of this Chapter or Title 18, Chapter 2, Article 9, shall not be subject to regulation under this Article.

Historical Note

Former Section R9-3-601 repealed, new Section R9-3-601 adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-601 renumbered without change as Section R18-2-601 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-601 renumbered to R18-2-801, new Section R18-2-601 renumbered from R18-2-401 and amended effective November 15, 1993 (Supp. 93-4). Section updated to reflect corrected citation reference (Supp. 08-1). Amended by final expedited rulemaking at 30 A.A.R. 2422 (July 26, 2024), with an immediate effective date of July 3, 2024 (Supp. 24-3).

R18-2-602. Unlawful Open Burning

A. In addition to the definitions contained in A.R.S. § 49-501, in this Section:

1. "Agricultural burning" means burning vegetative materials related to producing and harvesting crops and raising animals for the purpose of marketing for profit, or providing a livelihood, but does not include burning of household waste or prohibited materials. A person may conduct agricultural burns in fields, piles, ditch banks, fence rows, or canal laterals for purposes such as weed control, waste disposal, disease and pest prevention, or site preparation.
2. "Approved waste burner" means an incinerator constructed of fire resistant material with a cover or screen

that is closed when in use, and has openings in the sides or top no greater than 1 inch in diameter.

3. "Class I Area" means any one of the Arizona mandatory federal Class I areas defined in A.R.S. § 49-401.01.
4. "Construction burning" means burning wood or vegetative material from land clearing, site preparation, or fabrication, erection, installation, demolition, or modification of any buildings or other land improvements, but does not include burning household waste or prohibited material.
5. "Dangerous material" means any substance or combination of substances that is capable of causing bodily harm or property loss unless neutralized, consumed, or otherwise disposed of in a controlled and safe manner.
6. "Delegated authority" means any of the following:
 - a. A county, city, town, air pollution control district, or fire district that has been delegated authority to issue open burning permits by the Director under A.R.S. § 49-501(E); or
 - b. A private fire protection service provider that has been assigned authority to issue open burning permits by one of the authorities in subsection (A)(6)(a).
7. "Director" means the Director of the Department of Environmental Quality, or designee.
8. "Emission reduction techniques" means methods for controlling emissions from open outdoor fires to minimize the amount of emissions output per unit of area burned.
9. "Flue," as used in this Section, means any duct or passage for air or combustion gases, such as a stack or chimney.
10. "Household waste" means any solid waste including garbage, rubbish, and sanitary waste from a septic tank that is generated from households including single and multiple family residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas, but does not include construction debris, landscaping rubble, or demolition debris.
11. "Independent authority to permit fires" means the authority of a county to permit fires by a rule adopted under Arizona Revised Statutes, Title 49, Chapter 3, Article 3, and includes only Maricopa, Pima, and Pinal counties.
12. "Open outdoor fire or open burning" means the combustion of material of any type, outdoors and in the open, where the products of combustion are not directed through a flue. Open outdoor fires include agricultural, residential, prescribed, and construction burning, and fires using air curtain incinerators.
13. "Prohibited materials" means nonpaper garbage from the processing, storage, service, or consumption of food; chemically treated wood; lead-painted wood; linoleum flooring, and composite counter-tops; tires; explosives or ammunition; oleanders; asphalt shingles; tar paper; plastic and rubber products, including bottles for household chemicals; plastic grocery and retail bags; waste petroleum products, such as waste crankcase oil, transmission oil, and oil filters; transformer oils; asbestos; batteries; anti-freeze; aerosol spray cans; electrical wire insulation; thermal insulation; polyester products; hazardous waste products such as paints, pesticides, cleaners and solvents, stains and varnishes, and other flammable liquids; plastic pesticide bags and containers; and hazardous material containers including those that contained lead, cadmium, mercury, or arsenic compounds.

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14. "Residential burning" means open burning of vegetative materials conducted by or for the occupants of residential dwellings, but does not include burning household waste or prohibited material.
15. "Prescribed burning" has the same meaning as in R18-2-1501.
- B.** Unlawful open burning. Notwithstanding any other rule in this Chapter, a person shall not ignite, cause to be ignited, permit to be ignited, allow, or maintain any open outdoor fire in a county without independent authority to permit fires except as provided in A.R.S. § 49-501 and this Section.
- C.** Open outdoor fires exempt from a permit. The following fires do not require an open burning permit from the Director or a delegated authority:
1. Fires used only for:
 - a. Cooking of food,
 - b. Providing warmth for human beings,
 - c. Recreational purposes,
 - d. Branding of animals,
 - e. Orchard heaters for the purpose of frost protection in farming or nursery operations, and
 - f. The proper disposal of flags under 4 U.S.C. 1, § 8.
 2. Any fire set or permitted by any public officer in the performance of official duty, if the fire is set or permission given for the following purpose:
 - a. Control of an active wildfire; or
 - b. Instruction in the method of fighting fires, except that the person setting these fires must comply with the reporting requirements of subsection (D)(3)(f).
 3. Fire set by or permitted by the Director of Department of Agriculture for the purpose of disease and pest prevention in an organized, area-wide control of an epidemic or infestation affecting livestock or crops.
 4. Prescribed burns set by or assisted by the federal government or any of its departments, agencies, or agents, or the state or any of its agencies, departments, or political subdivisions, regulated under Article 15 of this Chapter.
- D.** Open outdoor fires requiring a permit.
1. The following open outdoor fires are allowed with an open burning permit from the Director or a delegated authority:
 - a. Construction burning;
 - b. Agricultural burning;
 - c. Residential burning;
 - d. Prescribed burns conducted on private lands without the assistance of a federal or state land manager as defined under R18-2-1501;
 - e. Any fire set or permitted by a public officer in the performance of official duty, if the fire is set or permission given for the purpose of weed abatement, or the prevention of a fire hazard, unless the fire is exempt from the permit requirement under subsection (C)(3);
 - f. Open outdoor fires of dangerous material under subsection (E);
 - g. Open outdoor fires of household waste under subsection (F); and
 - h. Open outdoor fires that use an air curtain incinerator, as defined in R18-2-101.
 2. A person conducting an open outdoor fire in a county without independent authority to permit fires shall obtain a permit from the Director or a delegated authority unless exempted under subsection (C). Permits may be issued for a period not to exceed one year. A person shall obtain a permit by completing an ADEQ-approved application form.
 3. Open outdoor fire permits issued under this Section shall include:
 - a. A list of the materials that the permittee may burn under the permit;
 - b. A means of contacting the permittee authorized by the permit to set an open fire in the event that an order to extinguish the open outdoor fire is issued by the Director or the delegated authority;
 - c. A requirement that burns be conducted during the following periods, unless otherwise waived or directed by the Director on a specific day basis:
 - i. Year-round: ignite fire no earlier than one hour after sunrise; and
 - ii. Year-round: extinguish fire no later than two hours before sunset;
 - d. A requirement that the permittee conduct all open burning only during atmospheric conditions that:
 - i. Prevent dispersion of smoke into populated areas;
 - ii. Prevent visibility impairment on traveled roads or at airports that result in a safety hazard;
 - iii. Do not create a public nuisance or adversely affect public safety;
 - iv. Do not cause an adverse impact to visibility in a Class I area; and
 - v. Do not cause uncontrollable spreading of the fire;
 - e. A list of the types of emission reduction techniques that the permittee shall use to minimize fire emissions.;
 - f. A reporting requirement that the permittee shall meet by providing the following information in a format provided by the Director for each date open burning occurred, on either a daily basis on the day of the fire, or an annual basis in a report to the Director or delegated authority due on March 31 for the previous calendar year:
 - i. The date of each burn;
 - ii. The type and quantity of fuel burned for each date open burning occurred;
 - iii. The fire type, such as pile or pit, for each date open burning occurred; and
 - iv. For each date open burning occurred, the legal location, to the nearest section, or latitude and longitude, to the nearest degree minute, or street address for residential burns;
 - g. A requirement that the person conducting the open burn notify the local fire-fighting agency or private fire protection service provider, if the service provider is a delegated authority, before burning. If neither is in existence, the person conducting the burn shall notify the state forester;
 - h. A requirement that the permittee start each open outdoor fire using items that do not cause the production of black smoke;
 - i. A requirement that the permittee attend the fire at all times until it is completely extinguished;
 - j. A requirement that the permittee provide fire extinguishing equipment on-site for the duration of the burn;

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- k. A requirement that the permittee ensure that a burning pit, burning pile, or approved waste burner be at least 50 feet from any structure;
 - l. A requirement that the permittee have a copy of the burn permit on-site during open burning;
 - m. A requirement that the permittee not conduct open burning when an air stagnation advisory, as issued by the National Weather Service, is in effect in the area of the burn or during periods when smoke can be expected to accumulate to the extent that it will significantly impair visibility in Class I areas;
 - n. A requirement that the permittee not conduct open burning when any stage air pollution episode is declared under R18-2-220;
 - o. A statement that the Director, or any other public officer, may order that the burn be extinguished or prohibit burning during periods of inadequate smoke dispersion, excessive visibility impairment, or extreme fire danger; and
 - p. A list of the activities prohibited and the criminal penalties provided under A.R.S. § 13-1706.
4. The Director or a delegated authority shall not issue an open burning permit under this Section:
- a. That would allow burning prohibited materials other than under a permit for the burning of dangerous materials;
 - b. If the applicant has applied for a permit under this Section to burn a dangerous material which is also hazardous waste under 40 CFR 261, but does not have a permit to burn hazardous waste under 40 CFR 264, or is not an interim status facility allowed to burn hazardous waste under 40 CFR 265; or
 - c. If the burning would occur at a solid waste facility in violation of 40 CFR 258.24 and the Director has not issued a variance under A.R.S. § 49-763.01.
- E. Open outdoor fires of dangerous material. A fire set for the disposal of a dangerous material is allowed by the provisions of this Section, when the material is too dangerous to store and transport, and the Director has issued a permit for the fire. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The Director shall permit fires for the disposal of dangerous materials only when no safe alternative method of disposal exists, and burning the materials does not result in the emission of hazardous or toxic substances either directly or as a product of combustion in amounts that will endanger health or safety.
- F. Open outdoor fires of household waste. An open outdoor fire for the disposal of household waste is allowed by provisions of this Section when permitted in writing by the Director or a delegated authority. A permit issued under this subsection shall contain all provisions in subsection (D)(3) except for subsections (D)(3)(e) and (D)(3)(f). The permittee shall conduct open outdoor fires of household waste in an approved waste burner and shall either:
- 1. Burn household waste generated on-site on farms or ranches of 40 acres or more where no household waste collection or disposal service is available; or
 - 2. Burn household waste generated on-site where no household waste collection and disposal service is available and where the nearest other dwelling unit is at least 500 feet away.
- G. Permits issued by a delegated authority. The Director may delegate authority for the issuance of open burning permits to a

county, city, town, air pollution control district, or fire district. A delegated authority may not issue a permit for its own open burning activity. The Director shall not delegate authority to issue permits to burn dangerous material under subsection (E). A county, city, town, air pollution control district, or fire district with delegated authority from the Director may assign that authority to one or more private fire protection service providers that perform fire protection services within the county, city, town, air pollution control district, or fire district. A private fire protection provider shall not directly or indirectly condition the issuance of open burning permits on the applicant being a customer. Permits issued under this subsection shall comply with the requirements in subsection (D)(3) and be in a format prescribed by the Director. Each delegated authority shall:

- 1. Maintain a copy of each permit issued for the previous five years available for inspection by the Director;
 - 2. For each permit currently issued, have a means of contacting the person authorized by the permit to set an open fire if an order to extinguish open burning is issued; and
 - 3. Annually submit to the Director by May 15 a record of daily burn activity, excluding household waste burn permits, on a form provided by the Director for the previous calendar year containing the information required in subsections (D)(3)(e) and (D)(3)(f).
- H. The Director shall hold an annual public meeting for interested parties to review operations of the open outdoor fire program and discuss emission reduction techniques.
- I. Nothing in this Section is intended to permit any practice that is a violation of any statute, ordinance, rule, or regulation.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective October 2, 1979 (Supp. 79-5). Correction, subsection (C) repealed effective October 2, 1979, not shown (Supp. 80-1). Former Section R9-3-602 renumbered without change as Section R18-2-602 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-602 renumbered to R18-2-802, new Section R18-2-602 renumbered from R18-2-401 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final expedited rulemaking at 30 A.A.R. 2422 (July 26, 2024), with an immediate effective date of July 3, 2024 (Supp. 24-3).

R18-2-603. Repealed**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-603 renumbered without change as Section R18-2-603 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-603 renumbered to R18-2-803, new Section R18-2-603 renumbered from R18-2-403 effective November 15, 1993 (Supp. 93-4). Repealed effective October 8, 1996 (Supp. 96-4).

R18-2-604. Open Areas, Dry Washes, or Riverbeds

- A. No person shall cause, suffer, allow, or permit a building or its appurtenances, or a building or subdivision site, or a driveway, or a parking area, or a vacant lot or sales lot, or an urban or suburban open area to be constructed, used, altered, repaired, demolished, cleared, or leveled, or the earth to be moved or excavated, without taking reasonable precautions to limit excessive amounts of particulate matter from becoming air-

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borne. Dust and other types of air contaminants shall be kept to a minimum by good modern practices such as using an approved dust suppressant or adhesive soil stabilizer, paving, covering, landscaping, continuous wetting, detouring, barring access, or other acceptable means.

- B. No person shall cause, suffer, allow, or permit a vacant lot, or an urban or suburban open area, to be driven over or used by motor vehicles, trucks, cars, cycles, bikes, or buggies, or by animals such as horses, without taking reasonable precautions to limit excessive amounts of particulates from becoming airborne. Dust shall be kept to a minimum by using an approved dust suppressant, or adhesive soil stabilizer, or by paving, or by barring access to the property, or by other acceptable means.
- C. No person shall operate a motor vehicle for recreational purposes in a dry wash, riverbed or open area in such a way as to cause or contribute to visible dust emissions which then cross property lines into a residential, recreational, institutional, educational, retail sales, hotel or business premises. For purposes of this subsection "motor vehicles" shall include, but not be limited to trucks, cars, cycles, bikes, buggies and 3-wheelers. Any person who violates the provisions of this subsection shall be subject to prosecution under A.R.S. § 49-463.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-604 renumbered without change as Section R18-2-604 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-604 renumbered to R18-2-804, new Section R18-2-604 renumbered from R18-2-404 and amended effective November 15, 1993 (Supp. 93-4).

R18-2-605. Roadways and Streets

- A. No person shall cause, suffer, allow or permit the use, repair, construction or reconstruction of a roadway or alley without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne. Dust and other particulates shall be kept to a minimum by employing temporary paving, dust suppressants, wetting down, detouring or by other reasonable means.
- B. No person shall cause, suffer, allow or permit transportation of materials likely to give rise to airborne dust without taking reasonable precautions, such as wetting, applying dust suppressants, or covering the load, to prevent particulate matter from becoming airborne. Earth or other material that is deposited by trucking or earth moving equipment shall be removed from paved streets by the person responsible for such deposits.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Former Section R9-3-605 renumbered without change as Section R18-2-605 (Supp. 87-3). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-605 renumbered to R18-2-805, new Section R18-2-605 renumbered from R18-2-405 effective November 15, 1993 (Supp. 93-4).

R18-2-606. Material Handling

No person shall cause, suffer, allow or permit crushing, screening, handling, transporting or conveying of materials or other operations likely to result in significant amounts of airborne dust without taking reasonable precautions, such as the use of spray bars, wetting agents, dust suppressants, covering the load, and hoods to prevent excessive amounts of particulate matter from becoming airborne.

Historical Note

Section R18-2-606 renumbered from R18-2-406 effective November 15, 1993 (Supp. 93-4).

R18-2-607. Storage Piles

- A. No person shall cause, suffer, allow, or permit organic or inorganic dust producing material to be stacked, piled, or otherwise stored without taking reasonable precautions such as chemical stabilization, wetting, or covering to prevent excessive amounts of particulate matter from becoming airborne.
- B. Stacking and reclaiming machinery utilized at storage piles shall be operated at all times with a minimum fall of material and in such manner, or with the use of spray bars and wetting agents, as to prevent excessive amounts of particulate matter from becoming airborne.

Historical Note

Section R18-2-607 renumbered from R18-2-407 effective November 15, 1993 (Supp. 93-4).

R18-2-608. Mineral Tailings

No person shall cause, suffer, allow, permit construction of, or otherwise own or operate, mineral tailing piles without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne. Reasonable precautions shall mean wetting, chemical stabilization, revegetation or such other measures as are approved by the Director.

Historical Note

Section R18-2-608 renumbered from R18-2-408, new Section R18-2-408 adopted effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 228, effective March 7, 2009 (Supp. 09-1).

R18-2-609. Agricultural Practices

A person shall not cause, suffer, allow, or permit the performance of agricultural practices outside the Phoenix and Yuma planning areas, as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210, including tilling of land and application of fertilizers without taking reasonable precautions to prevent excessive amounts of particulate matter from becoming airborne.

Historical Note

Section R18-2-609 renumbered from R18-2-409 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 6 A.A.R. 2009, effective May 12, 2000 (Supp. 00-2). Amended by final rulemaking at 11 A.A.R. 2210, effective July 18, 2005 (Supp. 05-2).

R18-2-610. Definitions for R18-2-610.01, R18-2-610.02, and R18-2-610.03

The definitions in R18-2-101 and the following definitions apply to R18-2-610.01, R18-2-610.02, and R18-2-610.03:

1. "Access restriction" means reducing PM emissions by reducing the number of trips driven on agricultural aprons and access roads by restricting or eliminating public access to noncropland or commercial farm roads with signs or physical obstruction at locations that effectively control access to the area.
2. "Aggregate cover" means reducing PM emissions and wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to noncropland or commercial farm roads. The aggregate should be clean, hard and durable, and should be applied and maintained to a depth sufficient to reduce PM emissions.
3. "Area A" means the area delineated according to A.R.S. § 49-541(1).

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4. "Best management practice" (BMP) means a technique verified by scientific research, that on a case-by-case basis is practical, economically feasible, and effective in reducing PM emissions from a regulated agricultural activity.
5. "Cessation of Night Tilling" means the discontinuation of tillage from sunset to sunrise on a day identified by the Maricopa or Pinal County Dust Control Forecast as being high risk of dust generation.
6. "Chemical irrigation" means reducing a minimum of one ground operation across a commercial farm by applying a fertilizer, pesticide, or other agricultural chemical to cropland through an irrigation system, which reduces soil disturbance and increases efficiency of application.
7. "Chips/ mulches" means reducing PM emissions and soil movement and preserving soil moisture by applying and maintaining nontoxic chemical or organic dust suppressants to a depth sufficient to reduce PM emissions. Materials shall meet all specifications required by federal, state, or local water agencies, and is not prohibited for use by any applicable regulations.
8. "Combining tractor operations" means reducing soil compaction and a minimum of one tillage or ground operation across a commercial farm by using a tractor, implement, harvester, or other farming support vehicle to perform two or more tillage, cultivation, planting, or harvesting operations at the same time. If Equipment modification is also chosen as a BMP, and uses the same practices as described in this BMP, this action is considered one BMP.
9. "Commercial farm" means 10 or more contiguous acres of land used for agricultural purposes within the boundary of the Maricopa PM nonattainment area and Maricopa County portion of Area A, a PM nonattainment area designated after June 1, 2009 as stated in A.R.S. § 49-457(O)(1)(f), or the Pinal County PM Nonattainment Area.
10. "Commercial farm road" means a road that is unpaved, owned by a commercial farmer, and is used exclusively to service a commercial farm.
11. "Commercial farmer" means an individual, entity, or joint operation in general control of a commercial farm.
12. "Committee" means the Governor's Agricultural Best Management Practices Committee as established by A.R.S. § 49-457.
13. "Conservation Tillage" means a tillage system that reduces a minimum of three tillage operations. This system reduces soil and water loss by planting into existing plant stubble on the field after harvest as well as managing the stubble so that it remains intact during the planting season.
14. "Cover crop" means establishing cover crops that maintain a minimum of 60 percent ground cover. Native or volunteer vegetation that meets the minimum ground cover requirement is acceptable. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
15. "Critical area planting" means reducing PM₁₀ emissions and wind erosion by planting trees, shrubs, vines, grasses, or other vegetative cover on noncropland in order to maintain at least 60 percent ground cover. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
16. "Cropland" means land on a commercial farm that:
 - a. Is within the time-frame of final harvest to plant emergence, but does not include tillage activities;
 - b. Has been tilled in a prior year and is suitable for crop production, but is currently fallow; or
 - c. Is a turn-row.
17. "Cross-wind ridges" means stabilizing soil and reducing PM emissions and wind erosion by creating soil ridges in a commercial farm by tillage or planting operations. Ridges should be at least four inches in height, and be aligned as perpendicular as possible to the prevailing wind direction.
18. "Dust Control Forecast" means a forecast, which shall identify a low, moderate or high risk of dust generation for the next five consecutive days and shall be issued by noon on each day the forecast is generated. When developing these forecasts, the Department shall consider all of the following:
 - a. Projected meteorological conditions, including:
 - i. Wind speed and direction,
 - ii. Stagnation,
 - iii. Recent precipitation, and
 - iv. Potential for precipitation;
 - b. Existing concentrations of air pollution at the time of the forecast; and
 - c. Historic air pollution concentrations that have been observed during meteorological conditions similar to those that are predicted to occur in the forecast.
19. "Equipment modification" means reducing PM emissions and soil erosion during tillage or ground operations by modifying and maintaining an existing piece of agricultural equipment, installing shielding equipment, modifying land planting and land leveling, matching the equipment to row spacing, or grafting to new varieties or technological improvements. If combining tractor operations is also chosen as a BMP, and uses the same practices as described in this BMP, this action is considered one BMP.
20. "Fallow Field" means an area of land that is routinely cultivated, planted and harvested and is unplanted for one or more growing seasons or planting cycles, but is intended to be placed back in agricultural production.
21. "Field Capacity" means the amount of water remaining in the soil two days after having been saturated and after free drainage has ceased.
22. "Forage Crop" means a product grown for consumption by any domestic animal.
23. "Genetically Modified" (GMO) means a living organism whose genetic material has been altered, changing one or more of its characteristics.
24. "GPS: Global Position Satellite System" means using a satellite navigation system on farm equipment to calculate position in the field.
25. "Green chop" means reducing soil compaction, soil disturbance and a minimum of one ground operation across a commercial farm by harvesting a Forage Crop without allowing it to dry in the field.
26. "Ground operation" means an agricultural operation that is not a tillage operation, which involves equipment passing across the field. A ground operation includes harvest

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- activities. A pass through the field may be a subset of a ground operation.
27. "Harvest" means the time after planting up through harvest, including gathering mature crops from a commercial farm, as well as all actions taken immediately after crop removal, such as cooling, sorting, cleaning, and packing.
 28. "Integrated Pest Management" means reducing soil compaction and a minimum of one ground operation across a commercial farm for spraying by using a combination of techniques including organic, conventional, and biological farming practices to suppress pest problems.
 29. "Limited harvest activity" means performing no ground operations on a day identified by the Maricopa or Pinal County Dust Control Forecast to be high risk for dust generation.
 30. "Limited tillage activity" means performing no tillage operations on a day identified by the Maricopa or Pinal County Dust Control Forecast to be high risk for dust generation.
 31. "Maricopa PM nonattainment area" means the Phoenix planning area as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210.
 32. "Multi-year crop" means reducing PM emissions from wind erosion and a minimum of one tillage and ground operation across a commercial farm, by protecting the soil surface by growing a crop, pasture, or orchard that is grown, or will be grown, on a continuous basis for more than one year.
 33. "Noncropland" means any commercial farm land that:
 - a. Is no longer used for agricultural production;
 - b. Is no longer suitable for production of crops;
 - c. Is subject to a restrictive easement or contract that prohibits use for the production of crops; or
 - d. Includes a ditch, or ditch bank, equipment yard, storage yard, or well head.
 34. "NRCS" means the Natural Resource Conservation Service.
 35. "Organic material cover" means reducing PM emissions and wind erosion and preserving soil moisture by applying and maintaining cover material such as animal waste or plant residue, to a soil surface to reduce soil movement. Material shall be evenly applied and maintained to a depth sufficient to reduce PM emissions and coverage should be a minimum of 70 percent.
 36. "Permanent cover" means reducing PM emissions and wind erosion by maintaining a long-term perennial vegetative cover on cropland that is temporarily not producing a major crop. Perennial species such as grasses and/or legumes shall be used to establish at least 60 percent cover. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
 37. "Pinal County PM Nonattainment Area" means the West Pinal PM₁₀ planning area and the West Central PM_{2.5} planning area, as defined in 40 CFR 81.303, and incorporated by reference in R18-2-210.
 38. "Plant stubble" means stubble on the soil surface, which insulates soil to reduce evaporation of moisture, and also protects the soil from wind and water erosion.
 39. "Planting based on soil moisture" means reducing PM emissions and wind erosion by applying water or having enough moisture in the soil to germinate the seed prior to planting. Soil must have a minimum soil moisture content of 60% of field capacity at planting depth. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions).
 40. "PM" includes both particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated according to 40 CFR 53; and particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method contained within 40 CFR 50 Appendix J or by an equivalent method designated in accordance with 40 CFR 53, as incorporated by reference in Appendix 2.
 41. "Precision Farming" means reducing the number of passes across a commercial farm by at least 12 inches per pass by using GPS to precisely guide farm equipment in the field.
 42. "Reduce vehicle speed" means reducing PM emissions and soil erosion from the operation of farm vehicles or farm equipment on noncropland or commercial farm roads at speeds not to exceed 15 mph. This can be achieved through installation of engine speed governors, signage, or speed control devices.
 43. "Reduced harvest activity" means reducing soil disturbance, soil and water loss, and the number of mechanical harvest passes by a minimum of one ground operation across a commercial farm, by means other than equipment modification or combining tractor operations.
 44. "Reduced tillage system" means reducing soil disturbance, soil and water loss, by using a single piece of equipment that reduces a minimum of three tillage operations, by means other than equipment modification or combining tractor operations.
 45. "Regulated agricultural activity" means a regulated agricultural activity as defined in A.R.S. § 49-457(O)(1)(a) through (O)(1)(d).
 46. "Regulated area" means the regulated area as defined in A.R.S. § 49-457(O)(6).
 47. "Residue management" means reducing PM emissions and wind erosion by maintaining a minimum of 60 percent ground cover of crop and other plant residues on a soil surface between the time of harvest of one crop and the commencement of tillage for a new crop. Compliance shall be determined by the Line Transect Test Method, NRCS National Agronomy Manual, Subpart 503.51, Estimating Crop Residue Cover, amended through February 2011 (and no future editions).
 48. "Sequential cropping" means reducing PM emissions and wind erosion by growing crops in a sequence or close rotation that limits the amount of time bare soil is exposed on a commercial farm to 30 days or less.
 49. "Shuttle System/Larger Carrier" means reducing one out of every four trips across a commercial farm by using multiple or larger bins/trailers to haul commodity from the field.
 50. "Significant Agricultural Earth Moving Activities" means either leveling activities conducted on a commercial farm that disturb the soil more than 4 inches below the surface, or the creation, maintenance and relocation of: ditches, canals, ponds, irrigation lines, tailwater recovery systems (agricultural sumps) and other water

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- conveyances, not to include activities performed on cropland for tillage, ground operations or harvest.
51. "Silt content test method" means the test method as described in Appendix 2.
 52. "Stabilization of soil prior to plant emergence" means reducing PM emissions by applying water to soil prior to crop emergence in order to cause the soil to form a visible crust.
 53. "Surface roughening" means reducing PM emissions or wind erosion by manipulating a soil surface by means such as rough discing or tillage in order to produce or maintain clods on the land surface. Compliance shall be determined by NRCS Practice Code 609, Surface Roughening, amended through November 2008 (and no future editions).
 54. "Synthetic particulate suppressant" means reducing PM emissions and wind erosion by providing a stabilized soil surface on noncropland or commercial farm roads with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide that is used to control particulate matter.
 55. "Tillage" means any mechanical practice that physically disturbs the soil, and includes preparation for planting, such as plowing, ripping, or discing.
 56. "Tillage based on soil moisture" means reducing PM emissions by irrigating fields to the depth of the proposed cut prior to soil disturbances or conducting tillage to coincide with precipitation. Soil must have a minimum soil moisture content of 40-60% of field capacity at planting depth. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions).
 57. "Timing of a tillage operation" means reducing wind erosion and PM emissions by performing tillage operations that minimize the amount of time within 45 days.
 58. "Tillage operation" means an agricultural operation that mechanically manipulates the soil for the enhancement of crop production. Examples include discing or bedding. A pass through the field may be a subset of a tillage operation.
 59. "Track-out control system" means minimizing any and all material that adheres to and agglomerates on all vehicles and equipment from noncropland or commercial farm roads or and falls onto paved public roads or shoulders to paved public roads by using a device or system to remove mud or soil from a vehicle or equipment before the vehicle enters a paved public road. Devices such as a grizzly, a gravel pad or a wheel wash system can be used.
 60. "Transgenic Crops" means reducing a minimum of one tillage or ground operation, the number of chemical spray applications, or soil disturbances by using plants that are genetically modified.
 61. "Transplanting" means reducing a minimum of one ground operation across a commercial farm and minimizing soil disturbance by utilizing plants already in a growth state as compared to seeding.
 62. "Unpaved vehicle or equipment traffic area" means any area of noncropland that is used for the fueling, servicing, receiving, transfer, parking or storing of equipment or vehicles.
 63. "VDT" (Vehicle trips per day) means trips per day made by one vehicle, in one direction.
 64. "Watering" means reducing PM emissions and wind erosion by applying water to noncropland or commercial farm road bare soil surfaces during periods of high traffic until the surfaces are visibly moist.
 65. "Watering on a high risk day" means reducing PM emissions and wind erosion by applying water to commercial farm road bare soil surfaces until the surfaces are visibly moist, on a day forecast to be high risk for dust generation by the Maricopa or Pinal County Dust Control Forecast.
 66. "Wind barrier" means reducing PM emissions and wind erosion by constructing a fence or structure, or providing a woody vegetative barrier by planting a row of trees or shrubs, perpendicular or across the prevailing wind direction to reduce wind speed by changing the pattern of air flow over the land surface. For fences and structures, the wind barrier shall have a density of no less than 50% and the height of the wind barrier must be proportionate to the downwind protected area. The downwind protected area is considered ten times the height of the wind barrier. For vegetative barriers, compliance shall be determined by NRCS Conservation Practice Standard, Code 380, Windbreak/Shelterbelt Establishment, amended through August 21, 2009 (and no future editions).

Historical Note

Former Section R18-2-610 renumbered to R18-2-612; new Section R18-2-610 adopted by final rulemaking at 6 A.A.R. 2009, effective May 12, 2000 (Supp. 00-2).

Amended by exempt rulemaking at 13 A.A.R. 4326, effective November 14, 2007 (Supp. 07-4). Amended by exempt rulemaking at 18 A.A.R. 137, effective December 29, 2011 (Supp. 11-4). Subsection (A) corrected at the request of the Department, Office File No. M12-133, filed April 5, 2012 (Supp. 11-4). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

Amended by final exempt rulemaking at 27 A.A.R. 2747 (November 26, 2021), with an immediate effective date of November 3, 2021 (Supp. 21-4).

R18-2-610.01. Agricultural PM General Permit for Crop Operations; Maricopa County PM Nonattainment Area

- A. A commercial farmer within the Maricopa County PM Nonattainment Area shall implement at least two best management practices from each category to reduce PM emissions.
- B. A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions during tillage, harvest or ground operation activities:
 1. Chemical irrigation,
 2. Combining tractor operations,
 3. Equipment modification,
 4. Green Chop,
 5. Integrated Pest Management,
 6. Limited harvest activity,
 7. Limited tillage activity,
 8. Multi-year crop,
 9. Cessation of Night Tilling,
 10. Planting based on soil moisture,
 11. Precision Farming,
 12. Reduced harvest activity,
 13. Reduced tillage system,
 14. Tillage based on soil moisture,
 15. Timing of a tillage operation,

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16. Transgenic Crops,
 17. Transplanting,
 18. Shuttle System/Larger Carrier, or
 19. Conservation Tillage.
- C. A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions from noncropland and commercial farm roads:
1. Access restriction,
 2. Aggregate cover,
 3. Wind barrier,
 4. Critical area planting,
 5. Organic material cover,
 6. Reduce vehicle speed,
 7. Synthetic particulate suppressant,
 8. Track-out control system, or
 9. Watering.
- D. A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions from cropland:
1. Wind barrier,
 2. Cover crop,
 3. Cross-wind ridges,
 4. Chips/mulches,
 5. Multi-year crop,
 6. Permanent cover,
 7. Stabilization of soil prior to plant emergence,
 8. Residue management,
 9. Sequential cropping, or
 10. Surface roughening.
- E. A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions when conducting Significant Agricultural Earth Moving Activities as defined in R18-2-610:
1. Apply water prior to conducting Significant Agricultural Earth Moving Activities and/or time Significant Agricultural Earth Moving Activities to coincide with precipitation. Soil must have a minimum soil moisture content of 50% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 2. Apply water during Significant Agricultural Earth Moving Activities. Soil must have a minimum soil moisture content of 30% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 3. Limit activities on a day identified by the Maricopa or Pinal County Dust Control Forecast to be high risk for dust generation; or
 4. Conduct Significant Agricultural Earth Moving Activities in a manner to reduce a minimum of one ground operation across a commercial farm by using equipment that is the most efficient means of moving the soil.
- F. From and after December 31, 2015, a commercial farmer who engages in a regulated agricultural activity shall complete and maintain a Best Management Practices Program General Permit Record Form demonstrating compliance with this Section. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial farmer. The Best Management Practice Program General Permit Record Form shall include the following information:
1. The name of the commercial farmer, signature, and date signed;
 2. The mailing address or physical address of the commercial farm; and
 3. The best management practices selected for tillage, harvest, and ground operation activities, cropland, noncropland and commercial farm roads, and significant earth moving activities (if applicable).
- G. Records of any changes to the Best Management Practices identified in the most recently submitted Best Management Practices Program General Permit Record Form shall be kept by the commercial farmer onsite and made available for review by the Director within two business days of notice to the commercial farmer.
- H. A person may develop different practices to control PM emissions not contained in subsections (B), (C), (D), or (E) and may submit such practices that are proven effective through on-farm demonstration trials to the Committee. The proposed new practices shall not become effective unless submitted as described in A.R.S. § 49-457(L).
- I. A commercial farmer shall maintain a record demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice.
- J. The Director shall not assess a fee to a commercial farmer for coverage under the agricultural PM₁₀ general permit.
- K. A commercial farmer shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- L. The Director shall document noncompliance with this Section before issuing a compliance order.
- M. A commercial farmer who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

Historical Note

New Section made by exempt rulemaking at 18 A.A.R. 137, effective December 29, 2011 (Supp. 11-4).
Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-610.02. Agricultural PM General Permit for Crop Operations; Moderate PM Nonattainment Areas, Designated After June 1, 2009

- A. A commercial farmer within a PM Moderate Nonattainment Area, designated after June 1, 2009, shall implement at least one best management practice from each category to reduce PM emissions.
- B. A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions during tillage, harvest and ground operation activities:
1. Chemical irrigation,
 2. Combining tractor operations,
 3. Equipment modification,
 4. Green Chop,
 5. Integrated Pest Management,
 6. Limited harvest activity,
 7. Limited tillage activity,
 8. Multi-year crop,
 9. Cessation of Night Tilling,

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10. Planting based on soil moisture,
 11. Precision Farming,
 12. Reduced harvest activity,
 13. Reduced tillage system,
 14. Tillage based on soil moisture,
 15. Timing of a tillage operation,
 16. Transgenic Crops,
 17. Transplanting, or
 18. Shuttle System/Larger Carrier, or
 19. Conservation Tillage.
- C.** A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions from noncropland and commercial farm roads:
1. Access restriction,
 2. Aggregate cover,
 3. Wind barrier,
 4. Critical area planting,
 5. Organic material cover,
 6. Reduce vehicle speed,
 7. Synthetic particulate suppressant,
 8. Track-out control system, or
 9. Watering.
- D.** A commercial farmer shall implement from the following best management practices, as described in subsection (A), to reduce PM emissions from cropland:
1. Wind barrier,
 2. Cover crop,
 3. Cross-wind ridges,
 4. Chips/mulches,
 5. Multi-year crop,
 6. Permanent cover,
 7. Stabilization of soil prior to plant emergence,
 8. Residue management,
 9. Sequential cropping, or
 10. Surface roughening.
- E.** A commercial farmer shall implement from the following best management practices, as described in subsection (A), when conducting Significant Agricultural Earth Moving Activities as defined in R18-2-610:
1. Apply water prior to conducting Significant Agricultural Earth Moving Activities and/or time Significant Agricultural Earth Moving Activities to coincide with precipitation. Soil must have a minimum soil moisture content of 50% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 2. Apply water during Significant Agricultural Earth Moving Activities. Soil must have a minimum soil moisture content of 30% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 3. Limit activities on a day identified by the Maricopa or Pinal County Dust Control Forecast to be high risk for dust generation; or
 4. Conduct Significant Agricultural Earth Moving Activities in a manner to reduce a minimum of one ground operation across a commercial farm by using equipment that is the most efficient means of moving the soil.
- F.** From and after December 31, 2015, a commercial farmer who engages in a regulated agricultural activity shall complete and maintain a Best Management Practices Program General Permit Record Form demonstrating compliance with this Section. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial farmer. The Best Management Practice Program General Permit Record Form shall include the following information:
1. The name of the commercial farmer, signature, and date signed;
 2. The mailing address or physical address of the commercial farm; and
 3. The best management practice selected for tillage, harvest and ground operation activities, cropland, noncropland and commercial farm roads, and significant earth moving activities (if applicable).
- G.** Records of any changes to the Best Management Practices shall be noted on the Best Management Practices Program General Permit Record Form and shall be kept by the commercial farmer onsite and made available for review by the Director within two business days of notice to the commercial farmer.
- H.** A person may develop different practices to control PM emissions not contained in subsections (B), (C), (D), or (E) and may submit such practices that are proven effective through on-farm demonstration trials to the Committee. The proposed new practices shall not become effective unless submitted as described in A.R.S. § 49-457(L).
- I.** A commercial farmer shall maintain a record demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice.
- J.** The Director shall not assess a fee to a commercial farmer for coverage under the agricultural PM general permit.
- K.** A commercial farmer shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- L.** The Director shall document noncompliance with this Section before issuing a compliance order.
- M.** A commercial farmer who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

Historical Note

New Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-610.03. Agricultural PM General Permit for Crop Operations; Pinal County PM Nonattainment Area

- A.** On the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of best management practices as described in subsections (B)(1)(b), (B)(2)(b), (B)(3)(b), (B)(4)(b), and (B)(5)(b).
- B.** On all days, a commercial farmer shall implement at least two best management practices from each category to reduce PM emissions, as described in subsections (1)(a), (2)(a), (3)(a), (4)(a), (5)(a), and (6). If a commercial farmer implements the Conservation tillage or Reduced tillage system best management practice for the tillage category, they do not have to implement a best management practice from the subsections (2)(a), (2)(b), (5)(a) and (5)(b).
1. Tillage:

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- a. A commercial farmer shall implement at least two of the following:
 - i. Combining tractor operations,
 - ii. Equipment modification,
 - iii. Multi-year crop,
 - iv. Cessation of night tilling,
 - v. Planting based on soil moisture,
 - vi. Precision farming,
 - vii. Tillage based on soil moisture,
 - viii. Timing of a tillage operation,
 - ix. Transgenic crops,
 - x. Transplanting,
 - xi. Reduced tillage system, or
 - xii. Conservation tillage.
 - b. Unless choosing limited tillage activity (subsection iv, below), on the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of at least one of the following:
 - i. Multi-year crop,
 - ii. Planting based on soil moisture,
 - iii. Tillage based on soil moisture,
 - iv. Limited tillage activity,
 - v. Reduced tillage system, or
 - vi. Conservation tillage.
2. Ground Operations and Harvest:
- a. A commercial farmer shall implement at least two of the following:
 - i. Combining tractor operations,
 - ii. Equipment modification,
 - iii. Chemical irrigation,
 - iv. Green chop,
 - v. Integrated pest management,
 - vi. Multi-year crop,
 - vii. Precision farming,
 - viii. Reduced harvest activity,
 - ix. Transgenic crops, or
 - x. Shuttle System/Larger Carrier.
 - b. Unless choosing limited harvest activity in subsection (iv), on the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of at least one of the following:
 - i. Green chop,
 - ii. Integrated pest management,
 - iii. Multi-year crop, or
 - iv. Limited harvest activity.
3. Noncropland:
- a. A commercial farmer shall implement at least two of the following best management practices:
 - i. Access restriction,
 - ii. Aggregate cover,
 - iii. Wind barrier,
 - iv. Critical area planting,
 - v. Organic material cover,
 - vi. Reduce vehicle speed,
 - vii. Synthetic particulate suppressant, or
 - viii. Watering.
 - b. Unless choosing watering on a high risk day in subsection (vi), on the day before and during a day forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, on a noncropland area that experiences more than 20 VDT from two or more axle vehicles, commercial farmer shall ensure implementation of at least one of the following best management practices:
 - i. Aggregate cover,
 - ii. Wind barrier,
 - iii. Critical area planting,
 - iv. Organic material cover,
 - v. Synthetic particulate suppressant, or
 - vi. Watering on a high risk day.
4. Commercial farm roads:
- a. A commercial farmer shall implement at least two of the following best management practices:
 - i. Access restriction,
 - ii. Reduce vehicle speed,
 - iii. Track-out control system,
 - iv. Aggregate cover,
 - v. Synthetic particulate suppressant,
 - vi. Watering, or
 - vii. Organic material cover.
 - b. Unless choosing watering on a high risk day in subsection (vi), on the day before and during a day forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, on a road that experiences more than 20 VDT from two or more axle vehicles, a commercial farmer shall ensure implementation of at least one of the following best management practices:
 - i. Aggregate cover,
 - ii. Synthetic particulate suppressant,
 - iii. Wind barrier,
 - iv. Organic material cover,
 - v. Roads are stabilized as determined by the silt content test method,
 - vi. Watering on a high risk day.
5. Cropland:
- a. A commercial farmer shall implement at least two of the following best management practices, one from subsections (i) through (vii), and one from subsections (viii) through (xi), to reduce PM emissions from cropland:
 - i. Wind barrier,
 - ii. Cover crop,
 - iii. Cross-wind ridges,
 - iv. Chips/mulches,
 - v. Sequential cropping,
 - vi. Residue management,
 - vii. Surface roughening,
 - viii. Multi-year crop,
 - ix. Permanent cover, or
 - x. Stabilization of soil prior to plant emergence.
 - b. On the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of at least one of the following:
 - i. Wind barrier,

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- ii. Cover crop,
 - iii. Cross-wind ridges,
 - iv. Chips/mulches,
 - v. Surface roughening,
 - vi. Multi-year crop,
 - vii. Permanent cover,
 - viii. Stabilization of soil prior to plant emergence, or
 - ix. Residue management.
- 6. Significant Agricultural Earth Moving Activities:
 - a. Apply water prior to conducting Significant Agricultural Earth Moving Activities and/or time Significant Agricultural Earth Moving Activities to coincide with precipitation. Soil must have a minimum soil moisture content of 50% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 - b. Apply water during Significant Agricultural Earth Moving Activities. Soil must have a minimum soil moisture content of 30% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
 - c. Limit activities on a day identified by the Maricopa or Pinal County Dust Control Forecast to be high risk for dust generation; or
 - d. Conduct Significant Agricultural Earth Moving Activities in a manner to reduce a minimum of one ground operation across a commercial farm by using equipment that is the most efficient means of moving the soil.
- C. From and after December 31, 2015, a commercial farmer who engages in a regulated agricultural activity shall complete a Best Management Practices Program General Permit Record Form demonstrating compliance with this rule. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial farmer. The Best Management Practice Program General Permit Record Form shall include the following information:
 - 1. The name of the commercial farmer, signature, and date signed.
 - 2. The mailing address or physical address of the commercial farm; and
 - 3. The following information for each best management practice selected for tillage, ground operations and harvest, cropland, noncropland, commercial farm roads, and significant earth moving activities (if applicable); and
 - 4. Any additional best management practices selected for high risk days as predicted by the Pinal County Dust Control Forecast.
- D. Beginning in calendar year 2017, and no more than once every subsequent three calendar years, the Director, in conjunction with the Arizona Department of Agriculture, shall provide the commercial farmer with a Best Management Practices Program Three-year Survey. The commercial farmer shall complete the Survey with data from the preceding calendar year and submit the Survey to the Arizona Department of Agriculture (ADA) by January 31, 2018, and every three years thereafter. The Survey information submitted to the ADA shall be compiled by the ADA without reference to a commercial farmer's name, shall aggregate the data from the Surveys received, and be submitted to the Department. The Three-year Survey shall include the following information:
 - 1. The name, business address, and phone number of the commercial farmer responsible for the preparation and implementation of the best management practices;
 - 2. The signature of the commercial farmer and the date the form was signed;
 - 3. The acreage of each crop type planted/growing during the calendar year that the survey is conducted;
 - 4. The total miles of commercial farm roads at the commercial farm;
 - 5. The total acreage of the noncropland at the commercial farm;
 - 6. The best management practices selected for tillage, ground operations and harvest, cropland, noncropland, commercial farm roads, and significant earth moving activities (if applicable); and
 - 7. Any additional best management practices selected for high risk days as predicted by the Pinal County Dust Control Forecast.
- E. Records of any changes to the Best Management Practices shall be noted on the Best Management Practices Program General Permit Record Form and shall be kept by the commercial farmer onsite and made available for review by the Director within two business days of notice to the commercial farmer.
- F. A person may develop different practices to control PM emissions not contained in subsections (B)(1) through (B)(6) and may submit such practices that are proven effective through on-farm demonstration trials to the Committee.
- G. A commercial farmer shall maintain a record demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice.
- H. The Director shall not assess a fee to a commercial farmer for coverage under the agricultural PM general permit.
- I. A commercial farmer shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- J. The Director shall document noncompliance with this Section before issuing a compliance order.
- K. A commercial farmer who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(J), (K), and (L).

Historical Note

New Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 27 A.A.R. 2747 (November 26, 2021), with an immediate effective date of November 3, 2021 (Supp. 21-4).

R18-2-611. Definitions for R18-2-611.01, R18-2-611.02, and R18-2-611.03

The definitions in R18-2-101 and the following definitions apply to R18-2-611.01, R18-2-611.02, and R18-611.03:

- 1. The following definitions apply to a commercial dairy operation, a commercial beef feedlot, a commercial poultry facility, and commercial swine facility:
 - a. "Animal waste handling and transporting" means the processes by which any animal excretions and mixtures containing animal excretions are collected and transported.

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- b. "Arenas, corrals and pens" means areas where animals are confined for the purposes of, but not limited to, feeding, displaying, safety, racing, exercising, or husbandry.
 - c. "Commercial animal operation" means a commercial dairy operation, a commercial beef feedlot, a commercial poultry facility, and a commercial swine facility, as defined in this Section.
 - d. "Commercial animal operator" means an individual, entity, or joint operation in general control of a commercial animal operation.
 - e. "Dust Control Forecast" means a forecast, which shall identify a low, moderate or high risk of dust generation for the next five consecutive days and shall be issued by noon on each day the forecast is generated. When developing these forecasts, the Department shall consider all of the following:
 - i. Projected meteorological conditions, including:
 - (1) Wind speed and direction,
 - (2) Stagnation,
 - (3) Recent precipitation, and
 - (4) Potential for precipitation;
 - ii. Existing concentrations of air pollution at the time of the forecast; and
 - iii. Historic air pollution concentrations that have been observed during meteorological conditions similar to those that are predicted to occur in the forecast.
 - f. "High traffic areas" means areas that experience more than 20 VDT from two or more axle vehicles.
 - g. "Maricopa PM nonattainment area" means the Phoenix planning area as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210.
 - h. "Paved Public Road" means any paved roadways that are open to public travel and maintained by a City, County, State, or Federal entities.
 - i. "Pinal County PM Nonattainment Area" means the West Pinal PM₁₀ planning area and the West Central PM_{2.5} planning area, as defined in 40 CFR 81.303, and incorporated by reference in R18-2-210.
 - j. "PM" includes both particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated according to 40 CFR 53; and particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method contained within 40 CFR 50, Appendix J or by an equivalent method designated in accordance with 40 CFR 53, as incorporated by reference in Appendix 2.
 - k. "Regulated agricultural activity" means a regulated agricultural activity as defined in A.R.S. § 49-457(O)(5).
 - l. "Regulated area" means the regulated area as defined in A.R.S. § 49-457(O)(6).
 - m. "Track-out control device" means minimizing any and all material that adheres to and agglomerates on all vehicles and equipment from unpaved access connections and falls onto paved public roads or shoulders to paved public roads by using a device or system to remove mud or soil from a vehicle or equipment before the vehicle enters a paved public road. Devices such as a grizzly, a gravel pad or a wheel wash system can be used.
 - n. "Unpaved access connections" means any unpaved road connection which connects to a paved public road.
 - o. "Unpaved roads or feed lanes" means roads and feed lanes that are unpaved, owned by a commercial animal operator, and used exclusively to service a commercial animal operation.
 - p. "Unpaved vehicle or equipment traffic area" means any area that is used for the fueling, servicing, receiving, transfer, parking or storing of equipment or vehicles.
 - q. "VDT" (Vehicle trips per day) means trips per day made by one vehicle, in one direction.
2. The following definitions apply to a commercial dairy operation:
- a. "Aggregate cover" means reducing PM emissions, wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to unpaved roads or feed lanes. The aggregate should be clean, hard and durable, and should be applied and maintained to a minimum of three inches deep.
 - b. "Apply a fibrous layer" means reducing PM emissions and soil movement, and preserving soil moisture by spreading shredded or deconstructed plant materials to cover loose soil in high animal traffic areas. Material shall be consistently applied to a minimum depth of two inches above the soil surface and coverage should be a minimum of 70 percent.
 - c. "Bunkers" means below ground level storage systems for storing large amount of silage, which is covered with a plastic tarp.
 - d. "Calves" means young dairy stock under two months of age.
 - e. "Cement cattle walkways to milk barn" means reducing PM emissions by fencing pathways from the corrals to the milking barn, restricting dairy cattle to surfaces with concrete floors.
 - f. "Commercial dairy operation" means a dairy operation:
 - i. With more than 150 dairy cattle within the boundary of the Maricopa PM nonattainment area and Maricopa County portion of Area A or a PM nonattainment area designated after June 1, 2009, or
 - ii. With more than 50 dairy cattle within the boundary of the Pinal County PM Nonattainment Area.
 - g. "Cover manure hauling trucks" means reducing PM emissions by completely covering the top of the loaded area.
 - h. "Covers for silage" means reducing PM emissions and wind erosion by using large plastic tarps to completely cover silage.
 - i. "Do not run cattle" means reducing PM emissions by walking dairy cattle to the milking barn.
 - j. "Feed higher moisture feed to dairy cattle" means reducing PM emissions by feeding dairy cattle one or any combination of the following:
 - i. Add water to ration mix to achieve a 20% minimum moisture level,

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- ii. Add molasses or tallow to ration mix at a minimum of 1%,
 - iii. Add silage, or
 - iv. Add green chop.
 - k. "Feed green chop" means feeding high moisture feed that contains at least 30% moisture directly to dairy cattle.
 - l. "Groom manure surface" means reducing PM emissions and wind erosion by:
 - i. Flushing or vacuuming lanes daily,
 - ii. Scraping and harrowing pens on a weekly basis, and
 - iii. Removing manure every four months with equipment that leaves an even corral surface of compacted manure on top of the soil.
 - m. "Hutches" means raised, roofed enclosures that protect the calves from the elements.
 - n. "Pile manure between cleanings" means reducing PM emissions by collecting loose surface materials within the confines of the surface area of the occupied feed pen every two weeks.
 - o. "Provide cooling in corral" means reducing PM emissions by using cooling systems under the corral shades to reduce the ambient air temperature, thereby increasing stocking density in the cool areas of the corrals.
 - p. "Provide shade in corral" means reducing PM emissions by increasing stocking density and reducing animal movement by using a permanent structure, which provides at least 16 square feet per animal of shaded pen surface.
 - q. "Push equipment" means manure harvesting equipment pushed in front of a tractor.
 - r. "Silage" means fermented, high-moisture fodder that can be fed to ruminants, such as cattle and sheep; usually made from grass crops including corn, sorghum or other cereals, by using the entire green plant.
 - s. "Store and maintain feed stock" means reducing PM emissions and wind erosion by storing feed stock in a covered area where the commodity is surrounded on at least three sides by a structure.
 - t. "Synthetic particulate suppressant" means reducing PM emissions and wind erosion by providing a stabilized soil surface on a commercial dairy operation with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide that is used to control particulate matter.
 - u. "Use drag equipment to maintain pens" means reducing PM emissions by using manure equipment pulled behind a tractor instead of using push equipment, which avoids dust accumulation in floor depressions.
 - v. "Use free stall housing" means reducing PM emissions by enclosing one cow per stall, which are outfitted with concrete floors.
 - w. "Water misting systems" means reducing PM emissions from dry manure by using systems that project a cloud of very small water particles onto the manure surface, keeping the surface visibly moist.
 - x. "Wind barrier" means reducing PM₁₀ emissions and wind erosion by constructing a fence or structure, or providing a woody vegetative barrier by planting a row of trees or shrubs, perpendicular or across the prevailing wind direction to reduce wind speed by changing the pattern of air flow over the land surface. For fences and structures, the wind barrier shall have a density of no less than 50% and the height of the wind barrier must be proportionate to the downwind protected area. The downwind protected area is considered ten times the height of the wind barrier. For vegetative barriers, compliance shall be determined by NRCS Conservation Practice Standard, Code 380, Windbreak/Shelterbelt Establishment, amended through August 21, 2009 (and no future editions).
3. The following definitions apply to a commercial beef cattle feedlot:
- a. "Add moisture to pen surface" means reducing PM emissions and wind erosion by applying at least three to six gallons of water per head/per day in pens occupied by beef cattle.
 - b. "Add molasses or tallow to feed" means reducing PM emissions by adding molasses or tallow so that it equals three percent of the total ration.
 - c. "Aggregate cover" means reducing PM emissions, wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to unpaved roads or feed lanes. The aggregate should be clean, hard and durable, and should be applied and maintained to a minimum of three inches deep.
 - d. "Apply a fibrous layer in working areas" means reducing PM emissions and soil movement, and preserving soil moisture by spreading shredded or deconstructed plant materials to cover loose soil in high animal traffic areas. Material shall be consistently applied to a minimum depth of two inches above the soil surface and coverage should be a minimum of 70%.
 - e. "Bulk materials" means reducing PM emissions by using a closed conveyor system instead of vehicular means to move grain or other.
 - f. "Commercial beef cattle feedlot" means a beef cattle feedlot:
 - i. With more than 500 beef cattle within the boundary of the Maricopa PM nonattainment area and Maricopa County portion of Area A or a PM nonattainment area designated after June 1, 2009, or
 - ii. With more than 50 beef cattle within the Pinal County PM Nonattainment Area.
 - g. "Concrete apron" means reducing PM emissions by using solidly formed concrete surface, at least 4 inches thick on top of the soil surface, inside the feed pen for 8 feet approaching the feed bunk or water trough.
 - h. "Control cattle during movements" means reducing PM emissions by suppressing the animal's ability to run by driving them forward while intruding on their "flight zones" or restraining the animal's movement.
 - i. "Cover manure hauling trucks" means reducing PM emissions by completely covering the top of the loaded area.
 - j. "Feed higher moisture feed to beef cattle" means reducing PM emissions by feeding beef cattle feed that contains at least 30% moisture.

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- k. "Frequent manure removal" means reducing PM emissions and wind erosion by harvesting loose manure on top of the pen surface at least once every six months.
 - l. "Pile manure between cleanings" means reducing PM emissions by collecting loose manure surface materials, by scraping or pushing, within the confines of the surface area of the occupied feed pen at least four times per year.
 - m. "Provide shade in corral" means reducing PM emissions by increasing stocking density and reducing animal movement by using a permanent structure, which provides at least 16 square feet per animal of shaded pen surface.
 - n. "Push equipment" means manure harvesting equipment pushed in front of a tractor.
 - o. "Store and maintain feed stock" means reducing PM emissions and wind erosion by storing feed stock in a covered area where the commodity is surrounded on at least three sides by a structure.
 - p. "Synthetic particulate suppressant" means reducing PM emissions and wind erosion by providing a stabilized soil surface on a commercial beef feedlot with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide that is used to control particulate matter.
 - q. "Use drag equipment to maintain pens" means reducing PM emissions by using manure harvesting equipment pulled behind a tractor instead of using push equipment, which avoids dust accumulation in floor depressions.
 - r. "Wind barrier" means reducing PM₁₀ emissions and wind erosion by constructing a fence or structure, or providing a woody vegetative barrier by planting a row of trees or shrubs, perpendicular or across the prevailing wind direction to reduce wind speed by changing the pattern of air flow over the land surface. For fences and structures, the wind barrier shall have a density of no less than 50% and the height of the wind barrier must be proportionate to the downwind protected area. The downwind protected area is considered ten times the height of the wind barrier. For vegetative barriers, compliance shall be determined by NRCS Conservation Practice Standard, Code 380, Windbreak/Shelterbelt Establishment, amended through August 21, 2009 (and no future editions).
4. The following definitions apply to a commercial poultry facility:
- a. "Add moisture through ventilation systems" means reducing PM emissions by using a ventilation system that is designed to allow stock to maintain their normal body temperature without difficulty while maintaining a minimum of 20% moisture in the air within the housing system to bind small particles to larger particles.
 - b. "Add oil and/or moisture to the feed" means reducing PM emissions by adding a minimum of 1% edible oil and/or moisture to feed rations to bind small particles to larger particles.
 - c. "Aggregate cover" means reducing PM emissions, wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to unpaved roads or feed lanes. The aggregate should be clean, hard and durable, and should be applied and maintained to a minimum of 3 inches deep.
 - d. "Clean aisles between cage rows" means reducing PM emissions by cleaning the aisles between cage rows at least twice every 14 days to prevent dried manure, spilled feed, and debris accumulation.
 - e. "Clean fans, louvers, and soffit inlets in a commercial poultry facility" means reducing PM emissions by cleaning fans, louvers, and soffit inlets when the facility is empty between depopulating and populating the facility.
 - f. "Clean floors and walls in a commercial poultry facility" means reducing PM emissions by cleaning floors and walls to prevent dried manure, spilled feed, and debris accumulation when the facility is empty between depopulating and populating the facility.
 - g. "Commercial poultry facility" means a poultry operation with more than 25,000 egg laying hens within the boundary of the Maricopa PM nonattainment area and Maricopa County portion of Area A, a PM nonattainment area designated after June 1, 2009, as stated in A.R.S. § 49-457(O)(1)(f), or the Pinal County PM Nonattainment Area.
 - h. "Control vegetation on building exteriors" means reducing PM emissions by removing, cutting, or trimming vegetation that accumulates PM and restricts ventilation of the building, so as to leave approximately 3 feet between the vegetation and building.
 - i. "Enclose transfer points" means reducing PM emissions by enclosing the points of transfer between the enclosed, weatherproof storage structure and the enclosed feed distribution system, which reduce air contact with the feed rations during feed conveyance.
 - j. "House in fully enclosed ventilated buildings" means reducing PM emissions by utilizing fully enclosed buildings with sufficient ventilation.
 - k. "Maintain moisture in manure solids" means reducing PM emissions by maintaining a moisture content of a minimum of 15% in the solids sufficient to bind small particles to larger particles.
 - l. "Minimize drop distance" means reducing PM emissions by designing the feed distribution system so that the distance the feed ration drops from the feed distribution system into feeders is approximately 1 foot or less, which reduces air contact with the feed rations during feed conveyance.
 - m. "Poultry" means any domesticated bird including chickens, turkeys, ducks, geese, guineas, ratites and squabs.
 - n. "Remove spilled feed" means reducing PM emissions by removing spilled feed from the housing facility at least once every 14 days.
 - o. "Stack separated manure solids" means reducing PM emissions and wind erosion by reducing the amount of exposed surface area of manure solids.
 - p. "Store feed" means reducing PM emissions by storing feed in a structure that is enclosed and weatherproof, which reduces air contact with the feed rations during feed storage.

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- q. “Synthetic particulate suppressant” means reducing PM emissions and wind erosion by providing a stabilized soil surface on a commercial poultry operation with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide that is used to control particulate matter.
 - r. “Use enclosed feed distribution system” means reducing PM emissions by using an enclosed feed conveyance system that distributes feed rations throughout the housing facility, which reduces air contact with the feed rations during feed conveyance.
 - s. “Use a flexible discharge spout” means reducing PM emissions and wind erosion at the time of bulk feed deliveries to the housing units by using a flexible discharge spout on the end of the feed truck transfer auger.
 - t. “Use no bedding in the production facility” means reducing PM emissions by not using bedding such as wood shavings, sawdust, peanut hulls, straw, or other organic material.
 - u. “Use of a rotary dryer to dry manure waste” means reducing PM₁₀ emissions by drying the manure waste in a rotary dryer fitted with a baghouse or wet scrubber. A commercial poultry facility using a rotary dryer must comply with all of the following:
 - i. Install, maintain, and operate the baghouse or wet scrubber in a manner consistent with the manufacturer’s specifications at all times the rotary dryer is operated. The manufacturer specifications must be available on site upon request.
 - ii. Conduct monthly observations using EPA Method 22 on the control equipment to ensure proper operation. If improper operation is observed through EPA Method 22, the dryer must stop immediately and the equipment repaired before resuming operations.
 - iii. For baghouses, conduct an annual black light inspection of the bags to detect broken or leaking bags. If broken or leaking bags are detected it must be repaired or replaced immediately.
 - iv. Maintain a record of all repair activity required under (ii) and (ii) that must be made available within two days of Director’s request for inspection.
5. The following definitions apply to a commercial swine facility:
- a. “Add oil and/or moisture to the feed” means reducing PM emissions by adding a minimum of 0.5% edible oil and/or moisture to feed rations to bind small particles to larger particles.
 - b. “Add moisture through ventilation systems” means reducing PM emissions by using a ventilation system that is designed to allow stock to maintain their normal body temperature without difficulty while maintaining minimum of 15% moisture in the air within the housing system to bind small particles to larger particles.
 - c. “Aggregate cover” means reducing PM emissions, wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to unpaved roads or feed lanes. The aggregate should be clean, hard and durable, and should be applied and maintained to a minimum of three inches deep.
 - d. “Clean aisles between pens and stalls” means reducing PM emissions by cleaning the aisles between pens and stalls at least twice every 14 days to prevent dried manure, spilled feed, and debris accumulation.
 - e. “Clean fans, louvers, and soffit inlets in a commercial swine facility” means reducing PM emissions by cleaning fans, louvers, and soffit inlets between transfer of animal groups, but in any case, at least every six months.
 - f. “Clean pens, floors and walls in a commercial swine facility” means reducing PM emissions by cleaning pens, floors, and walls between transfer of animal groups to prevent dried manure, spilled feed, and debris accumulation, but in any case, at least every six months.
 - g. “Commercial swine facility” means a swine operation with more than 50 animal units for more than 30 consecutive days within the boundary of the Maricopa PM nonattainment area and Maricopa County portion of Area A, a PM nonattainment area designated after June 1, 2009 as stated in A.R.S. § 49-457(O)(1)(f), or the Pinal County PM Nonattainment Area. One thousand pounds equals one animal unit.
 - h. “Control vegetation on building exteriors” means reducing PM emissions by removing, cutting, or trimming vegetation that accumulates PM and restricts ventilation of the building, so as to leave approximately 3 feet between the vegetation and the building.
 - i. “Enclose transfer points” means reducing PM emissions by enclosing the points of transfer between the enclosed, weatherproof storage structure and the enclosed feed distribution system, which reduces air contact with the feed rations during feed conveyance.
 - j. “House in fully enclosed ventilated buildings” means reducing PM emissions by utilizing fully enclosed buildings with sufficient ventilation.
 - k. “Lagoon” means a liquid manure storage and treatment pond.
 - l. “Maintain moisture in manure solids” means reducing PM₁₀ emissions by maintaining a minimum moisture content of 10% in the solids sufficient to bind small particles to larger particles.
 - m. “Minimize drop distance” means reducing PM emissions by designing the feed distribution system so that the distance the feed ration drops from the feed distribution system into feeders is 3 feet or less, which reduces air contact with the feed rations during feed conveyance.
 - n. “Remove spilled feed” means reducing PM emissions by removing spilled feed from the housing facility at least once every 14 days.
 - o. “Slatted flooring” means reducing PM emissions by using flooring that is a slotted concrete or wire-mesh floor set above a liquid manure collection pit, which allows the excrement to fall through the flooring into the liquid pit below, which prevents solids build-up.

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Slats 4 to 8 inches wide with spacing of about 1 inch in between are recommended.

- p. "Sloped concrete flooring" means reducing PM emissions by pouring concrete with a minimum of 0.25% grade inside of the barns which provides drainage and easier cleaning of floor areas.
- q. "Stack separated manure solids" means reducing PM emissions and wind erosion by reducing the amount of exposed surface area of manure solids.
- r. "Store feed" means reducing PM emissions by storing feed in a structure that is enclosed and weather-proof, which reduces air contact with the feed rations during feed storage.
- s. "Store separated manure solids" means reducing PM emissions by storing manure solids in a wind-blocked area behind a wall, structure, or area with natural wind protection to minimize blowing air movement over the manure stack.
- t. "Synthetic particulate suppressant" means reducing PM emissions and wind erosion by providing a stabilized soil surface on a commercial swine operation with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide that is used to control particulate matter.
- u. "Use a flexible discharge spout" means reducing PM emissions and wind erosion at the time of bulk feed deliveries to the housing units by using a flexible discharge spout on the end of the feed truck transfer auger.
- v. "Use enclosed feed distribution system" means reducing PM emissions by using an enclosed feed conveyance system that distributes feed rations throughout the housing facility, which reduces air contact with the feed rations during the feed conveyance.
- w. "Use no bedding in the production facility" means reducing PM emissions by not using bedding such as wood shavings, sawdust, peanut hulls, straw, or other organic material.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 2009, effective May 12, 2000 (Supp. 00-2). Amended by exempt rulemaking at 13 A.A.R. 4326, effective November 14, 2007 (Supp. 07-4). Section repealed; new Section made by exempt rulemaking at 18 A.A.R. 137, effective December 29, 2011 (Supp. 11-4). Subsection (2)(a) corrected at request of the Department, Office File No. M12-133, filed April 5, 2012 (Supp. 11-4). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 22 A.A.R. 987, effective April 5, 2016 (Supp. 16-2). Amended by final exempt rulemaking at 27 A.A.R. 2747 (November 26, 2021), with an immediate effective date of November 3, 2021 (Supp. 21-4).

R18-2-611.01. Agricultural PM General Permit for Animal Operations; Maricopa County Serious PM Nonattainment Areas

- A. A commercial animal operator within a Serious PM Nonattainment Area shall implement at least two best management practices from each category to reduce PM emissions.

- B. A commercial dairy operation shall implement the following best management practices, as described in subsection (A), from each of the following categories:

1. Arenas, Corrals, and Pens:
 - a. Use free stall housing,
 - b. Provide shade in corral,
 - c. Provide cooling in corral,
 - d. Cement cattle walkways to milk barn,
 - e. Groom manure surface,
 - f. Water misting systems,
 - g. Use drag equipment to maintain pens,
 - h. Pile manure between cleanings,
 - i. Feed green chop,
 - j. Keep calves in barns or hutches,
 - k. Do not run cattle,
 - l. Apply a fibrous layer, or
 - m. Wind barrier.
2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to dairy cattle,
 - b. Store and maintain feed stock,
 - c. Covers for silage,
 - d. Store silage in bunkers,
 - e. Cover manure hauling trucks, or
 - f. Do not load manure trucks with dry manure when wind exceeds 15 mph.
3. Unpaved Access Connections:
 - a. Install signage to limit vehicle speed to 15 mph,
 - b. Install speed control devices,
 - c. Restrict access to through traffic,
 - d. Install and maintain a track-out control device,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant, or
 - h. Apply and maintain water as a dust suppressant.
4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant,
 - i. Use appropriate vehicles such as electric carts or small utility vehicles instead of trucks, or
 - j. Apply and maintain pavement or cement feed lanes.

- C. A commercial beef cattle feedlot shall implement the following best management practices, as described in subsection (A), from each of the following categories:

1. Arenas, Corrals, and Pens:
 - a. Concrete aprons,
 - b. Provide shade in corral,
 - c. Add moisture to pen surface,
 - d. Manure removal,
 - e. Pile manure between cleanings,
 - f. Feed higher moisture feed to beef cattle,
 - g. Control cattle during movements,
 - h. Use drag equipment to maintain pens,
 - i. Apply a fibrous layer, or
 - j. Wind barrier.
2. Animal Waste (and Feed) Handling and Transporting:

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- a. Feed higher moisture feed to beef cattle,
- b. Add molasses or tallow to feed,
- c. Store and maintain feed stock,
- d. Bulk materials,
- e. Use drag equipment to maintain pens,
- f. Cover manure hauling trucks, or
- g. Do not load manure when wind exceeds 15 mph.
- 3. Unpaved Access Connections:
 - a. Install and maintain a track-out control device,
 - b. Apply and maintain pavement in high traffic areas,
 - c. Apply and maintain aggregate cover,
 - d. Apply and maintain synthetic particulate suppressant, or
 - e. Apply and maintain water as a dust suppressant.
- 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant, or
 - i. Apply and maintain oil on roads or feed lanes.
- D. A commercial poultry facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 - 1. Arenas, Corrals, and Pens (Housing):
 - a. Clean fans, louvers, and soffit inlets in a commercial poultry facility,
 - b. Use no bedding,
 - c. Control vegetation on building exteriors,
 - d. Add moisture through ventilation systems, or
 - e. House in fully enclosed ventilated buildings.
 - 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to the feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean floors and walls in a commercial poultry facility,
 - i. Clean aisles between cage rows,
 - j. Stack separated manure solids,
 - k. Maintain moisture in manure solids, or
 - l. Use of a rotary dryer to dry manure waste.
 - 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system, or
 - d. Install signage to limit vehicle speed to 15 mph.
 - 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
- E. A commercial swine facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 - 1. Arenas, Corrals, and Pens (Housing):
 - a. House in fully enclosed ventilated buildings,
 - b. Use no bedding,
 - c. Use a slatted floor system,
 - d. Use sloped concrete flooring,
 - e. Clean fans, louvers, and soffit inlets in a commercial swine facility,
 - f. Control vegetation on building exteriors, or
 - g. Add moisture through ventilation systems.
 - 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean pens, floors, and walls in a commercial swine facility,
 - i. Clean aisles between pens and stalls,
 - j. Store separated manure solids in a wind-blocked area,
 - k. Stack separated manure solids,
 - l. Maintain moisture in manure solids, or
 - m. Maintain liquid lagoon level.
 - 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system,
 - d. Install signage to limit vehicle speed to 15 mph.
 - 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water,
 - h. Apply and maintain oil on roads or feed lanes, or
 - i. Wind barrier.
- F. From and after December 31, 2015, a commercial animal operator who engages in a regulated agricultural activity shall complete a Best Management Practices Program General Permit Record Form. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial animal operator. The Best Management Practice Program General Permit Record form shall include the following information:
 - 1. The name of the commercial animal operator, signature, and date signed,
 - 2. The mailing address or physical address of the commercial animal operation, and
 - 3. The best management practices selected for Arenas, Corrals, and Pens, Animal Waste Handling and Transporting,

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Unpaved Access Connections, and Unpaved Roads or Feed Lanes.

- G. Beginning January 1, 2016, a commercial animal operator shall maintain records demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice and any changes to the best management practices. Records shall be kept by the commercial animal operator onsite and made available for review by the Director within two business days of notice to the commercial animal operator.
- H. A person may develop different practices not contained in subsection (B), (C), (D), or (E), that reduce PM and may submit such practices that are proven effective through on-operation demonstration trials to the Committee.
- I. The Director shall not assess a fee to a commercial animal operator for coverage under the Best Management Practice Program General Permit Record Form.
- J. A commercial animal operator shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- K. The Director shall document noncompliance with this Section before issuing a compliance order.
- L. A commercial animal operator who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

Historical Note

New Section made by exempt rulemaking at 18 A.A.R. 137, effective December 29, 2011 (Supp. 11-4).
Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 22 A.A.R. 987, effective April 5, 2016 (Supp. 16-2).

R18-2-611.02. Agricultural PM General Permit for Animal Operations; Moderate PM Nonattainment Areas Designated After June 1, 2009, Except Pinal County PM Nonattainment Area

- A. A commercial animal operator within a Moderate PM Nonattainment Area, designated after June 1, 2009, shall implement at least one best management practice from each category to reduce PM emissions.
- B. A commercial dairy operation shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 - 1. Arenas, Corrals, and Pens:
 - a. Use free stall housing,
 - b. Provide shade in corral,
 - c. Provide cooling in corral,
 - d. Cement cattle walkways to milk barn,
 - e. Groom manure surface,
 - f. Water misting systems,
 - g. Use drag equipment to maintain pens,
 - h. Pile manure between cleanings,
 - i. Feed green chop,
 - j. Keep calves in barns or hutches,
 - k. Do not run cattle,
 - l. Apply a fibrous layer, or
 - m. Wind barrier.
 - 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to dairy cattle,
 - b. Store and maintain feed stock,
 - c. Covers for silage,

- d. Store silage in bunkers,
- e. Cover manure hauling trucks, or
- f. Do not load manure trucks with dry manure when wind exceeds 15 mph.
- 3. Unpaved Access Connections:
 - a. Install signage to limit vehicle speed to 15 mph,
 - b. Install speed control devices,
 - c. Restrict access to through traffic,
 - d. Install and maintain a track-out control device,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant, or
 - h. Apply and maintain water as a dust suppressant.
- 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant,
 - i. Use appropriate vehicles such as electric carts or small utility vehicles instead of trucks, or
 - j. Apply and maintain pavement or cement feed lanes.
- C. A commercial beef cattle feedlot shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 - 1. Arenas, Corrals, and Pens:
 - a. Concrete aprons,
 - b. Provide shade in corral,
 - c. Add moisture to pen surface,
 - d. Manure removal,
 - e. Pile manure between cleanings,
 - f. Feed higher moisture feed to beef cattle,
 - g. Control cattle during movements,
 - h. Use drag equipment to maintain pens,
 - i. Apply a fibrous layer, or
 - j. Wind barrier.
 - 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to beef cattle,
 - b. Add molasses or tallow to feed,
 - c. Store and maintain feed stock,
 - d. Bulk materials,
 - e. Use drag equipment to maintain pens,
 - f. Cover manure hauling trucks, or
 - g. Do not load manure when wind exceeds 15 mph.
 - 3. Unpaved Access Connections:
 - a. Install and maintain a track-out control device,
 - b. Apply and maintain pavement in high traffic areas,
 - c. Apply and maintain aggregate cover,
 - d. Apply and maintain synthetic particulate suppressant, or
 - e. Apply and maintain water as a dust suppressant.
 - 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,

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- f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant, or
 - i. Apply and maintain oil on roads or feed lanes.
- D.** A commercial poultry facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens (Housing):
 - a. Clean fans, louvers, and soffit inlets in a commercial poultry facility,
 - b. Use no bedding,
 - c. Control vegetation on building exteriors;
 - d. Add moisture through ventilation systems, or
 - e. House in fully enclosed ventilated buildings.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to the feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean floors and walls in a commercial poultry facility,
 - i. Clean aisles between cage rows,
 - j. Stack separated manure solids, or
 - k. Maintain moisture in manure solids.
 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system, or
 - d. Install signage to limit vehicle speed to 15 mph.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water, or
 - h. Apply and maintain oil on roads or feed lanes.
- E.** A commercial swine facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens (Housing):
 - a. House in fully enclosed ventilated buildings,
 - b. Use no bedding,
 - c. Use a slatted floor system,
 - d. Use sloped concrete flooring,
 - e. Clean fans, louvers, and soffit inlets in a commercial swine facility,
 - f. Control vegetation on building exteriors, or
 - g. Add moisture through ventilation systems.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean pens, floors, and walls in a commercial swine facility,
 - i. Clean aisles between pens and stalls,
 - j. Store separated manure solids in a wind-blocked area,
 - k. Stack separated manure solids,
 - l. Maintain moisture in manure solids, or
 - m. Maintain liquid lagoon level.
 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system,
 - d. Install signage to limit vehicle speed to 15 mph.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water,
 - h. Apply and maintain oil on roads or feed lanes, or
 - i. Wind barrier.
- F.** From and after December 31, 2015, a commercial animal operator who engages in a regulated agricultural activity shall complete a Best Management Practices Program General Permit Record Form. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial animal operator. The Best Management Practices Program General Permit Record Form shall include the following information:
1. The name of the commercial animal operator, signature, and date signed,
 2. The mailing address or physical address of the commercial animal operation, and
 3. The best management practices selected for Arenas, Corrals, and Pens, Animal Waste Handling and Transporting, Unpaved Access Connections, and Unpaved Roads or Feed Lanes.
- G.** Beginning January 1, 2016, a commercial animal operator shall maintain records demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice and any changes to the best management practices. Records shall be kept by the commercial animal operator onsite and made available for review by the Director within two business days of notice to the commercial animal operator.
- H.** A person may develop different practices not contained in subsection (B), (C), (D), or (F) that reduce PM and may submit such practices that are proven effective through on-operation demonstration trials to the Committee. The new best management practices shall not become effective unless submitted as described in A.R.S. § 49-457(L).
- I.** The Director shall not assess a fee to a commercial animal operator for coverage under the agricultural PM general permit.
- J.** A commercial animal operator shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.

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- K. The Director shall document noncompliance with this Section before issuing a compliance order.
- L. A commercial animal operator who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

Historical Note

New Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-611.03. Agricultural PM General Permit for Animal Operations; Pinal County PM Nonattainment Area

- A. A commercial animal operator within the Pinal County PM Nonattainment Area shall implement at least one best management practice from each of the categories identified in subsection (D)(5) and (E)(5) and two best management practices from each of the other categories to reduce PM emissions.
- B. In addition to subsection (A), on the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, commercial dairy operations within the Pinal County PM Nonattainment Area shall apply and maintain one of the four following BMPs on unpaved roads that experience more than 20 VDT from two or more axle vehicles:
 - 1. Apply and maintain pavement in high traffic areas,
 - 2. Apply and maintain aggregate cover,
 - 3. Apply and maintain synthetic particulate suppressant, or
 - 4. Apply and maintain water as a dust suppressant.
- C. In addition to subsection (A), commercial beef feedlots within the Pinal County PM Nonattainment Area, shall add water to pen surface, as defined in R18-2-611(3)(a), on the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast.
- D. A commercial dairy operation shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 - 1. Arenas, Corrals, and Pens:
 - a. Use free stall housing,
 - b. Provide shade in corral,
 - c. Provide cooling in corral,
 - d. Cement cattle walkways to milk barn,
 - e. Groom manure surface,
 - f. Water misting systems,
 - g. Use drag equipment to maintain pens,
 - h. Pile manure between cleanings,
 - i. Feed green chop,
 - j. Keep calves in barns or hutches,
 - k. Do not run cattle,
 - l. Apply a fibrous layer, or
 - m. Wind barrier.
 - 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to dairy cattle,
 - b. Store and maintain feed stock,
 - c. Covers for silage,
 - d. Store silage in bunkers,
 - e. Cover manure hauling trucks, or
 - f. Do not load manure trucks with dry manure when wind exceeds 15 mph.
 - 3. Unpaved Access Connections:
 - a. Install signage to limit vehicle speed to 15 mph,
 - b. Install speed control devices,
 - c. Restrict access to through traffic,
 - d. Install and maintain a track-out control device,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant, or
 - h. Apply and maintain water as a dust suppressant.
- E. A commercial beef cattle feedlot shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 - 1. Arenas, Corrals, and Pens:
 - a. Concrete aprons,
 - b. Provide shade in corral,
 - c. Add water to pen surface,
 - d. Manure removal,
 - e. Pile manure between cleanings,
 - f. Feed higher moisture feed to beef cattle,
 - g. Control cattle during movements,
 - h. Use drag equipment to maintain pens,
 - i. Apply a fibrous layer, or
 - j. Wind barrier.
 - 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to beef cattle;
 - b. Add molasses or tallow to feed,
 - c. Store and maintain feed stock,
 - d. Bulk materials,
 - e. Use drag equipment to maintain pens,
 - f. Cover manure hauling trucks, or
 - g. Do not load manure when wind exceeds 15 mph.
 - 3. Unpaved Access Connections:
 - a. Install and maintain a track-out control device,
 - b. Apply and maintain pavement in high traffic areas,
 - c. Apply and maintain aggregate cover,
 - d. Apply and maintain synthetic particulate suppressant, or
 - e. Apply and maintain water as a dust suppressant.
 - 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant, or

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- i. Apply and maintain oil on roads or feed lanes.
 5. Unpaved Vehicle or Equipment Traffic Area:
 - a. Apply and maintain aggregate cover,
 - b. Apply and maintain synthetic particulate suppressant,
 - c. Apply and maintain water as a dust suppressant, or
 - d. Use appropriate vehicles such as electric carts or small utility vehicles instead of trucks.
- F. A commercial poultry facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 1. Arenas, Corrals, and Pens (Housing):
 - a. Clean fans, louvers, and soffit inlets in a commercial poultry facility,
 - b. Use no bedding,
 - c. Control vegetation on building exteriors,
 - d. Add moisture through ventilation systems, or
 - e. House in fully enclosed ventilated buildings.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to the feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean floors and walls in a commercial poultry facility,
 - i. Clean aisles between cage rows,
 - j. Stack separated manure solids, or
 - k. Maintain moisture in manure solids.
 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system, or
 - d. Install signage to limit vehicle speed to 15 mph.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water,
 - h. Apply and maintain oil on roads or feed lanes, or
 - i. Wind barrier.
- G. A commercial swine facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
 1. Arenas, Corrals, and Pens (Housing):
 - a. House in fully enclosed ventilated buildings,
 - b. Use no bedding,
 - c. Use a slatted floor system,
 - d. Use sloped concrete flooring,
 - e. Clean fans, louvers, and soffit inlets in a commercial swine facility,
 - f. Control vegetation on building exteriors, or
 - g. Add moisture through ventilation systems.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean pens, floors, and walls in a commercial swine facility,
 - i. Clean aisles between pens and stalls,
 - j. Store separated manure solids in a wind-blocked area,
 - k. Stack separated manure solids,
 - l. Maintain moisture in manure solids, or
 - m. Maintain liquid lagoon level.
 3. Unpaved Access Connections:
 - a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system,
 - d. Install signage to limit vehicle speed to 15 mph.
 4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water,
 - h. Apply and maintain oil on roads or feed lanes, or
 - i. Wind barrier.
- H. From and after December 31, 2015, a commercial animal operator who engages in a regulated agricultural activity shall complete a Best Management Practices Program General Permit Record Form. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial animal operator. The Best Management Practices Program General Permit Record Form shall include the following information:
 1. The name of the commercial animal operator, signature, and date signed,
 2. The mailing address or physical address of the commercial animal operation, and
 3. The best management practices selected for Arenas, Corrals, and Pens, Animal Waste Handling and Transporting, Unpaved Access Connections, and Unpaved Roads or Feed Lanes.
- I. Beginning in calendar year 2017, and no more than once every subsequent three calendar years, the Director shall provide the commercial animal operator with a Best Management Practices Program Three-year Survey. The commercial animal operator shall complete the Survey with data from the preceding calendar year and submit the Survey to the Arizona Department of Agriculture (ADA) by January 31, 2018, and every three years thereafter. The Survey information submitted to the ADA shall be compiled by the ADA in a format that does not refer to a commercial animal operator's name, shall aggregate the data from the Surveys received, and be submitted to the Department. The Three-year Survey shall include the following information:
 1. The name, business address, and phone number of the commercial farmer responsible for the preparation and implementation of the best management practices;
 2. The signature of the commercial farmer and the date the form was signed;

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3. The number of animals in a commercial dairy operation, beef cattle feed lot, poultry facility or swine facility;
 4. The total miles of unpaved roads at the commercial dairy operation, beef cattle feed lot, poultry facility or swine facility;
 5. The total acreage of the unpaved access connections and equipment areas at the commercial dairy operation, beef cattle feed lot, poultry facility or swine facility;
 6. The best management practices selected for each category; and
 7. For commercial dairy operations and beef cattle feedlots, an acknowledgment that water was applied on the day of a high risk day as predicted by the Pinal County Dust Control Forecast.
- J.** Beginning January 1, 2016, a commercial animal operator shall maintain records demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice and any changes to the best management practices. Records shall be kept by the commercial animal operator onsite and made available for review by the Director within two business days of notice to the commercial animal operator.
- K.** A person may develop different practices not contained in subsections (D), (E), (F), or (G) that reduce PM and may submit such practices that are proven effective through on-operation demonstration trials to the Committee.
- L.** The Director shall not assess a fee to a commercial animal operator for coverage under the agricultural PM general permit.
- M.** A commercial animal operator shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- N.** The Director shall document noncompliance with this Section before issuing a compliance order.
- O.** A commercial animal operator who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(J), (K), and (L).
- Historical Note**
- New Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3). Amended by final exempt rulemaking at 27 A.A.R. 2747 (November 26, 2021), with an immediate effective date of November 3, 2021 (Supp. 21-4).
- R18-2-612. Definitions for R18-2-612.01**
- The definitions in R18-2-101 and the following definitions apply to R18-2-612.01:
1. "Access restriction" means reducing PM emission by reducing the number of trips driven on unpaved operation and maintenance and unpaved utility roads by restricting or eliminating public access by the use of signs or physical obstruction at locations that effectively control access to roads.
 2. "Aggregate cover" means reducing PM emissions, wind erosion and stabilizing soil by applying and maintaining gravel, concrete, recycled road base, caliche, or other similar material to unpaved roads. The aggregate should be clean, hard and durable, and should be applied a depth sufficient to create soil stabilization in accordance with material specifications. A minimum depth of three inches is the standard in the absence of such specifications.
 3. "Apply and maintain water" means reducing PM emissions and wind erosion by applying water to bare soil surfaces until the surfaces are visibly moist.
 4. "Best management practice" means a technique verified by scientific research, that on a case-by-case basis is practical, economically feasible, and effective in reducing PM emissions from a regulated agricultural activity.
 5. "Biological control of aquatic weeds" means reducing at least one trip, or to one trip if only one trip is needed, per treatment, made by vehicles for the purposes of removing aquatic weeds from canals by using fish, and other biologic means, within the canal through the use of to control the growth of aquatic weeds that reduce operating capacities and create debris that causes other operational issues.
 6. "Canals" means facilities constructed for the sole purpose of the control, conveyance, and delivery of water. These facilities may be either open earthen channels, lined or unlined, or buried pipelines, which are used to convey water uphill and under obstructions, such as roadways and wash and river channels. These facilities include, but are not limited to, gate, inlet, outlet, safety, and measuring structures required to control water along the canals and deliver water to irrigation district customers, as well as compacted earthen banks constructed to protect these facilities from storm runoff events.
 7. "Committee" means the Governor's Agricultural Best Management Practices Committee.
 8. "Debris" means trash, rubble, and other non-soil materials.
 9. "Dredge canals" means reducing PM emissions by mechanically removing muck, debris, and other foreign objects from canals while material is still wet or damp.
 10. "Dust Control Forecast" means a forecast, which shall identify a low, moderate or high risk of dust generation for the next five consecutive days and shall be issued by noon on each day the forecast is generated. When developing these forecasts, the Department shall consider all of the following:
 - a. Projected meteorological conditions, including:
 - i. Wind speed and direction,
 - ii. Stagnation,
 - iii. Recent precipitation, and
 - iv. Potential for precipitation;
 - b. Existing concentrations of air pollution at the time of the forecast; and
 - c. Historic air pollution concentrations that have been observed during meteorological conditions similar to those that are predicted to occur in the forecast.
 11. "Earth materials" means natural materials covering the ground surface, which includes, but are not limited to, dirt, rocks, or soil.
 12. "Grading roadways" means mechanically smoothing and compacting the roadway surface.
 13. "Irrigation District" means a political subdivision, governed by A.R.S. Title 48, Chapter 19.
 14. "Limit activity" means performing only critical operational or emergency activity on a day forecast to be high risk for dust generation as forecasted by the Pinal County Dust Control Forecast.
 15. "Major earth moving activities" means the mechanical movement of earth materials to reconstruct, relocate, reshape, reconfigure canals, including operation and maintenance roads and utility access roads.

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16. "Maricopa PM nonattainment area" means the Phoenix planning area as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210.
17. "Minor earth moving activities" means the mechanical movement of earth materials to repair and maintain the existing configuration, location, bank slopes, or inclines of canals.
18. "Muck" means water that is saturated with mud, dirt, and soil, which accumulates over time along the bottom of canals.
19. "Paved Public Road" means any paved roadways that are open to public travel and maintained by a City, County, or the State.
20. "Pinal County PM Nonattainment Area" means the West Pinal PM10 planning area and the West Central PM2.5 planning area, as defined in 40 CFR 81.303, and incorporated by reference in R18-2-210.
21. "PM" includes both particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR 50 Appendix L, or by an equivalent method designated according to 40 CFR 53; and particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method contained within 40 CFR 50, Appendix J or by an equivalent method designated in accordance with 40 CFR 53, as incorporated by reference in Appendix 2.
22. "Reduce vehicle speed" means reducing PM emissions and soil erosion from the use of vehicles owned or operated by the irrigation district on unpaved operation, maintenance, and utility access roads, at speeds not to exceed 25 mph. This can be achieved through worker behavior modifications, signage, or any other necessary means.
23. "Regulated agricultural activity" means activities of an irrigation district, which affects those lands and facilities that are under the jurisdiction and control of an irrigation district, as described in A.R.S. §§ 49-457(P)(1)(f) and 49-457(P)(5)(b).
24. "Regulated area" means a regulated area as defined in A.R.S. § 49-457(P)(6)(c).
25. "Sediment" means muck that has dried after removal from canals.
26. "Supervisory control system" means a system that allows the irrigation district to control operational structures from a remote computer location in order to reduce at least one trip made by vehicles to access structures for operational purposes.
27. "Synthetic or natural particulate suppressant" means reducing PM emissions and wind erosion by providing a stabilized soil surface with organic material, such as muck, animal waste or biosolids, or with a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, an emulsion of a petroleum product, an enzyme product, or polyacrylamide.
28. "Track-out control system" means minimizing any and all material that adheres to and agglomerates on all vehicles and equipment and falls onto paved public roads or shoulders to paved public roads by using a device or system to remove mud or soil from a vehicle or equipment before the vehicle enters a paved public road. Devices such as a grizzly, a gravel pad or a wheel wash system can be used.
29. "Unauthorized use" means any travel or access by non-district personnel in non-district vehicles along roadways under the control of an irrigation district without the permission of the irrigation district.
30. "Unpaved operation and maintenance roads" means unpaved roadways that lay adjacent to canals, which provide access for irrigation district personnel and equipment for direct operation and maintenance of canals, and are under the control of the irrigation district.
31. "Unpaved utility access roads" means unpaved roadways used to provide access to canals, and also includes office and shop facilities, equipment yards, staging areas and other lands under the control of the irrigation district.
32. "Weed management" means reducing at least one trip made by vehicles for the purposes of removing weeds by using a combination of techniques, including organic, chemical, or biological means, to control weeds along canal banks and land surfaces not used for conveying water, excluding unpaved roadways.
33. "Wind barrier" means reducing PM10 emissions and wind erosion by constructing a fence or structure, or providing a woody vegetative barrier by planting a row of trees or shrubs, perpendicular or across the prevailing wind direction to reduce wind speed by changing the pattern of air flow over the land surface. For fences and structures, the wind barrier shall have a density of no less than 50% and the height of the wind barrier must be proportionate to the downwind protected area. The downwind protected area is considered ten times the height of the wind barrier. For vegetative barriers, compliance shall be determined by NRCS Conservation Practice Standard, Code 380, Windbreak/Shelterbelt Establishment, amended through August 21, 2009 (and no future editions).

Historical Note

New Section R18-2-612 renumbered from R18-2-610 at 6 A.A.R. 2009, effective May 12, 2000 (Supp. 00-2). Former Section R18-2-612 renumbered to R18-2-614; new Section R18-2-612 made by final rulemaking at 11 A.A.R. 2210, effective July 18, 2005 (Supp. 05-2). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-612.01. Agricultural PM General Permit For Irrigation Districts; PM Nonattainment Areas Designated After June 1, 2009

- A. An irrigation district within a PM Nonattainment Area, designated after June 1, 2009, shall implement at least one best management practice from each of the following categories to reduce PM emissions:
 1. Unpaved operation and maintenance roads:
 - a. Access restriction,
 - b. Apply and maintain aggregate cover,
 - c. Install supervisory control system to limit vehicle travel,
 - d. Limit activity,
 - e. Install signage to limit vehicle speed to 25 mph,
 - f. Post warning signs for unauthorized use at point of entry to roads,
 - g. Reduce vehicle speed,
 - h. Install and maintain a track-out control system,
 - i. Apply and maintain synthetic or natural particulate suppressant,
 - j. Apply and maintain water before, during, and after major and minor earth moving activities,

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- k. Apply and maintain water when grading roadways,
 - l. Use paved non-district or paved public roads to access structures, or
 - m. Install wind barriers.
2. Canals:
- a. Dredge canals while muck or debris is still wet,
 - b. Dispose of muck or debris while still damp,
 - c. Weed management,
 - d. Biological control of aquatic weeds, or
 - e. Apply and maintain water before, during and after major and minor earth moving activities.
3. Unpaved utility access roads:
- a. Access restriction,
 - b. Apply and maintain aggregate cover,
 - c. Limit activity,
 - d. Install signage to limit vehicle speed to 25 mph,
 - e. Post warning signs for unauthorized use at points of entry to roads,
 - f. Reduce vehicle speed,
 - g. Install and maintain a track-out control system,
 - h. Apply and maintain pavement,
 - i. Apply and maintain synthetic or natural particulate suppressant,
 - j. Apply and maintain water before, during and after major and minor earth moving activities,
 - k. Apply and maintain water when grading roadways,
 - l. Use paved non-district or paved public roads to access structures, or
 - m. Install wind barriers.
- B.** From and after December 31, 2015, an irrigation district engaged in a regulated agricultural activity shall complete a Best Management Practices Program General Permit Record Form. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the irrigation district. The Best Management Practice Program General Permit Record form shall include the following information:
- 1. The name, business address, and the irrigation district representative responsible for the preparation and implementation of the best management practices;
 - 2. The signature of the irrigation district representative and the date the form was signed; and
 - 3. The best management practice selected for unpaved operation and utility roads, canals, and unpaved utility access roads.
- C.** Beginning in calendar year 2017, and no more than once every subsequent three calendar years, the Director, in conjunction with the Arizona Department of Agriculture, shall provide the irrigation district with a Best Management Practices Program Three-year Survey. The irrigation district shall complete the Survey with data from the preceding calendar year and submit the Survey to the Arizona Department of Agriculture (ADA) by January 31, 2018, and every three years thereafter. The Survey information submitted to the ADA shall be compiled by the ADA then be submitted to the Department. The Three-year Survey shall include the following information:
- 1. The name, business address, and phone number of the irrigation district representative responsible for the preparation and implementation of the best management practices;
 - 2. The signature of the irrigation district representative and the date the form was signed;
- 3. The total miles of canals that the irrigation district controls;
 - 4. The total miles of unpaved operation and maintenance roads;
 - 5. The total miles of the unpaved utility access roads; and
 - 6. The best management practices selected for unpaved operation and utility roads, canals, and unpaved utility access roads.
- D.** Records of any changes to those Best Management Practices shall be noted on the Best Management Practices Program General Permit Record Form and shall be kept by the irrigation district onsite and made available for review by the Director within two business days of notice to the irrigation district by the Department.
- E.** An irrigation district may develop different practices not contained in either of the categories of subsections (A)(1), (A)(2), or (A)(3) that reduce PM and may submit such practices that are proven effective through in-district trials. The proposed new practices shall not become effective unless submitted as described in A.R.S. § 49-457(L).
- F.** An irrigation district shall maintain a record demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form to confirm implementation of each best management practice.
- G.** The Director shall not assess a fee to an irrigation district for coverage under the agricultural PM general permit.
- H.** An irrigation district shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- I.** The Director shall document noncompliance with this Section before issuing a compliance order.
- J.** An irrigation district that is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(I), (J), and (K).

Historical Note

New Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-613. Definitions for R18-2-613.01

- 1. "Access restriction" means restricting or eliminating public access to noncropland with signs or physical obstruction.
- 2. "Aggregate cover" means gravel, concrete, recycled road base, caliche, or other similar material applied to non-cropland.
- 3. "Artificial wind barrier" means a physical barrier to the wind.
- 4. "Bed row spacing" means increasing or decreasing the size of a planting bed area to reduce the number of passes and soil disturbance by increasing plant density.
- 5. "Best management practice" means a technique verified by scientific research, that on a case-by-case basis is practical, economically feasible, and effective in reducing PM10 emissions from a regulated agricultural activity.
- 6. "Chemical irrigation" means applying a fertilizer, pesticide, or other agricultural chemical to cropland through an irrigation system.
- 7. "Combining tractor operations" means performing two or more tillage, cultivation, planting, or harvesting operations with a single tractor or harvester pass.
- 8. "Commercial farm" means 10 or more contiguous acres of land used for agricultural purposes within the boundary of the Yuma PM10 nonattainment area.

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9. "Commercial farmer" means an individual, entity, or joint operation in general control of a commercial farm.
10. "Conservation irrigation" means the use of drips, sprinklers, or underground lines to conserve water, and to reduce the weed population, the need for tillage, and soil compaction.
11. "Conservation tillage" means types of tillage that reduce the number of passes and the amount of soil disturbance.
12. "Cover crop" means plants or a green manure crop grown for seasonal soil protection or soil improvement.
13. "Critical area planting" means using trees, shrubs, vines, grasses, or other vegetative cover on noncropland.
14. "Cropland" means land on a commercial farm that:
 - a. Is within the time-frame of final harvest to plant emergence;
 - b. Has been tilled in a prior year and is suitable for crop production, but is currently fallow; or
 - c. Is a turn-row.
15. "Cross-wind ridges" means soil ridges formed by a tillage operation.
16. "Cross-wind strip-cropping" means planting strips of alternating crops within the same field.
17. "Cross-wind vegetative strips" means herbaceous cover established in one or more strips within the same field.
18. "Equipment modification" means modifying agricultural equipment to prevent or reduce particulate matter generation from cropland.
19. "Limited activity during a high-wind event" means performing no tillage or soil preparation activity when the measured wind speed at 6 feet in height is more than 25 mph at the commercial farm site.
20. "Manure application" means applying animal waste or biosolids to a soil surface.
21. "Mulching" means applying plant residue or other material that is not produced onsite to a soil surface.
22. "Multi-year crop" means a crop, pasture, or orchard that is grown, or will be grown, on a continuous basis for more than one year.
23. "Night farming" means performing regulated agricultural activities at night when moisture levels are higher and winds are lighter.
24. "Noncropland" means any commercial farmland that:
 - a. Is no longer used for agricultural production;
 - b. Is no longer suitable for production of crops;
 - c. Is subject to a restrictive easement or contract that prohibits use for the production of crops; or
 - d. Includes a private farm road, ditch, ditch bank, equipment yard, storage yard, or well head.
25. "Permanent cover" means a perennial vegetative cover on cropland.
26. "Planting based on soil moisture" means applying water to soil before performing planting operations.
27. "Precision farming" means use of satellite navigation to calculate position in the field, to reduce overlap during field operations, and allow operations to occur during nighttime and inclement weather, thus generating less PM₁₀.
28. "Reduce vehicle speed" means operating farm vehicles or farm equipment on unpaved farm roads at speeds not to exceed 20 mph.
29. "Reduced harvest activity" means reducing the number of harvest passes using a mechanized method to cut and remove crops from a field.
30. "Regulated agricultural activity" means a commercial farming practice that may produce PM₁₀ within the Yuma PM₁₀ nonattainment area.
31. "Residue management" means managing the amount and distribution of crop and other plant residues on a soil surface.
32. "Sequential cropping" means growing crops in a sequence that minimizes the amount of time bare soil is exposed on a field.
33. "Surface roughening" means manipulating a soil surface to produce or maintain clods.
34. "Synthetic particulate suppressant" means a manufactured product such as lignosulfate, calcium chloride, magnesium chloride, and polyacrylamide, an emulsion of a petroleum product, and an enzyme product that is used to control particulate matter.
35. "Tillage and harvest" means any mechanical practice that physically disturbs cropland or crops on a commercial farm.
36. "Tillage based on soil moisture" means applying water to soil before or during tillage, or delaying tillage to coincide with precipitation.
37. "Timing of a tillage operation" means performing tillage operations at a time that will minimize the soil's susceptibility to generate PM₁₀.
38. "Transgenic crops" means the use of genetically modified crops such as "herbicide ready" crops, which reduces the need for tillage or cultivation operations, and reduces soil disturbance.
39. "Track-out control system" means a device to remove mud or soil from a vehicle before the vehicle enters a paved public road.
40. "Tree, shrub, or windbreak planting" means providing a woody vegetative barrier to the wind.
41. "Watering" means applying water to noncropland.
42. "Yuma PM₁₀ nonattainment area" means the Yuma PM₁₀ planning area as defined in 40 CFR 81.303, which is incorporated by reference in R18-2-210.

Historical Note

New Section made by final rulemaking at 11 A.A.R. 2210, effective July 18, 2005 (Supp. 05-2). Section R18-2-313 renumbered to R18-2-313.01; new Section made by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-613.01. Yuma PM₁₀ Nonattainment Area; Agricultural Best Management Practices

- A. A commercial farmer shall comply with this Section by August 1, 2005.
- B. A commercial farmer who begins a regulated agricultural activity after August 1, 2005, shall comply with this Section within 60 days after beginning the regulated agricultural activity.
- C. A commercial farmer shall implement at least one of the best management practices from each of the following categories at each commercial farm:
 1. Tillage and harvest, subsection (E);
 2. Noncropland, subsection (F); and
 3. Cropland, subsection (G).
- D. A commercial farmer shall ensure that the implementation of each selected best management practice does not violate any other local, state, or federal law.

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- E. A commercial farmer shall implement at least one of the following best management practices to reduce PM₁₀ emissions from tillage and harvest:

1. Bed row spacing,
2. Chemical irrigation,
3. Combining tractor operations,
4. Conservation irrigation,
5. Conservation tillage,
6. Equipment modification,
7. Limited activity during a high-wind event,
8. Multi-year crop,
9. Night farming,
10. Planting based on soil moisture,
11. Precision farming,
12. Reduced harvest activity,
13. Tillage based on soil moisture,
14. Timing of a tillage operation, or
15. Transgenic crops.

- F. A commercial farmer shall implement at least one of the following best management practices to reduce PM₁₀ emissions from noncropland:

1. Access restriction;
2. Aggregate cover;
3. Artificial wind barrier;
4. Critical area planting;
5. Manure application;
6. Reduce vehicle speed;
7. Synthetic particulate suppressant;
8. Track-out control system;
9. Tree, shrub, or windbreak planting; or
10. Watering.

- G. A commercial farmer shall implement at least one of the following best management practices to reduce PM₁₀ emissions from cropland:

1. Artificial wind barrier;
2. Cover crop;
3. Cross-wind ridges;
4. Cross-wind strip-cropping;
5. Cross-wind vegetative strips;
6. Manure application;
7. Mulching;
8. Multi-year crop;
9. Permanent cover;
10. Planting based on soil moisture;
11. Precision farming;
12. Residue management;
13. Sequential cropping;
14. Surface roughening; or
15. Tree, shrub, or windbreak planting.

- H. A person may develop different practices not contained in subsections (E), (F), or (G) that reduce PM₁₀. A person may submit practices that are proven effective through demonstration trials to the Director. The Director shall review the submitted practices.

- I. A commercial farmer shall maintain records demonstrating compliance with this Section. The commercial farmer shall provide the records to the Director within two business days of written notice to the commercial farmer. The records shall contain:

1. The name of the commercial farmer,
2. The mailing address or physical location of the commercial farm, and
3. The best management practices selected for tillage and harvest, noncropland, and cropland by the commercial

farmer, and the date each best management practice was implemented.

Historical Note

New Section R18-2-313.01 renumbered from Section R18-2-313 by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3).

R18-2-614. Evaluation of Nonpoint Source Emissions

Opacity of an emission from any nonpoint source shall not be greater than 40% measured according to the 40 CFR 60, Appendix A, Reference Method 9. An open fire permitted under R18-2-602 or regulated under Article 15 is exempt from this requirement.

Historical Note

Section R18-2-614 renumbered from R18-2-612; amended by final rulemaking at 11 A.A.R. 2210, effective July 18, 2005 (Supp. 05-2). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

ARTICLE 7. EXISTING STATIONARY SOURCE PERFORMANCE STANDARDS**R18-2-701. Definitions**

For purposes of this Article:

1. "Acid mist" means sulfuric acid mist as measured in the Arizona Testing Manual and 40 CFR 60, Appendix A.
2. "Architectural coating" means a coating used commercially or industrially for residential, commercial or industrial buildings and their appurtenances, structural steel, and other fabrications such as storage tanks, bridges, beams and girders.
3. "Asphalt concrete plant" means any facility used to manufacture asphalt concrete by heating and drying aggregate and mixing with asphalt cements. This is limited to facilities, including drum dryer plants that introduce asphalt into the dryer, which employ two or more of the following processes:
 - a. A dryer.
 - b. Systems for screening, handling, storing, and weighing hot aggregate.
 - c. Systems for loading, transferring, and storing mineral filler.
 - d. Systems for mixing asphalt concrete.
 - e. The loading, transferring, and storage systems associated with emission control systems.
4. "Black liquor" means waste liquor from the brown stock washer and spent cooking liquor which have been concentrated in the multiple-effect evaporator system.
5. "Calcine" means the solid materials produced by a lime plant.
6. "Coal" means any solid fuel classified as anthracite, bituminous, subbituminous, or lignite by the ASTM Method D388-05 "Standard Classification of Coals by Rank" and coal refuse. Synthetic fuels derived from coal for the purpose of creating useful heat including but not limited to, coal derived gases (not meeting the definition of natural gas), solvent-refined coal, coal-oil mixtures, and coal-water mixtures, are considered "coal" for the purposes of this subpart.
7. "Coal refuse" means any by-product of coal mining, physical coal cleaning, and coal preparation operations (e.g., culm, gob, etc.) containing coal, matrix material, clay, and other organic and inorganic material with an ash content greater than 50 percent (by weight) and a heating

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- value less than 13,900 kilojoules per kilogram (6,000 Btu per pound) on a dry basis.
8. "Concentrate" means enriched copper ore recovered from the froth flotation process.
 9. "Concentrate dryer" means any facility in which a copper sulfide ore concentrate charge is heated in the presence of air to eliminate a portion of the moisture from the charge, provided less than 5% of the sulfur contained in the charge is eliminated in the facility.
 10. "Concentrate roaster" means any facility in which a copper sulfide ore concentrate is heated in the presence of air to eliminate 5% or more of the sulfur contained in the charge.
 11. "Condensate stripper system" means a column, and associated condensers, used to strip, with air or steam, TRS compounds from condensate streams from various processes within a kraft pulp mill.
 12. "Control device" means the air pollution control equipment used to remove particulate matter or gases generated by a process source from the effluent gas stream.
 13. "Converter" means any vessel to which copper matte is charged and oxidized to copper.
 14. "Electric generating plant" means all electric generating units located at a stationary source.
 15. "Electric generating unit" means a combustion unit of more than 25 megawatts electric that serves a generator that produces electricity for sale and that burns coal for more than 10.0 percent of the average annual heat input during any three consecutive calendar years or for more than 15.0 percent of the annual heat input during any one calendar year. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electric output to any utility power distribution system for sale is considered an electric generating unit.
 16. "Existing source" means any source which does not have an applicable new source performance standard under Article 9 of this Chapter.
 17. "Facility" means an identifiable piece of stationary process equipment along with all associated air pollution equipment.
 18. "Federal mercury standards" means the emissions limits, monitoring, testing, recordkeeping, reporting and notification requirements applicable or relating to emissions of mercury from electric generating units under 40 CFR Part 63, Subpart UUUUU.
 19. "Fugitive dust" means fugitive emissions of particulate matter.
 20. "High sulfur oil" means fuel oil containing 0.90% or more by weight of sulfur.
 21. "Inlet mercury" means the average concentration of mercury in the coal burned at an electric generating unit, as determined by ASTM methods, EPA-approved methods or alternative methods approved by the Director.
 22. "Lime kiln" means a unit used to calcinate lime rock or kraft pulp mill lime mud, which consists primarily of calcium carbonate, into quicklime, which is calcium oxide.
 23. "Low sulfur oil" means fuel oil containing less than 0.90% by weight of sulfur.
 24. "Matte" means a metallic sulfide made by smelting copper sulfide ore concentrate or the roasted product of copper sulfide ores.
 25. "Mercury" means mercury or mercury compounds in either a gaseous or particulate form.
 26. "Miscellaneous metal parts and products" for purposes of industrial coating include all of the following:
 - a. Large farm machinery, such as harvesting, fertilizing and planting machines, tractors, and combines;
 - b. Small farm machinery, such as lawn and garden tractors, lawn mowers, and rototillers;
 - c. Small appliances, such as fans, mixers, blenders, crock pots, dehumidifiers, and vacuum cleaners;
 - d. Commercial machinery, such as office equipment, computers and auxiliary equipment, typewriters, calculators, and vending machines;
 - e. Industrial machinery, such as pumps, compressors, conveyor components, fans, blowers, and transformers;
 - f. Fabricated metal products, such as metal-covered doors and frames;
 - g. Any other industrial category which coats metal parts or products under the Code in the "Standard Industrial Classification Manual, 1987" of Major Group 33 (primary metal industries), Major Group 34 (fabricated metal products), Major Group 35 (non-electric machinery), Major Group 36 (electrical machinery), Major Group 37 (transportation equipment), Major Group 38 (miscellaneous instruments), and Major Group 39 (miscellaneous manufacturing industries), except all of the following:
 - i. Automobiles and light-duty trucks;
 - ii. Metal cans;
 - iii. Flat metal sheets and strips in the form of rolls or coils;
 - iv. Magnet wire for use in electrical machinery;
 - v. Metal furniture;
 - vi. Large appliances;
 - vii. Exterior of airplanes;
 - viii. Automobile refinishing;
 - ix. Customized top coating of automobiles and trucks, if production is less than 35 vehicles per day;
 - x. Exterior of marine vessels.
 27. "Multiple-effect evaporator system" means the multiple-effect evaporators and associated condenser and hotwell used to concentrate the spent cooking liquid that is separated from the pulp.
 28. "Neutral sulfite semichemical pulping" means any operation in which pulp is produced from wood by cooking or digesting wood chips in a solution of sodium sulfite and sodium bicarbonate, followed by mechanical defibrating or grinding.
 29. "Petroleum liquids" means petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils as specified in ASTM D396-90a (Specification for Fuel Oils), gas turbine fuel oils Numbers 2-GT through 4-GT as specified in ASTM D2880-90a (Specification for Gas Turbine Fuel Oils), or diesel fuel oils Numbers 2-D and 4-D as specified in ASTM D975-90 (Specification for Diesel Fuel Oils).
 30. "Potential electric output capacity" means 33% of a unit's maximum design heat input, divided by 3,413 Btu per kilowatt-hour, divided by 1,000 kilowatt-hours per megawatt-hour, and multiplied by 8,760 hours per year.
 31. "Process source" means the last operation or process which produces an air contaminant resulting from either:

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- a. The separation of the air contaminants from the process material, or
 - b. The conversion of constituents of the process materials into air contaminants which is not an air pollution abatement operation.
32. "Process weight" means the total weight of all materials introduced into a process source, including fuels, where these contribute to pollution generated by the process.
 33. "Process weight rate" means a rate established pursuant to R18-2-702(E).
 34. "Recovery furnace" means the unit, including the direct-contact evaporator for a conventional furnace, used for burning black liquor to recover chemicals consisting primarily of sodium carbonate and sodium sulfide.
 35. "Reid vapor pressure" means the absolute vapor pressure of volatile crude oil and volatile non-viscous petroleum liquids, except liquified petroleum gases, as determined by ASTM D-323-90 (Test Method for Vapor Pressure of Petroleum Products) (Reid Method).
 36. "Reveratory smelting furnace" means any vessel in which the smelting of copper sulfide ore concentrates or calcines is performed and in which the heat necessary for smelting is provided primarily by combustion of a fossil fuel.
 37. "Rotary lime kiln" means a unit with an included rotary drum which is used to produce a lime product from limestone by calcination.
 38. "Slag" means fused and vitrified matter separated during the reduction of a metal from its ore.
 39. "Smelt dissolving tank" means a vessel used for dissolving the smelt collected from the kraft mill recovery furnace.
 40. "Smelter feed" means all materials utilized in the operation of a copper smelter, including metals or concentrates, fuels and chemical reagents, calculated as the aggregate sulfur content of all fuels and other feed materials whose products of combustion and gaseous by-products are emitted to the atmosphere.
 41. "Smelting" means processing techniques for the smelting of a copper sulfide ore concentrate or calcine charge leading to the formation of separate layers of molten slag, molten copper, or copper matte.
 42. "Smelting furnace" means any vessel in which the smelting of copper sulfide ore concentrates or calcines is performed and in which the heat necessary for smelting is provided by an electric current, rapid oxidation of a portion of the sulfur contained in the concentrate as it passes through an oxidizing atmosphere, or the combustion of a fossil fuel.
 43. "Standard conditions" means a temperature of 293K (68°F or 20°C) and a pressure of 101.3 kilopascals (29.92 in. Hg or 1013.25 mb).
 44. "Supplementary control system" (SCS) means a system by which sulfur dioxide emissions are curtailed during periods when meteorological conditions conducive to ground-level concentrations in excess of ambient air quality standards for sulfur dioxide either exist or are anticipated.
 45. "Vapor pressure" means the pressure exerted by the gaseous form of a substance in equilibrium with its liquid or solid form.

Historical Note

Former Section R18-2-701 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-701 renum-

bered from R18-2-501 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 12 A.A.R. 4701, effective January 29, 2007 (Supp. 06-4). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2). Amended by final rulemaking at 21 A.A.R. 711, effective June 30, 2015 (Supp. 15-2).

R18-2-702. General Provisions

- A. The provisions of this Article shall only apply to a source that is all of the following:
 1. An existing source, as defined in R18-2-101;
 2. A point source. For the purposes of this Section, "point source" means a source of air contaminants that has an identifiable plume or emissions point; and
 3. A stationary source, as defined in R18-2-101.
- B. Except as otherwise provided in this Chapter relating to specific types of sources, the opacity of any plume or effluent, from a source described in subsection (A), as determined by Reference Method 9 in 40 CFR 60, Appendix A, shall not be:
 1. Greater than 20% in an area that is nonattainment or maintenance for any particulate matter standard, unless an alternative opacity limit is approved by the Director and the Administrator as provided in subsections (D) and (E), after February 2, 2004;
 2. Greater than 40% in an area that is attainment or unclassifiable for each particulate matter standard; and
 3. After April 23, 2006, greater than 20% in any area that is attainment or unclassifiable for each particulate matter standard except as provided in subsections (D) and (E).
- C. If the presence of uncombined water is the only reason for an exceedance of any visible emissions requirement in this Article, the exceedance shall not constitute a violation of the applicable opacity limit.
- D. A person owning or operating a source may petition the Director for an alternative applicable opacity limit. The petition shall be submitted to ADEQ by May 15, 2004.
 1. The petition shall contain:
 - a. Documentation that the affected facility and any associated air pollution control equipment are incapable of being adjusted or operated to meet the applicable opacity standard. This includes:
 - i. Relevant information on the process operating conditions and the control devices operating conditions during the opacity or stack tests;
 - ii. A detailed statement or report demonstrating that the source investigated all practicable means of reducing opacity and utilized control technology that is reasonably available considering technical and economic feasibility; and
 - iii. An explanation why the source cannot meet the present opacity limit although it is in compliance with the applicable particulate mass emission rule.
 - b. If there is an opacity monitor, any certification and audit reports required by all applicable subparts in 40 CFR 60 and in Appendix B, Performance Specification 1.
 - c. A verification by a responsible official of the source of the truth, accuracy, and completeness of the petition. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

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2. If the unit for which the alternative opacity standard is being applied is subject to a stack test, the petition shall also include:
 - a. Documentation that the source conducted concurrent EPA Reference Method stack testing and visible emissions readings or is utilizing a continuous opacity monitor. The particulate mass emission test results shall clearly demonstrate compliance with the applicable particulate mass emission limitation by being at least 10% below that limit. For multiple units that are normally operated together and whose emissions vent through a single stack, the source shall conduct simultaneous particulate testing of each unit. Each control device shall be in good operating condition and operated consistent with good practices for minimizing emissions.
 - b. Evidence that the source conducted the stack tests according to R18-2-312, and that they were witnessed by the Director or the Director's agent or representative.
 - c. Evidence that the affected facility and any associated air pollution control equipment were operated and maintained to the maximum extent practicable to minimize the opacity of emissions during the stack tests.
3. If the source for which the alternative opacity standard is being applied is located in a nonattainment area, the petitioner shall include all the information listed in subsections (D)(1) and (D)(2), and in addition:
 - a. In subsection (D)(1)(a)(ii), the detailed statement or report shall demonstrate that the alternative opacity limit fulfills the Clean Air Act requirement for reasonably available control technology; and
 - b. In subsection (D)(2)(b), the stack tests shall be conducted with an opportunity for the Administrator or the Administrator's agent or representative to be present.
- E. If the Director receives a petition under subsection (D) the Director shall approve or deny the petition as provided below by October 15, 2004:
 1. If the petition is approved under subsection (D)(1) or (D)(2), the Director shall include an alternative opacity limit in a proposed significant permit revision for the source under R18-2-320 and R18-2-330. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that an alternative opacity limit under this Section shall not be greater than 40%. For multiple units that are normally operated together and whose emissions vent through a single stack, any new alternative opacity limit shall reflect the opacity level at the common stack exit, and not individual in-duct opacity levels.
 2. If the petition is approved under subsection (D)(3), the Director shall include an alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that the alternative opacity limit shall not be greater than 40%.
 3. If the petition is denied, the source shall either comply with the 20% opacity limit or apply for a significant permit revision to incorporate a compliance schedule under R18-2-309(5)(c)(iii) by April 23, 2006.
 4. A source does not have to petition for an alternative opacity limit under subsection (D) to enter into a revised compliance schedule under R18-2-309(5)(c).
- F. The Director, Administrator, source owner or operator, inspector or other interested party shall determine the process weight rate, as used in this Article, as follows:
 1. For continuous or long run, steady-state process sources, the process weight rate is the total process weight for the entire period of continuous operation, or for a typical portion of that period, divided by the number of hours of the period, or portion of hours of that period.
 2. For cyclical or batch process sources, the process weight rate is the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during the period.

Historical Note

Former Section R18-2-702 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-702 renumbered from R18-2-502 and amended effective November 15, 1993 (Supp. 93-4). Amended by exempt rulemaking at 9 A.A.R. 5550, effective February 3, 2004 (Supp. 03-4).

R18-2-703. Standards of Performance for Existing Fossil-fuel Fired Steam Generators and General Fuel-burning Equipment

- A. This Section applies to the following:
 1. Installations in which fuel is burned for the primary purpose of producing power, steam, hot water, hot air or other liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitation shall apply, except for wood waste burners as regulated under R18-2-704.
 2. All fossil-fuel fired steam generating units or general fuel burning equipment which are greater than or equal to 73 megawatts capacity.
- B. For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with R18-2-311. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit.
- C. No person shall cause, allow or permit the emission of particulate matter in excess of the amounts calculated by one of the following equations:
 1. For equipment having a heat input rate of 4200 million Btu per hour or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 1.02Q^{0.769}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 Q = the heat input in million Btu per hour.
 2. For equipment having a heat input rate greater than 4200 million Btu per hour, the maximum allowable emissions shall be determined by the following equation:

$$E = 17.0Q^{0.432}$$
 where "E" and "Q" have the same meaning as in subsection (C)(1).

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- D.** Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- E.** When low sulfur oil is fired:
1. Existing fuel-burning equipment or steam-power generating installations which commenced construction or a major modification prior to May 30, 1972, shall not emit more than 1.0 pounds sulfur dioxide maximum three-hour average, per million Btu (430 nanograms per joule) heat input.
 2. Existing fuel-burning equipment or steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit more than 0.80 pounds of sulfur dioxide maximum three-hour average per million Btu (340 nanograms per joule) heat input.
- F.** When high sulfur oil is fired, all existing steam-power generating and general fuel-burning installations which are subject to the provisions of this Section shall not emit more than 2.2 pounds of sulfur dioxide maximum three-hour average per million Btu (946 nanograms per joule) heat input.
- G.** When solid fuel is fired:
1. Existing general fuel-burning equipment and steam-power generating installations which commenced construction or a major modification prior to May 30, 1972, shall not emit more than 1.0 pounds of sulfur dioxide maximum three-hour average, per million Btu (430 nanograms per joule) heat input.
 2. Existing general fuel-burning equipment and steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit more than 0.80 pounds of sulfur dioxide, maximum three-hour average, per million Btu (340 nanograms per joule) heat input.
- H.** Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee, unless the applicant demonstrates to the satisfaction of the Director that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to ensure that the sulfur dioxide ambient air quality standards set forth in R18-2-202 will not be violated.
1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.
 2. In cases where the permittee is authorized to use high sulfur oil, it shall submit to the Department monthly reports detailing its efforts to obtain low sulfur oil.
 3. When the conditions justifying the use of high sulfur oil no longer exists, the permit shall be modified accordingly.
 4. Nothing in this Section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.
- I.** Existing steam-power generating installations which commenced construction or a major modification after May 30, 1972, shall not emit nitrogen oxides in excess of the following amounts:
1. 0.20 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million Btu heat input when gaseous fossil fuel is fired.
 2. 0.30 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million Btu heat input when liquid fossil fuel is fired.
 3. 0.70 pounds of nitrogen oxides, maximum three-hour average, calculated as nitrogen dioxide, per million Btu heat input when solid fossil fuel is fired.
- J.** Emission and fuel monitoring systems, where deemed necessary by the Director for sources subject to the provisions of this Section shall, conform to the requirements of R18-2-313.
- K.** The applicable reference methods given in the Appendices to 40 CFR 60 shall be used to determine compliance with the standards as prescribed in subsections (C) through (G) and (I). All tests shall be run at the heat input calculated under subsection (B).
- Historical Note**
- Former Section R18-2-703 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-703 renumbered from R18-2-503 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).
- R18-2-704. Standards of Performance for Incinerators**
- A.** No person shall cause, allow or permit to be emitted into the atmosphere, from any type of incinerator, smoke, fumes, gases, particulate matter or other gas-borne material which exceeds 20% opacity except during the times specified in subsection (D).
- B.** No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any incinerator, in excess of the following limits:
1. For multiple chamber incinerators, controlled atmosphere incinerators, fume incinerators, afterburners or other unspecified types of incinerators, emissions shall not exceed 0.1 grain per cubic foot, based on dry flue gas at standard conditions, corrected to 12% carbon dioxide.
 2. For wood waste burners other than air curtain incinerators, emissions discharged from the stack or burner top opening shall not exceed 0.2 grain per cubic foot, based on dry flue gas at standard conditions, corrected to 12% carbon dioxide.
- C.** Air curtain incinerators shall not be used within 500 feet of the nearest dwelling.
- D.** Incinerators shall be exempt from the opacity and emission requirements described in subsections (A) and (B) as follows:
1. For multiple chamber incinerators, controlled atmosphere incinerators, fume incinerators, afterburners or other unspecified types of incinerators, such exemption shall be for not more than 30 seconds in any 60-minute period.
 2. Wood waste burners shall be exempt both:
 - a. For a period once each day for the purpose of building a new fire but not to exceed 60 minutes, and
 - b. For an upset of operations not to exceed three minutes in any 60-minute period.
- E.** The owner or operator of any incinerator subject to the provisions of this Section shall record the daily charging rates and hours of operation.
- F.** The test methods and procedures required by this Section are as follows:
1. The reference methods in 40 CFR 60, Appendix A, shall be used to determine compliance with the standards prescribed in subsection (B) as follows:
 - a. Method 5 for the concentration of particulate matter and the associated moisture content;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for velocity and volumetric flow rate;

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- d. Method 3 for gas analysis and calculation of excess air, using the integrated sampling technique.
2. For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sample volume shall be 0.85 dscm (30.0 dscf) except that smaller sampling times or sample volumes, when necessitated by process variables or other factors, may be approved by the Director.

Historical Note

Former Section R18-2-704 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-704 renumbered from R18-2-504 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2). Amended by final expedited rulemaking at 30 A.A.R. 2422 (July 26, 2024), with an immediate effective date of July 3, 2024 (Supp. 24-3).

R18-2-705. Standards of Performance for Existing Portland Cement Plants

- A. The provisions of this Section are applicable to the following affected facilities in portland cement plants: kiln, clinker cooler, raw mill system, finish mill system, raw mill dryer, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging and bulk loading and unloading systems.
- B. No person shall cause, allow or permit the discharge of particulate matter from any identifiable process source within any existing cement plant subject to the provisions of this Section which exceeds the amounts calculated by one of the following equations:
 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (B)(1).
- C. No process source within any portland cement plant shall exceed 20% opacity.
- D. No person shall cause, allow or permit discharge into the atmosphere of an amount in excess of 6 pounds of sulfur oxides, calculated as sulfur dioxide, per ton cement kiln feed from cement plants subject to the provisions of this Section.
- E. The owner or operator of any portland cement plant subject to the provisions of this Section shall record the daily production rates and the kiln feed rates.
- F. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A, except as provided for in R18-2-312 shall be used to determine compliance with the standards prescribed in subsection (B) as follows:
 - a. Method 5 for the concentration of particulate matter and the associated moisture content;

- b. Method 1 for sample and velocity traverses;
- c. Method 2 for velocity and volumetric flow rate;
- d. Method 3 for gas analysis.
2. For Method 5, the minimum sampling time and minimum sample volume for each run except when process variables or other factors justifying otherwise to the satisfaction of the Director, shall be as follows:
 - a. 60 minutes and 0.85 dscm (30.0 dscf) for the kiln,
 - b. 60 minutes and 1.15 dscm (40.6 dscf) for the clinker cooler.
3. Total kiln feed rate, except fuels, expressed in metric tons per hour on a dry basis, shall be both:
 - a. Determined during each testing period by suitable methods; and
 - b. Confirmed by a material balance over the production system.
4. For each run, particulate matter emissions, expressed in g/metric ton of kiln feed, shall be determined by dividing the emission rate in g/hr by the kiln feed rate. The emission rate shall be determined by the equation, $g/hr = Q_s \times c$, where Q_s = volumetric flow rate of the total effluent in dscm/hr as determined in accordance with subsection (F)(1)(c), and c = particulate concentration in g/dscm as determined in accordance with subsection (F)(1)(a).

Historical Note

Former Section R18-2-705 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-705 renumbered from R18-2-505 effective November 15, 1993 (Supp. 93-4).

R18-2-706. Standards of Performance for Existing Nitric Acid Plants

- A. No person shall cause, allow or permit discharge from any nitric acid plant producing weak nitric acid, which is either:
 1. 30 to 70% in strength by either the increased pressure or atmospheric pressure process, or
 2. More than 1.5 kg of total oxides of nitrogen per metric ton (3.0 lbs/ton) of acid produced expressed as nitrogen dioxide.
- B. The opacity of any plume subject to the provisions of this Section shall not exceed 10%.
- C. A continuous monitoring system for the measurement of nitrogen oxides shall be installed, calibrated, maintained and operated by the owner or operator, in accordance with Section R18-2-313.
- D. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A shall be used to determine compliance with the standard prescribed in subsection (A) as follows:
 - a. Method 7 for the concentration of NO_x ;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis.
 2. For Method 7, the sample site shall be selected according to Method 1 and the sampling point shall be the centroid of the stack or duct or at a point no closer to the walls than 1 m (3.28 ft.). Each run shall consist of at least four grab samples taken at approximately 15-minute intervals. The arithmetic mean of the samples shall constitute the run value. A velocity traverse shall be performed once per run.
 3. Acid production rate, expressed in metric tons per hour of 100% nitric acid, shall be both:

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- a. Determined during each testing period by suitable methods, and
 - b. Confirmed by a material balance over the production system.
4. For each run, nitrogen oxides, expressed in g/metric ton of 100% nitric acid, shall be determined by dividing the emission rate in g/hr by the acid production rate. The emission rate shall be determined by the equation:
- $$\text{g/hr} = Q_s \times c$$
- where Q_s = volumetric flow rate of the effluent in dscm/hr, as determined in accordance with subsection (D)(1)(c), and c = NO_x concentration in g/dscm, as determined in accordance with subsection (D)(1)(a).

Historical Note

Former Section R18-2-706 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-706 renumbered from R18-2-506 effective November 15, 1993 (Supp. 93-4).

R18-2-707. Standards of Performance for Existing Sulfuric Acid Plants

- A. Facilities that produce sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfide and mercaptans or acid sludge shall not discharge into the atmosphere:
 1. Greater than 2 kg of sulfur dioxide per metric ton (4 lbs/ton) of sulfuric acid produced (calculated as 100% H_2SO_4), or
 2. Greater than 0.075 kg of sulfuric acid mist per metric ton (0.15 lbs/ton) or sulfuric acid produced (calculated as 100% H_2SO_4).
- B. This Section shall not apply to metallurgical plants or other facilities where conversion to sulfuric acid is utilized as a means of controlling emissions to the atmosphere of sulfur dioxide or other sulfur compounds.
- C. A continuous monitoring system for the measurement of sulfur dioxide shall be installed, calibrated, maintained and operated by the owner or operator, in accordance with R18-2-313.
- D. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A shall be used to determine compliance with standards prescribed in subsection (A) as follows:
 - a. Method 8 for concentration of SO_2 and acid mist;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis.
 2. The moisture content can be considered to be zero. For Method 8 the sampling time for each run shall be at least 60 minutes and the minimum sample volume shall be 1.15 dscm (40.6 dscf) except that smaller sampling times or sample volumes, when necessitated by process variables or other factors, may be approved by the Director.
 3. Acid production rate, expressed in metric tons per hour of 100% H_2SO_4 , shall be both:
 - a. Determined during each testing period by suitable methods, and
 - b. Confirmed by a material balance over the production system.
 4. Acid mist and sulfur dioxide emissions, expressed in g/metric ton of 100% H_2SO_4 , shall be determined by dividing the emission rate in g/hr by the acid production rate. The emission rate shall be determined by the equation, g/

hr- $Q_s \times c$, where Q_s = volumetric flow rate of the effluent in dscm/hr as determined in accordance with subsection (D)(1)(c), and c = acid mist and SO_2 concentrations in g/dscm as determined in accordance with subsection (D)(1)(a).

Historical Note

Former Section R18-2-707 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-707 renumbered from R18-2-507 effective November 15, 1993 (Supp. 93-4).

R18-2-708. Standards of Performance for Existing Asphalt Concrete Plants

- A. Fixed asphalt concrete plants and portable asphalt concrete plants shall meet the standards set forth in this Section.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any existing asphalt concrete plant in total quantities in excess of the amounts calculated by one of the following equations:
 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emission rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (B)(1).
- C. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- E. Liquid fuel containing greater than 0.9% sulfur by weight shall not be utilized for asphalt concrete plants subject to this Section.
- F. Solid fuel containing greater than 0.5% sulfur by weight shall not be utilized for asphalt concrete plants subject to this Section.
- G. The test methods and procedures required under this Section are:
 1. The referenced methods given in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed in subsection (B).
 - a. Method 5 for the concentration of particulate matter and the associated moisture content,
 - b. Method 1 for sample and velocity traverses,
 - c. Method 2 for velocity and volumetric flow rate,
 - d. Method 3 for gas analysis.
 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.9 dscm/hr (0.53 dscf/min) except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Director.

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3. Percent sulfur in liquid fuel shall be determined by ASTM method D-129-91 (Test Method for Sulfur in Petroleum Products) (General Bomb Method), and the percent sulfur in solid fuel shall be determined by ASTM method D-3177-89 (Test Method for Total Sulfur in the Analysis Sample of Coal and Coke).

Historical Note

Former Section R18-2-708 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-708 renumbered from R18-2-508 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-709. Expired**Historical Note**

Former Section R18-2-709 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-709 renumbered from R18-2-509 and amended effective November 15, 1993 (Supp. 93-4). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-710. Standards of Performance for Existing Storage Vessels for Petroleum Liquids

- A. No person shall place, store or hold in any reservoir, stationary tank or other container having a capacity of 40,000 (151,400 liters) or more gallons any petroleum liquid having a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions, unless such tank, reservoir or other container is a pressure tank maintaining working pressure sufficient at all times to prevent hydrocarbon vapor or gas loss to the atmosphere, or is equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation:
 1. A floating roof consisting of a pontoon type double-deck type roof resting on the surface of the liquid contents and equipped with a closure seal to close the space between the roof eave and tank wall and a vapor balloon or vapor dome, designed in accordance with accepted standards of the petroleum industry. The control equipment shall not be used if the petroleum liquid has a vapor pressure of 12 pounds per square inch absolute or greater under actual storage conditions.
 - a. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.
 - b. There shall be no visible holes, tears, or other openings in the seal or any seal fabric. Where applicable, all openings except drains shall be equipped with a cover, seal, or lid. The cover, seal, or lid shall be in a closed position at all times, except when the device is in actual use.
 - c. Automatic bleeder vents shall be closed at all times, except when the roof is floated off or landed on the roof leg supports.
 - d. Rim vents, if provided, shall be set to open when the roof is being floated off the roof leg supports, or at the manufacturer's recommended setting.
 2. Other equipment proven to be of equal efficiency for preventing discharge of hydrocarbon gases and vapors to the atmosphere.
- B. Any other petroleum liquid storage tank shall be equipped with a submerged filling device, or acceptable equivalent, for the control of hydrocarbon emissions.

- C. All facilities for dock loading of petroleum products, having a vapor pressure of 1.5 pounds per square inch absolute or greater at loading pressure, shall provide for submerged filling or acceptable equivalent for control of hydrocarbon emissions.
- D. All pumps and compressors which handle volatile organic compounds shall be equipped with mechanical seals or other equipment of equal efficiency to prevent the release of organic contaminants into the atmosphere.
- E. The monitoring of operations required by this Section is as follows:

1. The owner or operator of any petroleum liquid storage vessel to which this Section applies shall for each such storage vessel maintain a file of each type of petroleum liquid stored, of the typical Reid vapor pressure of each type of petroleum liquid stored and of dates of storage. Dates on which the storage vessel is empty shall be shown.
2. The owner or operator of any petroleum liquid storage vessel to which this Section applies shall for such storage vessel determine and record the average monthly storage temperature and true vapor pressure of the petroleum liquid stored at such temperature if either:
 - a. The petroleum liquid has a true vapor pressure, as stored, greater than 26 mm Hg (0.5 psia) but less than 78 mm Hg (1.5 psia) and is stored in a storage vessel other than one equipped with a floating roof, a vapor recovery system or their equivalents; or
 - b. The petroleum liquid has a true vapor pressure, as stored, greater than 470 mm Hg (9.1 psia) and is stored in a storage vessel other than one equipped with a vapor recovery system or its equivalent.
3. The average monthly storage temperature shall be an arithmetic average calculated for each calendar month, or portion thereof, if storage is for less than a month, from bulk liquid storage temperatures determined at least once every seven days.
4. The true vapor pressure shall be determined by the procedures in American Petroleum Institute Bulletin 2517, amended as of February 1980 (and no future editions), which is incorporated herein by reference and on file with the Office of the Secretary of State. This procedure is dependent upon determination of the storage temperature and the Reid vapor pressure, which requires sampling of the petroleum liquids in the storage vessels. Unless the Director requires in specific cases that the stored petroleum liquid be sampled, the true vapor pressure may be determined by using the average monthly storage temperature and the typical Reid vapor pressure. For those liquids for which certified specifications limiting the Reid vapor pressure exist, the Reid vapor pressure may be used. For other liquids, supporting analytical data must be made available upon request to the Director when typical Reid vapor pressure is used.

Historical Note

Section R18-2-710 renumbered from R18-2-510 effective November 15, 1993 (Supp. 93-4).

R18-2-711. Expired**Historical Note**

Section R18-2-711 renumbered from R18-2-511 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Section expired under A.R.S. § 41-1056(J)

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at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-712. Expired

Historical Note

Section R18-2-712 renumbered from R18-2-512 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-713. Expired

Historical Note

Section R18-2-713 renumbered from R18-2-513 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-714. Standards of Performance for Existing Sewage Treatment Plants

- A. No person shall cause, allow or permit to be emitted into the atmosphere, from any municipal sewage treatment plant sludge incinerator:
 1. Smoke, fumes, gases, particulate matter or other gas-borne material which exceeds 20% opacity for more than 30 seconds in any 60-minute period.
 2. Particulate matter in concentrations in excess of 0.1 grain per cubic foot, based on dry flue gas at standard conditions, corrected to 12% carbon dioxide.
- B. The owner or operator of any sludge incinerator subject to the provisions of this Section shall monitor operations by doing all of the following:
 1. Install, calibrate, maintain and operate a flow measuring device which can be used to determine either the mass or volume of sludge charged to the incinerator. The flow measuring device shall have an accuracy of $\pm 5\%$ over its operating range.
 2. Provide access to the sludge charged so that a well-mixed representative grab sample of the sludge can be obtained.
 3. Install, calibrate, maintain and operate a weighing device for determining the mass of any municipal solid waste charged to the incinerator when sewage sludge and municipal solid wastes are incinerated together. The weighing device shall have an accuracy of $\pm 5\%$ over its operating range.
- C. The test methods and procedures required by this Section are as follows:
 1. The reference methods set forth in 40 CFR 60, Appendix A shall be used to determine compliance with the standards prescribed in subsection (A) as follows:
 - a. Method 5 for concentration of particulate matter and associated moisture content;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for volumetric flow rate; and
 - d. Method 3 for gas analysis.
 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.015 dscm/min (0.53 dscf/min), except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Director.

Historical Note

Section R18-2-714 renumbered from R18-2-514 effective November 15, 1993 (Supp. 93-4).

R18-2-715. Standards of Performance for Existing Primary Copper Smelters; Site-specific Requirements

- A. No owner or operator of a primary copper smelter shall cause, allow or permit the discharge of particulate matter into the atmosphere from any process in total quantities in excess of the amount calculated by one of the following equations:
 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:
$$E = 4.10P^{0.67}$$
where
E = the maximum allowable particulate emissions rate in pounds-mass per hour.
P = the process weight rate in tons-mass per hour.
 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:
$$E = 55.0P^{0.11} - 40$$
where "E" and "P" are defined as indicated in subsection (A)(1).
- B. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- C. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter for that process.
- D. The opacity of emissions subject to the provisions of this Section shall not exceed 20%.
- E. The reference methods set forth in the Arizona Testing Manual and 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed in this Section as follows:
 1. Method A1 or Reference Method 5 for concentration of particulate matter and associated moisture content,
 2. Reference Method 1 for sample and velocity traverses,
 3. Reference Method 2 for volumetric flow rate,
 4. Reference Method 3 for gas analysis.
- F. Except as provided in a consent decree or a delayed compliance order, the owner or operator of any primary copper smelter shall not discharge or cause the discharge of sulfur dioxide into the atmosphere from any stack required to be monitored by R18-2-715.01(K) in excess of the following:
 1. For the copper smelter located near Hayden, Arizona at latitude 33°0'29"N and longitude 110°47'17" W:
 - a. Annual average emissions, as calculated under R18-2-715.01(C), shall not exceed 6,882 pounds per hour.
 - b. The number of three-hour average emissions, as calculated under R18-2-715.01(C), shall not exceed n cumulative occurrences in excess of E, the emission level, shown in the following table in any compliance period as defined in R18-2-715.01(J):

n, Cumulative Occurrences	E, (lb/hr)
0	24,641
1	22,971

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2	21,705
4	20,322
7	19,387
12	18,739
20	17,656
32	16,988
48	16,358
68	15,808
94	15,090
130	14,423
180	13,777
245	13,212
330	12,664
435	12,129
560	11,621
710	11,165
890	10,660
1100	10,205
1340	9,748
1610	9,319
1910	8,953
2240	8,556

2. For the copper smelter located near Miami, Arizona at latitude 33°24'50"N and longitude 110°51'25"W:
- Annual average emissions, as calculated under R18-2-715.01(C), shall not exceed 604 pounds per hour.
 - The number of three-hour average emissions, as calculated under R18-2-715.01(C), shall not exceed *n* cumulative occurrences in excess of *E*, the emission level, shown in the following table in any compliance period as defined in R18-2-715.01(J):

<i>n</i> , Cumulative Occurrences	<i>E</i> , (lb/hr)
0	8678
1	7158
2	5903
4	4575
7	4074
12	3479
20	3017
32	2573
48	2111
68	1703
94	1461
130	1274
180	1145
245	1064
330	1015
435	968
560	933
710	896

890	862
1100	828
1340	797
1610	765
1910	739
2240	712

- Except as provided in a consent decree or a delayed compliance order, for the copper smelter located near Hayden, Arizona at latitude 33°0'29"N and longitude 110°47'17"W, annual average fugitive emissions calculated under R18-2-715.01(T) shall not exceed 295 pounds per hour.
- In addition to the limits in subsection (F)(3), except as provided in a consent decree or a delayed compliance order, the owner or operator of the copper smelter located near Miami, Arizona at latitude 33°24'50"N and longitude 110°51'25"W shall not discharge or cause the discharge of sulfur dioxide into the atmosphere from combined stack and fugitive emissions units in excess of the 2420 pounds per hour annual average calculated under R18-2-715.01(U).
- The owner and operator of the copper smelter located near Hayden, Arizona at the latitude and longitude provided in R18-2-715(F)(1) shall comply with Section R18-2-715(F)(1) and R18-2-715(G) until the effective date of R18-2-B1302 as determined by R18-2-B1302(A)(2). The owner and operator of the copper smelter located near Miami, Arizona at the latitude and longitude provided in R18-2-715(F)(2) shall comply with Section R18-2-715(F)(2) and R18-2-715(H) until the effective date of R18-2-C1302 as determined by R18-2-C1302(A)(2).

Historical Note

Section R18-2-715 renumbered from R18-2-515 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 575, effective January 15, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3365, effective July 18, 2002 (Supp. 02-3). Amended by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 23 A.A.R. 767, effective May 7, 2017, (Supp. 17-1).

R18-2-715.01. Standards of Performance for Existing Primary Copper Smelters; Compliance and Monitoring

- The cumulative occurrence and emission limits in R18-2-715(F) apply to the total of sulfur dioxide emissions from the smelter processing units and sulfur dioxide control and removal equipment, but not uncaptured fugitive emissions or emissions due solely to the use of fuel for space heating or steam generation.
- The owner or operator shall include periods of malfunction, startup, shutdown or other upset conditions when determining compliance with the cumulative occurrence or annual average emission limits in R18-2-715(F), (G), or (H).
- The owner or operator shall determine compliance with the cumulative occurrence and emission limits contained in R18-2-715(F) as follows:
 - The owner or operator shall calculate annual average emissions at the end of each day by averaging the emissions for all hours measured during the compliance period defined in subsection (J) ending on that day. An annual emissions average in excess of the allowable

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annual average emission limit is a violation of R18-2-715(F) if either:

- a. The annual average is greater than the annual average computed for the preceding day; or
 - b. The annual averages computed for the five preceding days all exceed the allowable annual average emission limit.
2. The owner or operator shall calculate a three-hour emissions average at the end of each clock hour by averaging the hourly emissions for the preceding three consecutive hours provided each hour was measured according to the requirements in subsection (K).
- D.** For purposes of this Section, the compliance date, unless otherwise provided in a consent decree or a delayed compliance order, shall be January 14, 1986, except that:
1. The compliance date for the cumulative occurrence and emissions limits in R18-2-715(F)(1) and R18-2-715(G) is January 15, 2002, and
 2. The compliance date for the cumulative occurrence and emissions limits in R18-2-715(F)(2), (F)(3), (G), and (H) is the effective date of this rule.
- E.** For purposes of subsection (C), a three-hour emissions average in excess of an emission level E violates the associated cumulative occurrence limit n listed in R18-2-715(F) if:
1. The number of all three-hour emissions averages calculated during the compliance period in excess of that emission level exceeds the cumulative occurrence limit associated with the emission level; and
 2. The average is calculated during the last operating day of the compliance period being reported.
- F.** A three-hour emissions average only violates the cumulative occurrence limit n of an emission level E on the day containing the last hour in the average.
- G.** Multiple violations of the same cumulative occurrence limit on the same day and violations of different cumulative occurrence limits on the same day constitute a single violation of R18-2-715(F).
- H.** The violation of any cumulative occurrence limit and an annual average emission limit on the same day constitutes only a single violation of the requirements of R18-2-715(F).
- I.** Multiple violations of a cumulative occurrence limit by different three-hour emissions averages containing any common hour constitutes a single violation of R18-2-715(F).
- J.** To determine compliance with subsections (C) through (I), the compliance period consists of the 365 calendar days immediately preceding the end of each day of the month being reported unless that period includes less than 300 operating days, in which case the number of days preceding the last day of the compliance period shall be increased until the compliance period contains 300 operating days. For purposes of this Section, an operating day is any day on which sulfur-containing feed is introduced into the smelting process.
- K.** To determine compliance with R18-2-715(F) or (H), the owner or operator of any smelter subject to R18-2-715(F) or (H) shall install, calibrate, maintain, and operate a measurement system for continuously monitoring sulfur dioxide concentrations and stack gas volumetric flow rates in each stack that could emit five percent or more of the allowable annual average sulfur dioxide emissions from the smelter.
1. The owner or operator shall continuously monitor sulfur dioxide concentrations and stack gas volumetric flow rates in the outlet of each piece of sulfur dioxide control equipment.
 2. The owner or operator shall continuously monitor captured fugitive emissions for sulfur dioxide concentrations and stack gas volumetric flow rates and include these emissions as part of total plant emissions when determining compliance with the cumulative occurrence and emission limits in R18-2-715(F) and (H).
 3. If the owner or operator demonstrates to the Director that measurement of stack gas volumetric flow in the outlet of any particular piece of sulfur dioxide control equipment would yield inaccurate results once operational or would be technologically infeasible, then the Director may allow measurement of the flow rate at an alternative sampling point.
 4. For purposes of this subsection, continuous monitoring means the taking and recording of at least one measurement of sulfur dioxide concentration and stack gas flow rate reading from the effluent of each affected stack, outlet, or other approved measurement location in each 15-minute period. Fifteen-minute periods start at the beginning of each clock hour, and run consecutively. An hour of smelter emissions is considered continuously monitored if the emissions from all monitored stacks, outlets, or other approved measurement locations are measured for at least 45 minutes of any hour according to the requirements of this subsection.
 5. The owner or operator shall demonstrate that the continuous monitoring system meets all of the following requirements:
 - a. The sulfur dioxide continuous emission monitoring system installed and operated under this Section meets the requirements of 40 CFR 60, Appendix B, Performance Specification 6.
 - b. The sulfur dioxide continuous emission monitoring system installed and operated under this Section meets the quality assurance requirements of 40 CFR 60, Appendix F.
 - c. The owner or operator shall notify the Director in writing at least 30 days in advance of the start of relative accuracy test audit (RATA) procedures performed on the continuous monitoring system.
 - d. The Director shall approve the location of all sampling points for monitoring sulfur dioxide concentrations and stack gas volumetric flow rates in writing before installation and operation of measurement instruments.
 - e. The measurement system installed and used under this subsection is subject to the manufacturer's recommended zero adjustment and calibration procedures at least once per 24-hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case specifications or recommendations shall be followed. The owner or operator shall make available a record of these procedures that clearly shows instrument readings before and after zero adjustment and calibration.
- L.** The owner or operator of a smelter subject to this Section shall measure at least 95 percent of the hours during which emissions occurred in any month.
- M.** Failure of the owner or operator of a smelter subject to this Section to measure any 12 consecutive hours of emissions according to the requirements of subsection (K) or (S) is a violation of this Section.

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- N. The owner or operator of any smelter subject to this Section shall maintain on hand and ready for immediate installation sufficient spare parts or duplicate systems for the continuous monitoring equipment required by this Section to allow for the replacement within six hours of any monitoring equipment part that fails or malfunctions during operation.
- O. To determine total overall emissions, the owner or operator of any smelter subject to this Section shall perform material balances for sulfur according to the procedures prescribed by Appendix 8 of this Chapter.
- P. The owner or operator of any smelter subject to this Section shall maintain a record of all average hourly emissions measurements and all calculated average monthly emissions required by this Section. The record of the emissions shall be retained for at least five years following the date of measurement or calculation. The owner or operator shall record the measurement or calculation results as pounds per hour of sulfur dioxide. The owner or operator shall summarize the following data monthly and submit the summary to the Director within 20 days after the end of each month:
1. For all periods described in subsection (C) and (R), the annual average emissions as calculated at the end of each day of the month;
 2. The total number of hourly periods during the month in which measurements were not taken and the reason for loss of measurement for each period;
 3. The number of three-hour emissions averages that exceeded each of the applicable emissions levels listed in R18-2-715(F) and (G) for the compliance periods ending on each day of the month being reported;
 4. The date on which a cumulative occurrence limit listed in R18-2-715(F) or (G) was exceeded if the exceedance occurred during the month being reported; and
 5. For all periods described in subsection (T) and (U), the annual average emissions as calculated at the end of the last day of each month.
- Q. An owner or operator shall install instrumentation to monitor each point in the smelter facility where a means exists to bypass the sulfur removal equipment, to detect and record all periods that the bypass is in operation. An owner or operator of a copper smelter shall report to the Director, not later than the 15th day of each month, the recorded information required by this Section, including an explanation for the necessity of the use of the bypass.
- R. The owner or operator shall determine compliance with the cumulative occurrence and fugitive emission limits contained in R18-2-715(G) as follows:
1. The owner or operator shall calculate annual average emissions at the end of each day by averaging the emissions for all hours measured during the compliance period, as defined in subsection (R)(8), ending on that day. An annual emissions average in excess of the allowable annual average emission limit is a violation of R18-2-715(G) if either:
 - a. The annual average is greater than the annual average computed for the preceding day; or
 - b. The annual averages computed for the five preceding days all exceed the allowable annual average emission limit.
 2. The owner or operator shall calculate a three-hour emissions average at the end of each clock hour by averaging the hourly emissions for the preceding three consecutive hours provided each hour was measured according to the requirements contained in subsection (S).
3. For purposes of subsection (R)(2), a three-hour emissions average in excess of an emission level E_f violates the associated cumulative occurrence limit listed in R18-2-715(G) if:
 - a. The number of all three-hour emissions averages calculated during the compliance period in excess of that emission level exceeds the cumulative occurrence limit associated with the emission level; and
 - b. The average is calculated during the last operating day of the compliance period being reported.
 4. A three-hour emissions average only violates the cumulative occurrence limit n of an emission level E_f on the day containing the last hour in the average.
 5. Multiple violations of the same cumulative occurrence limit on the same day and violations of different cumulative occurrence limits on the same day constitute a single violation of R18-2-715(G).
 6. The violation of any cumulative occurrence limit and an annual average emission limit on the same day constitutes only a single violation of the requirements of R18-2-715(G).
 7. Multiple violations of a cumulative occurrence limit by different three-hour emissions averages containing any common hour constitutes a single violation of R18-2-715(G).
 8. To determine compliance with subsections (R)(1) through (7), the compliance period consists of the 365 calendar days immediately preceding the end of each day of the month being reported unless that period includes less than 300 operating days, in which case the number of days preceding the last day of the compliance period shall be increased until the compliance period contains 300 operating days. For purposes of this Section, an operating day is any day on which sulfur-containing feed is introduced into the smelting process.
- S. To determine compliance with R18-2-715(G), the owner or operator of the smelter subject to R18-2-715(G) shall install, calibrate, maintain, and operate a measurement system for continuously monitoring sulfur dioxide concentrations of the converter roof fugitive emissions.
1. For purposes of this subsection, continuous monitoring means the taking and recording of at least one measurement of sulfur dioxide concentration from an approved measurement location in each 15-minute period. Fifteen-minute periods start at the beginning of each clock hour, and run consecutively. An hour of smelter emissions is considered continuously monitored if the emissions from all approved measurement locations are measured for at least 45 minutes of any hour according to the requirements of this subsection.
 2. The owner or operator of a smelter subject to the requirements of this subsection shall conduct quality assurance procedures on the continuous monitoring system according to the methods in 40 CFR 60, Appendix F, except that an annual relative accuracy test audit (RATA) is not required.
- T. The emission limit in R18-2-715(G) applies to the total of uncaptured fugitive sulfur dioxide emissions from the smelter processing units and sulfur dioxide control and removal equipment, but not emissions due solely to the use of fuel for space heating or steam generation. The owner or operator shall determine compliance with the emission limit contained in R18-2-715(G) as follows:

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1. The owner or operator shall calculate annual average fugitive emissions at the end of the last day of each month by averaging the monthly emissions for the previous 12-month period ending on that day. To determine monthly fugitive emissions, the owner or operator shall perform material balances for sulfur according to the sulfur balance procedures prescribed in Appendix 8 of this Chapter.
 2. An annual emissions average in excess of the allowable annual average emission limit violates R18-2-715(G) if the fugitive annual average computed at the end of each month exceeds the allowable annual average emission limit.
- U. The emission limit in R18-2-715(H) applies to the total of stack and uncaptured fugitive sulfur dioxide emissions from the smelter processing units and sulfur dioxide control and removal equipment, but not emissions due solely to the use of fuel for space heating or steam generation. The owner or operator shall determine compliance with the emission limit contained in R18-2-715(H) as follows:
1. The owner or operator shall calculate annual average stack emissions at the end of the last day of each month by averaging the emissions for all hours measured during the previous 12-month period ending on that day according to the requirements contained in subsection (K).
 2. The owner or operator shall calculate annual average fugitive emissions at the end of the last day of each month by averaging the monthly emissions for the previous 12-month period ending on that day. To determine monthly fugitive emissions, the owner or operator shall perform material balances for sulfur according to the sulfur balance procedures prescribed in Appendix 8 of this Chapter.
 3. An annual emissions average in excess of the allowable annual average emission limit violates R18-2-715(H) if the total of the stack and fugitive annual averages computed at the end of each month exceeds the allowable annual average emission limit.
- V. The owner and operator of the copper smelter located near Hayden, Arizona at the latitude and longitude provided in R18-2-715(F)(1) shall comply with Section R18-2-715.01 until the effective date of R18-2-B1302 as determined by R18-2-B1302(A)(2). The owner and operator of the copper smelter located near Miami, Arizona at the latitude and longitude provided in R18-2-715(F)(2) shall comply with Section R18-2-715.01 until the effective date of R18-2-C1302 as determined by R18-2-C1302(A)(2).
- Historical Note**
- Section R18-2-715.01 renumbered from R18-2-515.01 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 8 A.A.R. 575, effective January 15, 2002 (Supp. 02-1). Amended by final rulemaking at 8 A.A.R. 3365, effective July 18, 2002 (Supp. 02-3). Amended by final rulemaking at 23 A.A.R. 767, effective May 7, 2017, (Supp. 17-1).
- R18-2-715.02. Standards of Performance for Existing Primary Copper Smelters; Fugitive Emissions**
- A. For purposes of this Section, the compliance date, unless otherwise provided in a consent decree or a delayed compliance order, shall be January 14, 1986.
 - B. No later than 24 months before the compliance date, the owner or operator of a smelter subject to R18-2-715 shall submit to the Director the results of an evaluation of the fugitive emissions from the smelter. The evaluation results shall contain all of the following information:
 1. A measurement or accurate estimate of total fugitive emissions from the smelter during typical operations, including planned start-up and shutdown. The measurement or estimate shall contain the amount of both average short-term (24 hours) and average long-term (monthly) fugitive emissions from the smelter. The evaluation plan shall be approved in advance by the Department and shall specify the method used to determine the fugitive emission amounts, including the conditions determined to be "typical operations" for the smelter.
 2. A measurement or accurate estimate of the relative proportion, expressed as a percentage, of total fugitive emissions during typical operations, including planned start-up and shutdown, produced by any of the following smelter processes:
 - a. Roaster or dryer operation;
 - b. Calcine or dried concentrate transfer;
 - c. Reverberatory furnace operations, including feeding, slag return, matte and slag tapping;
 - d. Matte transfer; and
 - e. Converter operations.
 3. The measurement technique or method of estimation used to fulfill the requirement in subsection (B)(2) shall be approved in advance by the Department.
 4. The results of at least a six-month fugitive emission impact analysis conducted during that part of the year when fugitive emissions are expected to have the greatest ambient air quality impact. The study shall utilize sufficient measurements of fugitive emissions, meteorological conditions and ambient sulfur dioxide concentrations to associate fugitive emissions with specific measured ambient concentrations of sulfur dioxide. The study shall describe in detail the techniques used to make the required determinations. The design of the study shall be approved in advance by the Department.
 - C. On the basis of the results of the evaluation as well as other data and information contained in the records of the Department, the Director shall determine whether fugitive emissions from a particular smelter have the potential to cause or significantly contribute to violations of the ambient sulfur dioxide standards in the vicinity of the smelter. If the Director finds that fugitive emissions from a particular smelter have the potential to cause or significantly contribute to violations of ambient sulfur dioxide standards in the vicinity of a smelter, then the Director shall adopt rules specifying the emission limits and undertake other appropriate measures necessary to maintain ambient sulfur dioxide standards.
 - D. The requirements of subsection (B) shall not apply to a smelter subject to this Section if the owner or operator of that smelter can demonstrate to the Director both that:
 1. Compliance with the applicable cumulative occurrence and emission limits listed in R18-2-715(F) will require the smelter to undergo major modifications to its physical configuration or work practices prior to the compliance date, and
 2. That the modification will reduce fugitive emissions to such an extent that such emissions will not cause or significantly contribute to violations of ambient sulfur dioxide standards in the vicinity of the smelter.
 - E. In order to assess the sufficiency of the cumulative occurrence and emission limits contained in R18-2-715(F) to maintain the ambient air quality standards for sulfur dioxide set forth in

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R18-2-202, an owner or operator of a smelter subject to this Section shall continue to calibrate, maintain and operate any ambient sulfur dioxide monitoring equipment owned by the smelter owner or operator and in operation within the area of the smelter enclosed by a circle with 10-mile radius as calculated from a center point which shall be the point of the smelter's greatest sulfur dioxide emissions, for a period of at least three years after the compliance date.

1. Such monitors shall be operated and maintained in accordance with 40 CFR 50 and 58 and such other conditions as the Director deems necessary.
2. The location of ambient sulfur dioxide monitors and length of time such monitors remain at a location shall be determined by the Director.

- F. The owner and operator of the copper smelter located near Hayden, Arizona at the latitude and longitude provided in R18-2-715(F)(1) shall comply with Section R18-2-715.02 until the effective date of R18-2-B1302 as determined by R18-2-B1302(A)(2). The owner and operator of the copper smelter located near Miami, Arizona at the latitude and longitude provided in R18-2-715(F)(2) shall comply with Section R18-2-715.02 until the effective date of R18-2-C1302 as determined by R18-2-C1302(A)(2).

Historical Note

Section R18-2-715.02 renumbered from R18-2-515.02 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 23 A.A.R. 767, effective May 7, 2017, (Supp. 17-1).

R18-2-716. Standards of Performance for Existing Coal Preparation Plants

- A. The provisions of this Section are applicable to any of the following affected facilities in coal preparation plants: thermal dryers, pneumatic coal-cleaning equipment, coal processing and conveying equipment including breakers and crushers, coal storage systems, and coal transfer and loading systems. For purposes of this Section, the definitions contained in 40 CFR 60.251 are adopted by reference and incorporated herein.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any existing coal preparation plant in total quantities in excess of the amounts calculated by one of the following equations:
1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (B)(1).
- C. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.

- E. Fugitive emissions from coal preparation plants shall be controlled in accordance with R18-2-604 through R18-2-607.
- F. The test methods and procedures required by this Section are as follows:

1. The reference methods in the 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, are used to determine compliance with standards prescribed in subsection (B) as follows:
 - a. Method 5 for the concentration of particulate matter and associated moisture content,
 - b. Method 1 for sample and velocity traverses,
 - c. Method 2 for velocity and volumetric flow rate,
 - d. Method 3 for gas analysis.
2. For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sample volume is 0.85 dscm (30 dscf) except that short sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Director. Sampling shall not be started until 30 minutes after start-up and shall be terminated before shutdown procedures commence. The owner or operator of the affected facility shall eliminate cyclonic flow during performance tests in a manner acceptable to the Director.
3. The owner or operator shall construct the facility so that particulate emissions from thermal dryers or pneumatic coal cleaning equipment can be accurately determined by applicable test methods and procedures under subsection (F)(1).

Historical Note

Section R18-2-716 renumbered from R18-2-516 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-717. Expired**Historical Note**

Section R18-2-717 renumbered from R18-2-517 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-718. Repealed**Historical Note**

Section R18-2-718 renumbered from R18-2-518 effective November 15, 1993 (Supp. 93-4). Section repealed by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2).

R18-2-719. Standards of Performance for Existing Stationary Rotating Machinery

- A. The provisions of this Section are applicable to the following affected facilities: all stationary gas turbines, oil-fired turbines, or internal combustion engines. This Section also applies to an installation operated for the purpose of producing electric or mechanical power with a resulting discharge of sulfur dioxide in the installation's effluent gases.
- B. For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. Compliance tests shall be conducted during operation at the normal rated capacity of each unit. The total heat input of all operating fuel-burning units on a plant or premises shall be used for determining the

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maximum allowable amount of particulate matter which may be emitted.

- C. No person shall cause, allow or permit the emission of particulate matter, caused by combustion of fuel, from any stationary rotating machinery in excess of the amounts calculated by one of the following equations:

1. For equipment having a heat input rate of 4200 million Btu per hour or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 1.02Q^{0.769}$$

where:

E = the maximum allowable particulate emissions rate in pounds-mass per hour.

Q = the heat input in million Btu per hour.

2. For equipment having a heat input rate greater than 4200 million Btu per hour, the maximum allowable emissions shall be determined by the following equation:

$$E = 17.0Q^{0.432}$$

where "E" and "Q" have the same meaning as in subsection (C)(1).

- D. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- E. No person shall cause, allow or permit to be emitted into the atmosphere from any stationary rotating machinery, smoke for any period greater than 10 consecutive seconds which exceeds 40% opacity. Visible emissions when starting cold equipment shall be exempt from this requirement for the first 10 minutes.
- F. When low sulfur oil is fired, stationary rotating machinery installations shall burn fuel which limits the emission of sulfur dioxide to 1.0 pound per million Btu heat input.
- G. When high sulfur oil is fired, stationary rotating machinery installations shall not emit more than 2.2 pounds of sulfur dioxide per million Btu heat input.
- H. Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee. This condition may not be included in the permit if the applicant demonstrates to the satisfaction of the Director both that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to ensure that the sulfur dioxide ambient air quality standards set forth in R18-2-202 will not be violated.
1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.
 2. In cases where the permittee is authorized to use high sulfur oil, it shall submit to the Department monthly reports detailing its efforts to obtain low sulfur oil.
 3. When the conditions justifying the use of high sulfur oil no longer exist, the permit shall be modified accordingly.
 4. Nothing in this Section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.
- I. The owner or operator of any stationary rotating machinery subject to the provisions of this Section shall record daily the sulfur content and lower heating value of the fuel being fired in the machine.
- J. The owner or operator of any stationary rotating machinery subject to the provisions of this Section shall report to the Director any daily period during which the sulfur content of the fuel being fired in the machine exceeds 0.8%.
- K. The test methods and procedures required by this Section are as follows:

1. To determine compliance with the standards prescribed in subsections (C) through (H), the following reference methods shall be used:

- a. Reference Method 20 in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, for the concentration of sulfur dioxide and oxygen.
- b. ASTM Method D129-91 (Test Method for Sulfur in Petroleum Products) (General Bomb Method) for the sulfur content of liquid fuels.
- c. ASTM Method D1072-90 (Test Method for Total Sulfur in Fuel Gases for the sulfur content of gaseous fuels).

2. To determine compliance with the standards prescribed in subsection (J), the following reference methods shall be used:

- a. ASTM Method D129-91 (Test Method for Sulfur in Petroleum Products) (General Bomb Method) for the sulfur content of liquid fuels.
- b. ASTM Method D1072-90 (Test Method for Total Sulfur in Fuel Gases) for the sulfur content of gaseous fuels.

Historical Note

Section R18-2-719 renumbered from R18-2-519 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1). Amended by final rulemaking at 18 A.A.R. 1542, effective August 7, 2012 (Supp. 12-2).

R18-2-720. Standards of Performance for Existing Lime Manufacturing Plants

- A. The provisions of this Section are applicable to the following affected facilities used in the manufacture of lime: rotary lime kilns, vertical lime kilns, lime hydrators, and limestone crushing facilities. This Section is also applicable to limestone crushing equipment which exists apart from other lime manufacturing facilities.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any lime manufacturing or limestone crushing facility in total quantities in excess of the amounts calculated by one of the following equations:
1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (B)(1).
- C. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in

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determining the maximum allowable emission of particulate matter.

- E. Fugitive emissions from lime plants shall be controlled in accordance with R18-2-604 through R18-2-607.
- F. The owner or operator subject to the provisions of this Section shall install, calibrate, maintain, and operate a continuous monitoring system, except as provided in subsection (G), to monitor and record the opacity of the gases discharged into the atmosphere from any rotary lime kiln. The span of this system shall be set at 70% opacity.
- G. The owner or operator of any rotary lime kiln using a wet scrubbing emission control device subject to the provisions of this Section shall not be required to monitor the opacity of the gases discharged as required in subsection (F).
- H. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with this Section as follows:
 - a. Method 5 for the measurement of particulate matter,
 - b. Method 1 for sample and velocity traverses,
 - c. Method 2 for velocity and volumetric flow rate,
 - d. Method 3 for gas analysis,
 - e. Method 4 for stack gas moisture,
 - f. Method 9 for visible emissions.
 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.85 dscm/hr (0.53 dscf/min), except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Director.
 3. Because of the high moisture content of the exhaust gases from the hydrators, in the range of 40 to 85% by volume, the Method 5 sample train may be modified to include a calibrated orifice immediately following the sample nozzle when testing lime hydrators. In this configuration, the sampling rate necessary for maintaining isokinetic conditions can be directly related to exhaust gas velocity without a correction for moisture content.

Historical Note

Section R18-2-720 renumbered from R18-2-520 and amended effective November 15, 1993 (Supp. 93-4).
Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-721. Standards of Performance for Existing Nonferrous Metals Industry Sources

- A. The provisions of this Section are applicable to the following affected facilities:
 1. Mines,
 2. Mills,
 3. Concentrators,
 4. Crushers,
 5. Screens,
 6. Material handling facilities,
 7. Fine ore storage,
 8. Dryers,
 9. Roasters, and
 10. Loaders.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere in any one hour from any process source subject to the provisions of this Section in total quantities in excess of the amounts calculated by one of the following equations:

1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$

where:

E = the maximum allowable particulate emissions rate in pounds-mass per hour.

P = the process weight rate in tons-mass per hour.

2. For process sources having a process weight greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$

where "E" and "P" are defined as indicated in subsection (B)(1).

- C. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D. For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- E. No person shall cause, allow or permit to be discharged into the atmosphere from any dryer or roaster the operating temperature of which exceeds 700°F, reduced sulfur in excess of 10% of the sulfur entering the process as feed. Reduced sulfur includes sulfur equivalent from all sulfur emissions including sulfur dioxide, sulfur trioxide, and sulfuric acid.
- F. The owner or operator of any mining property subject to the provisions of this Section shall record the daily process rates and hours of operation of all material handling facilities.
- G. A continuous monitoring system for measuring sulfur dioxide emissions shall be installed, calibrated, maintained and operated by the owner or operator where dryers or roasters are not expected to achieve compliance with the standard under subsection (E).
- H. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standard prescribed in this Section as follows:
 - a. Method 5 for the concentration of particulate matter and the associated moisture content;
 - b. Method 1 for sample and velocity traverses;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis and calculation of excess air, using the integrated sample technique;
 - e. Method 6 for concentration of SO₂.
 2. For Method 5, Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least 60 minutes and the minimum sampling volume shall be 0.85 dscm (30 dscf), except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the Director. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature no greater than 160°C. (320°F.).
 3. For Method 6, the sampling site shall be the same as that selected for Method 5. The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than 1 m (3.28 ft.). For Method 6, the

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sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

4. For Method 6, the minimum sampling time shall be 20 minutes and the minimum sampling volume 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two samples shall constitute one run. Samples shall be taken at approximately 30-minute intervals.

Historical Note

Section R18-2-721 renumbered from R18-2-521 effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-722. Standards of Performance for Existing Gravel or Crushed Stone Processing Plants

- A. The provisions of this Section are applicable to the following affected facilities: primary rock crushers, secondary rock crushers, tertiary rock crushers, screens, conveyors and conveyor transfer points, stackers, reclaimers, and all gravel or crushed stone processing plants and rock storage piles.
- B. No person shall cause, allow or permit the discharge of particulate matter into the atmosphere except as fugitive emissions in any one hour from any gravel or crushed stone processing plant in total quantities in excess of the amounts calculated by one of the following equations:
 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (B)(1).
- C. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D. Spray bar pollution controls shall be utilized in accordance with "EPA Control of Air Emissions From Process Operations In The Rock Crushing Industry" (EPA 340/1-79-002), "Wet Suppression System" (pages 15-34, amended as of January 1979 (and no future amendments or editions)), as incorporated herein by reference and on file with the Office of the Secretary of State, with placement of spray bars and nozzles as required by the Director to minimize air pollution.
- E. Fugitive emissions from gravel or crushed stone processing plants shall be controlled in accordance with R18-2-604 through R18-2-607.
- F. The owner or operator of any affected facility subject to the provisions of this Section shall install, calibrate, maintain, and operate monitoring devices which can be used to determine daily the process weight of gravel or crushed stone produced. The weighing devices shall have an accuracy of $\pm 5\%$ over their operating range.
- G. The owner or operator of any affected facility shall maintain a record of daily production rates of gravel or crushed stone produced.

- H. The test methods and procedures required by this Section are as follows:

1. The reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards prescribed in this Section as follows:
 - a. Method 5 for concentration of particulate matter and moisture content,
 - b. Method 1 for sample and velocity traverses,
 - c. Method 2 for velocity and volumetric flow rate,
 - d. Method 3 for gas analysis.
2. For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sample volume is 0.85 dscm (30 dscf), except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Director. Sampling shall not be started until 30 minutes after start-up and shall be terminated before shutdown procedures commence. The owner or operator of the affected facility shall eliminate cyclonic flow during performance tests in a manner acceptable to the Director.

Historical Note

Section R18-2-722 renumbered from R18-2-522 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-723. Standards of Performance for Existing Concrete Batch Plants

Fugitive dust emitted from concrete batch plants shall be controlled in accordance with R18-2-604 through R18-2-607.

Historical Note

Section R18-2-723 renumbered from R18-2-523 and amended effective November 15, 1993 (Supp. 93-4).

R18-2-724. Standards of Performance for Fossil-fuel Fired Industrial and Commercial Equipment

- A. This Section applies to industrial and commercial installations which are less than 73 megawatts capacity (250 million Btu per hour), but in the aggregate on any premises are rated at greater than 500,000 Btu per hour (0.146 megawatts), and in which fuel is burned for the primary purpose of producing steam, hot water, hot air or other liquids, gases or solids and in the course of doing so the products of combustion do not come into direct contact with process materials. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.
- B. For purposes of this Section, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or other outlet. The heat content of solid fuel shall be determined in accordance with R18-2-311. Compliance tests shall be conducted during operation at the nominal rated capacity of each unit. The total heat input of all fuel-burning units on a plant or premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.
- C. No person shall cause, allow or permit the emission of particulate matter, caused by combustion of fuel, from any fuel-burning operation in excess of the amounts calculated by one of the following equations:
 1. For equipment having a heat input rate of 4200 million Btu per hour or less, the maximum allowable emissions shall be determined by the following equation:

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$$E = 1.02Q^{0.769}$$

where:

E = the maximum allowable particulate emissions rate in pounds-mass per hour.

Q = the heat input in million Btu per hour.

2. For equipment having a heat input rate greater than 4200 million Btu per hour, the maximum allowable emissions shall be determined by the following equation:

$$E = 17.0Q^{0.432}$$

where "E" and "Q" have the same meanings as in subsection (C)(1).

- D. Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- E. Fossil-fuel fired industrial and commercial equipment installations shall not emit more than 1.0 pounds of sulfur dioxide per million Btu heat input when low sulfur oil is fired.
- F. Fossil-fuel fired industrial and commercial equipment installations shall not emit more than 2.2 pounds of sulfur dioxide per million Btu heat input when high sulfur oil is fired.
- G. Any permit issued for the operation of an existing source, or any renewal or modification of such a permit, shall include a condition prohibiting the use of high sulfur oil by the permittee. This condition may be omitted from the permit if the applicant demonstrates to the satisfaction of the Director both that sufficient quantities of low sulfur oil are not available for use by the source and that it has adequate facilities and contingency plans to ensure that the sulfur dioxide ambient air quality standards set forth in R18-2-202 will not be violated.
 1. The terms of the permit may authorize the use of high sulfur oil under such conditions as are justified.
 2. In cases where the permittee is authorized to use high sulfur oil, it shall submit to the Department monthly reports detailing its efforts to obtain low sulfur oil.
 3. When the conditions justifying the use of high sulfur oil no longer exist, the permit shall be modified accordingly.
 4. Nothing in this Section shall be construed as allowing the use of a supplementary control system or other form of dispersion technology.
- H. When coal is fired, fossil-fuel fired industrial and commercial equipment installations shall not emit more than 1.0 pounds of sulfur dioxide per million Btu heat input.
- I. The owner or operator subject to the provisions of this Section shall install, calibrate, maintain and operate a continuous monitoring system for measurement of the opacity of emissions discharged into the atmosphere from the control device.
- J. For the purpose of reports required under excess emissions reporting required by R18-2-310.01, the owner or operator shall report all six-minute periods in which the opacity of any plume or effluent exceeds 15%.
- K. The test methods and procedures required by this Section are as follows:
 1. The reference methods in 40 CFR 60, Appendix A, as incorporated by reference in Appendix 2 of this Chapter, shall be used to determine compliance with the standards as prescribed in this Section.
 - a. Method 1 for selection of sampling site and sample traverses,
 - b. Method 3 for gas analysis to be used when applying Reference Methods 5 and 6,
 - c. Method 5 for concentration of particulate matter and the associated moisture content,
 - d. Method 6 for concentration of SO₂.
 2. For Method 5, Method 1 shall be used to select the sampling site and the number of traverse sampling points.

The sampling time for each run shall be at least 60 minutes and the minimum sampling volume shall be 0.85 dscm (30 dscf), except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the Director. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature no greater than 160°C. (320°F.).

3. For Method 6, the sampling site shall be the same as that selected for Method 5. The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than 1 m (3.28 ft). For Method 6, the sample shall be extracted at a rate proportional to the gas velocity at the sampling point.
4. For Method 6, the minimum sampling time shall be 20 minutes and the minimum sampling volume 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two samples shall constitute one run. Samples shall be taken at approximately 30-minute intervals.
5. Gross calorific value shall be determined in accordance with the applicable ASTM methods: D-2015-91 (Test for Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter) for solid fuels; D-240-87 (Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter) for liquid fuels; and D-1826-88 (Test Method for Calorific Value of Gases in Natural Gas Range by Continuous Recording Calorimeter) for gaseous fuels. The rate of fuels burned during each testing period shall be determined by suitable methods and shall be confirmed by a material balance over the fossil-fuel fired system.

Historical Note

Section R18-2-724 renumbered from R18-2-524 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 7 A.A.R. 1164, effective February 15, 2001 (Supp. 01-1). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-725. Standards of Performance for Existing Dry Cleaning Plants

- A. No person shall conduct any dry cleaning operation using chlorinated synthetic solvents without minimizing organic solvent emissions by good modern practices including but not limited to the use of an adequately sized and properly maintained activated carbon absorber or other equally effective control device.
- B. No person shall operate any dry cleaning establishment using petroleum solvents other than non-photochemically reactive solvents without reducing solvent emissions by at least 90%. For purposes of this subsection, a photochemically reactive solvent shall be any solvent with an aggregate of more than 20% of its total volume composed of the chemical compounds classified in subsections (B)(1) through (3), or which exceeds any of the following percentage composition limitations, referred to the total volume of solvent:
 1. A combination of the following types of compounds having an olefinic or cyclo-olefinic type of unsaturation -- hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones: 5%.
 2. A combination of aromatic compounds with 8 or more carbon atoms to the molecule except ethylbenzene: 8%.
 3. A combination of ethylbenzene, ketones having branched hydrocarbon structures, trichlorethylene or toluene: 20%.

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- C. Where a stack, vent or other outlet is at such a level that fumes, gas mist, odor, smoke, vapor or any combination thereof constituting air pollution is discharged to adjoining property, the Director may require the installation of abatement equipment or the alteration of such stack, vent, or other outlet by the owner or operator thereof to a degree that will adequately dilute, reduce or eliminate the discharge of air pollution to the adjoining property.

Historical Note

Section R18-2-725 renumbered from R18-2-525 effective November 15, 1993 (Supp. 93-4).

R18-2-726. Standards of Performance for Sandblasting Operations

No person shall cause or permit sandblasting or other abrasive blasting without minimizing dust emissions to the atmosphere through the use of good modern practices. Examples of good modern practices include wet blasting and the use of effective enclosures with necessary dust collecting equipment.

Historical Note

Section R18-2-726 renumbered from R18-2-526 effective November 15, 1993 (Supp. 93-4).

R18-2-727. Standards of Performance for Spray Painting Operations

- A. No person shall conduct any spray paint operation without minimizing organic solvent emissions. Such operations other than architectural coating and spot painting, shall be conducted in an enclosed area equipped with controls containing no less than 96% of the overspray.
- B. No person shall either:
1. Employ, apply, evaporate or dry any architectural coating containing photochemically reactive solvents for industrial or commercial purposes; or
 2. Thin or dilute any architectural coating with a photochemically reactive solvent.
- C. For purposes of subsection (B), a photochemically reactive solvent shall be any solvent with an aggregate of more than 20% of its total volume composed of the chemical compounds classified in subsections (1) through (3), or which exceeds any of the following percentage composition limitations, referred to the total volume of solvent:
1. A combination of the following types of compounds having an olefinic or cyclo-olefinic type of unsaturation -- hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones: 5%.
 2. A combination of aromatic compounds with 8 or more carbon atoms to the molecule except ethylbenzene: 8%.
 3. A combination of ethylbenzene, ketones having branched hydrocarbon structures, trichlorethylene or toluene: 20%.
- D. Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the groups or organic compounds described in subsection (C)(1) through (3), it shall be considered to be a member of the group having the least allowable percent of the total volume of solvents.

Historical Note

Section R18-2-727 renumbered from R18-2-527 effective November 15, 1993 (Supp. 93-4).

R18-2-728. Standards of Performance for Existing Ammonium Sulfide Manufacturing Plants

- A. The provisions of this Section are applicable to the following affected facilities in ammonium sulfide manufacturing plants:

sulfide unloading facilities, reactor-absorbers, bubble cap scrubbers, and fume incinerators.

- B. No person shall cause, allow or permit to be emitted into the atmosphere, from any type of incinerator or other outlet smoke, fumes, gases, particulate matter or other gas-borne material, the opacity of which exceeds 20%.
- C. No person shall cause, allow or permit to be emitted into the atmosphere from any emission point from any incinerator, or to pass a convenient measuring point near such emission point, particulate matter of concentrations in excess of 0.1 grain per cubic foot, based on dry flue gas at standard conditions, corrected to 12% carbon dioxide.
- D. No person shall allow hydrogen sulfide to be emitted from any location in such manner and amount that the concentration of such emissions into the ambient air at any occupied place beyond the premises on which the source is located exceeds 0.03 parts per million by volume for any averaging period of 30 minutes or more.
- E. Where a stack, vent or other outlet is at such a level that fumes, gas mist, odor, smoke, vapor or any combination thereof constituting air pollution are discharged to adjoining property, the Director may require the installation of abatement equipment or the alteration of such stack, vent, or other outlet by the owner or operator thereof to a degree that will adequately dilute, reduce or eliminate the discharge of air pollution to adjoining property.
- F. The owner or operator of any ammonium sulfide tailgas incinerator subject to the provisions of this Section shall do both of the following:
1. Install, calibrate, maintain, and operate a flow measuring device which can be used to determine either the mass or volume of tailgas charged to the incinerator. The flow measuring device shall have an accuracy of $\pm 5\%$ over its operating range.
 2. Provide access to the tailgas charged so that a well-mixed representative grab sample can be obtained.
- G. The test methods and procedures required by this Section are as follows:
1. The reference methods in 40 CFR 60, Appendix A shall be used to determine compliance with the standards prescribed in this Section as follows:
 - a. Method 5 for the concentration of particulate matter and the associated moisture content;
 - b. Method 1 for sample and velocity traverse;
 - c. Method 2 for velocity and volumetric flow rate;
 - d. Method 3 for gas analysis and calculation of excess air, using the integrated sample technique;
 - e. Method 11 shall be used to determine the concentration of H_2S and Method 6 shall be used to determine the concentration of SO_2 .
 2. For Method 5, the sampling time for each run shall be at least 60 minutes and the minimum sample volume shall be 0.85 dscm (30.0 dscf) except that shorter sampling times and smaller sample volumes, when necessitated by process variables or other factors, may be approved by the Director.
 3. Particulate matter emissions, expressed in g/dscm, shall be corrected to 12% CO_2 by using the following formula:

$$C_{12} = \frac{12c}{\%CO_2}$$

where:

C_{12} = the concentration of particulate matter corrected to 12% CO_2 ,

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c = the concentration of particulate matter as measured by Method 5, and

%CO₂ = the percentage of CO₂ as measured by Method 3, or, when applicable, the adjusted outlet CO₂ percentage.

4. If Method 11 is used, the gases sampled shall be introduced into the sampling train at approximately atmospheric pressure. Where fuel gas lines are operating at pressures substantially above atmosphere, this may be accomplished with a flow control valve. If the line pressure is high enough to operate the sampling train without a vacuum pump, the pump may be eliminated from the sampling train. The sample shall be drawn from a point near the centroid of the fuel gas line. The minimum sampling time shall be 10 minutes and the minimum sampling volume 0.01 dscm (0.35 dscf) for each sample. The arithmetic average of two samples of equal sampling time shall constitute one run. Samples shall be taken at approximately one-hour intervals. For most fuel gases, sample times exceeding 20 minutes may result in depletion of the collecting solution, although fuel gases containing low concentrations of hydrogen sulfide may necessitate sampling for longer periods of time.
5. If Method 5 is used, Method 1 shall be used for velocity traverses and Method 2 for determining velocity and volumetric flow rate. The sampling site for determining CO₂ concentration by Method 3 shall be the same as for determining volumetric flow rate by Method 2. The sampling point in the duct for determining SO₂ concentration by Method 3 shall be at the centroid of the cross section if the cross sectional area is less than 5 m² (54 ft²) or at a point no closer to the walls than 1 m (3.28 feet) if the cross sectional area is 5 m² or more and the centroid is more than 1 meter from the wall. The sample shall be extracted at a rate proportional to the gas velocity at the sampling point. The minimum sampling time shall be 10 minutes and the minimum sampling volume 0.01 dscm (0.36 dscf) for each sample. The arithmetic average of two samples of equal sampling time shall constitute one run. Samples shall be taken at approximately one-hour intervals.

Historical Note

Section R18-2-728 renumbered from R18-2-528 effective November 15, 1993 (Supp. 93-4).

R18-2-729. Standards of Performance for Cotton Gins

- A. Fugitive dust, lint, bolls, cotton seed or other material emitted from a cotton gin or lying loose in a yard shall be collected and disposed of in an efficient manner or shall be treated in accordance with R18-2-604 through R18-2-607.
- B. No person shall cause, allow or permit to be emitted into the atmosphere, from any type of incinerator, smoke, fumes, gases, particulate matter or other gas-borne material which exceeds 40% opacity.
- C. No person shall cause, allow, or permit the discharge of particulate matter into the atmosphere in any one hour from any cotton gin in total quantities in excess of the amounts calculated by one of the following equations:
 1. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:

E = the maximum allowable particulate emissions rate in pounds-mass per hour.

P = the process weight rate in tons-mass per hour.

2. For process sources having a process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (C)(1).

D. The test methods and procedures required by this Section are as follows:

1. The reference methods in the Arizona Testing Manual and 40 CFR 60, Appendix A shall be used to determine compliance with this Section as follows:
 - a. Method A-2 for the measurement of particulate matter,
 - b. Method 1 for sample and velocity traverses,
 - c. Method 2 for velocity and volumetric flow rate,
 - d. Method 3 for gas analysis,
 - e. Method 9 for visible emissions.
2. For Method A-2, the sampling time for each run shall be at least 60 minutes and the sampling rate shall be at least 0.85 dry standard cubic meters per hour (0.53 dry standard cubic feet per minute), except that shorter sampling times, when necessitated by progress variables or other factors, may be approved by the Director.

Historical Note

Section R18-2-729 renumbered from R18-2-529 and amended effective November 15, 1993 (Supp. 93-4).

Amended by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2).

R18-2-730. Standards of Performance for Unclassified Sources

- A. No existing source which is not otherwise subject to standards of performance under this Article or Article 9 or 11 of this Chapter, shall cause or permit the emission of pollutants at rates greater than the following:
 1. For particulate matter discharged into the atmosphere in any one hour from any unclassified process source in total quantities in excess of the amounts calculated by one of the following equations:
 - a. For process sources having a process weight rate of 60,000 pounds per hour (30 tons per hour) or less, the maximum allowable emissions shall be determined by the following equation:

$$E = 4.10P^{0.67}$$
 where:
 E = the maximum allowable particulate emissions rate in pounds-mass per hour.
 P = the process weight rate in tons-mass per hour.
 - b. For process weight rate greater than 60,000 pounds per hour (30 tons per hour), the maximum allowable emissions shall be determined by the following equation:

$$E = 55.0P^{0.11-40}$$
 where "E" and "P" are defined as indicated in subsection (A)(1)(a).
 2. Sulfur dioxide – 600 parts per million.
 3. Nitrogen oxides expressed as NO₂ – 500 parts per million.

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- B.** For purposes of this Section, the total process weight from all similar units employing a similar type process shall be used in determining the maximum allowable emission of particulate matter.
- C.** Actual values shall be calculated from the applicable equations and rounded off to two decimal places.
- D.** No person shall emit gaseous or odorous materials from equipment, operations or premises under the person's control in such quantities or concentrations as to cause air pollution.
- E.** No person shall operate or use any machine, equipment, or other contrivance for the treatment or processing of animal or vegetable matter, separately or in combination, unless all gaseous vapors and gas entrained effluents from such operations, equipment, or contrivance have been either:
1. Incinerated to destruction, as indicated by a temperature measuring device, at not less than 1,200°F if constructed or reconstructed prior to January 1, 1989, or 1,600°F with a minimum residence time of 0.5 seconds if constructed or reconstructed thereafter; or
 2. Passed through such other device which is designed, installed and maintained to prevent the emission of odors or other air contaminants and which is approved by the Director.
- F.** Materials including solvents or other volatile compounds, paints, acids, alkalies, pesticides, fertilizers and manure shall be processed, stored, used and transported in such a manner and by such means that they will not evaporate, leak, escape or be otherwise discharged into the ambient air so as to cause or contribute to air pollution. Where means are available to reduce effectively the contribution to air pollution from evaporation, leakage or discharge, the installation and use of such control methods, devices, or equipment shall be mandatory.
- G.** Where a stack, vent or other outlet is at such a level that fumes, gas mist, odor, smoke, vapor or any combination thereof constituting air pollution is discharged to adjoining property, the Director may require the installation of abatement equipment or the alteration of such stack, vent, or other outlet by the owner or operator thereof to a degree that will adequately dilute, reduce or eliminate the discharge of air pollution to adjoining property.
- H.** No person shall allow hydrogen sulfide to be emitted from any location in such manner and amount that the concentration of such emissions into the ambient air at any occupied place beyond the premises on which the source is located exceeds 0.03 parts per million by volume for any averaging period of 30 minutes or more.
- I.** No person shall cause, allow or permit discharge from any stationary source carbon monoxide emissions without the use of complete secondary combustion of waste gases generated by any process source.
- J.** No person shall allow hydrogen cyanide to be emitted from any location in such manner and amount that the concentration of such emissions into the ambient air at any occupied place beyond the premises on which the source is located exceeds 0.3 parts per million by volume for any averaging period of eight hours.
- K.** No person shall allow sodium cyanide dust or dust from any other solid cyanide to be emitted from any location in such manner and amount that the concentration of such emissions into the ambient air at any occupied place beyond the premises on which the source is located exceeds 140 micrograms per cubic meter for any averaging period of eight hours.
- L.** No owner or operator of a facility engaged in the surface coating of miscellaneous metal parts and products may operate a coating application system subject to this Section that emits volatile organic compounds in excess of any of the following:
1. 4.3 pounds per gallon (0.5 kilograms per liter) of coating, excluding water, delivered to a coating applicator that applies clear coatings.
 2. 3.5 pounds per gallon (0.42 kilograms per liter) of coating, excluding water delivered to a coating applicator in a coating application system that is air dried or forced warm air dried at temperatures up to 194°F (90°C).
 3. 3.5 pounds per gallon (0.42 kilograms per liter) of coating, excluding water, delivered to a coating applicator that applies extreme performance coatings.
 4. 3.0 pounds per gallon (0.36 kilograms per liter) of coating, excluding water, delivered to a coating applicator for all other coatings and application systems.
- M.** If more than one emission limitation in subsection (L) applies to a specific coating, then the least stringent emission limitation shall be applied.
- N.** All VOC emissions from solvent washings shall be considered in the emission limitations in subsection (L), unless the solvent is directed into containers that prevent evaporation into the atmosphere.

Historical Note

Renumbered from R18-2-530 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

R18-2-731. Standards of Performance for Existing Municipal Solid Waste Landfills

- A.** This Section applies to each municipal solid waste landfill (MSW landfill) at which:
1. Construction, reconstruction, or modification began on or before July 17, 2014; and
 2. Waste was accepted at any time since November 8, 1987, or additional design capacity is available for future waste deposition.
- B.** For the purposes of this Section, "Municipal solid waste landfill or MSW landfill" means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may also receive other types of RCRA (Resource Conservation and Recovery Act) Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned.
- C.** MSW landfills covered by this Section shall comply with 40 CFR 60, Subpart Cf, effective as of the date of EPA approval of the state plan under section 111(d) of the Act. 40 CFR 60, Subpart WWW, "Standards of Performance for Municipal Solid Waste Landfills," will remain in effect until Arizona's state plan implementing Subpart Cf is approved by EPA. 40 CFR 60, Subpart Cf "Emissions Guidelines and Compliance Times for Municipal Solid Waste Landfills," as adopted on August 29, 2016 (and no future amendments) is hereby incorporated by reference as applicable requirements. MSW landfills may meet the requirements of Subpart Cf by complying with 40 CFR 60, Subpart XXX. 40 CFR 60, Subpart XXX "Standards of Performance for Municipal Solid Waste Landfills that Commenced Construction, Reconstruction or Modification After July 17, 2014," is incorporated by reference in R18-2-901.

Historical Note

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Adopted effective April 4, 1997; filed with the Office of the Secretary of State March 14, 1997 (Supp. 97-1). Amended by final rulemaking at 24 A.A.R. 1864, effective August 10, 2018 (Supp. 18-2).

R18-2-732. Expired**Historical Note**

New Section adopted by final rulemaking at 5 A.A.R. 3058, effective August 10, 1999 (Supp. 99-3). Amended by final rulemaking at 13 A.A.R. 2157, effective August 4, 2007 (Supp. 07-2). Section expired under A.R.S. § 41-1056(J) at 21 A.A.R. 15, effective September 30, 2015 (Supp. 15-4).

R18-2-733. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4701, effective January 29, 2007 (Supp. 06-4). Section repealed by final rulemaking at 21 A.A.R. 711, effective June 30, 2015 (Supp. 15-2).

R18-2-733.01. Repealed**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 4701, effective January 29, 2007 (Supp. 06-4). Section repealed by final rulemaking at 21 A.A.R. 711, effective June 30, 2015 (Supp. 15-2).

R18-2-734. Standards of Performance for Mercury Emissions from Electric Generating Units

- A. Applicability and Purpose.** The requirements of this Section apply to owners and operators of electric generating units. The purpose of this Section is to establish:
1. Interim standards for mercury emissions from electric generating units that shall apply until compliance with the emissions limits in the federal mercury standards is required.
 2. State standards for mercury emissions from electric generating units that shall apply if the federal mercury standards are vacated by a federal court or repealed by the administrator.
- B. Interim Standards.** The following requirements shall apply until the date that compliance with the federal mercury standards or subsection (G) is required:
1. The owners and operators shall comply with the mercury control strategy operations and maintenance plan approved as part of the permit for the electric generating plant.
 2. The owners and operators shall operate and maintain the electric generating plant, including any associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing mercury emissions. This requirement shall apply to any air pollution control equipment installed pursuant to subsection (B)(1) or to any new air pollution control equipment installed to comply with the federal mercury standards if such equipment replaces equipment installed pursuant to subsection (B)(1).
- C. Incorporation of Federal Mercury Standards.** The federal mercury standards in 40 C.F.R. Part 63, Subpart UUUUU, as of July 1, 2013 (and no future amendments or editions) are incorporated by reference and shall remain effective to the extent specified in this Section regardless of whether they are vacated by a federal court or repealed by the administrator. Subpart

UUUU of 40 C.F.R. Part 63 is published by the United States Government Printing Office, 732 North Capital Street, NW, Washington, DC 20401-0001, is on file with the Department of Environmental Quality, 1110 West Washington Street, Phoenix, Arizona 85007, and is available at the Arizona State Library, Archives & Public Records, 1700 West Washington Street, Phoenix, Arizona 85007 and at other Federal depository libraries in the state (see http://catalog.gpo.gov/fdlpdip/FDLP-dir.jsp?st_12=AZ&flag=searchp). It is also available online at <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>. The owners and operators shall provide to the director a copy of all notices and reports submitted to the Administrator under the federal mercury standards, except for any reports or data submitted to the Administrator through electronic systems (for example, Compliance and Emissions Data Reporting Interface (CEDRI), Emission Collection Monitoring Plan System Client Tool (ECMPS) or the Emissions Reporting Tool (ERT)).

- D. Notice of State Standard Applicability.** The director shall provide notice to the responsible official for each electric generating plant of any repeal or federal court vacatur of the federal mercury standards. If the repeal or vacatur occurred after the date the electric generating plant was required to comply with the emission limits in the federal mercury standards, the plant shall continue to comply with the federal mercury standards until the date that compliance with subsection (G) is required.
- E. Application for Permit Revision.** Within 120 days of receipt of written notice from the director under subsection (D), the owners and operators shall submit an application for a permit revision that proposes:
1. The mercury emission limit or limits in subsection (G) that shall apply to the electric generating plant.
 2. A date for demonstrating compliance with the mercury emission limit consistent with subsection (F)(2).
 3. A mercury monitoring plan consistent with subsection (H)(2).
- F. Permit Revision Setting State Standard.** A permit revision granted in response to the application submitted under subsection (E) shall contain the following conditions:
1. The mercury emission limit or limits in subsection (G) that shall apply to the electric generating plant.
 2. The date compliance with the emission limit or limits shall be required. Unless the application requests an earlier date, the compliance date shall be the later of December 31, 2016 or the end of the first averaging period commencing no later than 180 days after permit issuance.
 3. The date for demonstrating initial compliance with the emission limit or limits, which shall be 45 days after completion of the first full averaging period after the compliance date established under subsection (F)(2).
 4. The date on which compliance with subsection (B), or the obligation to comply with the federal mercury standards in subsection (D), as applicable, shall no longer be required.
 5. A mercury monitoring plan consistent with subsection (H).
 6. Compliance reporting requirements consistent with subsection (I).
- G. State Mercury Emission Limits.** Emissions from an electric generating unit shall comply with one or more of the emission limits specified in the following table, as selected by the owners and operators under subsection (F).

No.	Limit	Averaging Period	Applicable To
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1.	10 % of inlet mercury	Rolling 12-month	Electric generating plant
2.	0.0087 pounds per gigawatt-hour	Rolling 12-month	Electric generating plant
3.	0.011 pounds per gigawatt-hour	Rolling 90-boiler operating days	EGUs identified in averaging group
4.	1.0 pounds per Trillion Btu	Rolling 90-boiler operating days	EGUs identified in averaging group
5.	0.013 pounds per gigawatt-hour	Rolling 30-boiler operating days	Individual electric generating unit
6.	1.2 pounds per Trillion Btu	Rolling 30-boiler operating days	Individual electric generating unit

H. Compliance Monitoring and Recordkeeping.

1. Compliance with subsection (G) shall be determined using a mercury CEMS or sorbent trap monitoring system pursuant to Appendix A of the federal mercury standards and in accordance with an approved mercury monitoring plan.
2. The mercury monitoring plan shall include the following elements:
 - a. Identification of the emission limit or limits in subsection (G) for which compliance will be demonstrated.
 - b. Identification of whether a mercury CEMS or sorbent trap monitoring system will be used as the primary compliance method. Backup methods may be identified and approved in the plan.
 - c. Description of the parameters that will be monitored, including mercury concentration, stack flow, fuel mercury content, fuel rate, electricity generation rate, moisture percent, and any diluent or other gas or process parameters necessary to calculate compliance in terms of the applicable emission limit.
 - d. Description and example of the calculations required to convert monitored parameters to mercury emissions in terms of the emission limit.
 - e. Establishment of CEMS analyzer data availability, and QA/QC requirements.
 - f. Procedures for completing an initial demonstration of compliance, except as otherwise provided in subsection (I)(1).
2. At least once per month, the mercury emissions data shall be compiled into a record demonstrating compliance with the emission limit or limits established in the permit revision issued under subsection (F). This record shall be completed no later than the 15th day of the following month.
3. Records shall be maintained as follows:
 - a. Records demonstrating compliance with the emissions limits shall be maintained for five years.
 - b. If a mercury CEMS is used, daily CEMS data, QA/QC data identified in the mercury monitoring plan, any maintenance work conducted on the CEMS or data logging system, and a calculation of all mercury CEMS downtime shall be maintained for five years.

- c. If a sorbent trap monitoring system is used, all sorbent monitoring data and any maintenance work conducted on the system shall be maintained for five years.

I. Reporting. The owners and operators shall submit to the director the following reports:

1. An initial demonstration of compliance, which must be submitted to the director within 180 days after completion of the first full averaging period. This requirement shall not apply to an electric generating unit if an initial demonstration of compliance has been completed for that unit under 40 C.F.R. 63.10005(d)(3) and the demonstration shows compliance with subsection (G) for that unit. The report shall include:
 - a. The name of the electric generating plant and electric generating units.
 - b. The applicable emission limit or limits for the plant or the electric generating units.
 - c. The mercury emissions for the plant, group of averaged units, or each unit, as applicable, during the initial compliance demonstration in terms of the applicable standard.
 - d. A certification by a responsible official.
2. Semiannual compliance reports, which must be submitted to the director on the dates established in the electric generating plant's air quality permit. The report shall include:
 - a. The name of the electric generating plant and electric generating units;
 - b. The applicable emission limit or limits for the plant or the electric generating units.
 - c. The mercury emissions for the plant, or each unit, as applicable, for each month during the six month period ending the month prior to the semiannual report in terms of the applicable standard.
 - d. An explanation of any excess emissions, the duration of the excess emissions, and corrective actions taken, if any, to resolve those excess emissions.
 - e. A certification by a responsible official.
- J. Exemption. After receipt of notice under subsection (D), in lieu of submitting the permit revision application required by subsection (E), the owners and operators may notify the director in writing that they elect to comply with the vacated or repealed federal mercury standards at an electric generating plant. If the owners and operators for an electric generating plant make this election, the plant shall be exempt from subsections (E) through (I). If the owners and operators of an electric plant elect this option:
 1. "Administrator" shall mean "Director" whenever it appears in the federal mercury standards or regulations referenced therein.
 2. "EPA" shall mean "ADEQ, Air Quality Division" whenever it appears in the federal mercury standards or regulations referenced therein.
3. In lieu of reports submitted to the Administrator through electronic systems (for example, Compliance and Emissions Data Reporting Interface (CEDRI), Emission Collection Monitoring Plan System Client Tool (ECMPS) or Emissions Reporting Tool (ERT)) pursuant to the federal mercury standards, the owners or operators shall submit to the Director, semiannually at the time required by permit, the RATA or the rolling 30-day or rolling 90-day average mercury value for each EGU or the plant, as applicable.

Historical Note

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New Section made by final rulemaking at 12 A.A.R. 4701, effective January 29, 2007 (Supp. 06-4). Amended by final rulemaking at 21 A.A.R. 711, effective June 30, 2015 (Supp. 15-2).

Table 1. Expired**Historical Note**

Table 1 adopted by final rulemaking at 5 A.A.R. 3058, effective August 10, 1999 (Supp. 99-3). Table 1 expired under A.R.S. § 41-1056(J) at 23 A.A.R. 3427, effective October 10, 2017 (Supp. 17-4).

Table 2. Expired**Historical Note**

Table 2 adopted by final rulemaking at 5 A.A.R. 3058, effective August 10, 1999 (Supp. 99-3). Table 2 expired under A.R.S. § 41-1056(J) at 23 A.A.R. 3427, effective October 10, 2017 (Supp. 17-4).

ARTICLE 8. EMISSIONS FROM MOBILE SOURCES (NEW AND EXISTING)**R18-2-801. Classification of Mobile Sources**

- A. This Article is applicable to mobile sources which either move while emitting air contaminants or are frequently moved during the course of their utilization but are not classified as motor vehicles, agricultural vehicles, or agricultural equipment used in normal farm operations. This subsection shall not apply to non-road engines or vehicles, as defined by 42 U.S.C. § 7550(10) and (11).
- B. Unless otherwise specified, no mobile source shall emit smoke or dust the opacity of which exceeds 40%.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1). Amended effective September 26, 1990 (Supp. 90-3). Amended effective February 3, 1993 (Supp. 93-1). Former Section R18-2-801 renumbered to Section R18-2-901, new Section R18-2-801 renumbered from R18-2-601 effective November 15, 1993 (Supp. 93-4). Amended by final expedited rulemaking at 30 A.A.R. 2422 (July 26, 2024), with an immediate effective date of July 3, 2024 (Supp. 24-3).

R18-2-802. Off-road Machinery

- A. No person shall cause, allow or permit to be emitted into the atmosphere from any off-road machinery, smoke for any period greater than 10 consecutive seconds, the opacity of which exceeds 40%. Visible emissions when starting cold equipment shall be exempt from this requirement for the first 10 minutes.
- B. Off-road machinery shall include trucks, graders, scrapers, rollers, locomotives and other construction and mining machinery not normally driven on a completed public roadway. This subsection shall not apply to non-road engines or vehicles, as defined by 42 U.S.C. § 7550(10) and (11).

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-802 renumbered to Section R18-2-902, new Section R18-2-802 renumbered from R18-2-602 effective November 15, 1993 (Supp. 93-4). Amended by final expedited rulemaking at 30 A.A.R. 2422 (July 26, 2024), with an immediate effective date of July 3, 2024 (Supp. 24-3).

R18-2-803. Heater-planer Units

No person shall cause, allow or permit to be emitted into the atmosphere from any heater-planer operated for the purpose of reconstructing asphalt pavements smoke the opacity of which exceeds 20%. However three minutes' upset time in any one hour shall not constitute a violation of this Section.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1). Amended effective September 26, 1990 (Supp. 90-3). Former Section R18-2-803 renumbered to Section R18-2-903, new Section R18-2-803 renumbered from R18-2-603 effective November 15, 1993 (Supp. 93-4).

R18-2-804. Roadway and Site Cleaning Machinery

- A. No person shall cause, allow or permit to be emitted into the atmosphere from any roadway and site cleaning machinery smoke or dust for any period greater than 10 consecutive seconds, the opacity of which exceeds 40%. Visible emissions when starting cold equipment shall be exempt from this requirement for the first 10 minutes. This subsection shall not apply to non-road engines or vehicles, as defined by 42 U.S.C. § 7550(10) and (11).
- B. In addition to complying with subsection (A), no person shall cause, allow or permit the cleaning of any site, roadway, or alley without taking reasonable precautions to prevent particulate matter from becoming airborne. Reasonable precautions may include applying dust suppressants. Earth or other material shall be removed from paved streets onto which earth or other material has been transported by trucking or earth moving equipment, erosion by water or by other means.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1). Amended effective September 26, 1990 (Supp. 90-3). Amended effective February 3, 1993 (Supp. 93-1). Former Section R18-2-804 renumbered to Section R18-2-904, new Section R18-2-804 renumbered from R18-2-604 effective November 15, 1993 (Supp. 93-4). Amended by final expedited rulemaking at 30 A.A.R. 2422 (July 26, 2024), with an immediate effective date of July 3, 2024 (Supp. 24-3).

R18-2-805. Asphalt or Tar Kettles

- A. No person shall cause, allow or permit to be emitted into the atmosphere from any asphalt or tar kettle smoke for any period greater than 10 consecutive seconds, the opacity of which exceeds 40%.
- B. In addition to complying with subsection (A), no person shall cause, allow or permit the operation of an asphalt or tar kettle without minimizing air contaminant emissions by utilizing all of the following control measures:
 1. The control of temperature recommended by the asphalt or tar manufacturer;
 2. The operation of the kettle with lid closed except when charging;
 3. The pumping of asphalt from the kettle or the drawing of asphalt through cocks with no dipping;
 4. The dipping of tar in an approved manner;
 5. The maintaining of the kettle in clean, properly adjusted, and good operating condition;
 6. The firing of the kettle with liquid petroleum gas or other fuels acceptable to the Director.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1). Amended effective September 26, 1990 (Supp. 90-3).

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Former Section R18-2-805 renumbered to Section R18-2-905, new Section R18-2-805 renumbered from R18-2-605 effective November 15, 1993 (Supp. 93-4).

ARTICLE 9. NEW SOURCE PERFORMANCE STANDARDS

R18-2-901. Standards of Performance for New Stationary Sources

Except as provided in R18-2-902 through R18-2-905, the following subparts of 40 CFR 60, New Source Performance Standards (NSPS), and all accompanying appendices, adopted as of June 28, 2013, unless otherwise specified, and no future editions or amendments, are incorporated by reference as applicable requirements. These standards are on file with the Department and shall be applied by the Department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.

1. Subpart A - General Provisions.
2. Subpart D - Standards of Performance for Fossil-Fuel-Fired Steam Generators for Which Construction is Commenced After August 17, 1971.
3. Subpart Da - Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978.
4. Subpart Db - Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units.
5. Subpart Dc - Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.
6. Subpart E - Standards of Performance for Incinerators.
7. Subpart Ea - Standards of Performance for Municipal Waste Combustors for Which Construction is Commenced after December 20, 1989 and on or Before September 20, 1994.
8. Subpart Eb - Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced after September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996.
9. Subpart Ec - Standards of Performance for Hospital/Medical/ Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996.
10. Subpart F - Standards of Performance for Portland Cement Plants.
11. Subpart G - Standards of Performance for Nitric Acid Plants.
12. Subpart Ga - Standards of Performance for Nitric Acid Plants for which Construction, Reconstruction, or Modification Commenced after October 14, 2011.
13. Subpart H - Standards of Performance for Sulfuric Acid Plants.
14. Subpart I - Standards of Performance for Hot Mix Asphalt Facilities.
15. Subpart J - Standards of Performance for Petroleum Refineries.
16. Subpart Ja - Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007.
17. Subpart K - Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and Prior to May 19, 1978.
18. Subpart Ka - Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984.
19. Subpart Kb - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984.
20. Subpart L - Standards of Performance for Secondary Lead Smelters.
21. Subpart M - Standards of Performance for Secondary Brass and Bronze Production Plants.
22. Subpart N - Standards of Performance for Primary Emissions from Basic Oxygen Process Furnaces for Which Construction is Commenced After June 11, 1973.
23. Subpart Na - Standards of Performance for Secondary Emissions from Basic Oxygen Process Steelmaking Facilities for Which Construction is Commenced After January 20, 1983.
24. Subpart O - Standards of Performance for Sewage Treatment Plants.
25. Subpart P - Standards of Performance for Primary Copper Smelters.
26. Subpart Q - Standards of Performance for Primary Zinc Smelters.
27. Subpart R - Standards of Performance for Primary Lead Smelters.
28. Subpart S - Standards of Performance for Primary Aluminum Reduction Plants.
29. Subpart T - Standards of Performance for Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants.
30. Subpart U - Standards of Performance for Phosphate Fertilizer Industry: Superphosphoric Acid Plants.
31. Subpart V - Standards of Performance for Phosphate Fertilizer Industry: Diammonium Phosphate Plants.
32. Subpart W - Standards of Performance for Phosphate Fertilizer Industry: Triple Superphosphate Plants.
33. Subpart X - Standards of Performance for Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities.
34. Subpart Y - Standards of Performance for Coal Preparation Plants.
35. Subpart Z - Standards of Performance for Ferroalloy Production Facilities.
36. Subpart AA - Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983.
37. Subpart AAa - Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983.
38. Subpart BB - Standards of Performance for Kraft Pulp Mills.
39. Subpart BBa - Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013.
40. Subpart CC - Standards of Performance for Glass Manufacturing Plants.
41. Subpart DD - Standards of Performance for Grain Elevators.
42. Subpart EE - Standards of Performance for Surface Coating of Metal Furniture.
43. Subpart GG - Standards of Performance for Stationary Gas Turbines.

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44. Subpart HH - Standards of Performance for Lime Manufacturing Plants.
45. Subpart KK - Standards of Performance for Lead-Acid Battery Manufacturing Plants.
46. Subpart LL - Standards of Performance for Metallic Mineral Processing Plants.
47. Subpart MM - Standards of Performance for Automobile and Light Duty Truck Surface Coating Operations.
48. Subpart NN - Standards of Performance for Phosphate Rock Plants.
49. Subpart PP - Standards of Performance for Ammonium Sulfate Manufacture.
50. Subpart QQ - Standards of Performance for Graphic Arts Industry: Publication Rotogravure Printing.
51. Subpart RR - Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations.
52. Subpart SS - Standards of Performance for Industrial Surface Coating: Large Appliances.
53. Subpart TT - Standards of Performance for Metal Coil Surface Coating.
54. Subpart UU - Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture.
55. Subpart VV - Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry.
56. Subpart VVa - Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for Which Construction, Reconstruction, or Modification Commenced after November 7, 2006.
57. Subpart WW - Standards of Performance for Beverage Can Surface Coating Industry.
58. Subpart XX - Standards of Performance for Bulk Gasoline Terminals.
59. Subpart AAA - Standards of Performance for New Residential Wood Heaters.
60. Subpart BBB - Standards of Performance for Rubber Tire Manufacturing Industry.
61. Subpart DDD - Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry.
62. Subpart FFF - Standards of Performance for Flexible Vinyl and Urethane Coating and Printing.
63. Subpart GGG - Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries.
64. Subpart GGGa - Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After November 7, 2006.
65. Subpart HHH - Standards of Performance for Synthetic Fiber Production Facilities.
66. Subpart III - Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes.
67. Subpart JJJ - Standards of Performance for Petroleum Dry Cleaners.
68. Subpart KKK - Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants.
69. Subpart LLL - Standards of Performance for Onshore Natural Gas Processing; SO₂ Emissions.
70. Subpart NNN - Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations.
71. Subpart OOO - Standards of Performance for Nonmetallic Mineral Processing Plants.
72. Subpart PPP - Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants.
73. Subpart QQQ - Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems.
74. Subpart RRR - Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes.
75. Subpart SSS - Standards of Performance for Magnetic Tape Coating Facilities.
76. Subpart TTT - Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines.
77. Subpart UUU - Standards of Performance for Calciners and Dryers in Mineral Industries.
78. Subpart VVV - Standards of Performance for Polymeric Coating of Supporting Substrates Facilities.
79. Subpart WWW - Standards of Performance for Municipal Solid Waste Landfills.
80. Subpart XXX - Standards of Performance for Municipal Solid Waste Landfills that Commenced Construction, Reconstruction, or Modification After July 17, 2014. This subpart and all accompanying appendices are adopted as of August 29, 2016 (and no future amendments), and are incorporated by reference as applicable requirements.
81. Subpart AAAA - Standards of Performance for Small Municipal Waste Combustion Units for Which Construction Is Commenced after August 30, 1999, or for Which Modification or Reconstruction Is Commenced after June 6, 2001.
82. Subpart CCCC - Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for Which Construction Is Commenced after November 30, 1999, or for Which Modification or Reconstruction Is Commenced on or after June 1, 2001.
83. Subpart EEEE - Standards of Performance for Other Solid Waste Incineration Units for Which Construction is Commenced After December 9, 2004, or for Which Modification or Reconstruction is Commenced on or After June 16, 2006.
84. Subpart IIII - Standards of Performance for Stationary Compression Ignition Combustion Engines.
85. Subpart JJJJ - Standards of Performance for Stationary Spark Ignition Internal Combustion Engines.
86. Subpart KKKK - Standards of Performance for Stationary Combustion Turbines.
87. Subpart LLLL - Standards of Performance for New Sewage Sludge Incineration Units.
88. Subpart OOOO - Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution.
89. Subpart OOOOa - Standards of Performance for Crude Oil and natural gas Facilities for which Construction, Modification or Reconstruction Commenced After September 18, 2015.
90. Subpart PPPP [Reserved].
91. Subpart QQQQ - Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces.
92. Subpart TTTT - Standards of Performance for Greenhouse Gas Emission for Electric Generating Units

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Historical Note

Adopted effective February 26, 1988 (Supp. 88-1).
 Amended effective September 26, 1990 (Supp. 90-3).
 Amended effective February 3, 1993 (Supp. 93-1). Section R18-2-901 renumbered to R18-2-1101, new Section R18-2-901 renumbered from R18-2-801 and amended effective November 15, 1993 (Supp. 93-4). Amended effective June 10, 1994 (Supp. 94-2). Amended effective December 7, 1995 (Supp. 95-4). Amended effective May 9, 1996 (Supp. 96-2). Amended effective April 4, 1997; filed with the Office of the Secretary of State March 14, 1997 (Supp. 97-1). Amended effective December 4, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 3058, effective August 10, 1999, and at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 4170, effective October 11, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3281, effective September 27, 2004 (Supp. 04-3). Amended by final rulemaking at 11 A.A.R. 5504, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4). Amended by final expedited rulemaking at 21 A.A.R. 2747, effective December 13, 2015 (Supp. 15-4). Amended by final expedited rulemaking at 24 A.A.R. 1564, with an immediate effective date of May 2, 2018 (Supp. 18-2). Amended by final rulemaking at 24 A.A.R. 1864, effective August 10, 2018 (Supp. 18-3).

R18-2-902. General Provisions

- A. As used in 40 CFR 60: "Administrator" means the Director of the Arizona Department of Environmental Quality, except that the Director shall not be authorized to approve alternate or equivalent test methods or alternative standards or work practices.
- B. From the general standards identified in R18-2-901, delete the following:
 1. 40 CFR 60.4. All requests, reports, applications, submittals, and other communications to the Director pursuant to this Article shall be submitted to the Arizona Department of Environmental Quality, Air Quality Division, 1110 West Washington Street, Phoenix, Arizona 85007.
 2. 40 CFR 60.5 and 60.6.
- C. The Director shall not be delegated authority to deal with equivalency determinations or innovative technology waivers as covered in Sections 111(h)(3) and 111(j) of the Act.

Historical Note

Adopted effective February 26, 1988 (Supp. 88-1).
 Amended effective September 26, 1990 (Supp. 90-3).
 Section R18-2-902 renumbered to R18-2-1102, new Section R18-2-902 renumbered from R18-2-802 and amended effective November 15, 1993 (Supp. 93-4).
 Amended effective June 10, 1994 (Supp. 94-2). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4).

R18-2-903. Standards of Performance for Fossil-fuel Fired Steam Generators

As exceptions to 40 CFR 60.40 through 60.47:

1. In place of 40 CFR 60.43(a)(2), the following language shall be substituted: 340 nanograms per joule heat input (0.8 pounds per million Btu) derived from solid fossil fuel or solid fossil fuel and wood residue.
2. Delete 40 CFR 60.43(b).

3. If an owner or operator of a fossil-fuel fired steam generator obtained an installation permit for two or more fuel-burning equipment or steam-power generating installations before May 14, 1979, that permitted the installation to comply with the sulfur dioxide emission standards specified in R18-2-901 and this Section as if the equipment or installations were one emission discharge point:
 - a. The owner or operator shall comply with the applicable sulfur dioxide emission standards in the manner specified in the installation permit;
 - b. The Department shall incorporate the emission standards under subsection (3)(a) into each owner's or operator's operating permit as an enforceable permit condition;
 - c. No single fuel-burning equipment or steam-power generating installation shall emit sulfur dioxide in excess of:
 - i. 520 nanograms per joule heat input (1.2 pounds per million BTU) for solid fossil fuel or solid fossil fuel and wood residue; or
 - ii. 340 nanograms per joule heat input (0.8 pounds per million BTU) for liquid fossil fuel or liquid fossil fuel and wood residue.
4. When an owner or operator subject to subsection (3) changes the equipment configuration so that each fuel-burning equipment or steam-powered generating installation constitutes one emission discharge point:
 - a. The owner or operator shall comply with the emissions standards specified in subsection (1) and R18-2-901; and
 - b. The Department shall incorporate the emissions standards into the owner's or operator's operating permit as enforceable permit conditions.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-903 renumbered without change as Section R18-2-903 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1). New Section R18-2-903 renumbered from R18-2-803 and amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 14 A.A.R. 230, effective March 8, 2008 (Supp. 08-1).

R18-2-904. Standards of Performance for Incinerators

- A. Incinerators with a charging rate of more than 45 metric tons or 49.6 tons per day shall conform to the requirements of 40 CFR 60.50 through 60.54.
- B. Incinerators with a charging rate of 45 metric tons or 49.6 tons per day or less that commence construction or modification after May 14, 1979, shall conform to the requirements of 40 CFR 60.52 through 60.54 and of R18-2-704(A).

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-904 renumbered without change as Section R18-2-904 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1). New Section R18-2-904 renumbered from R18-2-804 and amended effective November 15, 1993 (Supp. 93-4).

R18-2-905. Standards of Performance for Storage Vessels for Petroleum Liquids

In addition to 40 CFR 60.110 - 60.113:

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1. Any petroleum liquid storage tank of less than 40,000 gallons (151,412 liters) capacity shall be equipped with a submerged filling device or acceptable equivalent as determined by the Director for the control of hydrocarbon emissions.
2. All facilities for dock loading of petroleum products having a vapor pressure of 2.0 pounds per square inch absolute, or greater, at loading pressure shall provide for submerged filling or other acceptable equivalent for control of hydrocarbon emissions.
3. All pumps and compressors which handle volatile organic compounds shall be equipped with mechanical seals or other equipment of equal efficiency to prevent the release of organic contaminants into the atmosphere.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-905 renumbered without change as Section R18-2-905 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1). New Section R18-2-905 renumbered from R18-2-805 effective November 15, 1993 (Supp. 93-4).

R18-2-906. Repealed**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective May 28, 1982 (Supp. 82-3). Former Section R9-3-906 renumbered without change as Section R18-2-906 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1).

R18-2-907. Reserved**R18-2-908. Reserved****R18-2-909. Reserved****R18-2-910. Repealed****Historical Note**

Adopted effective August 9, 1985 (Supp. 85-4). Former Section R9-3-910 renumbered without change as Section R18-2-910 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1).

R18-2-911. Reserved**R18-2-912. Reserved****R18-2-913. Repealed****Historical Note**

Adopted effective August 9, 1985 (Supp. 85-4). Former Section R9-3-913 renumbered without change as Section R18-2-913 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1).

R18-2-914. Reserved**R18-2-915. Reserved****R18-2-916. Reserved****R18-2-917. Reserved****R18-2-918. Reserved****R18-2-919. Reserved****R18-2-920. Reserved****R18-2-921. Reserved****R18-2-922. Repealed****Historical Note**

Adopted effective August 9, 1985 (Supp. 85-4). Former Section R9-3-922 renumbered without change as Section R18-2-922 (Supp. 87-3). Repealed effective February 26, 1988 (Supp. 88-1).

ARTICLE 10. MOTOR VEHICLES; INSPECTIONS AND MAINTENANCE**R18-2-1001. Definitions**

The following definitions apply to this Article:

1. Abbreviations and symbols are defined as follows:
 - a. "A/F" means air/fuel,
 - b. "CO" means carbon monoxide.
 - c. "CO2" means carbon dioxide.
 - d. "EGR" means exhaust gas recirculation.
 - e. "GVWR" means gross vehicle weight rating.
 - f. "HC" means hydrocarbon.
 - g. "HP" means horsepower.
 - h. "LNG" means liquefied natural gas.
 - i. "LPG" means liquid petroleum gas.
 - j. "MIL" means malfunction indicator lamp.
 - k. "MPH" means miles per hour.
 - l. "MVD" means the Motor Vehicle Division of the Arizona Department of Transportation.
 - m. "NDIR" means nondispersive infrared.
 - n. "NOx" means the sum of nitrogen oxide and nitrogen dioxide.
 - o. "%" means percent.
 - p. "OEM" means original equipment manufacturer.
 - q. "OBD" means on-board diagnostics.
 - r. "PCV" means positive crankcase ventilation.
 - s. "PPM" means parts per million by volume.
 - t. "RPM" means revolutions per minute.
 - u. "VIN" means vehicle identification number.
2. "All-terrain vehicle" (ATV) means a vehicle that is defined as an "all-terrain vehicle" in A.R.S. § 28-101.
3. "Alternative fuel vehicle" means a vehicle powered by an alternative fuel as defined in A.R.S. § 1-215(4).
4. "Annual test" means a test for which an annual frequency is specified in the applicable table in R18-2-1006(B).
5. "Apportioned vehicle" means a vehicle that is subject to the proportional registration provisions of A.R.S. § 28-2233.
6. "Area A" has the meaning in A.R.S. § 49-541.
7. "Area B" has the meaning in A.R.S. § 49-541.
8. "Biennial test" means a test for which a biennial frequency is specified in the applicable table in R18-2-1006(B).
9. "Calibration gas" means a reference gas or gas mixture with assigned concentrations that is used to check the accuracy of emissions analyzers.
10. "Certificate of compliance" means a uniquely numbered document issued as part of the vehicle inspection report by a state station at the time of a vehicle inspection indicating that the vehicle has met the emissions standards.
11. "Certificate of exemption" means a uniquely numbered document issued by the Director providing an exemption from the testing requirements of this Article for a vehicle that is outside of the state on the emissions compliance expiration date.
12. "Certificate of inspection" means a uniquely numbered document issued by the Director indicating that a vehicle has been inspected under A.R.S. § 49-546 and has passed inspection.

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13. "Certificate of waiver" means a uniquely numbered document issued by the Department indicating that the requirement of passing reinspection has been waived for a vehicle under A.R.S. § 49-542.
14. "CFR" means the Code of Federal Regulations, with standard reference in this Chapter by Title and Part, so that "40 CFR 280" means Title 40 of the Code of Federal Regulations, Part 280.
15. "Collectible vehicle" has the meaning in A.R.S. § 49-542(Z).
16. "Constant 4-wheel drive vehicle" means any 4-wheel drive vehicle that cannot be converted to 2-wheel drive except by disconnecting one of the vehicle's drive shafts, or any vehicle equipped with non-disengageable traction control which cannot be safely tested on conventional 2-wheel drive dynamometers.
17. "Constant volume sampler" means a system that dilutes engine exhaust to be sampled with ambient air so that the total combined flow rate of exhaust and dilution air mix is nearly constant for all engine operating conditions.
18. "Contractor" means a person, business, firm, partnership, or corporation with whom the Director has a contract that provides for the operation of one or more official emissions inspection stations.
19. "Dealer" means a person or organization licensed by the Arizona Department of Transportation as a new motor vehicle dealer or used motor vehicle dealer.
20. "Department" means the Department of Environmental Quality.
21. "Diagnostic Trouble Code" (DTC) means an alphanumeric code which is set in a vehicle's on-board diagnostic system when the OBD system detects an emissions control device or system failure.
22. "Diesel" or "Diesel Fuel" has the same meaning as in A.R.S. § 3-3401.
23. "Director" means the Director of the Department of Environmental Quality.
24. "Director's certificate" means a uniquely numbered document issued by the Director in certain circumstances for the vehicle to show evidence of meeting the minimum standards for registration.
25. "Electrically-powered vehicle" means a vehicle that uses electricity as the means of propulsion and does not require the combustion of fossil fuel within the confines of the vehicle to generate electricity.
26. "Emissions compliance expiration date" means:
 - a. Each registration expiration date for a vehicle subject to an annual test; and
 - b. The registration expiration date in the second year after the initial biennial test required under this Article or R18-2-1005(B) for a vehicle subject to a biennial test.
27. "Emissions inspection station permit" means a certificate issued by the Director authorizing the holder to perform vehicle emissions inspections under this Article.
28. "Exhaust emissions" means products of combustion emitted into the atmosphere from any opening in the exhaust system downstream of the exhaust ports of a motor vehicle engine.
29. "Exhaust pipe" means the pipe that attaches to the muffler and exits the vehicle.
30. "Fleet emissions inspection station" or "fleet station" means any vehicle emissions inspection facility operated under a permit issued pursuant to A.R.S. § 49-546.
31. "Fleet vehicle" means any vehicle owned, leased, or operated by an individual or entity granted a vehicle emissions testing license under A.R.S. § 49-546.
32. "Fuel" means any material that is burned within the confines of a vehicle to propel the vehicle.
33. "Fuel Cell Electric Vehicle" or "FCEV" means a zero-emission vehicle that runs on compressed hydrogen fed into a fuel cell stack that produces electricity to power the vehicle.
34. "Golf cart" means a motor vehicle that is defined as a "golf cart" in A.R.S. § 28-101.
35. "Government vehicle" means a registered motor vehicle exempt from the payment of a registration fee, or a federally owned or leased vehicle.
36. "Gross vehicle weight rating" (GVWR) means the maximum vehicle weight that a vehicle is designed for as established by the manufacturer.
37. "Idle test" means an exhaust emissions test conducted with the engine of the vehicle running at the manufacturer's idle speed \pm 100 RPM but without pressure exerted on the accelerator.
38. "Inspection" means the mandatory vehicle emissions inspection including the tampering inspection.
39. "Mass emissions measurement" means measurement of a vehicle's exhaust in mass units such as grams.
40. "Maximum required repair cost" means the applicable maximum required repair cost under R18-2-1010(F) or (G) for a vehicle that has failed inspection.
41. "Model year" means the date of manufacture of the original vehicle within the annual production period of the vehicle as designated by the manufacturer or, if a reconstructed vehicle, the first year of titling.
42. "Motorcycle" means a vehicle that is defined as a "motorcycle" as in A.R.S. § 28-101.
43. "New aftermarket catalytic converter" means a new catalytic converter manufactured as an OEM part that meets the standards under 40 CFR 86.
44. "On-board diagnostics" or "OBD" means an on-board diagnostic system required by Section 202(m) of the Clean Air Act. For the purposes of the Article, OBD certification refers to United States Environmental Protection Agency OBD certification.
45. "Opacity" means the degree of absorption of transmitted light.
46. "Reconditioned OEM catalytic converter" means a catalytic converter remanufactured, as a non-OEM part, with new catalytic material housed in the original catalyst casing.
47. "Recognized repair facility" means a business with an Arizona Department of Revenue transaction privilege tax license pursuant to Title 15, Chapter 5 of the Arizona Revised Statutes whose primary purpose is vehicle repair, and who has at least one employee with a nationally recognized certification for emissions-related diagnosis and repair.
48. "Reconstructed vehicle" means a vehicle that has been assembled or constructed largely by means of essential parts, new or used, derived from vehicles or makes of vehicles of various names, models and types or that, if originally otherwise constructed, has been materially altered by the removal of essential parts or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles. For the purposes of this paragraph, "essential parts" means integral

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and body parts, the removal, alteration or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

49. "Specially constructed vehicle" means any vehicle not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles.
50. "State inspector" means an employee of the Department designated to perform quality assurance or waiver functions under this Article.
51. "State station" means a facility, other than a fleet emissions inspection station, established for the purpose of conducting inspections under A.R.S. § 49-542.
52. "Tampering" means removing, defeating, or altering an emissions control device that was installed on a vehicle at the time the vehicle was manufactured.
53. "Two-stroke vehicle" means a vehicle equipped with an engine that requires one revolution of the crankshaft for each power stroke.
54. "Vehicle" or "Motor Vehicle" means any automobile, truck, truck tractor, motor bus, or self-propelled or motor-driven vehicle registered or to be registered in this state and used upon the public highways of this state for the purpose of transporting persons or property, except implements of husbandry, roadrollers, or road machinery temporarily operated upon the highway.
55. "Vehicle emissions inspector" means an individual who is licensed by the Director to perform vehicle emissions inspections under this Article.
56. "Waiver inspector" means an employee of the contractor or the Department who is authorized to issue waivers under R18-2-1008.
57. "Zero Emissions Vehicle" means a battery electric vehicle that runs on electricity stored in the batteries and has only an electric motor rather than an internal combustion engine, or a fuel cell electric vehicle that produces no emissions from the on-board source of power.

Historical Note

Former Section R9-3-1001 repealed, new Section R9-3-1001 adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1001 repealed, former Section R9-3-1002 renumbered and amended as Section R9-3-1001 effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1001 renumbered as Section R18-2-1001 and amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1002. Applicable Implementation Plan

- A. Substantive revisions to the rules in this Article that are included in the Arizona State Clean Air Act Implementation Plan cannot become effective until approved by the Administrator of the United States Environmental Protection Agency. Amendments adopted by the Department but not yet approved as of the date of the latest amendments are therefore identified in this Article as not applying until the Administrator approves them.

- B. The Administrator's approvals of revisions to an applicable implementation plan are published as final rules in the Federal Register, which is available online at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>. The Department publishes a list of Article 10 provisions approved since the last revisions to the Article at: <http://azdeq.gov/VECS/Rulemaking>.

Historical Note

New Section made by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1003. Vehicles to be Inspected by the Mandatory Vehicle Emissions Inspection Program

- A. The following vehicles shall be inspected according to this Article:
 1. A vehicle to be registered within Area A or Area B. For the purposes of this Article, registration within Area A or Area B shall be determined by the vehicle owner's permanent and actual residence. The permanent address in the MVD database shall be presumed to be the owner's permanent and actual residence. A post office box address listed on a title or registration document under A.R.S. § 28-2051(C) is not evidence of the owner's permanent and actual residence;
 2. Each vehicle delivered to a retail purchaser by a dealer licensed to sell used motor vehicles under A.R.S. Title 28 and whose place of business is located in Area A or Area B;
 3. Each vehicle registered outside Area A and Area B but used to commute to the driver's principal place of employment located within Area A or Area B;
 4. Each vehicle owned by a person who is subject to A.R.S. §§ 15-1444(C) or 15-1627(G); and
 5. An Area A or Area B vehicle owned or operated by the United States, this state, or a political subdivision of this state without regard to whether those vehicles are required to be registered in this state.
- B. The following vehicles are exempt from the inspection requirements of this Article:
 1. A vehicle manufactured in or before the 1966 model year;
 2. A vehicle leased to a person residing outside Area A and Area B by a leasing company whose place of business is in Area A or Area B, except as provided in subsection (A)(3);
 3. A vehicle sold between motor vehicle dealers;
 4. A zero-emissions vehicle;
 5. An apportioned vehicle;
 6. A golf cart;
 7. A vehicle with an engine displacement of less than 90 cubic centimeters;
 8. A vehicle registered at the time of change of name of ownership if an emissions test is current and valid, except when the change results from the sale by a dealership whose place of business is located in Area A or Area B;
 9. A vehicle for which a current certificate of exemption or Director's certificate is issued;
 10. A new vehicle before the sixth registration year after initial purchase or lease; except that:
 - a. A reconstructed vehicle or specially constructed vehicle is not exempt.
 - b. A vehicle converted to operate on an alternative fuel, as defined in A.R.S. § 1-215, is not exempt.

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- c. A vehicle failing an emissions inspection the owner chooses to have under A.R.S. § 49-543 is not exempt for the current registration year.
 11. A vehicle designed to operate exclusively on hydrogen, as defined in A.R.S. § 1-215;
 12. A collectible vehicle;
 13. A motorcycle;
 14. An all-terrain vehicle (ATV);
 15. These exemptions apply after the Administrator approves this subsection, (B)(15), into the applicable implementation plan:
 - a. Cranes and oversized vehicles that require permits pursuant to A.R.S. §§ 28-1100, 28-1103, and 28-1144;
 - b. A vehicle not in use and owned by a resident of this state while on active military duty outside of this state.
- C. Government vehicles operated in Area A or Area B and not exempted by this Article shall be emissions inspected according to R18-2-1017.**
- Historical Note**
- Former Section R9-3-1003 repealed, new Section R9-3-1003 adopted effective January 13, 1976; Amended as an emergency effective January 19, 1976 (Supp. 76-1). Amended effective January 3, 1977 (Supp. 77-1). Amended effective January 3, 1979 (Supp. 79-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1003 as amended effective January 3, 1979 and amended as an emergency effective January 2, 1981 now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1003 renumbered as Section R18-2-1003 and amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended effective November 14, 1994 (Supp. 94-4). Amended effective October 15, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 2722, effective June 28, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).
- R18-2-1004. Repealed**
- Historical Note**
- Former Section R9-3-1004 repealed, new Section R9-3-1004 adopted effective January 13, 1976 (Supp. 76-1). Amended effective January 3, 1977 (Supp. 77-1). Former Section R9-3-1004 renumbered as Section R18-2-1004 and amended effective August 1, 1988 (Supp. 88-3). Section repealed by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4).
- R18-2-1005. Time of Inspection**
- A.** All Area A and Area B vehicles subject to an annual test shall be inspected at the following times:
 1. For a non-fleet vehicle, within 90 days before each registration expiration date.
 2. For a fleet vehicle inspected at a licensed fleet station, at least once within each 12 month period following any initial registration.
 3. For a government vehicle:
 - a. For a vehicle not exempt under R18-2-1003(B)(10), within 12 months after acquisition by the operating entity and then annually on or before the anniversary date of the previous inspection;
 - b. For a vehicle exempt under R18-2-1003(B)(10), within 90 days after the vehicle becomes subject to testing, and then annually on or before the anniversary date of the previous inspection; and
 - c. A government vehicle is subject to testing on the anniversary of its date of acquisition.
 4. For a vehicle registered outside Area A and Area B and used to commute to the driver's principal place of work located in Area A or Area B, upon vehicle registration and annually thereafter.
 5. For a vehicle owned by a person subject to A.R.S. §§ 15-1444(D) or 15-1627(G), within 30 calendar days following the date of initial registration at the institution located in Area A or Area B and annually thereafter.
 - B.** All Area A and Area B vehicles subject to a biennial test shall be inspected at the following times:
 1. For a non-fleet vehicle, within 90 days before the vehicle's emissions compliance expiration date.
 2. For a fleet vehicle inspected at a fleet station, at least once within each successive 24 month period following initial registration.
 3. For a government vehicle:
 - a. For a vehicle not exempt under R18-2-1003(B)(10), within 12 months after acquisition by the operating entity, and biennially thereafter, on or before the anniversary date of the previous inspection; or
 - b. For a vehicle exempt under R18-2-1003(B)(10), within 90 days after the vehicle becomes subject to testing, and biennially thereafter, on or before the anniversary date of the previous inspection.
 4. For a vehicle registered outside Area A or Area B but used to commute to the driver's principal place of employment located in Area A or Area B, upon vehicle registration and biennially thereafter.
 5. For a vehicle owned by a person subject to A.R.S. §§ 15-1444(D) or 15-1627(G), within 30 days following the date of initial registration at the institution located in Area A or Area B and biennially thereafter.
 - C.** All vehicles sold by a dealer licensed to sell used motor vehicles under A.R.S. Title 28, whose place of business is located in Area A or Area B, shall pass the applicable emissions test prescribed by R18-2-1006 before delivery of the vehicle to a retail purchaser.
 - D.** An Area B vehicle being registered in Area A is subject to the appropriate annual or biennial test from Area A before registration even if the Area A test, or test period, is different from the test required for the same vehicle in Area B.
 - E.** Nothing in this Section shall be construed to waive a late registration fee because of failure to meet inspection requirements by the registration deadline, except that a motor vehicle that fails the initial or subsequent test shall not be subject to a penalty fee for late registration renewal if:
 1. The initial test is accomplished before the emissions compliance expiration date; and
 2. The registration renewal is received by MVD within 30 days of the initial test.

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- F.** An owner of a vehicle may submit the vehicle for emissions inspection more than 90 days before the emissions compliance expiration date but the inspection does not satisfy the registration testing requirement under R18-2-1003.

Historical Note

Former Section R9-3-1005 repealed, new Section R9-3-1005 adopted effective January 31, 1976 (Supp. 76-1).
 Amended effective January 3, 1977 (Supp. 77-1).
 Amended effective March 2, 1978 (Supp. 78-2).
 Amended effective January 3, 1979 (Supp. 79-1).
 Amended effective February 20, 1980 (Supp. 80-1).
 Amended as an emergency effective January 2, 1981 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-2). Former Section R9-3-1005 as amended effective February 20, 1980 and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1005 renumbered as Section R18-2-1005 and subsections (A) and (C) amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1006. Emissions Test Procedures

- A.** This Section establishes the testing requirements for vehicles in the State of Arizona. Subsection (B) identifies which tests apply to a particular type and model year of vehicle. Subsection (C) establishes the procedures and criteria for, passing, failing, or being rejected from each test.

B. Test applicability.

1. Area A and Area B non-diesel. The following general requirements govern test applicability for non-diesel vehicles in both Area A and Area B:
 - a. A rotary engine shall be inspected as a 4-stroke engine with four cylinders or less.
 - b. For a vehicle in which an engine has been replaced:
 - i. A vehicle owner shall not install a heavy-duty engine in a light-duty chassis.
 - ii. A vehicle owner shall not install a light-duty engine in a heavy-duty chassis.
 - iii. The replacement engine package shall include all emissions control equipment and devices that were required by the manufacturer for an engine-chassis certification. All emissions control equipment and devices shall be properly installed and in operating condition, and the resulting engine-chassis configuration shall be equivalent to a verified configuration of the same, or newer, model year as that of the vehicle chassis.
 - iv. The Department shall inspect the vehicle according to the model year of the vehicle chassis.
2. Area A Non-Diesel. Non-diesel vehicles in Area A are subject to the test procedures identified in this subsection:
 - a. Vehicles other than alternative fuel vehicles operated by a school district in Area A, heavy duty alternative fuel vehicles, reconstructed vehicles, and constant 4-wheel-drive vehicles that are not equipped with OBD, are subject to the following test procedures until the Administrator approves subsection (B)(2)(a)(i) into the applicable implementation plan:

Area A Non-Diesel Testing Procedures Until SIP Revision is Approved				
Model Year	GVWR	Test Frequency	Tests Applicable	Test Subsection
1996 or later	8,500 pounds or less	Biennial	OBD Functional gas cap Tampering	C.4 C.16 C.17
1981 through 1995	8,500 pounds or less	Biennial	Transient loaded and evaporative system pressure Functional gas cap Tampering	C.5 C.16 C.17
1975 through 1980	8,500 pounds or less	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1975 or later	More than 8,500 pounds	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1967 through 1974	Any	Annual	Loaded test Functional gas cap	C.6 C.16

- i. Test procedures that apply after the Administrator approves this subsection, (B)(2)(a)(i), into the applicable implementation plan:

Area A Non-Diesel Testing Procedures After SIP Revision is Approved					
Model Year	GVWR	OBD Certified?	Test Frequency	Tests Applicable	Test Subsection

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1996 or Later	Any	Yes	Biennial	OBD Functional gas cap Tampering	C.4 C.16 C.17
1981 or later	8,500 pounds or less	No	Biennial	Transient loaded and evaporative system pressure Functional gas cap Tampering	C.5 C.16 C.17
1975 through 1980	8,500 pounds or less	No	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1975 or later	More than 8,500 pounds	No	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1967 through 1974	Any	No	Annual	Loaded test Functional gas cap	C.6 C.16

- b. Alternative fuel vehicles operated by a school district in Area A are subject to the following testing procedures until the Administrator approves subsection (B)(2)(b)(i) into the applicable implementation

plan. After subsection (B)(2)(b)(i) has been approved into the applicable implementation plan, alternative fuel vehicles operated by a school district in Area A will be subject to subsection (B)(2)(b)(i).

Area A Alt. Fuel Vehicles Operated by a School District Testing Procedures Until SIP Revision is Approved				
Model Year	OBD Certified?	Test Frequency	Tests Applicable	Test Subsection
1975 or later	No	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1967 through 1974	No	Annual	Loaded test Functional gas cap	C.8 C.16

- i. Test procedures that apply after the Administrator approves this subsection, (B)(2)(b)(i), into the applicable implementation plan.

Area A Alt. Fuel Vehicles Operated by a School District Testing Procedures After SIP Revision is Approved				
Model Year	OBD Certified?	Test Frequency	Tests Applicable	Test Subsection
Any	Yes	Biennial	OBD Functional gas cap Tampering	C.4 C.16 C.17
1975 or later	No	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1967 through 1974	No	Annual	Loaded test Functional gas cap	C.6 C.16

- c. Heavy duty alternative fuel vehicles in Area A that are not owned by a school district are subject to the following testing procedures.

Model Year	GVWR	OBD Certified?	Test Frequency	Tests Applicable	Test Subsection
Any	More than 14,500 pounds	Yes	Biennial	OBD Functional gas cap Tampering	C.4 C.16 C.17
1975 or later	More than 14,500 pounds	No	Annual	Idle test Functional gas cap Tampering	C.8 C.16 C.17
1967 through 1974	More than 14,500 pounds	No	Annual	Idle test Functional gas cap	C.8 C.16

3. Area B Non-Diesel. Non-diesel vehicles in Area B are subject to the test procedures identified in this subsection:
- a. Vehicles other than reconstructed vehicles and constant 4-wheel-drive vehicles that are not

equipped with OBD shall be subject to the following test procedures until the Administrator approves subsection (B)(2)(a)(i) into the applicable implementation plan:

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Area B Non-Diesel Testing Procedures Until SIP Revision is Approved				
Model Year	GVWR	Test Frequency	Tests Applicable	Test Subsection
1996 or later	8,500 pounds or less	Annual	OBD Functional gas cap Tampering	C.4 C.16 C.17
1981 through 1995	8,500 pounds or less	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1975 through 1980	8,500 pounds or less	Annual	Idle test Functional gas cap Tampering	C.8 C.16 C.17
1975 or later	More than 8,500 pounds	Annual	Idle test Functional gas cap Tampering	C.8 C.16 C.17
1967 through 1974	Any	Annual	Idle test Functional gas cap	C.8 C.16

- i. Test procedures that apply after the Administrator approves this subsection (B)(2)(a)(i) into the applicable implementation plan:

Area B Non-Diesel Testing Procedures After SIP Revision is Approved					
Model Year	GVWR	OBD Certified?	Test Frequency	Tests Applicable	Test Subsection
Any	Any	Yes	Biennial	OBD Functional gas cap Tampering	C.4 C.16 C.17
1981 or later	8,500 pounds or less	No	Annual	Loaded test Functional gas cap Tampering	C.6 C.16 C.17
1975 through 1980	8,500 pounds or less	No	Annual	Loaded Test Functional gas cap Tampering	C.6 C.16 C.17
1975 or later	More than 8,500 pounds	No	Annual	Idle test Functional gas cap Tampering	C.8 C.16 C.17
1967 through 1974	Any	No	Annual	Idle test Functional gas cap	C.9 C.16

4. Reconstructed non-diesel vehicles. Reconstructed non-diesel vehicles in both Area A and Area B are subject to the tests specified in the following table:

Model Year	Test Frequency	Tests Applicable	Test Subsection
1967 or later	Annual	Loaded test Visual gas cap	C.6 C.18

5. Constant 4-wheel-drive vehicles. Constant 4-wheel-drive vehicles in both Area A and Area B that are not equipped with OBD are subject to the tests specified in the following table:

Model Year	Test Frequency	Tests Applicable	Test Subsection
1975 or later	Annual	Idle Test Functional gas cap Tampering	C.8 C.16 C.17
1967 through 1974	Annual	Idle Test Functional gas cap	C.8 C.16

6. Area A Diesel. Diesel vehicles that require inspection in Area A are subject to the test procedures specified in this subsection until the Administrator approves subsection (B)(8) into the applicable implementation plan:

Area A Diesel Testing Procedures Until SIP Revision is Approved

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GVWR	OBD Certified?	Model Year	Test Frequency	Tests Applicable	Test Subsection
8,500 and less	Yes	Any	Annual	OBD Tampering	C.4 C.17
More than 8,500 pounds	No	1975 or later	Annual	Snap idle Tampering	C.10 C.17
More than 8,500 pounds	No	1967 through 1974	Annual	Snap idle	C.10
More than 4,000 and less than or equal to 8,500 pounds	No	1975 or later	Annual	Loaded opacity B Tampering	C.12 C.17
More than 4,000 and less than or equal to 8,500 pounds	No	1967 through 1974	Annual	Loaded opacity B	C.12
4,000 pounds or less	No	1975 or later	Annual	Loaded opacity C Tampering	C.13 C.17
4,000 pounds or less	No	1967 through 1974	Annual	Loaded opacity C	C.13

7. Area B Diesel. Diesel vehicles that require inspection in Area B are subject to the test procedures specified in this subsection until the Administrator approves subsection (B)(8) into the applicable implementation plan:

Area B Diesel Testing Procedures Until SIP Revision is Approved					
GVWR	Model Year	Test Frequency	Tests Applicable	Test Subsection	
More than 26,000 pounds	1975 or later	Annual	Loaded opacity A Tampering	C.12 C.18	
More than 26,000 pounds	1967 through 1974	Annual	Loaded opacity A	C.12	
More than 10,500 and less than or equal to 26,000 pounds	1975 or later	Annual	Any of the following: Loaded opacity A Loaded opacity B Tampering	C.12 C.13 C.18	
More than 10,500 and less than or equal to 26,000 pounds	1967 through 1974	Annual	Any of the following: Loaded opacity A Loaded opacity B	C.12 C.13	
More than 4,000 and less than or equal to 10,500	1975 or later	Annual	Loaded opacity B Tampering	C.13 C.18	
More than 4,000 and less than or equal to 10,500	1967 through 1974	Annual	Loaded opacity B	C.13	
4,000 pounds or less	1975 or later	Annual	Loaded opacity C Tampering	C.14 C.18	
4,000 pounds or less	1967 through 1974	Annual	Loaded opacity C	C.14	

8. Test procedures that apply for diesel vehicles in both Area A and Area B after the Administrator approves this subsection (B)(8) into the applicable implementation plan:

Area A and Area B Diesel Testing Procedures After SIP Revision is Approved					
GVWR	OBD Certified?	Model Year	Test Frequency	Tests Applicable	Test Subsection
Any	Yes	Any	Biennial	OBD Tampering	C.4 C.17
More than 8,500 pounds	No	1975 or later	Annual	Snap idle Tampering	C.10 C.17
More than 8,500 pounds	No	1967 through 1974	Annual	Snap idle	C.10
More than 4,000 and less than or equal to 8,500 pounds	No	1975 or later	Annual	Loaded opacity B Tampering	C.12 C.17

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More than 4,000 and less than or equal to 8,500 pounds	No	1967 through 1974	Annual	Loaded opacity B	C.12
4,000 pounds or less	No	1975 or later	Annual	Loaded opacity C Tampering	C.13 C.17
4,000 pounds or less	No	1967 through 1974	Annual	Loaded opacity C	C.13

9. Dealer Fleet Testing Procedures. The test procedures in the table in this Section apply until the administrator approves subsections (B)(2)(a)(i), (B)(3)(a)(i), and (B)(8) into the applicable implementation plan for used vehicles sold by a motor vehicle dealer who is a fleet operator and who has been issued a permit pursuant to A.R.S. § 49-546. After those sections are approved into the applicable

implementation plan, used vehicles sold by a motor vehicle dealer who is a fleet operator and who has been issued a permit pursuant to A.R.S. § 49-546 will be subject to the same testing procedures as vehicles tested at state stations and the table in this Section will no longer be applicable.

Area A and Area B Dealer Fleet Testing Procedures Until SIP Revision is Approved			
Model Year	Test Frequency	Tests Applicable	Test Subsection
1981 or later	Annual	Two speed idle test Functional gas cap Tampering	C.6 C.16 C.17
1975 through 1980	Annual	Idle Test Functional gas cap Tampering	C.7 C.16 C.17
1967 through 1974	Annual	Idle Test Functional gas cap	C.8 C.16

C. Test Requirements

1. Conditions for Pass. A vehicle passes inspection if the vehicle:
 - a. Is subjected to all applicable tests required by subsection (B);
 - b. Is not rejected from any of the tests for any of the reasons specified in (C)(2) or (C)(3) of this subsection; and
 - c. Does not fail any of the applicable tests for any of the reasons specified in this subsection.
2. Pre-Test Safety Inspection
 - a. The Department shall inspect each vehicle visually before the emissions test for any of the following unsafe or untestable conditions:
 - i. A fuel leak that causes wetness or pooling of fuel;
 - ii. A continuous engine or transmission oil leak onto the floor;
 - iii. A continuous engine coolant leak onto the floor such that the engine is overheating or may overheat within a short time;
 - iv. A tire on a driving wheel with less than 2/32-inch tread, metal protuberances, unmatched tire size, obviously low tire pressure as determined by visual inspection;
 - v. An exhaust pipe that does not allow for safe exhaust probe insertion;
 - vi. An exhaust pipe on a diesel-powered vehicle that does not allow for safe exhaust probe insertion and attachment of opacity meter sensor units;
 - vii. Improperly operating brakes;
 - viii. Any vehicle modification or mechanical condition that prevents dynamometer operation;
 - ix. Loud internal engine noise;
 - x. An obvious exhaust leak;
 - xi. Towing a trailer or carrying a heavy load;

xii. Carrying explosives or any hazardous material not used as a fuel for the vehicle; or

xiii. Any other condition that in the judgment of the inspector makes testing unsafe or the vehicle untestable.

- b. If the inspector determines that a vehicle is unsafe or otherwise untestable by the visual inspection the following shall apply:
 - i. The vehicle shall be rejected without an emissions test;
 - ii. The inspector shall notify the vehicle owner or operator of all untestable or unsafe conditions found;
 - iii. A state station shall not charge a fee; and
 - iv. A state station shall not test the vehicle until the cause for rejection is repaired.

3. Test Operating Conditions. When conducting the emissions test required by this Section, the vehicle emissions inspector shall ensure that all of the following requirements are satisfied:
 - a. The vehicle shall be tested in the condition presented, unless rejected under R18-2-1006(C)(2);
 - b. The vehicle's engine shall be operating at normal temperature and not be overheating as indicated by a gauge, warning light, or boiling radiator; and
 - c. All vehicle accessories shall be turned off during testing.

4. OBD Test.
 - a. Test Procedure. The OBD test shall consist of:
 - i. A visual inspection of the MIL function; and
 - ii. An electronic examination of the OBD computer by connecting a scan tool to the data link connector and interrogating the OBD system to determine vehicle readiness status, MIL status, and the presence of diagnostic trouble codes.
 - b. Equipment Specifications. The OBD equipment shall conform to the requirements of "Performing

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- Onboard Diagnostic System Checks as Part of a Vehicle Inspection and Maintenance Program,” EPA420-R-01-015, EPA, June 2001 (and no future editions or amendments), which is incorporated by reference. A copy of this incorporated material is on file with the Department, the Secretary of State, and is available online at <http://azdeq.gov/VECS/Rulemaking>.
- c. OBD scan tools shall have the most recent available software downloaded and installed before inspection.
 - d. Test Rejection. A vehicle shall be rejected from an OBD test if any of the following conditions occurs:
 - i. The number of unset readiness indicators, excluding continuous indicators, is three or more for a model year 1996-2000 vehicle, or two or more for a model year 2001 and newer vehicle;
 - ii. The data link connector cannot be located or is inaccessible;
 - iii. The data link connector is loose and the scan tool cannot be inserted into the connector;
 - iv. The data link connector has no voltage; or
 - v. The eVIN and monitors are mismatched.
 - e. Test Failure. A vehicle fails the OBD test if any of the following conditions occurs:
 - i. The vehicle’s MIL does not illuminate when the ignition is on and the engine is off;
 - ii. The vehicle’s MIL illuminates continuously or flashes with the engine running;
 - iii. The OBD system is not communicating;
 - iv. The vehicle’s OBD system reports the MIL as commanded on;
 - v. The vehicle’s OBD system data is inappropriate for the vehicle being tested; or
 - vi. The vehicle’s OBD system data does not match the original equipment manufacturer (OEM) or a Department exempted OBD software configuration.
5. Transient Loaded and Evaporative System Pressure Test.
- a. Transient Loaded Test Procedure.
 - i. The transient loaded test shall consist of 147 seconds of mass emissions measurement using a constant volume sampler while the vehicle is driven by an inspector through a computer-monitored driving cycle on a dynamometer with inertial weight settings appropriate for the weight of the vehicle.
 - ii. The driving cycle shall include the acceleration, deceleration, and idle operating modes described in Table 4.
 - iii. The 147-second sequence may be ended earlier using a fast-pass or fast-fail algorithm.
 - iv. A retest algorithm shall be used to determine if a test failure is due to insufficient vehicle preconditioning. As determined by the retest algorithm, an additional test may be performed on a failing vehicle.
 - v. The highest selectable drive gear shall be used for automatic transmissions and first gear shall be used for manual transmission acceleration from idle.
 - vi. Exhaust emissions concentrations in grams per mile for HC, CO, NO_x and CO₂ shall be recorded continuously beginning with the first second.
 - vii. All testing and test equipment for the transient loaded emissions test shall conform to “IM240 & Evap Technical Guidance,” EPA420-R-00-007, EPA, April 2000, and no future editions or amendments, which is incorporated by reference, except that the transient driving cycle in Table 4, the standards in Table 4, and the fast-pass, fast-fail retest algorithms described in subsection (C)(5)(a) shall be used. A copy of the incorporated material is on file with the Department, the Secretary of State, and is available online at <http://azdeq.gov/VECS/Rulemaking>.
 - viii. In determining compliance under subsection (C)(5)(d) for a vehicle that operates on natural gas, HC emissions shall be multiplied by 0.19, when an analyzer with a flame ionization detector is used or 0.61, when an NDIR analyzer is used.
 - b. Evaporative System Pressure Test Procedure. The evaporative system pressure test shall consist of the following steps in sequence:
 - i. Connect the test equipment to either the fuel tank vent hose at the canister or the fuel tank filler neck;
 - ii. Pressurize the system to 14 ± 0.5 inches of water without exceeding 26 inches of water system pressure; and
 - iii. Close off the pressure source, seal the evaporative system, and monitor pressure decay for two minutes unless a failure is detected or a fast-pass determination is made as defined in EPA420-R-00-007, which is incorporated by reference in subsection (C)(5)(a)(vii) of this rule.
 - c. Test Rejection. A vehicle shall be rejected from the transient loaded and evaporative system pressure test if it has an audible or visible exhaust leak during emissions testing, or if the vehicle displays unsafe behavior on the dynamometer during testing.
 - d. Transient Loaded Test Failure. A vehicle fails the transient loaded test if emissions measured during the test exceed the Table 3 standard applicable to the model year and type of the vehicle being tested as follows:
 - i. The average emissions measured for the entire test exceed the “composite standard” for any pollutant; or
 - ii. The average emissions measured during seconds 65 through 146 exceed the “phase-2” standard for any pollutant.
 - e. Evaporative System Pressure Test Failure. A vehicle fails the evaporative system pressure test if any of the following conditions occurs:
 - i. The evaporative system cannot maintain a system pressure above eight inches of water for two minutes after being pressurized to 14 ± 0.5 inches of water;
 - ii. The canister is missing or damaged; or
 - iii. The hose or electrical system is missing, routed incorrectly, or disconnected, according to the vehicle emissions control information label.

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- f. Test Failure. A vehicle fails the transient loaded and evaporative system pressure test if it fails the test under either subsection R10-2-1006(C)(5)(d) or R10-2-1006(C)(5)(e).
- 6. Loaded Test.
 - a. Loaded Cruise Test Procedure. The vehicle's drive wheels shall be placed on a dynamometer and the vehicle shall be operated according to the Table 1 of this Article.
 - b. Besides the Arizona specific dynamometer test schedule, loaded tests shall conform to the procedures listed at 40 CFR 51, Subpart S, Appendix B, Section III, amended as of July 1st, 2017, which is incorporated by reference and on file with the Department, the Secretary of State, and is available online at <http://azdeq.gov/VECS/Rulemaking>.
 - c. Loaded Test Equipment Specifications.
 - i. The equipment used in Area A state stations for loaded cruise and curb idle testing shall conform to "IM240 & Evap Technical Guidance," EPA420-R-00-007, EPA, April 2000, and no future editions or amendments, which is incorporated by reference in subsection (C)(5)(a)(vii) of this rule.
 - ii. The equipment used in Area B state stations and all Arizona fleet emission testing stations for the loaded test shall comply with 40 CFR 51, Subpart S, Appendix A, Section I, amended as of July 1, 2017, which is incorporated by reference and on file with the Department, the Secretary of State, and is available online at <http://azdeq.gov/VECS/Rulemaking>.
 - d. In determining whether a vehicle that operates on natural gas complies with the HC emissions standards in Table 2 of this Article, the results of the test shall be multiplied by 0.19, when an analyzer with a flame ionization detector is used or 0.61, when an NDIR analyzer is used.
 - e. Test Rejection. A vehicle shall be rejected from a loaded cruise and curb idle test, if the CO₂ plus CO reading during the curb idle test is less than 6%.
 - f. Test Failure. A vehicle fails the loaded cruise and curb idle test if tailpipe emissions measured by the test exceed the applicable standards in Table 2 for loaded cruise mode or curb idle mode for the type and model year of the vehicle being tested.
- 7. Two Speed Idle Test
 - a. All two speed idle testing shall conform to the procedures listed at 40 CFR 51, Subpart S, Appendix B, Section II, amended as of July 1, 2017, and no future editions or amendments, which is incorporated by reference and on file with the Department, the Secretary of State, and is available online at <http://azdeq.gov/VECS/Rulemaking>.
 - b. All equipment used for two speed idle testing shall conform with the requirements of 40 CFR 51, Subpart S, Appendix A, Section I, amended as of July 1, 2017, and no future editions or amendments, which is incorporated by reference and on file with the Department.
 - c. Test Failure. A vehicle fails the two speed idle test if tailpipe emissions measured by the test exceed the applicable standards in Table 2 for the type and model year of the vehicle being tested.
- 8. Idle Test
 - a. All idle testing shall conform to the procedures listed at 40 CFR 51, Subpart S, Appendix B, Section I, amended as of July 1, 2017, and no future editions or amendments, which is incorporated by reference and on file with the Department, the Secretary of State, and is available online at <http://azdeq.gov/VECS/Rulemaking>.
 - b. All equipment used for two speed idle testing shall conform with the requirements of 40 CFR 51, Subpart S, Appendix B, Section I, amended as of July 1, 2017, and no future editions or amendments, which is incorporated by reference and on file with the Department.
 - c. Test Failure. A vehicle fails the idle test if tailpipe emissions measured by the test exceed the applicable standards in Table 2 for the type and model year of the vehicle being tested.
- 9. Exhaust Sampling Requirements for Annual Tests on Non-Diesel Vehicles.
 - a. All CO and HC emissions analyzers shall have water traps incorporated in the sampling lines. Sampling probes shall be capable of taking undiluted exhaust samples from a vehicle exhaust system.
 - b. A vehicle, other than a diesel-powered vehicle, shall be inspected with a gas analyzer capable of determining concentrations of CO and HC within the ranges and tolerances specified in Table 5.
 - c. A vehicle with multiple exhaust pipes shall be inspected by collecting and averaging samples by one of the following methods:
 - i. Collecting separate samples from each exhaust pipe and use the average concentration to determine the test result;
 - ii. Using manifold exhaust probes to simultaneously sample approximately equal volumes from each exhaust pipe; or
 - iii. Using manifold exhaust pipe adapters to collect approximately equal volume samples from each exhaust pipe.
- 10. Snap Idle Test.
 - a. Snap Idle Test Procedure.
 - i. The Department shall test the vehicle with a procedure that conforms to Society of Automotive Engineers Recommended Practice J1667, February 1996, incorporated by reference and on file with the Department, the Secretary of State and is available online at <http://azdeq.gov/VECS/Rulemaking>. This incorporation by reference contains no future editions or amendments.
 - ii. All testing and test equipment shall conform to the J1667 Recommended Practice.
 - iii. The procedure shall use the corrections for ambient test conditions in Appendix B of the J1667 Recommended Practice for all tests.
 - iv. To expedite testing throughput, the Department may implement rapid testing procedures.
 - v. The test results shall be reported as the percentage of smoke opacity.
 - b. Snap Idle Test Failure.
 - i. Except as provided in subsection (C)(10)(c), a vehicle fails the snap idle test if the opacity of

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emissions exceeds the level specified in the following table:

Model Year	Standard
1991 or later	40%
1990 or earlier	55%

- ii. The engine model year is determined by the emission control label. If the emission control label is missing, illegible, or incorrect, the test standard shall be 40%, unless a correct, legible, emission control label replacement is attached to the vehicle within 30 days of the inspection.
- c. Alternative Opacity Standard. The Director shall identify an alternative, less stringent opacity standard for an engine family if the conditions of either subsection (C)(10)(c)(i) or (C)(10)(c)(ii) are satisfied.
 - i. The engine family exhibits smoke opacity greater than the applicable standard in subsection (C)(10)(b)(i) when in good operating condition and adjusted to the manufacturer's specifications. If this condition is satisfied, the Director shall identify a technologically appropriate less stringent standard based on a review of data obtained from engines in good operating condition and adjusted to manufacturer's specifications.
 - ii. The engine family has been granted an exemption from a standard equivalent to the applicable standard in subsection (C)(10)(b)(i) based on the J1667 Recommended Practice by the executive officer of the California Air Resources Board (CARB). If this condition is satisfied, the Director shall allow the engine family to comply with any technologically appropriate less stringent standard identified by the executive officer of CARB.
 - iii. A demonstration under subsection (C)(10)(c)(i) shall be based on data from at least three vehicles. Data from official inspections under this subsection (C)(10) showing that vehicles in the engine family meet the standard may be used to rebut the demonstration.
 - iv. The Director shall implement any new standard resulting from each exemption as soon as practicable for all subsequent tests and provide notice at all affected test stations and fleets.
11. Loaded Opacity A Test.
 - a. Test Procedure.
 - i. The vehicle shall be tested on a chassis dynamometer beginning with no power absorption by selecting a gear ratio that produces a maximum vehicle speed of 30-35 MPH at governed or maximum rated RPM.
 - ii. If the vehicle has a manual transmission or an automatic transmission with individual gear selection, the engine shall be operated at governed or maximum rated engine RPM, at normal operating temperature under a power absorption load applied to the dynamometer until the loading reduces the engine RPM to 80% of the governed speed at wide-open throttle position.
 - iii. If the vehicle has an automatic transmission and automatic gear kickdown, the engine shall be loaded to a speed just above the kickdown speed or 80% of the governed speed, whichever is greater.
 - iv. If the chassis dynamometer does not have enough horsepower absorption capability to lug the engine down to these speeds, the vehicle's brakes may be used to assist the dynamometer.
 - b. Test Failure. A vehicle fails the test if the opacity reading for a period of 10 consecutive seconds exceeds the applicable standard in R18-2-1030(B).
12. Loaded Opacity B Test.
 - a. Test Procedure. The vehicle shall be tested by a loaded dynamometer test by applying a single load of 30 HP, \pm 2 HP, while operated at 50 MPH.
 - b. Test Failure. A vehicle fails the test if the opacity reading for a period of 10 consecutive seconds exceeds the applicable standard in R18-2-1030(B).
13. Loaded Opacity C Test.
 - a. Test Procedure. The vehicle shall be tested by a loaded dynamometer test by applying a single load of between 6.4 - 8.4 HP while operated at 30 MPH.
 - b. Test Failure. A vehicle fails the test if the opacity reading for a period of 10 consecutive seconds exceeds the applicable standard in R18-2-1030(B).
14. Exhaust Sampling Requirements for Diesel Vehicles Tests other than the Snap Idle Test.
 - a. For a diesel-powered vehicle equipped with multiple exhaust pipes, separate measurements shall be made on each exhaust pipe. The reading taken from the exhaust pipe that has the highest opacity reading shall be used for comparison with the standard in R18-2-1030(B).
 - b. A vehicle shall be inspected with either a full-flow or sampling-type opacity meter. The opacity meter shall be a direct reading, continuous reading light extinction-type using a collimated light source and photo-electric cell, accurate to a value within \pm 2% of full scale.
15. Functional Gas Cap Test.
 - a. Test Procedure.
 - i. The vehicle shall undergo a functional test of the gas cap to determine cap leakage.
 - ii. A vehicle with a non-sealing gas cap shall be checked for the presence of a properly fitting gas cap.
 - b. Exemption. A vehicle with a vented fuel system is exempt from this subsection.
 - c. Exemption. A vehicle that is manufactured without a gas cap is exempt from this subsection.
 - d. Test Failure.
 - i. A vehicle fails the test if cap leakage exceeds 60 cubic centimeters of air per minute at a pressure of 30 inches of water gauge.
 - ii. Notwithstanding subsection 18-2-1006(C)(15)(d)(i), a vehicle does not fail the test if the failing cap is immediately replaced at the state station by a gas cap that satisfies the requirements of this subsection.
16. Tampering Inspection.
 - a. The inspection shall be based on the original configuration of the vehicle as manufactured. The Department shall verify the applicable emissions system

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requirements shall be verified by the "Vehicle Emission Control Information" label. "Original configuration" for a foreign manufactured vehicle means the design and construction of a vehicle produced by the manufacturer for original entry and sale in the United States.

- b. The Department's tampering inspection shall consist of the following:
 - i. A visual inspection to determine the presence and proper installation of each required catalytic converter system or OEM equivalent;
 - ii. An examination to determine the presence of an operational injection system, if applicable;
 - iii. A visual inspection to determine the presence of an operational positive crankcase ventilation system or closed crankcase ventilation system, if applicable; and
 - iv. A visual inspection to determine the presence of an operational evaporative control system, if applicable.
17. Visual Gas Cap Test. The visual gas cap test consists of the inspector's ocular verification that a gas cap is properly fitted to the vehicle.
18. Testing Vehicles that Operate on More than One Fuel. A vehicle, other than a vehicle for which an OBD test is required, designed to operate on more than one fuel, shall be tested on the fuel in use when the vehicle is presented for inspection, except vehicles that operate on alternative fuel, as defined in A.R.S. § 1-215.
19. Testing Vehicles that Operate on Alternative Fuels.
 - a. The inspector shall test vehicles that operate on an alternative fuel, as defined in A.R.S. § 1-215, other than a vehicle for which an OBD test is required, on each fuel that the vehicle is intended to operate on, using the appropriate emissions test procedure and standards for that vehicle.
 - b. The vehicle shall be operated for a minimum of 30 seconds after switching fuels and before testing begins. The vehicle shall be rejected for testing if it is not able to operate on each fuel that the vehicle is intended to operate on or if the vehicle operator cannot switch fuels.
 - c. A vehicle that operates exclusively on propane or natural gas, as defined in A.R.S. § 1-215, shall be exempt from the functional gas cap test in subsection 10-2-1006(C)(15) and the evaporative pressure system test in subsection 10-2-1006(C)(5)(b).

Historical Note

Former Section R9-3-1006 repealed, new Section R9-3-1006 adopted effective January 13, 1976 (Supp. 76-1). Amended effective November 1, 1976 (Supp. 76-5). Amended effective March 2, 1978 (Supp. 78-2). Amended effective January 3, 1979 (Supp. 79-1). Amended effective February 20, 1980 (Supp. 80-1). Former Section R9-3-1006 repealed, new Section R9-3-1006 adopted as an emergency effective January 2, 1981 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1006 as amended effective February 20, 1980 repealed and a new Section R9-3-1006 adopted as an emergency effective January 2, 1981 now adopted and amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1006 renum-

bered as Section R18-2-1006 and subsections (A), (C) and (D) amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended effective November 14, 1994 (Supp. 94-4). Amended effective October 15, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 6 A.A.R. 2722, effective June 28, 2000 (Supp. 00-2). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1007. Evidence of Meeting State Inspection Requirements

- A. A vehicle required to be inspected under this Article shall pass inspection before registration by meeting the requirements of R18-2-1006, unless the vehicle owner obtains a certificate of waiver under R18-2-1008.
- B. The MVD or its agent may use the MVD motor vehicles emissions database, if available, as evidence that a vehicle complies with the requirements of this Article.
- C. If the MVD motor vehicles emissions database is not available, the MVD or its agent shall accept any of the following documents identified in subsections (C)(1) to (C)(5), when complete, unaltered, and dated no more than 90 days before registration expiration date, as evidence that a vehicle complies with the requirements of this Article unless the MVD or its agent has reason to believe it is false. Documents accompanying a late registration may be dated subsequent to the registration expiration date:
 1. Certificate of compliance,
 2. Certificate of waiver (except from auto dealers licensed to sell used motor vehicles under Title 28),
 3. Certificate of exemption,
 4. Director's certificate, or
 5. The upper section of the vehicle inspection report with "PASS" in the final results block.
- D. A complete certificate of inspection or government vehicle certificate of inspection dated within 12 months of registration for an annually tested vehicle and 24 months for a biennially tested vehicle shall be accepted by the MVD or its agent as evidence that a vehicle is in compliance with the requirements of this Article unless the MVD or its agent has reason to believe it is false.
- E. Documents listed in subsection (C) and originating in Area B are not acceptable for meeting the inspection requirements in Area A, unless the tests required in Area A and Area B for the vehicle under R18-2-1006 are identical.
- F. Government vehicles for which only weight fees are paid shall be registered without evidence of inspection.

Historical Note

Former Section R9-3-1007 repealed, new Section R9-3-1007 adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1007 repealed, new Section R9-3-1007 adopted effective January 3, 1977 (Supp. 77-1). Amended effective February 20, 1980 (Supp. 80-1). Amended effective January 1, 1986 (Supp. 85-6). Former Section R9-3-1007 renumbered without change as Section R18-2-1007 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R.

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90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1008. Procedure for Issuing Certificates of Waiver

- A.** Unless prohibited under subsection (D), a waiver inspector shall issue a certificate of waiver after reinspection at a state station to a vehicle that failed the emissions reinspection when the vehicle owner demonstrates any of the following conditions have been satisfied:
1. The requirements of R18-2-1009 and R18-2-1010, to the extent applicable, have been satisfied;
 2. The vehicle owner has spent the maximum required repair cost on the maintenance and repair procedures required by R18-2-1010; or
 3. Any further repairs within the maximum required repair cost would not enable the vehicle to pass the required vehicle emissions inspection.
- B.** The demonstration required by subsection (A) may consist of repair receipts, emissions test results, evidence of repairs performed, under hood verification, repair cost estimates, or similar evidence.
- C.** A temporary certificate of waiver may be issued to a vehicle failing the tampering inspection if the vehicle owner provides to a waiver inspector a written statement from an automobile parts or repair business that an emission control device necessary to repair the tampering is not available and cannot be obtained from any usual source of supply, and if all requirements of R18-2-1008(A) have been met. All written statements are subject to verification for authenticity and accuracy by the waiver inspector. The Department may deny a temporary certificate of waiver if the state inspector has any reason to believe the written statement is false or a usual source of supply exists and the device necessary to repair the tampering is available. Certificates of waiver may be issued under this subsection for a specified period, not to exceed 90 days, that allows sufficient time for the procurement and installation of a proper emissions control device. A receipt or bill from a vehicle repair facility or automobile parts store shall be an acceptable proof of purchase. Before the end of the specified time period, the vehicle owner shall present to the waiver inspector proof of purchase and installation of the device. The Department shall track all issued temporary certificates of waiver and if no proof of purchase and installation is received before the end of the specified time period, the Department shall forward to the MVD an order to cancel the vehicle's registration.
- D.** The Director shall not issue a waiver to a vehicle under any of the circumstances described in subsections (D)(1) through (4).
1. The vehicle failed the emissions test due to the catalytic converter system. A vehicle fails the emissions test due to the catalytic converter system if:
 - a. The vehicle has a catalytic converter system that is missing or defeated;
 - b. The vehicle is equipped with an on-board diagnostic computer (OBD) with a malfunction indicator light (MIL), "check engine" or "service engine soon" light commanded on by the computer and containing diagnostic trouble codes indicating the catalytic converter must be replaced; or
 - c. A vehicle with a repair order or estimate paperwork provided the waiver technician at the time of waiver inspection shows that a diagnostic determination has been made by the mechanic that the catalytic converter must be replaced.

2. The vehicle failed the emissions test with an HC, CO, NOx, or opacity emission level greater than two times the pass-fail standard in R18-2-1006.
 3. The same vehicle has previously received a certificate of waiver.
 4. The waiver request is based upon repair estimates and the waiver inspector demonstrates that a recognized repair facility can repair or improve the vehicle's test readings within the repair cost limit.
- E.** The fee for a certificate of waiver under this Section shall be fixed by the Director according to A.R.S. § 49-543, and shall be based upon the Director's estimated costs to the state for administering and enforcing the provisions of this Article for issuance of certificates of waiver under this Section. The fee shall be payable at the time the certificate of waiver is issued.
- F.** If a waiver inspector denies a certificate of waiver under this Section, the vehicle owner may request review of the denial by a state inspector.

Historical Note

Former Section R9-3-1008 repealed, new Section R9-3-1008 adopted effective January 13, 1976 (Supp. 76-1).

Former R9-3-1008 repealed, new Section R9-3-1008 adopted effective January 3, 1977 (Supp. 77-1). Amended effective March 2, 1978 (Supp. 78-2). Amended effective January 3, 1979 (Supp. 79-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1008 as amended effective January 3, 1979, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended subsection (A) and added subsection (D) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1008 renumbered as Section R18-2-1008 and amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1009. Tampering Repair Requirements

- A.** When a vehicle fails the visual inspection for properly installed catalytic converters, the vehicle owner shall replace the converters with new or reconditioned OEM converters, or equivalent new aftermarket converters.
- B.** When a vehicle fails the visual inspection for the presence of an operational air injection system, the vehicle owner shall install a new, used, or reconditioned, operational air pump on the vehicle according to manufacturer specifications.
- C.** When a gasoline vehicle fails the visual inspection for the presence or malfunction of the positive crankcase ventilation system, the vehicle owner shall repair or replace the system with OEM or equivalent aftermarket parts.
- D.** When a diesel-powered vehicle fails the visual inspection for the presence or malfunction of the closed crankcase ventilation system, the vehicle owner shall repair or replace the system with OEM or equivalent aftermarket parts.
- E.** When a vehicle fails the visual inspection for the presence or malfunction of the evaporative control system, the vehicle owner shall repair or replace the system with OEM or equivalent aftermarket parts.

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Adopted effective January 13, 1976 (Supp. 76-1).
 Repealed effective January 3, 1977 (Supp. 77-1). New
 Section R9-3-1009 adopted effective January 1, 1986
 (Supp. 85-6). Amended effective January 1, 1987, filed
 December 31, 1986 (Supp. 86-6). Former Section R9-3-
 1009 renumbered without change as Section R18-2-1009
 (Supp. 88-3). Amended effective November 14, 1994
 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R.
 382, effective December 20, 1999 (Supp. 99-4).
 Amended by final rulemaking at 8 A.A.R. 90, effective
 January 1, 2002 (Supp. 01-4). Amended by final
 rulemaking at 14 A.A.R. 2834, effective July 1, 2008
 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R.
 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1010. Low Emissions Tune-up, Emissions and Evaporative System Repair

- A.** Vehicle maintenance and repairs under subsection (B) and the failure-specific maintenance and repair requirements of subsection (C) must be performed before reinspection of a vehicle that fails a tailpipe emissions or OBD test under R18-2-1006.
- B.** Vehicle maintenance and repairs on a non-diesel powered vehicle consists of the following procedures:
1. Emissions Failure Diagnosis. For a computer-controlled vehicle, the on-board computer shall be accessed and any stored trouble codes recorded. For a model year 1996 or newer vehicle equipped with an OBD system, a compatible scan tool shall be used to access and record diagnostic trouble codes. The following instruments or equipment are required to complete a low emissions tune-up:
 - a. Tachometer, although for 1996 and later vehicles an OBD scanner can be used to monitor engine RPMs;
 - b. A compatible OBD scan tool, if appropriate;
 - c. Engine analyzer or oscilloscope; and
 - d. A HC/CO NDIR analyzer to make final A/F adjustments, if specified by the manufacturer.
 2. Adjustment. All adjustments shall be made according to the manufacturer's specifications and procedures. Final adjustment shall be made on the vehicle engine only after the engine is at normal operating temperature.
 3. Inspection of Air Cleaner, Choke, and Air Intake System. The vehicle owner shall repair or replace a dirty or plugged air cleaner, stuck choke, or restricted air intake system as required.
 4. Dwell and Basic Timing Check. Dwell and basic engine timing shall be checked and the vehicle owner shall make adjustments, if necessary, according to manufacturer's specifications.
 5. Inspection of PCV System. The PCV system shall be checked to ensure that it is the type recommended by the manufacturer and is correctly operating. Free flow through the PCV system passages and hoses shall be verified. The vehicle owner shall repair or replace the system as required.
 6. Inspection of Vacuum Hoses. The vacuum hoses shall be inspected for leaks, obstruction, and proper routing and connection. The vehicle owner shall repair or replace as required.
 7. Fuel Lines and System Components Inspection. A visual inspection for leaking fuel lines or system components shall be performed. The vehicle owner shall repair or replace any leaking lines or systems as required.
 8. Idle Speed and A/F Mixture Check. The idle speed and A/F mixture shall be checked and the vehicle owner shall make adjustments according to manufacturer's specifica-

tions and procedures. If the vehicle is equipped with a fuel injection system or an alternate fuel (LPG or LNG), the manufacturer's recommended adjustment procedure shall be followed.

- C.** Failure-specific recommended repairs and maintenance. If the maximum required repair cost in subsection (F) or (G) is not exceeded after the diagnosis and vehicle maintenance and repairs described in subsection (B), then the following procedures apply:
1. CO failure.
 - a. If a vehicle fails CO only, the vehicle shall be checked for:
 - i. Proper canister purge system operation,
 - ii. High float setting,
 - iii. Leaky power valve, and
 - iv. Faulty or worn needles, seats, jets or improper jet size.
 - b. If applicable, the vehicle shall be checked for the following items:
 - i. Computer,
 - ii. Engine and computer sensors,
 - iii. Engine solenoids,
 - iv. Engine thermostats,
 - v. Engine switches,
 - vi. Coolant switches,
 - vii. Throttle body or port fuel injection system,
 - viii. Fuel injectors,
 - ix. Fuel line routing and integrity,
 - x. Air in fuel system including line and pump,
 - xi. Fuel return system,
 - xii. Injection pump,
 - xiii. Fuel injection timing,
 - xiv. Routing of vacuum hoses, and
 - xv. Electrical connections.
 - c. The items in subsections (C)(1)(a) and (b) shall be repaired or replaced as required.
 2. HC, or HC and CO failure.
 - a. If a vehicle fails HC, or HC and CO emissions, the vehicle shall be checked for:
 - i. Faulty spark plugs and faulty, open, crossed, or disconnected plug wires;
 - ii. Distributor module;
 - iii. Vacuum hose routing and electrical connections;
 - iv. Distributor component malfunctions including vacuum advance;
 - v. Faulty points or condenser;
 - vi. Distributor cap crossfire;
 - vii. Catalytic converter efficiency air supply;
 - viii. Vacuum leaks at intake manifold, carburetor base gasket, EGR, and vacuum-operated components.
 - b. The vehicle owner shall repair or replace the items in subsection (C)(2)(a) as required.
 3. NOx failure.
 - a. If a vehicle fails for NOx emissions, the vehicle shall be checked for:
 - i. Removed, plugged, or malfunctioning EGR valve, exhaust gas ports, lines, and passages;
 - ii. EGR valve electrical and vacuum control circuitry, components, and computer control, as applicable;
 - iii. Above normal engine operating temperature;
 - iv. Proper air management;

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- v. Lean A/F mixture;
 - vi. Catalytic converter efficiency; and
 - vii. Over-advanced off-idle timing.
- b. The items in subsection (C)(3)(a) shall be repaired or replaced as required.
- 4. OBD failure. If the vehicle fails the OBD test, the vehicle owner shall repair the items indicated on the vehicle emissions report as causing the failure. If the failure results from diagnostic trouble codes (DTCs) that caused the malfunction indicator lamp (MIL) to be illuminated, the vehicle owner shall repair or replace the components or systems causing the DTCs. After repair of a DTC failure, and before reinspection, the vehicle shall be operated under conditions recommended by the vehicle manufacturer for the OBD computer to evaluate the repaired system.
- D. For Evaporative System Failures, the following procedures apply:
 - 1. If a vehicle fails the evaporative system pressure test, the vehicle shall be checked for leaking or disconnected vapor hoses, line, gas cap, and fuel tank.
 - 2. If a vehicle fails a visual inspection of the evaporative system, the vehicle shall be checked for a missing or damaged canister, canister electrical and vacuum control circuits and components, disconnected, damaged, misrouted or plugged hoses, and damaged or missing purge valves. The vehicle owner shall repair or replace the system with OEM or equivalent aftermarket parts.
- E. If a vehicle fails the functional gas cap pressure test described in R18-2-1006, the vehicle owner shall replace the gas cap with one that meets the requirements of that subsection. If a vehicle designed with a vented system fails a visual inspection for the presence of a gas cap, the vehicle owner shall install a properly fitting gas cap on the vehicle.
- F. The maximum required repair cost for a vehicle in Area A, not including cost to repair the vehicle for failing an evaporative system pressure test due to tampering, or other tampering repair cost, is:
 - 1. For a diesel-powered vehicle with a GVWR greater than 26,000 pounds or a diesel-powered vehicle with tandem axles: \$500; and
 - 2. For a vehicle that is not a diesel-powered vehicle with a GVWR greater than 26,000 pounds and is not a diesel-powered vehicle with tandem axles:
 - a. Manufactured in or before the 1974 model year: \$200;
 - b. Manufactured in the 1975 through 1979 model years: \$300; and
 - c. Manufactured in or after the 1980 model year: \$450.
 - 3. Subsection (F) does not prevent a vehicle owner from authorizing or performing more than the required repairs. A vehicle operator who has a vehicle reinspected shall have the repair receipts available when requesting a certificate of waiver.
- G. The maximum required repair cost for vehicles in Area B, not including tampering repair cost, is:
 - 1. For a diesel-powered vehicle with a GVWR greater than 26,000 pounds or a diesel-powered vehicle with tandem axles: \$300; and
 - 2. For a vehicle that is not a diesel-powered vehicle with a GVWR greater than 26,000 pounds and is not a diesel-powered vehicle with tandem axles:
 - a. Manufactured in or before the 1974 model year: \$50;
 - b. Manufactured in the 1975 through 1979 model years: \$200; and
 - c. Manufactured in or after the 1980 model year: \$300.
 - 3. Subsection (G) does not prevent a vehicle owner from authorizing or performing more than the required repairs. A vehicle operator who has a vehicle reinspected shall have the repair receipts available when requesting a certificate of waiver.
- H. Before reinspection of a diesel vehicle that has failed an inspection, the vehicle owner shall comply with the following maintenance and repair requirements to the extent that the total cost of meeting the requirements does not exceed the maximum required repair cost in subsection (F) or (G):
 - 1. Inspect for dirty or plugged air cleaner, or restricted air intake system. Repair or replace as required.
 - 2. Check fuel injection system timing according to manufacturer's specifications. Adjust as required.
 - 3. Check for fuel injector fouling, leaking, or mismatch. Repair or replace as required.
 - 4. Check fuel pump and A/F ratio control according to manufacturer's specifications. Adjust as required.
 - 5. If the vehicle fails the J1667 procedure, check smoke-limiting devices, if any, including the aneroid valve and puff limiter. Repair or replace as required.
- I. The vehicle owner shall use any available warranty coverage for a vehicle to obtain needed repairs before an expenditure can be counted toward the cost limits in subsection (F) and (G). If the operator of a vehicle within the age and mileage coverage of section 207(b) of the Clean Air Act presents a written denial of warranty coverage from the manufacturer or authorized dealer, warranty coverage is not considered available under this subsection.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1010 repealed, new Section R9-3-1010 adopted effective January 3, 1977 (Supp. 77-1). Amended effective March 2, 1978 (Supp. 78-2). Amended effective January 3, 1979 (Supp. 79-1). Amended effective February 20, 1980 (Supp. 80-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1010 as amended effective February 20, 1980, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1010 renumbered as Section R18-2-1010 and subsection (D) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended effective October 15, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1011. Vehicle Inspection Report

- A. The Department shall provide a vehicle inspected at a state station with a uniquely numbered vehicle inspection report of a design approved by the Director that contains, at a minimum,

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the following information, as applicable to the tests required for the vehicle under R18-2-1006:

1. License plate number;
 2. Vehicle identification number;
 3. Model year of vehicle;
 4. Make of vehicle;
 5. Style of vehicle;
 6. Type of fuel;
 7. Odometer reading;
 8. Emissions standards for idle and loaded cruise modes, if applicable;
 9. Emissions measurements during idle and loaded cruise modes, if applicable;
 10. Opacity measurements and standards, if applicable;
 11. Emissions standards and measurements for the transient loaded test, and the evaporative system pressure test, if applicable;
 12. Results of OBD test including all diagnostic trouble codes that commanded the illumination of the malfunction indicator lamp;
 13. Tampering inspection results;
 14. Repair requirements;
 15. Final test results;
 16. Repairs performed;
 17. Cost of emissions-related repairs;
 18. Cost of tampering-related repairs;
 19. Name, address, and telephone number of the business or person making repairs;
 20. Signature and certification number of person certifying repairs;
 21. Date of inspection;
 22. Test results of the previous inspection if the inspection is a reinspection;
 23. Inspection station, lane locators; and
 24. Test number and time of test.
- B.** A vehicle failing the initial inspection shall receive the Department's approved inspection report supplement containing, at a minimum, the following:
1. Diagnostic and tampering information including acceptable replacement units, and
 2. Applicable maximum repair costs.
- C.** The inspection report shall include a section that may be used as a certificate of compliance for vehicles passing the inspection or as a certificate of waiver, if applicable. The section shall contain all of the following information:
1. License plate number,
 2. Vehicle identification number,
 3. Final results,
 4. Serial number of the inspection report,
 5. Date of inspection,
 6. Model year,
 7. Make,
 8. Date of initial inspection,
 9. Inspection fee, and
 10. Label as either a certificate of compliance or a certificate of waiver.
- D.** At the time of registration, the certificate of compliance or certificate of waiver may be submitted to the Arizona Department of Transportation Motor Vehicle Division as evidence of meeting the requirements of this Article.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1011 repealed, new Section R9-3-1011 adopted effective January 3, 1977 (Supp. 77-1). Amended

effective January 3, 1979 (Supp. 79-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1011 as amended effective January 3, 1979, and as amended as an emergency effective January 2, 1981 now amended effective April 15, 1981 (Supp. 81-2).

Amended effective January 1, 1986 (Supp. 85-6).

Amended subsections (A) and (B) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1011 renumbered as Section R18-2-1011 and amended by removing subsection (E) effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1012. Inspection and Reinspections; Procedures and Fee

- A.** The fees vehicle owners are required to pay for emissions inspections at a state station shall be specified in the contract between the contractor and the state of Arizona according to A.R.S. § 49-543, and shall include the full cost of the vehicle emissions inspection program including administration, implementation, and enforcement. Each fee is payable by the vehicle owner directly to the contractor at the time and place of inspection as specified in the contract, and deposited into an account established by the Department for administration of fees. The contractor will be compensated by the Department for services provided on a schedule and in a manner defined in the contract.
- B.** A vehicle failing the initial paid inspection or any subsequent paid inspection is entitled to one reinspection at no additional charge under the following conditions:
1. The vehicle is presented for inspection within 60 calendar days of the initial or any subsequent paid inspection.
 2. Emissions-related repairs or adjustments and any tampering repairs have been made.
 3. The vehicle is accompanied by the vehicle inspection report from the initial or subsequent inspection.
- C.** A vehicle failing the reinspection shall be provided a vehicle inspection report and a vehicle inspection report supplement.
- D.** A state station emissions inspector shall not recommend repairs or repair facilities.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1012 repealed, new Section R9-3-1012 adopted effective January 3, 1977 (Supp. 77-1). Amended effective January 3, 1979 (Supp. 79-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1012 as amended effective January 3, 1979, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended subsections (A) and (D) effective November 9, 1982 (Supp. 82-6). Amended effective January 1, 1986 (Supp. 85-6). Former Section R9-3-1012 renumbered as Section R18-2-1012 and amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6

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A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1013. Repealed**Historical Note**

Adopted effective January 13, 1976 (Supp. 76-1). Former Section R9-3-1013 repealed, new Section R9-3-1013 adopted effective January 3, 1977 (Supp. 77-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1013 adopted effective January 3, 1977, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1013 renumbered as Section R18-2-1013 and amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Repealed by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1014. Repealed**Historical Note**

Adopted effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Section repealed by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

R18-2-1015. Repealed**Historical Note**

Adopted effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Section repealed by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

R18-2-1016. Licensing of Inspectors and Fleet Agents**A. Emissions inspectors shall be licensed as follows:**

1. To obtain a license as a vehicle emissions inspector, an applicant shall pass a written test with a score greater than or equal to 80%. After passing the written test, the applicant shall pass a separate practical examination.
 - a. Applications to become an emissions inspector may be obtained from the Department and an applicant must submit a completed application to the Department. The Department must deem an application administratively complete before an applicant will be allowed to sit for the written test. If the Department finds the application to be incomplete, the applicant shall be provided an opportunity to submit sufficient information to enable the Department to deem the application administratively complete.
 - b. The written test shall cover the following subjects:
 - i. The air pollution problem in Arizona, its causes and effects;
 - ii. The purpose, function, and goals of the vehicle inspection program;

- iii. State vehicle inspection regulations and procedures;
- iv. Technical details of the test procedures and rationale for their design;
- v. Emission control device function, configuration, and inspection;
- vi. Test equipment operation, calibration, and maintenance;
- vii. Quality control procedures and their purpose;
- viii. Public relations; and
- ix. Safety and health issues related to the inspection process.

c. After passing the written test, the inspector applicant shall pass a practical exam where the applicant shall demonstrate the ability to conduct a proper emissions inspection, including proper use of equipment and procedures, in accordance with the testing procedures in R18-2-1006(C). An inspector applicant shall pass a practical examination for each type of test the applicant intends to perform.

2. Licenses issued to vehicle emissions inspectors shall be renewed biannually, on or before the expiration date.
3. An inspector whose license is expired or suspended shall not inspect vehicles.
4. A vehicle emissions inspector shall submit an application for a renewal of the vehicle emissions inspector's license at least 90 days before the current license expiration date.
5. The Department may suspend, revoke, or refuse to renew a license if the licensee has violated any provision of A.R.S. Title 49, Chapter 3, Article 5, any provision of this Article, or fails to continue to demonstrate proficiency to the Department.
6. A vehicle emissions inspector shall notify the Department of any change in employment status no later than fourteen days after the change.
7. The Department shall assign a single, unique, nontransferable inspector's number to each vehicle emissions inspector.
8. If a licensed emissions inspector fails to demonstrate the ability to conduct a proper vehicle emissions inspection during any audit, the Department shall suspend the vehicle emissions inspector's license. The suspended emissions inspector shall pass a practical examination within 30 days after suspension or the inspector's license shall be revoked. An inspector's license may be reinstated once the inspector passes a written examination with a score of 80% or greater and demonstrates the ability to properly conduct a vehicle emissions test during a practical examination.

B. Fleet Agents shall be licensed as follows:

1. To obtain a license as a fleet agent, an applicant shall pass a written test with a score greater than or equal to 80%. A fleet agent is an individual associated with a fleet emissions testing permit who is ultimately responsible for making sure a fleet complies with the requirements of this Article. This license is separate and distinct from a fleet emissions inspector license.
 - a. Applications to become a fleet agent may be obtained from the Department. An application must be administratively complete and submitted in the manner required by the Department before an applicant will be allowed to sit for the written test.
 - b. The written test shall cover the following subjects:

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- i. The statutes and rules governing the operation and administration of a fleet emissions inspection station.
- ii. The duties of a fleet agent.
- iii. How to operate an account on the Department's web portal.
- iv. Purchasing certificates of inspection.
2. If a licensed fleet agent fails to assure that the agent's fleet complies with this Article, the agent's license shall be suspended. The suspended agent shall pass a written test within 30 days of suspension or such license shall be revoked.
3. Licenses issued to fleet agents shall be renewed biannually, on or before the expiration date.
4. A fleet represented by an agent that has a suspended license may not inspect vehicles.
5. The Department may suspend, revoke, or refuse to renew a fleet agent's license if the licensee has violated any provision of A.R.S. Title 49, Chapter 3, Article 5, any provision of this Article, or fails to continue to demonstrate proficiency to the Department as required.
6. A fleet agent shall notify the Department of any change in employment status within seven days of the change.
7. The Department shall assign a single, unique, nontransferable agent's number to each fleet agent.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).
 Amended effective January 3, 1977 (Supp. 77-1).
 Amended effective March 2, 1978 (Supp. 78-2).
 Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1016 as amended effective March 2, 1978, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1016 renumbered as Section R18-2-1016 and subsection (G) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1017. Inspection of Government Vehicles

- A. Government vehicles operated in Area A and Area B shall be inspected as follows:
 1. At a licensed fleet station operated by the government entity;
 2. At a state station upon payment of the fee; or
 3. At a state station upon payment of the contracted fee, either singly or in combination with other government fleet operators.
- B. A government vehicle, except a federally owned vehicle that is excluded from the definition of motor vehicle under 40 CFR 85.1703, shall be inspected according to this Article and shall have a government vehicle certificate of inspection (GVCOI) affixed to the vehicle if in compliance with state emissions requirements.
 1. The vehicle emissions inspector performing the inspection shall punch out the appropriate year and month on

- the GVCOI to designate the date of the vehicle's next annual or biennial inspection.
2. If the vehicle emissions inspection is performed at a fleet station, the emissions inspector shall record administratively complete results of the inspection into the Department's web portal on the day of the inspection. The unique number on the GVCOI sticker must be entered along with the emissions testing results for the vehicle.
3. A government vehicle, with the exception of a motorcycle or an undercover law enforcement vehicle, shall have the GVCOI affixed to the lower left side of the rear window as determined from a position facing the window, from outside the vehicle. If a vehicle does not have a rear window, the GVCOI shall be affixed to the lower left corner of the windshield as determined from the driver's position.
- C. The GVCOI shall be purchased from the Department's web portal.
 1. The fee for a certificate of inspection shall be fixed by the Director according to A.R.S. § 49-543, and shall be based upon the Director's estimated costs to the state of administering and enforcing the provisions of this Article as they apply to issuance of certificates of inspections.
 2. Only the Department may sell or otherwise transfer GVCOI.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).
 Amended effective January 3, 1977 (Supp. 77-1).
 Amended effective January 3, 1979 (Supp. 79-1).
 Amended effective January 1, 1986 (Supp. 85-6). Former Section R9-3-1017 renumbered as Section R18-2-1017 and subsection (E) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1018. Certificate of Inspection

- A. A fleet inspector shall submit and certify administratively complete certificates of inspection (COI) to the Department through the Department's web portal. A COI is used as evidence that the vehicle it is assigned to has passed the tests required by this Article and complies with the applicable state emissions standards for that vehicle. Inspection data may be electronically transmitted to MVD under A.R.S. § 49-542(Q).
- B. On the day a vehicle is inspected, a licensed vehicle emissions inspector shall enter an administratively complete record of the inspection into the Department's web portal.
- C. A certificate of inspection issued to a fleet vehicle is valid for a period of 180 days unless the vehicle is reregistered with a new owner.
- D. The following individuals are authorized to purchase certificates of inspection as long as the fleet they are associated with meets the requirements of this Article:
 1. A fleet agent who is licensed by the Department under R18-2-1016;
 2. A responsible corporate officer; or
 3. A designated responsible officer.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).
 Amended effective January 3, 1977 (Supp. 77-1).
 Amended effective March 2, 1978 (Supp. 78-2).

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Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1018 renumbered as Section R18-2-1018 and amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1019. Fleet Station Procedures and Permits

- A.** A fleet emissions testing station applicant or permittee shall create and manage an account on the Department's web portal.
- B.** To obtain a fleet emissions inspection station permit, an applicant shall:
 1. Be a registered owner or lessee of a fleet of at least 25 nonexempt vehicles.
 - a. A motor vehicle dealer's business inventory of vehicles held for resale over the previous 12 months shall be used to determine compliance with this subsection.
 - b. A motor vehicle dealer with less than 12 months of operations that applies for a fleet emissions testing permit shall certify that it intends to test at least 25 vehicles per year.
 2. Be located within Area A, within 50 miles of the border of Area A, or within Area B. A dealer outside these areas who certifies to the Department that customers who reside in Area A are the primary source of the dealer's business may also apply for a fleet permit.
 3. Maintain a facility that has space devoted principally to maintaining or repairing the fleet's motor vehicles.
 - a. The space shall be large enough to conduct maintenance or repair of at least one motor vehicle.
 - b. Any fleet station shall be exclusively rented, leased, or owned by the applicant.
 4. Own or lease the machinery, tools, and equipment required for the specific tests the applicant wishes to perform. Equipment and testing requirements are listed in R18-2-1006(C).
 5. Employ the following personnel:
 - a. At least one fleet agent licensed pursuant to R18-2-1016.
 - b. At least one emissions inspector licensed pursuant to R18-2-1016.
 - c. At least one person who is able to perform necessary emissions related repairs for fleet vehicles.
 - d. A single person may fill two or more of these roles for a fleet.
 6. Provide data to the Department as required by this Section.
 7. Pass an initial inspection to determine compliance with this Section.
 8. Submit to the ongoing inspections and audits prescribed in this Article.
- C.** A fleet emissions inspection testing permittee shall continuously comply with all requirements of this Article.
- D.** The equipment used at a fleet emissions inspection station is subject to the following requirements:
 1. A fleet emissions testing station applicant or permittee shall own or lease the equipment referenced in R18-2-1006 that is necessary for the specific type of testing that the permittee is licensed to perform.
 2. All testing equipment and instruments shall be maintained in accurate working condition as required by the manufacturer. An instrument requiring periodic calibration shall be calibrated according to instruction and recommendations of the instrument or equipment manufacturer. Calibration records shall be submitted through the web portal for review by the Department. The calibration records shall be certified by the technician performing each calibration.
 - a. Fleet station analyzers shall comply with, be calibrated, and be quality control checked according to 40 CFR 51, Subpart S, Appendix A, Section I, amended as of July 1, 2017, and no future editions or amendments, which is incorporated by reference in (C)(7)(b) and on file with the Department.
 - b. A fleet station opacity meter used for emission inspections is required to read the equivalent opacity value of neutral density filter within +/- 5% opacity at any point in the range of meter.
 3. Calibration gases used by the fleet station shall be subject to analysis and comparison to the Department's standard gases at any time.
 4. Fleet testing equipment shall be subject to both scheduled and unscheduled audits by state inspectors.
 5. A fleet's analyzer shall be calibrated at least monthly with calibration gases approved by the Department. A registered opacity meter shall be calibrated according to manufacturer's specifications before performing the first vehicle emissions inspection in any month.
- E.** For every test performed by a vehicle emissions inspector, that vehicle emissions inspector shall log into the Department's web portal the same day that the inspection takes place to report the results of the test to the Department.
- F.** A fleet's activities shall be governed by the following compliance and enforcement rules:
 1. All requirements in this Article apply at all times after a fleet emissions testing license has been issued.
 2. The Director may suspend or revoke a fleet emissions testing license according to A.R.S. § 49-546(F) and A.R.S. Title 41, Chapter 6, if the permittee, or any person employed by the permittee:
 - a. Violates any provisions of A.R.S. Title 49, Chapter 3, Article 5 or any provision of this Article;
 - b. Misrepresents a material fact in obtaining a permit;
 - c. Fails to make, keep, and submit to the Department records for a vehicle tested; or
 - d. Does not provide a state inspector access to the information required in this Article.
 3. If a fleet emissions inspection permit is surrendered, suspended or revoked, all unused certificates of inspection shall be refunded.
 4. Any fleet vehicle is subject to inspection by a state inspector.
- G.** A fleet emissions inspection station permit is non-transferable and does not expire.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1).
 Amended effective January 3, 1977 (Supp. 77-1).
 Amended effective March 2, 1978 (Supp. 78-2).
 Amended effective January 3, 1979 (Supp. 79-1).
 Amended effective February 20, 1980 (Supp. 80-1).
 Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1019 as amended

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effective February 20, 1980, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1019 renumbered as Section R18-2-1019 and amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended effective February 4, 1993 (Supp. 93-1). Amended effective November 14, 1994 (Supp. 94-4). Amended effective October 15, 1998 (Supp. 98-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1020. Department Issuance of Alternative Fuel Certificates

Issuing Alternative Fuel Certificates. The Department shall inspect a vehicle converted to run on alternative fuel and issue an alternative fuel certificate according to A.R.S. § 28-2416(2)(b) if the vehicle is currently powered by an alternative fuel.

Historical Note

New Section adopted by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1021. Reserved**R18-2-1022. Procedure for Waiving Inspections Due to Technical Difficulties**

A vehicle emissions station manager employed by an official emissions inspection station may issue a Director's certificate for a vehicle that cannot be inspected as required by this Article because of technical difficulties inherent in the manufacturer's design or construction of the vehicle.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1). Amended effective January 3, 1977 (Supp. 77-1). Amended effective March 2, 1978 (Supp. 78-2). Amended effective January 3, 1979 (Supp. 79-1). Amended effective January 1, 1986 (Supp. 85-6). Former Section R9-3-1022 renumbered without change as Section R18-2-1022 (Supp. 88-3). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1).

R18-2-1023. Certificate of Exemption for Out-of-State Vehicles

- A. If a vehicle being registered in Area A or Area B requires an emission test and will not be physically available for inspection within the state during the 90-day period before the emissions compliance expiration date, the owner or owner's agent may submit an application to the Department for a certificate of exemption.
- B. The owner or owner's agent shall apply for a certificate of exemption in the manner and form required by the Department.
- C. The Department may issue a certificate of exemption:

1. For a vehicle that will not be located in the state during the 90-day period before the emissions compliance expiration date and is located in an area where emissions testing is not available. This exemption shall only be granted if an affidavit confirming the location of the vehicle is signed and submitted with the application.
 2. For a vehicle that has passed an official emissions inspection in another state during the 90 days before emissions compliance expiration upon submission of the inspection compliance document issued by the entity conducting the inspection program.
- D. The fee for a certificate of exemption shall be fixed by the Director according to A.R.S. § 49-543 and shall be based upon the Director's estimated costs to the state of administering and enforcing the provisions of this Article as they apply to issuance of certificates of exemption. The payment for the certificates shall be included with the application for certificates.

Historical Note

Adopted effective January 13, 1976 (Supp. 76-1). Amended effective January 3, 1977 (Supp. 77-1). Amended effective January 3, 1979 (Supp. 79-1). Amended as an emergency effective January 2, 1981 pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1023 as amended effective January 3, 1979 and amended as an emergency effective January 2, 1981 now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Former Section R9-3-1023 renumbered without change as Section R18-2-1023 (Supp. 88-3). Amended effective February 4, 1993 (Supp. 93-1). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1024. Expired**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 84, effective December 14, 2001 (Supp. 01-4). Section expired under A.R.S. § 41-1056(E) at 15 A.A.R. 1128, effective April 30, 2008 (Supp. 09-2).

R18-2-1025. Inspection of Contractor's Equipment and Personnel

- A. State inspectors shall conduct performance audits to determine whether a state station is correctly performing all inspection and functions related to inspections as follows:
 1. Overt audits shall be completed at least two times each year for each inspection lane. Overt audits shall include:
 - a. A check for the observance of appropriate document security;
 - b. A check to see that required recordkeeping practices are being followed;
 - c. A check for licenses, certificates, and other required display information;
 - d. An observation and evaluation of each vehicle emissions inspector's ability to perform an inspection; and
 - e. A check to ensure all emissions testing equipment is calibrated and operating correctly.
 2. If a vehicle emissions inspector fails an audit, the vehicle emissions inspector's license may be suspended or revoked under R18-2-1016(A)(4).

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3. Vehicle emissions inspection records shall be reviewed at least monthly to assess station performance and identify any problems, potential fraud, or incompetence.
4. Covert audits may be performed as necessary to confirm compliance with this Article.
- B. If an equipment audit indicates that equipment is not calibrated and accurate, the equipment shall not be used to conduct emissions testing until it is replaced or repaired.
- C. Equipment that is removed from testing may be returned to service upon its repair and a state inspector's verification of a passing calibration audit.
- D. A state inspector shall inspect on-road emissions analyzers at least monthly.

Historical Note

Adopted effective January 3, 1977 (Supp. 77-1).
 Amended effective March 2, 1978 (Supp. 78-2).
 Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1025 as amended effective March 2, 1978, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended subsection (A) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1025 renumbered as Section R18-2-1025 and subsection (C) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1026. Inspection of Fleet Stations

- A. Equipment used to perform emissions testing shall meet the requirements for the type of testing a fleet station is licensed to perform.
- B. A fleet station's gas analyzer shall not be used for an official emissions inspection if:
 1. The calibration gases are not read within the following tolerances:
 - a. Within plus 0.50% CO to minus 0.25% CO in the range from 0 to 2% CO; and
 - b. Within plus 60 PPM HC to minus 30 PPM HC in the range from 0 to 500 PPM HC when read as N-HEXANE.
 2. The calibration gases are not read within the manufacturer specified tolerances;
 3. There is a leak in the sampling systems or the calibration port; or
 4. The sample handling system is restricted.
- C. The fleet emissions testing station shall acquire and utilize calibration gases with assigned HC and CO concentrations to calibrate fleet emission analyzers.
- D. A state inspector shall fail a fleet emissions analyzer if the analyzer does not meet the requirements of this Section. A fleet emission inspector shall not use the analyzer for inspection until the analyzer is cleared for return to service by a state inspector.
- E. A state inspector shall conduct performance audits to determine whether a fleet emissions inspection station is correctly performing inspections and functions related to inspections as follows:

1. Overt audits at least two times each year that include:
 - a. A check for the observance of appropriate document security;
 - b. A check to see that required recordkeeping practices are being followed;
 - c. A check for licenses, certificates, and other required display information;
 - d. An observation and evaluation of each vehicle emissions inspector's ability to perform an inspection; and
 - e. A check to ensure all emissions testing equipment is calibrated and operating correctly.
2. Fleet station and vehicle emissions inspector records shall be reviewed at least monthly to assess fleet performance and identify any problems, potential fraud, or incompetence.
3. If a vehicle emissions inspector fails an audit, the vehicle emissions inspector's license may be suspended or revoked according to R18-2-1016(A)(4).
4. Covert audits may be performed as necessary to confirm compliance with this Article.

Historical Note

Adopted effective January 3, 1977 (Supp. 77-1).
 Amended effective January 1, 1986 (Supp. 85-6).
 Amended subsections (A) and (J) and added subsection (K) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1026 renumbered as Section R18-2-1026 and subsections (B), (F), (G) and (H) amended effective August 1, 1988 (Supp. 88-3).
 Amended effective November 14, 1994 (Supp. 94-4).
 Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1027. Repealed**Historical Note**

Adopted effective January 3, 1977 (Supp. 77-1).
 Amended effective March 2, 1978 (Supp. 78-2).
 Amended effective January 3, 1979 (Supp. 79-1).
 Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1027 as amended effective January 3, 1979, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1027 renumbered as Section R18-2-1027 and subsections (B), (D), (F) and (G) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4). Amended by final rulemaking at 14 A.A.R. 2834, effective July 1, 2008 (Supp. 08-3). Repealed by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1028. Repealed**Historical Note**

Adopted effective January 1, 1986 (Supp. 85-6).
 Amended subsections (A) and (F) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Sec-

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tion R9-3-1028 renumbered as Section R18-2-1028 and subsection (D) amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1). Repealed by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

R18-2-1029. Vehicle Emission Control Devices

For the purposes of A.R.S. §§ 28-955 and 49-447, a registered motor vehicle shall have in operating condition all emission control devices installed by the vehicle manufacturer to comply with federal requirements for motor vehicle emissions or equivalent after-market replacement parts or devices.

Historical Note

Adopted effective January 3, 1977 (Supp. 77-1). Former Section R9-3-1029 renumbered as Section R18-2-1029 and amended effective August 1, 1988 (Supp. 88-3). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1).

R18-2-1030. Visible Emissions; Mobile Sources

- A. A vehicle other than a diesel-powered vehicle or 2-stroke vehicle that emits any visible emissions for 10 consecutive seconds or more is "excessive" for the purposes of A.R.S. § 28-955(C).
- B. A diesel-powered vehicle shall not emit any visible emissions in excess of:
 1. Twenty percent visual opacity for 10 consecutive seconds or more at or below 2,000 feet elevation;
 2. Thirty percent visual opacity for 10 consecutive seconds or more above 2,000 feet and at or below 4,000 feet elevation; and
 3. Forty percent visual opacity for 10 consecutive seconds above 4,000 feet elevation.
- C. A vehicle that exceeds the standards in subsection (B) fails the inspection under R18-2-1006 and is considered to have "excessive" emissions under A.R.S. § 28-955(C).

Historical Note

Adopted effective January 3, 1977 (Supp. 77-1). Amended as an emergency effective January 2, 1981, pursuant to A.R.S. § 41-1003, valid for only 90 days (Supp. 81-1). Former Section R9-3-1030 as adopted effective January 3, 1977, and amended as an emergency effective January 2, 1981, now amended effective April 15, 1981 (Supp. 81-2). Amended effective January 1, 1986 (Supp. 85-6). Amended subsection (C) effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1030 renumbered as Section R18-2-1030 and subsection (C) amended effective August 1, 1988 (Supp. 88-3). Amended effective September 19, 1990 (Supp. 90-3). Amended by final rulemaking at 6 A.A.R. 562, effective January 14, 2000 (Supp. 00-1).

R18-2-1031. Repealed**Historical Note**

Adopted effective January 1, 1987, filed December 31, 1986 (Supp. 86-6). Former Section R9-3-1031 renumbered as Section R18-2-1031 and amended effective August 1, 1988 (Supp. 88-3). Amended effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Repealed by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

Table 1. Dynamometer Loading Table - Annual Tests

Gross Vehicle Weight			
Rating (Pounds)	Engine Size	Speed (MPH)	Load (HP)
8500 or less	4 cyl. or less	22-25	2.8-4.1
8500 or less	5 or 6 cyl.	29-32	6.4-8.4
8500 or less	8 cyl. or more	32-35	8.4-10.8
8501 or more	All	37-40	12.7-15.8

Historical Note

Adopted effective November 14, 1994 (Supp. 94-4).

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Table 2. Emissions Standards - Annual Tests**MAXIMUM ALLOWABLE****Motorcycles**

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
2-Stroke	All	All	18,000	5.00	18,000	5.00	N/A	N/A
4-Stroke	All	All	500	5.00	1,800	5.50	N/A	N/A

Reconstructed Vehicles

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
4-Stroke	1967-1980	All	700	5.25	1,200	7.50	1,200	5.60
4-Stroke	1980 & newer	All	700	5.25	1,200	7.50	700	5.25

Light-Duty Vehicles

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
2-Stroke	All	All	18,000	5.00	18,000	5.00	18,000	5.00
4-Stroke	1967-1971	4 or less	450	3.75	500	5.50	500	4.20
4-Stroke	1967-1971	more than 4	380	3.00	450	5.00	450	3.75
4-Stroke	1972-1974	4 or less	380	3.50	400	5.50	400	4.20
4-Stroke	1972-1974	more than 4	300	3.00	400	5.00	400	3.75
4-Stroke	1975-1978	4 or less	120	1.00	250	2.20	250	1.65
4-Stroke	1975-1978	more than 4	120	1.00	250	2.00	250	1.50
4-Stroke	1979	4 or less	120	1.00	220	2.20	220	1.65
4-Stroke	1979	more than 4	120	1.00	220	2.00	220	1.50
4-Stroke	1980 & newer	All	100	0.50	220	1.20	220	1.20

Light-Duty Truck 1 (0-6000 lbs GVWR)

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
2-Stroke	All	All	18,000	5.00	18,000	5.00	18,000	5.00
4-Stroke	1967-1971	4 or less	450	3.75	500	5.50	500	4.20
4-Stroke	1967-1971	more than 4	380	3.00	450	5.00	450	3.75
4-Stroke	1972-1974	4 or less	380	3.50	400	5.50	400	4.20
4-Stroke	1972-1974	more than 4	300	3.00	400	5.00	400	3.75
4-Stroke	1975-1978	4 or less	120	1.00	250	2.20	250	1.65
4-Stroke	1975-1978	more than 4	120	1.00	250	2.00	250	1.50
4-Stroke	1979	4 or less	120	1.00	220	2.20	220	1.65
4-Stroke	1979	more than 4	120	1.00	220	2.00	220	1.50
4-Stroke	1980 & newer	All	100	0.50	220	1.20	220	1.20

Light-Duty Truck 2 (6001 - 8500 lbs GVWR)

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
2-Stroke	All	All	18,000	5.00	18,000	5.00	18,000	5.00
4-Stroke	1967-1971	4 or less	450	3.75	500	5.50	500	4.20
4-Stroke	1967-1971	more than 4	380	3.00	450	5.00	450	3.75
4-Stroke	1972-1974	4 or less	380	3.50	400	5.50	400	4.20
4-Stroke	1972-1974	more than 4	300	3.00	400	5.00	400	3.75
4-Stroke	1975-1978	All	300	3.00	350	4.00	350	3.00
4-Stroke	1979	4 or less	120	1.00	220	2.20	220	1.65
4-Stroke	1979	more than 4	120	1.00	220	2.00	220	1.50
4-Stroke	1980 & newer	All	100	0.50	220	1.20	220	1.20

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Heavy-Duty Truck (8501 lbs or greater GVWR)

Vehicle Engine Type	Vehicle Model Year	Number of Cylinders	Conditioning Mode		Curb Idle Mode Test		Loaded Cruise Mode Test	
			HC PPM	CO %	HC PPM	CO %	HC PPM	CO %
2-Stroke	All	All	18,000	5.00	18,000	5.00	18,000	5.00
4-Stroke	1967-1971	4 or less	450	3.75	500	5.50	500	4.20
4-Stroke	1967-1971	more than 4	380	3.00	450	5.00	450	3.75
4-Stroke	1972-1974	4 or less	380	3.50	400	5.50	400	4.20
4-Stroke	1972-1974	more than 4	300	3.00	400	5.00	400	3.75
4-Stroke	1975-1978	All	300	3.00	350	4.00	350	3.00
4-Stroke	1979 & newer	All	300	3.00	300	4.00	300	3.00

Historical Note

Renumbered from R18-2-1006 and amended effective November 14, 1994 (Supp. 94-4). See emergency amendment below (Supp. 94-4). Emergency amendment adopted effective December 23, 1994, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 95-2). Emergency amendment expired, previous text placed back into effect effective June 21, 1995 (Supp. 95-3). Amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

Table 3. Emissions Standards - Transient Loaded Emissions Tests
FINAL STANDARDS (Standards are in grams per mile)

(i) Light Duty Vehicles

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
1981-1982	3.0	2.5	25.0	21.8	3.5	3.4
1983-1985	2.4	2.0	20.0	17.3	3.5	3.4
1986-1989	1.6	1.4	15.0	12.8	2.5	2.4
1990-1993	1.0	0.8	12.0	10.1	2.5	2.4
1994+	0.8	0.7	12.0	10.1	2.0	1.9

(ii) Light Duty Trucks 1 (less than 6000 pounds GVWR)

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
1981-1985	4.0	3.4	40.0	35.3	5.5	5.4
1986-1989	3.0	2.5	25.0	21.8	4.5	4.4
1990-1993	2.0	1.7	20.0	17.3	4.0	3.9
1994+	1.6	1.4	20.0	17.3	3.0	2.9

(iii) Light Duty Trucks 2 (greater than 6000 pounds GVWR)

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
1981-1985	4.4	3.7	48.0	42.5	7.0	6.9
1986-1987	4.0	3.4	40.0	35.3	5.5	5.4
1988-1989	3.0	2.5	25.0	21.8	5.5	5.4
1990-1993	3.0	2.5	25.0	21.8	5.0	4.9
1994+	2.4	2.0	25.0	21.8	4.0	3.9

Historical Note

Adopted effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Table heading amended by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

Table 4. Transient Driving Cycle

Time second	Speed mph	Time second	Speed mph	Time second	Speed mph	Time second	Speed mph	Time second	Speed mph
0	0	30	20.7	60	26	90	51.5	120	54.9
1	0	31	21.7	61	26	91	52.2	121	55.4
2	0	32	22.4	62	25.7	92	53.2	122	55.6
3	0	33	22.5	63	26.1	93	54.1	123	56
4	0	34	22.1	64	26.5	94	54.6	124	56
5	3.3	35	21.5	65	27.3	95	54.9	125	55.8
6	6.6	36	20.9	66	30.5	96	55	126	55.2
7	9.9	37	20.4	67	33.5	97	54.9	127	54.5

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Time second	Speed mph	Time second	Speed mph	Time second	Speed mph	Time second	Speed mph	Time second	Speed mph
8	13.2	38	19.8	68	36.2	98	54.6	128	53.6
9	16.5	39	17	69	37.3	99	54.6	129	52.5
10	19.8	40	17.1	70	39.3	100	54.8	130	51.5
11	22.2	41	15.8	71	40.5	101	55.1	131	50.8
12	24.3	42	15.8	72	42.1	102	55.5	132	48
13	25.8	43	17.7	73	43.5	103	55.7	133	44.5
14	26.4	44	19.8	74	45.1	104	56.1	134	41
15	25.7	45	21.6	75	46	105	56.3	135	37.5
16	25.1	46	22.2	76	46.8	106	56.6	136	34
17	24.7	47	24.5	77	47.5	107	56.7	137	30.5
18	25.2	48	24.7	78	47.5	108	56.7	138	27
19	25.4	49	24.8	79	47.3	109	56.3	139	23.5
20	27.2	50	24.7	80	47.2	110	56	140	20
21	26.5	51	24.6	81	47.2	111	55	141	16.5
22	24	52	24.6	82	47.4	112	53.4	142	13
23	22.7	53	25.1	83	47.9	113	51.6	143	9.5
24	19.4	54	25.6	84	48.5	114	51.8	144	6
25	17.7	55	25.7	85	49.1	115	52.1	145	2.5
26	17.2	56	25.4	86	49.5	116	52.5	146	0
27	18.1	57	24.9	87	50	117	53		
28	18.6	58	25	88	50.6	118	53.5		
29	20	59	25.4	89	51	119	54		

Historical Note

Adopted effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4).

Table 5. Tolerances

	Range	State Station	Fleet Station
4 and 2 stroke vehicles: CO in MOL percent	0 to 2.0% 2 to 10.0%	±0.1% ±0.25%	±0.25% ±0.5%
4-stroke vehicles: HC as N-hexane in PPM	0 to 500 PPM 500 to 2000 PPM	±15 PPM ±50 PPM	±30 PPM ±100 PPM
2-stroke vehicles: HC as propane in PPM	0 to 25,000 PPM	±1250 PPM	±1250 PPM

Historical Note

Adopted effective November 14, 1994 (Supp. 94-4). Amended by final rulemaking at 25 A.A.R. 485, effective June 1, 2019 (Supp. 19-1).

Table 6. Repealed**Historical Note**

Adopted effective November 14, 1994 (Supp. 94-4). See emergency amendment below (Supp. 94-4). Emergency amendment adopted effective December 23, 1994, pursuant to A.R.S. § 41-1026, valid for 180 days (Supp. 95-2). Emergency amendment expired, previous text placed back into effect effective June 21, 1995 (Supp. 95-3). Amended by final rulemaking at 6 A.A.R. 382, effective December 20, 1999 (Supp. 99-4). Table 6 repealed by final rulemaking at 8 A.A.R. 90, effective January 1, 2002 (Supp. 01-4).

ARTICLE 11. FEDERAL HAZARDOUS AIR POLLUTANTS**R18-2-1101. National Emission Standards for Hazardous Air Pollutants (NESHAPs)**

A. Except as provided in R18-2-1102, the following subparts of 40 CFR 61, National Emission Standards for Hazardous Air Pollutants (NESHAPs), and all accompanying appendices, adopted as of June 30, 2017, and no future editions or amendments, are incorporated by reference as applicable requirements. These standards are on file with the Department and

shall be applied by the Department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.

1. Subpart A - General Provisions.
2. Subpart B - Radon Emissions from Underground Uranium Mines.
3. Subpart C - Beryllium.
4. Subpart D - Beryllium Rocket Motor Firing.
5. Subpart E - Mercury.
6. Subpart F - Vinyl Chloride.
7. Subpart H - Radionuclides Other Than Radon from Department of Energy Facilities.
8. Subpart I - Radionuclide Emissions from Federal Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H.
9. Subpart J - Equipment Leaks (Fugitive Emission Sources) of Benzene.
10. Subpart K - Radionuclide Emissions From Elemental Phosphorus Plants.
11. Subpart L - Benzene Emissions from Coke By-Product Recovery Plants.
12. Subpart M - Asbestos.

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13. Subpart N - Inorganic Arsenic Emissions from Glass Manufacturing Plants.
 14. Subpart O - Inorganic Arsenic Emissions from Primary Copper Smelters.
 15. Subpart P - Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production.
 16. Subpart Q - Radon Emissions from Department of Energy Facilities.
 17. Subpart R - Radon Emissions from Phosphogypsum Stacks.
 18. Subpart T - Radon Emissions from the Disposal of Uranium Mill Tailings.
 19. Subpart V - Equipment Leaks (Fugitive Emission Sources).
 20. Subpart W - Radon Emissions from Operating Mill Tailings.
 21. Subpart Y - Benzene Emissions From Benzene Storage Vessels.
 22. Subpart BB - Benzene Emissions from Benzene Transfer Operations.
 23. Subpart FF - Benzene Waste Operations.
- B.** Except as provided in R18-2-1102, the following subparts of 40 CFR 63, NESHAPs for Source Categories, and all accompanying appendices, adopted as of June 30, 2017, and no future editions or amendments, are incorporated by reference as applicable requirements. These standards are on file with the Department and shall be applied by the Department. These standards can be obtained from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.
1. Subpart A - General Provisions.
 2. Subpart F - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry.
 3. Subpart G - National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater.
 4. Subpart H - National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks.
 5. Subpart I - National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.
 6. Subpart J - National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production.
 7. Subpart L - National Emission Standards for Coke Oven Batteries.
 8. Subpart M - National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities.
 9. Subpart N - National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.
 10. Subpart O - Ethylene Oxide Emissions Standards for Sterilization Facilities.
 11. Subpart Q - National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers.
 12. Subpart R - National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations).
 13. Subpart S - National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry.
 14. Subpart T - National Emission Standards for Halogenated Solvent Cleaning.
 15. Subpart U - National Emission Standards for Hazardous Air Pollutant Emissions: Group I Polymers and Resins.
 16. Subpart W - National Emission Standards for Hazardous Air Pollutants for Epoxy Resins Production and Non-Nylon Polyamides Production.
 17. Subpart Y - National Emission Standards for Marine Tank Vessel Loading Operations.
 18. Subpart AA - National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants.
 19. Subpart BB - National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants.
 20. Subpart CC - National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries.
 21. Subpart DD - National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations.
 22. Subpart EE - National Emission Standards for Magnetic Tape Manufacturing Operations.
 23. Subpart GG - National Emission Standards for Aerospace Manufacturing and Rework Facilities.
 24. Subpart HH - National Emission Standards for Hazardous Air Pollutants From Oil and Natural Gas Production Facilities.
 25. Subpart JJ - National Emission Standards for Wood Furniture Manufacturing Operations.
 26. Subpart KK - National Emission Standards for the Printing and Publishing Industry.
 27. Subpart LL - National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.
 28. Subpart MM - National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semi-chemical Pulp Mills.
 29. Subpart OO - National Emission Standards for Tanks - Level 1.
 30. Subpart PP - National Emission Standards for Containers.
 31. Subpart QQ - National Emission Standards for Surface Impoundments.
 32. Subpart RR - National Emission Standards for Individual Drain Systems.
 33. Subpart SS - National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.
 34. Subpart TT - National Emission Standards for Equipment Leaks - Control Level 1.
 35. Subpart UU - National Emission Standards for Equipment Leaks - Control Level 2 Standards.
 36. Subpart VV - National Emission Standards for Oil-Water Separators and Organic-Water Separators.
 37. Subpart WW - National Emission Standards for Storage Vessels (Tanks) - Control Level 2.
 38. Subpart XX - National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations.
 39. Subpart YY - National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards.
 40. Subpart CCC - National Emission Standards for Hazardous Air Pollutants for Steel Pickling - HCl Process Facilities and Hydrochloric Acid Regeneration Plants.

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41. Subpart DDD - National Emission Standards for Hazardous Air Pollutants for Mineral Wool Production.
42. Subpart EEE - National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors.
43. Subpart GGG - National Emission Standards for Pharmaceuticals Production.
44. Subpart HHH - National Emission Standards for Hazardous Air Pollutants From Natural Gas Transmission and Storage Facilities.
45. Subpart III - National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production.
46. Subpart JJJ - National Emission Standards for Hazardous Air Pollutant Emissions: Group IV Polymers and Resins.
47. Subpart LLL - National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry.
48. Subpart MMM - National Emission Standards for Hazardous Air Pollutants for Pesticide Active Ingredient Production.
49. Subpart NNN - National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing.
50. Subpart OOO - National Emission Standards for Hazardous Air Pollutant Emissions: Manufacture of Amino/Phenolic Resins.
51. Subpart PPP - National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production.
52. Subpart QQQ - National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting.
53. Subpart RRR - National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production.
54. Subpart TTT - National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting.
55. Subpart UUU - National Emission Standards for Hazardous Air Pollutants for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reforming Units, and Sulfur Recovery Units.
56. Subpart VVV - National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works.
57. Subpart XXX - National Emission Standards for Hazardous Air Pollutants for Ferroalloys Production: Ferromanganese and Silicomanganese.
58. Subpart AAAA - National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills.
59. Subpart CCCC - National Emission Standards for Hazardous Air Pollutants: Manufacture of Nutritional Yeast.
60. Subpart DDDD - National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products.
61. Subpart EEEE - National Emission Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline).
62. Subpart FFFF - National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing.
63. Subpart GGGG - National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production.
64. Subpart HHHH - National Emissions Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production.
65. Subpart IIII - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks.
66. Subpart JJJJ - National Emission Standards for Hazardous Air Pollutants: Paper and Other Web Coating.
67. Subpart KKKK - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans.
68. Subpart MMMM - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products.
69. Subpart NNNN - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Large Appliances.
70. Subpart OOOO - National Emission Standards for Hazardous Air Pollutants: Printing, Coating, and Dyeing of Fabrics and Other Textiles.
71. Subpart PPPP - National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products.
72. Subpart QQQQ - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products.
73. Subpart RRRR - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Furniture.
74. Subpart SSSS - National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Coil.
75. Subpart TTTT - National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations.
76. Subpart UUUU - National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing.
77. Subpart VVVV - National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing.
78. Subpart WWWW - National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production.
79. Subpart XXXX - National Emission Standards for Hazardous Air Pollutants: Rubber Tire Manufacturing.
80. Subpart YYYYY - National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines.
81. Subpart ZZZZ - National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.
82. Subpart AAAAA - National Emission Standards for Hazardous Air Pollutants for Lime Manufacturing Plants.
83. Subpart BBBBB - National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing.
84. Subpart CCCCC - National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks.
85. Subpart DDDDD - National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters.
86. Subpart EEEEE - National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries.
87. Subpart FFFFF - National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing.
88. Subpart GGGGG - National Emission Standards for Hazardous Air Pollutants: Site Remediation.

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89. Subpart HHHHHH - National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing.
90. Subpart IIIII - National Emission Standards for Hazardous Air Pollutants: Mercury Emissions From Mercury Cell Chlor-Alkali Plants.
91. Subpart JJJJJ - National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.
92. Subpart KKKKKK - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing.
93. Subpart LLLLLL - National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing.
94. Subpart MMMMM - National Emission Standards for Hazardous Air Pollutants: Flexible Polyurethane Foam Fabrication Operations.
95. Subpart NNNNN - National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production.
96. Subpart PPPPP - National Emission Standards for Hazardous Air Pollutants: Engine Test Cells/Stands.
97. Subpart QQQQQ - National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities.
98. Subpart RRRRR - National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing.
99. Subpart SSSSS - National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing.
100. Subpart TTTTT - National Emissions Standards for Hazardous Air Pollutants for Primary Magnesium Refining.
101. Subpart WWWWW - National Emission Standards for Hospital Ethylene Oxide Sterilizers.
102. Subpart YYYYY - National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities.
103. Subpart ZZZZZ - National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources.
104. Subpart BBBBBB - National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities.
105. Subpart CCCCCC - National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.
106. Subpart DDDDDD - National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources.
107. Subpart EEEEE - National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources.
108. Subpart FFFFFF - National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources.
109. Subpart GGGGGG - National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources-Zinc, Cadmium, and Beryllium.
110. Subpart HHHHHH - National Emission Standards for Hazardous Air Pollutants: Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources.
111. Subpart JJJJJJ - National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers Area Sources.
112. Subpart LLLLLL - National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources.
113. Subpart MMMMMM - National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources.
114. Subpart NNNNNN - National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds.
115. Subpart OOOOOO - National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources.
116. Subpart PPPPPP - National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources.
117. Subpart QQQQQQ - National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources.
118. Subpart RRRRRR - National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources.
119. Subpart SSSSSS - National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources.
120. Subpart TTTTTT - National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources.
121. Subpart VVVVVV - National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources.
122. Subpart WWWWWW - National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Plating and Polishing Operations.
123. Subpart XXXXXX - National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories.
124. Subpart YYYYYY - National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities.
125. Subpart ZZZZZZ - National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper, and other Nonferrous Foundries.
126. Subpart AAAAAA - National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing.
127. Subpart BBBBBB - National Emission Standards for Hazardous Air Pollutants for Area Sources: Chemical Preparations Industry.
128. Subpart CCCCCC - National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing.
129. Subpart DDDDDDD - National Emission Standards for Hazardous Air Pollutants for Area Sources: Prepared Feeds Manufacturing.
130. Subpart EEEEEEE - National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category.
131. Subpart HHHHHHHH - National Emission Standards for Hazardous Air Pollutant Emissions for Polyvinyl Chloride and Copolymers Production.

Historical Note

Former Section R18-2-1101 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-1101 renumbered from R18-2-901 and amended effective November

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15, 1993 (Supp. 93-4). Amended effective June 10, 1994 (Supp. 94-2). Amended effective February 17, 1995 (Supp. 95-1). Amended effective December 7, 1995 (Supp. 95-4). Amended effective May 9, 1996 (Supp. 96-2). Amended effective April 4, 1997; filed with the Office of the Secretary of State March 14, 1997 (Supp. 97-1). Amended effective December 4, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 4170, effective October 11, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3281, effective September 27, 2004 (Supp. 04-3). Amended by final rulemaking at 11 A.A.R. 5504, effective February 4, 2006 (Supp. 05-4). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4). Amended by final expedited rulemaking at 21 A.A.R. 2747, effective December 13, 2015 (Supp. 15-4). Amended by final expedited rulemaking at 23 A.A.R. 1564, effective May 2, 2018 (Supp. 18-2).

R18-2-1102. General Provisions

- A. When used in 40 CFR 61 or 63, "Administrator" means the Director of the Arizona Department of Environmental Quality except that the Director shall not be authorized to approve alternate or equivalent test methods or alternate standards or work practices, except as specifically provided in Part 63, Subpart B.
- B. From the general standards identified in R18-2-1101(A), delete 40 CFR 61.04. All requests, reports, applications, submittals, and other communications to the Director pursuant to this Article shall be submitted to the Arizona Department of Environmental Quality, Air Quality Division, 1110 West Washington Street, Phoenix, Arizona 85007.
- C. The Director shall not be delegated authority to deal with equivalency determinations that are nontransferable through Section 112(h)(3) of the Act.

Historical Note

Former Section R18-2-1102 repealed effective September 26, 1990 (Supp. 90-3). New Section R18-2-1102 renumbered from R18-2-902 and amended effective November 15, 1993 (Supp. 93-4). Amended effective June 10, 1994 (Supp. 94-2). Amended effective February 17, 1995 (Supp. 95-1). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4).

ARTICLE 12. VOLUNTARY EMISSIONS BANK**R18-2-1201. Definitions**

In addition to the definitions contained in Article 1 of this Chapter, and A.R.S. § 49-401.01, the following definitions apply to this Article:

- "Account holder" means any person or entity who has opened an account in the emissions bank under R18-2-1206.
- "Certification authority" means the Department or the county or multi-county district to which the Department has delegated authority to certify emission reduction credits under A.R.S. § 49-410(C).
- "Certified credit" means an emission reduction credit that has been issued under R18-2-1203(C)(2), R18-2-1204(B), or R18-2-1205(E)(3).
- "Conditional credit" means an emission reduction credit for a reduction in emissions by a plan generator that the certification

authority has issued under R18-2-1205(D)(2) but the Administrator has not yet approved under R18-2-1205(E)(3).

"Emissions bank" means the system created by the Department to record and make publicly available information on the issuance, certification, transfer, retirement, and use of emission reduction credits.

"Emission reduction credit" or "credit" means a reduction in qualifying emissions expressed in tons per year for which the generator has submitted an application under R18-2-1203, R18-2-1204, or R18-2-1205 and which has not been withdrawn from the emissions bank under R18-2-1208(B)(5) or (C).

"Emission reduction plan" means a plan submitted under R18-2-1205 for assuring that reductions in qualifying emissions by a plan generator are permanent, quantifiable, surplus, enforceable, and real.

"Enforceable" means that specific measures for assessing compliance with an emissions limitation, control, or other requirement are established in a permit, offset-creation rule, or emission reduction plan in a manner that allows compliance to be readily determined by an inspection of records and reports.

"Form" means a paper document or online form provided through a web portal.

"Generator" means any permitted source or other activity that has made or proposes to make reductions in qualifying emissions.

"Issue," with respect to emission reduction credits, means to create and provide evidence of the creation of conditional credits or certified credits in the form or manner prescribed by the Department.

"Offset-creation rule" means a state, county, or multi-county district rule that has been approved into the state implementation plan and provides a method for allowing emission reductions from specific activities to qualify as offsets. Rule 242 of the Maricopa County Air Pollution Control Regulations is an example of an offset-creation rule.

"Offsets" means reductions in emissions required under R18-2-404 or the equivalent rule of a county or multi-county district.

"Pending credits" means emission reduction credits for which an application has been submitted under R18-2-1203, R18-2-1204, or R18-2-1205 but that have not yet been issued as conditional or certified credits.

"Permanent" means that the reduction in qualifying emissions are long-lasting and unchanging for the remaining life of the relevant activity.

"Permitted generator" means a generator that is a stationary source subject to a permit, other than a general permit, issued under A.R.S. § 49-426 or 49-480 and that seeks credits for reductions that are or will be made enforceable through permit condition.

"Plan generator" means a generator that intends to achieve or has achieved reductions in qualifying emissions in compliance with an emission reduction plan under R18-2-1205.

"Planning authority" means the organization responsible for preparing the state implementation plan for an area under A.R.S. § 49-404 or 49-406.

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“Qualifying emissions” means emissions of any conventional air pollutant, other than elemental lead, or any precursor of a conventional air pollutant from any activity. Qualifying emissions does not include emissions from a fleet of motor vehicles if the fleet operates outside of a nonattainment area. A.R.S. § 49-410(H)(2).

“Quantifiable” means that the amount, rate, and characteristics of a reduction in qualifying emissions can be measured through reliable, replicable methods.

“Real” means that a reduction in qualifying emissions is a reduction in actual emissions released to the air resulting from a physical change or change in the method of operations of a generator.

“Regulatory generator” means a generator that has achieved reductions in qualifying emissions in compliance with an offset-creation rule.

“Surplus” means that a reduction in qualifying emissions is not otherwise required by an applicable requirement and not relied upon in the state implementation plan.

“Ton” includes fraction of a ton as necessary to reflect the total amount of emissions reductions achieved or to be achieved by a generator.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1202. Applicability

- A.** Applicability. This Article applies to the following persons and entities:
1. The owners or operators of generators.
 2. The owners or operators of stationary sources that intend to use credits as offsets.
 3. Other account holders.
 4. Planning authorities.
- B.** Voluntary Participation. The certification of credits and registration of credits in the emissions bank under this Article is voluntary and is not a condition to the creation or use of emission reductions as offsets.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1203. Certification of Credits for Emission Reductions by Permitted Generators

- A.** Application.
1. The owner or operator of a permitted generator may apply for credits for reductions in qualifying emissions at any time after filing either:
 - a. An application for a permit revision seeking the imposition of conditions to make the reductions in qualifying emissions enforceable; or
 - b. A notice of permit termination seeking to make the shutdown of a stationary source, and the resulting reductions in qualifying emissions, enforceable.
 2. An application for credits shall be filed with the certification authority on the form prescribed by the Department and shall include:

- a. The emissions bank account number obtained under R18-2-1206 for the owner or operator;
- b. Information on the identity, type, ownership, and location of the permitted generator;
- c. A description of the actions that have resulted or will result in the reductions in qualifying emissions;
- d. Information on the amount of and methodology for calculating the reductions in qualifying emissions for each pollutant subject to the application;
- e. Other information necessary to verify that the reductions in qualifying emissions qualify as permanent, quantifiable, surplus, enforceable, and real;
- f. The actual dates or anticipated dates of the reductions in qualifying emissions, as applicable; and
- g. A signed statement by a responsible official, as defined in R18-2-301, verifying the truthfulness and accuracy of all information provided in the application.

B. Notification and Consultation.

1. If the certification authority is not the permitting authority for the generator, the certification authority shall:
 - a. Provide a copy of the application for credits to the permitting authority; and
 - b. Consult with permitting authority on whether the reductions in qualifying emissions qualify as permanent, quantifiable, enforceable, surplus, and real.
2. If the owner or operator files the application for credits before final action on the permit revision or termination of the permit and the permitting authority for the generator is not the certification authority, the permitting authority shall provide notice of final action on the permit revision or termination of the permit to the certification authority.

C. Action on Application.

1. The certification authority shall deny the application for credits if:
 - a. The permitting authority denies the permit revision or termination on which enforceability of the reductions in qualifying emissions is based; or
 - b. None of the reductions in emissions qualify as permanent, quantifiable, surplus, enforceable, and real.
2. The certification authority shall grant the application and issue one certified credit for each ton per year of reduction that qualifies as permanent, quantifiable, surplus, enforceable, and real.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1204. Certification of Credits for Emission Reductions by Regulatory Generators

- A.** Application.
1. The owner or operator of a regulatory generator may apply for credits for reductions in qualifying emissions at any time after complying with the applicable offset-creation rule.
 2. An application for credits shall be filed with the certification authority on the form prescribed by the Department and shall include:
 - a. The emissions bank account number obtained under R18-2-1206 for the owner or operator;

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- b. A copy of a determination of compliance with the offset-creation rule by the agency administering the rule; and
- c. A signed statement by a responsible official, as defined in R18-2-301, verifying the truthfulness and accuracy of all information provided in the application.

B. Action on Application. The certification authority shall grant the application and issue one certified credit for each ton per year of reduction that the agency administering the offset-creation rule has determined to be in compliance with the rule.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1205. Certification of Credits for Emission Reductions by Plan Generators; Enforcement

A. Application. The owner or operator of a plan generator may apply for credits for reductions in qualifying emissions by filing an application with the certification authority. The application shall be filed on the form prescribed by the Department and shall include:

- 1. The emissions bank account number obtained under R18-2-1206 for the owner or operator;
- 2. Information on the identity, type, ownership, and location of the plan generator;
- 3. An emission reduction plan satisfying subsection (B); and
- 4. A signed statement by a responsible official, as defined in R18-2-301, verifying the truthfulness and accuracy of all information provided in the application.

B. Emission Reduction Plan Contents. An emission reduction plan for a program to reduce qualifying emissions at a plan generator shall include the following elements:

- 1. A clearly defined purpose and goal;
- 2. A clearly defined scope that identifies affected activities and assures that the program will not interfere with any other applicable requirements;
- 3. The composition of any fleet of mobile sources that will participate in the program;
- 4. A calculation of baseline emissions;
- 5. A calculation of projected emissions after implementation of the program;
- 6. Methods for accounting for uncertainty in the projection of program results;
- 7. Reliable, replicable procedures for quantifying emissions or emission-related parameters, as appropriate;
- 8. Monitoring, recordkeeping, and reporting requirements that are consistent with the specified quantification procedures and allow for compliance certification and enforcement;
- 9. An implementation schedule, administrative system, and enforcement provisions adequate for ensuring enforceability of the program; and
- 10. Such other elements as the Department may reasonably require in order to assure that reductions in qualifying emissions are permanent, quantifiable, surplus, enforceable, and real.

C. Proposed Action and Public Process.

- 1. The certification authority shall publish notice of the proposed action on an application submitted under this Section in the manner prescribed by A.R.S. § 49-444 and as follows:

- a. On the website for the certification authority; and
- b. By mail or email to persons on a mailing list who have requested notice of applications under this Section.

2. By no later than the date public notice is published under subsection (C)(1), the certification authority shall make a copy of the following materials available at a public location in the same county as the proposed program to reduce qualifying emissions, at the closest office of the certification authority, and on the certification authority's website:

- a. The application, including the emission reduction plan;
- b. The proposed action;
- c. The certification authority's analysis in support of the proposed action; and
- d. All other materials in the certification authority's possession that are relevant to the proposed action.

3. The certification authority shall accept public comment on the proposed action for at least 30 days after the first publication of the notice under subsection (C)(1).

4. The certification authority shall hold a public hearing no sooner than 30 days after the first publication of the notice under subsection (C)(1).

5. The notice shall include the following:

- a. The identity and location of the applicant;
- b. A concise description of the program for reducing qualifying emissions;
- c. The locations at which materials relating to the proposed action are available under subsection (C)(2);
- d. The date by and manner in which written comments on the proposed action may be submitted; and
- e. The location, date, and time for the hearing under subsection (C)(4).

D. Action on Application.

- 1. The certification authority shall deny the application for certification if none of the reductions in emissions qualifies as permanent, quantifiable, surplus, enforceable, and real.
- 2. The certification authority shall grant the application and issue one conditional credit for each ton per year of reductions that qualifies as permanent, quantifiable, surplus, enforceable, and real.

E. Approval by Administrator.

- 1. On grant of an application under subsection (D)(2) by a certification authority other than the Department, the certification authority shall transmit the conditional credits and the associated emission reduction plan to the Department for submission to the Administrator under subsection (E)(2). In addition to the credits and plan, the submission shall include all of the elements required for a revision to the state implementation plan under 40 CFR 51.
- 2. On issuance of conditional credits by the Department under subsection (D)(2) or receipt of conditional credits under subsection (E)(1), the Department shall submit the conditional credits and the associated emission reduction plan to the Administrator for approval as a revision to the state implementation plan.
- 3. On final action by the Administrator on the state implementation plan revision submitted under subsection (E)(2), the certification authority shall issue certified credits and revoke conditional credits as necessary to be consistent with the Administrator's action.

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- F. Enforcement.** A violation of any provision of an emission reduction plan approved by the Administrator under subsection (E) is a violation of this rule by the owner or operator of the plan generator.

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1). Amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1206. Opening Emissions Bank Accounts

- A.** Any person or entity may open an account in the emissions bank by submitting the form prescribed by the Department.
- B.** The owner or operator of a generator must open an account in the emissions bank before submitting an application under R18-2-1203(A), R18-2-1204(A), or R18-2-1205(A).

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1207. Registration of Emission Reduction Credits in Emissions Bank

- A.** Notice to Department. A certification authority other than the Department shall provide notice on the form prescribed by the Department of the following events related to emissions reduction credits:
1. Receipt of an application under R18-2-1203(A), R18-2-1204(A), or R18-2-1205(A);
 2. Proposal to issue conditional credits;
 3. Issuance of conditional credits;
 4. Denial of an application for credits;
 5. Issuance of certified credits; and
 6. Revocation or reduction of credits.
- B.** Registration by Department.
1. The Department shall register pending credits in the emissions bank account for the owner or operator of the generator on:
 - a. Receipt of an application under R18-2-1203(A), R18-2-1204(A), or R18-2-1205(A); or
 - b. Receipt of notice under subsection (A)(1).
 2. The Department shall register conditional credits in the emissions bank account for the owner or operator of the generator on:
 - a. Approval of the application under R18-2-1205(D); or
 - b. Receipt of notice under subsection (A)(3).
 3. The Department shall register certified credits in the emissions bank account for the owner or operator of the generator on:
 - a. Issuance of certified credits under R18-2-1203(C)(2), R18-2-1204(B), or R18-2-1205(E)(3).
 - b. Receipt of notice under subsection (A)(5).
 4. The Department shall adjust each account in which credits are deposited as necessary to reflect:
 - a. The denial of an application for credits under R18-2-1203(C)(1) or R18-2-1205(D)(1);
 - b. The Administrator's final action on a state implementation plan under R18-2-1205(E);
 - c. The revocation or reduction of credits by a permitting authority or an agency responsible for administering an offset-creation rule.

- C.** Notice of Reductions. If reductions in qualifying emissions represented by credits have not occurred by the time pending credits are registered, the generator shall provide notice to the Department and the certifying authority on the form prescribed by the Department within five days after the reductions are achieved.

- D.** Registration Information. For credits registered in the emissions bank, the Department shall include the following information:

1. The name and contact information of the account holder;
2. The name, location, and description of the generator;
3. The name, contact information, and location of the owner or operator of the generator;
4. For each pollutant covered by the credits, the amount and date or expected date of the reductions;
5. The status of the credits, including whether the reductions in qualifying emissions represented by the credits have occurred and whether their use has been approved under R18-2-1208(B)(2).

Historical Note

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1208. Transfer, Use, and Retirement of Emission Reduction Credits

- A.** Transfer Procedures.
1. An account holder may transfer certified credits held in its account to any other account holder by filing the form prescribed by the Department.
 2. On verification of the information in the transfer form, the Department shall adjust the emissions bank accounts of the transferor and transferee to reflect the transfer.
- B.** Use Procedures.
1. An account holder who intends to use credits held in its account as offsets shall file an application to use the credits on the form prescribed by the Department. The notice shall include:
 - a. Information on the identity, location, ownership, and emissions of the stationary source;
 - b. Specification of the amount of credits to be used;
 - c. Identification of the permitting authority with jurisdiction over the stationary source;
 - d. If the stationary source is seeking a permit revision, the identification number for the permit being revised.
 2. On approval of the application, the Department shall:
 - a. Issue a certificate representing the credits that may be included in the permit or permit revision application of the stationary source;
 - b. Notify the permitting authority of the issuance of the certificate; and
 - c. Change the status of the credits to use approved.
 3. The permitting authority shall provide notice to the Department of final action on the stationary source's application for a permit or permit revision.
 4. Reductions in qualifying emissions reflected in the credits must be implemented before actual construction of the new stationary source or modification begins.
 5. The Department shall register a withdrawal and use of credits used under subsection (B) on the later of:

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- a. Receipt of notice of approval of the application for a permit or permit revision for the stationary source; or
- b. Implementation of the reductions reflected in the credits.

C. Retirement.

- 1. An account holder may retire credits in its account without using them as offsets by submitting the form prescribed by the Department.
- 2. On verification of the information contained in the form, the Department shall register a withdrawal and retirement of the credits from the account.

D. Continuation of Credits. Except to the extent otherwise required by the act, certified credits do not expire and continue in effect until withdrawn under subsection (B) or (C).**Historical Note**

New Section made by final rulemaking at 8 A.A.R. 1815, effective March 18, 2002 (Supp. 02-1). Section R18-2-1208 renumbered to R18-2-1210; new Section R18-2-1208 made by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1209. Exclusion of Emission Reduction Credits from Planning

Except to the extent otherwise required by the act, with regard to credits for emission reductions in an area for which a planning authority has responsibility, the planning authority shall:

- 1. Include the emissions for which the credits have been issued in the emissions inventory for the area as if reductions in those emissions had not yet occurred;
- 2. Account for the emissions for which the credits have been issued in any reasonable further progress or attainment demonstration for the area as if the reductions had not yet occurred; and
- 3. Refrain from relying on the reductions in any revision to the state implementation plan for the area.

Historical Note

New Section R18-2-1209 made by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

R18-2-1210. Fees

- A.** The owner or operator of a generator shall pay a non-refundable administrative fee of \$200.00 to the Department when submitting an application for certification. This fee is in addition to the fees specified in R18-2-326.
- B.** An account holder using a credit under R18-2-1207(B) shall pay a non-refundable administrative fee of \$200.00 to the Department when submitting the application for use. This fee is in addition to the fees specified in R18-2-326.

Historical Note

New Section R18-2-1210 renumbered from R18-2-1208 and amended by final rulemaking at 25 A.A.R. 1433, effective July 28, 2019 (Supp. 19-2).

ARTICLE 13. STATE IMPLEMENTATION PLAN RULES FOR SPECIFIC LOCATIONS**R18-2-1301. Expired****Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1302. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1303. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1304. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1305. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1306. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1307. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1295, effective April 2, 2003 (Supp. 03-2). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

PART A. RESERVED**PART B. HAYDEN, ARIZONA, PLANNING AREA****R18-2-B1301. Limits on Lead Emissions from the Hayden Smelter****A. Applicability.**

- 1. This Section applies to the owner or operator of the Hayden Smelter.
- 2. Effective date. Except as otherwise provided, the requirements of this Section shall become applicable on the earlier of July 1, 2018 or 180 days after completion of all project improvements authorized by Significant Permit Revision No. 60647.

B. Definitions. In addition to general definitions contained in R18-2-101, the following definitions apply to this Section:

- 1. "ACFM" means actual cubic feet per minute.
- 2. "Anode furnace baghouse stack" means the dedicated stack that vents controlled off-gases from the anode furnaces to the Main Stack.
- 3. "Blowing" shall mean the introduction of air or oxygen-enriched air into the converter furnace molten bath through tuyeres that are submerged below the level of the molten bath. The flow of air through the tuyeres above

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the level of the molten bath or into an empty converter shall not constitute blowing.

4. "Capture system" means the collection of components used to capture gases and fumes released from one or more emission units, and to convey the captured gases and fumes to one or more control devices or a stack. A capture system may include, but is not limited to, the following components as applicable to a given capture system design: duct intake devices, hoods, enclosures, ductwork, dampers, manifolds, plenums, and fans.
 5. "Control device" means a piece of equipment used to clean and remove pollutants from gases and fumes released from one or more emission units that would otherwise be released to the atmosphere. Control devices may include, but are not limited to, baghouses, Electrostatic Precipitators (ESPs), and sulfuric acid plants.
 6. "Hayden Smelter" means the primary copper smelter located in Hayden, Gila County, Arizona at latitude 33°0'15"N and longitude 110°46'31"W.
 7. "Main Stack" means the center and annular portions of the 1,000-foot stack, which vents controlled off-gases from the INCO flash furnace, the converters, and anode furnaces and also vents exhaust from the tertiary hoods.
 8. "SCFM" means standard cubic feet per minute.
 9. "SLAMS monitor" means an ambient air monitor part of the State and Local Air Monitoring Stations network operated by State or local agencies for the purpose of demonstrating compliance with the National Ambient Air Quality Standards.
 10. "Smelting process-related fugitive lead emissions" means uncaptured and/or uncontrolled lead emissions that are released into the atmosphere from smelting copper in the INCO flash furnace, converters, and anode furnaces.
- C. Emission limit.** Main Stack lead emissions shall not exceed 0.683 pound of lead per hour.
- D. Operational Standards.**
1. Process equipment and control device operations. At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate smelter processes and associated emission capture and/or control equipment in a manner consistent with good air pollution control practices for minimizing lead emissions to the level required by subsection (C). Determination of whether acceptable operating and maintenance procedures are being used shall be based on all information available to the Department and EPA Region IX, which may include, but is not limited to, monitoring results, review of operating and maintenance procedures and records, and inspection of the relevant equipment.
 2. Capture system and control device operations and maintenance plan. The owner or operator shall develop and implement an operations and maintenance plan for each capture system and/or control device used to ventilate or control process gas or emissions from the flash furnace, including matte tapping, slag skimming and slag return operations; converter primary hoods, converter secondary hoods, tertiary ventilation system; and anode refining operations. The operations and maintenance plan must address the following requirements as applicable to each capture system and/or control device.
 - a. Monitoring devices. The plan shall provide for installation, operation, calibration, and maintenance of appropriate monitoring devices to measure and record operating limit values or settings at all times the required capture and control system is operating, except during periods of monitor calibration, repair, and malfunction. The initial plan shall provide for volumetric flow monitoring on the vent gas baghouse (inlet or outlet), each converter primary hood, each converter secondary hood, the tertiary ventilation system, and the anode furnace baghouse (inlet or outlet). All monitoring devices shall be accurate within +/- 10% and calibrated according to manufacturer's instructions. If direct measurement of the exhaust flow is infeasible due to physical limitations or exhaust characteristics, the owner or operator may propose a reliable equivalent method for approval. Initial monitoring may be adjusted as provided in subsection (D)(2)(e). Dampers that are manually set and remain in the same position while the capture system is operating are exempt from these monitoring requirements. Capture system damper position setting(s) shall be specified in the plan.
 - b. Operational limits. The owner or operator shall establish operating limits in the operations and maintenance plan for the capture systems and/or control devices that are representative and reliable indicators of the performance of the capture system and control device operations. Initial operating limits may be adjusted as provided in subsection (D)(2)(e). Initial operating limits shall include the following:
 - i. A minimum air flow for the furnace ventilation system and associated damper positions for each matte tapping hood or slag skimming hood when operating to ensure that the operation(s) are within the confines or influence of the capture system.
 - ii. A minimum air flow for the secondary hood baghouse and associated damper positions for each slag return hood to ensure that the operation is within the confines or influence of the capture system's ventilation draft during times when the associated process is operating.
 - iii. A minimum air infiltration ratio for the converter primary hoods of 1:1 averaged over 24 converter Blowing hours, rolled hourly measured as volumetric flow in primary hood less the volumetric flow of tuyere Blowing compared to the volumetric flow of tuyere Blowing.
 - iv. A minimum secondary hood exhaust rate of 35,000 SCFM during converter Blowing, averaged over 24 converter Blowing hours, rolled hourly.
 - v. A minimum secondary hood exhaust rate of 133,000 SCFM during all non-Blowing operating hours, averaged over 24 non-Blowing hours, rolled hourly.
 - vi. A minimum negative pressure drop across the secondary hood when the doors are closed equivalent to 0.007 inches of water.
 - vii. A minimum exhaust rate on the tertiary hooding of 400,000 ACFM during all times material is processed in the converter aisle, averaged over 24 hours and rolled hourly.

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- viii. Fan amperes or minimum air flow for the anode furnace baghouse and associated damper positions for each anode furnace hood to ensure that the anode furnace off-gas port is within the confines or influence of the capture system's ventilation draft during times when the associated furnace is operating.
- ix. The anode furnace charge mouth shall be kept covered when the tuyeres are submerged in the metal bath except when copper is being charged to or transferred from the furnace.
- c. Preventative maintenance. The owner or operator shall perform preventative maintenance on each capture system and control device according to written procedures specified in the operations and maintenance plan. The procedures must include a preventative maintenance schedule that is consistent with the manufacturer's or engineer's instructions, or operator's experience working with the equipment, and frequency for routine and long-term maintenance. This provision does not prohibit additional maintenance beyond that required by the plan.
- d. Inspections. The owner or operator shall perform inspections in accordance with written procedures in the operations and maintenance plan for each capture system and control device that are consistent with the manufacturer's, engineer's, or operator's instructions for each system and device.
- e. Plan development and revisions.
 - i. The owner or operator shall develop and keep current the plan required by this Section. Any plan or plan revision shall be consistent with this Section, shall be designed to ensure that the capture and control system performance conforms to the attainment demonstration in the Hayden 2008 Lead National Ambient Air Quality Standards Nonattainment Area State Implementation Plan (SIP), and shall be submitted to the Department for review. Any plan or plan revision submitted shall include the associated manufacturer's, engineer's or operator's recommendations and/or instructions used for capture system and control device operations and maintenance.
 - ii. The owner or operator shall submit the initial plan to the Department no later than May 1, 2018 and shall include the initial volumetric flow monitoring provisions in subsection (D)(2)(a), the initial operational limits in subsection (D)(2)(b), the preventative maintenance procedures in subsection (D)(2)(c), and the inspection procedures in subsection (D)(2)(d).
 - iii. The owner or operator shall submit to the Department for approval a plan revision with changes, if any, to the initial volumetric flow monitoring provisions in subsection (D)(2)(a) and initial operational limits in subsection (D)(2)(b) not later than six months after completing a fugitive emissions study conducted in accordance with Appendix 14. The Department shall submit the approved changes to the volumetric flow monitoring provisions and operational limits pursuant to this subsection to EPA Region IX as a SIP revision not later than 12 months after completion of a fugitive emissions study.
 - iv. Other plan revisions may be submitted at any time when necessary. All plans and plan revisions shall be designed to achieve operation of the capture system and/or control device consistent with the attainment demonstration in the Hayden 2008 Lead National Ambient Air Quality Standards Nonattainment Area SIP. Except for changes to the volumetric flow monitoring provisions in subsection (D)(2)(a) and operational limits in subsection (D)(2)(b), which shall require prior approval, plans and plan revisions may be implemented upon submittal and shall remain in effect until superseded or until disapproved by the Department. Disapprovals are appealable Department actions.
- 3. Emissions from the anode furnace baghouse stack shall be routed to the Main Stack.
- E. Performance Test Requirements.
 - 1. Main stack performance tests. No later than 180 calendar days after completion of all Converter Retrofit Project improvements authorized by Significant Permit Revision No. 60647, the owner or operator shall conduct initial performance tests on the following:
 - a. The gas stream exiting the anode furnaces baghouse prior to mixing with other gas streams routed to the Main Stack.
 - b. The gas stream exiting the acid plant at a location prior to mixing with other gas streams routed to the Main Stack.
 - c. The gas stream exiting the secondary baghouse at a location prior to mixing with other gas streams routed to the Main Stack.
 - d. The gas stream collected by the tertiary hooding at a location prior to mixing with other gas streams routed to the Main Stack.
 - e. The gas stream exiting the vent gas baghouse at a location prior to mixing with other gas streams routed to the Main Stack.
 - 2. Subsequent performance tests on the gas streams specified in subsection (E)(1) shall be conducted at least annually.
 - 3. Performance tests shall be conducted under such conditions as the Department specifies to the owner or operator based on representative performance of the affected sources and in accordance with 40 CFR 60, Appendix A, Reference Method 29.
 - 4. At least 30 calendar days prior to conducting a performance test pursuant to subsection (E)(1), the owner or operator shall submit a test plan, in accordance with R18-2-312(B) and the Arizona Testing Manual, to the Department for approval. The test plan must include the following:
 - a. Test duration;
 - b. Test location(s);
 - c. Test method(s), including those for test method performance audits conducted in accordance with subsection (E)(6); and
 - d. Source operation and other parameters that may affect the test result.
 - 5. The owner or operator may use alternative or equivalent performance test methods as defined in 40 CFR § 60.2

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when approved by the Department and EPA Region IX, as applicable, prior to the test.

6. The owner or operator shall include a test method performance audit during every performance test in accordance with 40 CFR § 60.8(g).
- F. Compliance Demonstration Requirements.**
1. For purposes of determining compliance with the Main Stack emission limit in subsection (C), the owner or operator shall calculate the combined lead emissions in pounds per hour from the gas streams identified in subsection (E)(1) based on the most recent performance tests conducted in accordance with subsection (E).
 2. The owner or operator shall determine compliance with the requirements in subsection (D)(2) as follows:
 - a. Maintaining and operating the emissions capture and control equipment in accordance with the capture system and control device operations and maintenance plan required in subsection (D)(2) and recording operating parameters for capture and control equipment as required in subsection (D)(2)(b); and
 - b. Conducting a fugitive emissions study in accordance with Appendix 14 starting not later than six months after completion of the Converter Retrofit Project authorized by Significant Permit Revision No. 60647. The fugitive emissions study shall demonstrate, as set forth in Appendix 14, that fugitive emissions from the smelter are consistent with estimates used in the attainment demonstration in the Hayden 2008 Lead National Ambient Air Quality Standards Nonattainment Area SIP.
 3. The owner or operator shall include periods of startup, shutdown, malfunction, or other upset conditions when determining compliance with the emission limit in subsection (C).
- G. Recordkeeping.** The owner or operator shall maintain the following records for at least five years and keep on-site for at least two years:
1. All records as specified in the operations and maintenance plan required under subsection (D)(2).
 2. All records of major maintenance activities and inspections conducted on emission units, capture systems, monitoring devices, and air pollution control equipment, including those set forth in the operations and maintenance plan required by subsection (D)(2).
 3. All records of performance tests, test plans, and audits required by subsection (E).
 4. All records of compliance calculations required by subsection (F).
 5. All records of fugitive emission studies and study protocols conducted in accordance with Appendix 14.
 6. All records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of concentrate drying, smelting, converting, anode refining, and casting emission units; and any malfunction of the associated air pollution control equipment that is inoperative or not operating correctly.
 7. All records of reports and notifications required by subsection (H).
- H. Reporting.** The owner or operator shall provide the following to the Department:
1. Notification of commencement of construction of any equipment necessary to comply with the operational or emission limits.
 2. Semiannual progress reports on construction of any such equipment postmarked by July 30 for the preceding January-June period and January 30 for the preceding July-December period.
 3. Notification of initial startup of any such equipment within 15 business days of such startup.
 4. Whenever the owner or operator becomes aware of any exceedance of the emission limit set forth in subsection (C), the owner or operator shall notify the Department orally or by electronic or facsimile transmission as soon as practicable, but no later than two business days after the owner or operator first knew of the exceedance.
 5. Within 30 days after the end of each calendar-year quarter, the owner or operator shall submit a quarterly report to the Department for the preceding quarter that shall include dates, times, and descriptions of deviations when the owner or operator operated smelting processes and related control equipment in a manner inconsistent with the operations and maintenance plan required by subsection (D)(2).
 6. Reports from performance testing conducted pursuant to subsection (E) shall be submitted to the Department within 60 calendar days of completion of the performance test. The reports shall be submitted in accordance with the Arizona Testing Manual and A.A.C. R18-2-312(A).

Historical Note

New Section R18-2-B1301 made by final rulemaking at 23 A.A.R. 767, effective on the earlier of July 1, 2018, or 180 calendar days after completion of all Converter Retrofit Project improvements authorized by Significant Permit Revision No. 60647 (Supp. 17-1).

R18-2-B1301.01.Limits on Lead-Bearing Fugitive Dust from the Hayden Smelter

- A. Applicability.**
1. This Section applies to the owner or operator of the Hayden Smelter.
 2. Effective Date. Except as otherwise provided, the requirements of this Section shall become applicable on December 1, 2018.
- B. Definitions.** In addition to definitions contained in R18-2-101 and R18-2-B1301, the following definitions apply to this Section:
1. “Acid plant scrubber blowdown drying system” means the process in which Venturi scrubber blowdown solids are dried and packaged via a thickener, filter press, electric dryer, and supersack filling stations.
 2. “Control measure” means a piece of equipment used, or actions taken, to minimize lead-bearing fugitive dust emissions that would otherwise be released to the atmosphere. Control equipment may include, but are not limited to, wind fences, chemical dust suppressants, and water sprayers. Actions may include, but are not limited to, relocating sources, curtailing operations, or ceasing operations.
 3. “Hayden Lead Nonattainment Area” means the townships in Gila and Pinal Counties, as identified and codified in 40 CFR § 81.303, that are designated nonattainment for the 2008 Lead National Ambient Air Quality Standards.
 4. “High wind event” means any period of time beginning when the average wind speed, as measured at a meteorological station maintained by the owner or operator that is approved by the Department, is greater than or equal to

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15 mph over a 15 minute period, and ending when the average wind speed, as measured at the approved meteorological station maintained by the owner or operator, falls below 15 mph over a 15 minute period.

5. "Lead-bearing fugitive dust" means uncaptured and/or uncontrolled particulate matter containing lead that is entrained in the ambient air and is caused by activities, including, but not limited to, the movement of soil, vehicles, equipment, and wind.
 6. "Material pile" means material, including concentrate, uncrushed reverts, crushed reverts, and bedding material, that is stored in a pile outside a building or warehouse and is capable of producing lead-bearing fugitive dust.
 7. "Non-smelting process sources" means sources of lead-bearing fugitive dust that are not part of the hot metal process, which includes smelting in the INCO flash furnace, converting, and anode refining and casting. Non-smelting process sources include storage, handling, and unloading of concentrate, uncrushed reverts, crushed reverts, and bedding material; acid plant scrubber blowdown solids; and paved and unpaved roads.
 8. "Ongoing visible emissions" means observed emissions to the outside air that are not brief in duration.
 9. "Road" means any surface on which vehicles pass for the purpose of carrying people or materials from one place to another in the normal course of business at the Hayden Smelter.
 10. "Slag" means the inorganic molten material that is formed during the smelting process and has a lower specific gravity than copper-bearing matte.
 11. "Slag hauler" means any vehicle used to transport molten slag.
 12. "Storage and handling" means all activities associated with the handling and storage of materials that take place at the Hayden Smelter, including, but not limited to, stockpiling, transport on conveyor belts, transport or storage in rail cars, crushing and milling, arrival and handling of offsite concentrate, bedding, and handling of reverts.
 13. "Trackout/carry-out" means any materials that adhere to and agglomerate on the surfaces of motor vehicles, haul trucks, and/or equipment (including tires) and that may then fall onto the road.
- C. Operational Standards.
1. Equipment operations. At all times, the owner or operator shall operate and maintain all non-smelting process sources, including all associated air pollution control equipment, control measures, and monitoring equipment, in a manner consistent with good air pollution control practices for minimizing lead-bearing fugitive dust, and in accordance with the fugitive dust plan required by subsection (C)(2) and performance and housekeeping requirements in subsection (D). A determination of whether acceptable operating and maintenance procedures are being used shall be based on all available information to the Department and EPA Region IX, which may include, but is not limited to, monitoring results, review of operating and maintenance procedures and records, review of fugitive dust plans, and inspection of the relevant equipment.
 2. Fugitive dust plan. The owner or operator shall develop, implement, and follow a fugitive dust plan that is designed to minimize lead-bearing fugitive dust from non-smelting process sources. At minimum, the fugitive dust plan shall contain the following:
 - a. Performance and housekeeping requirements in subsection (D).
 - b. Design plans and specifications for each wind fence to be installed to control lead-bearing fugitive dust from non-smelting process sources identified in subsections (D)(11) through (D)(14). The dust plan shall contain height limits for the materials being stored in each wind fence, consistent with the design plans and specifications for that particular wind fence. Wind fence design and specifications shall:
 - i. Require full encircling of the source to be controlled, with reasonable and sufficient openings for ingress and egress;
 - ii. Consider the orientation of the wind fence to the prevailing winds;
 - iii. Consider the strength of the winds in the area where the fence will be located;
 - iv. Consider the porosity of the material to be used, which shall not exceed 50%; and
 - v. Consider the height of the fence relative to the height of the material being stored. At minimum, wind fence height shall be greater than or equal to the material pile height.
 - c. Design plans and specifications for each new or modified water sprayer system used to control lead-bearing fugitive dust from non-smelting process sources specified in subsections (D)(11) through (D)(14). The number, type, location, watering intensity, flow rates, and other operational parameters of the water sprayers must meet moisture content objectives for sources specified in subsections (D)(11) through (D)(14). The owner or operator may include in the dust plan an exemption to the water requirements at times when the materials are sufficiently moist or it is raining and thus there is no need for additional wetting until the next scheduled watering to meet moisture content objectives. The dust plan shall include the following for each water sprayer:
 - i. Watering schedule;
 - ii. Watering intensity;
 - iii. Minimum flow rate or pressure drop;
 - iv. Appropriate and/or continuous monitoring;
 - v. Schedule for calibration based on the manufacturer's recommended calibration schedule;
 - vi. Preventative maintenance schedule; and
 - vii. Other applicable operational parameters.
 - d. Necessary improvements and/or modifications to material conveyor systems, along with a schedule for implementing improvements or modifications, targeted to minimize lead-bearing fugitive dust from non-smelting process sources specified in subsections (D)(11) through (D)(14), as applicable, to the greatest extent practicable. The improvements or modifications may include, but is not limited to, hooding of transfer points, utilizing water sprayers, and employing scrapers, brushes, or cleaning systems at all points where belts loop around themselves to catch and contain material before it falls to the ground.
 - e. Design plans for the concrete pads for the non-smelting process sources specified in subsections (D)(11) and (D)(13). The concrete pads shall be designed to capture, store, and control stormwater or

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sprayed water to minimize emissions to the greatest extent practicable, including curbing around the outer edges of the concrete pad where feasible.

- f. Additional controls and measures for sources specified in subsections (D)(11) through (D)(14) to be implemented during high wind events. These additional controls or measures, which must include curtailment or other alteration of activity when appropriate, must be implemented at these sources during all periods of high wind.
 - g. Sample inspection sheets, checklists, or logsheets for each of the inspections identified in subsection (D)(6), and in accordance with the following:
 - i. The inspection sheets or checklists shall include:
 - (1) Specific descriptions of the equipment being inspected and the specific functions being evaluated;
 - (2) The findings of the inspection;
 - (3) The date, time, and location of inspections; and
 - (4) An identification of who performed the inspection or logged the results.
 - ii. The logsheets for high wind events shall include:
 - (1) High wind event start time;
 - (2) High wind event end time;
 - (3) Description of area or activity inspected; and
 - (4) Description of corrective action taken if necessary.
 - h. Design plans of the new acid plant scrubber blow-down drying system specified in subsection (D)(15).
 - i. The name and location of the meteorological station, which must be approved by the Department, that is to be used by the owner or operator for determining high wind events pursuant to subsection (B)(4) and for implementing control requirements pursuant to subsection (D)(5).
3. Plan development and revisions. The owner or operator shall develop and keep current the fugitive dust plan required by subsection (C)(2). Any plan or plan revision shall be consistent with this Section and shall be submitted to the Department for review. The initial plan shall be submitted to the Department for review no later than May 1, 2017. Plans and plan revisions shall be consistent with good air pollution control practice for fugitive dust. Except for the meteorological station to be used for high wind events pursuant to subsection (D)(5), which shall require prior approval, plans and plan revisions may be implemented upon submittal and shall remain in effect until superseded or until disapproved by the Department. Disapprovals are appealable Department actions.
- D. Performance and Housekeeping Requirements.** The owner or operator shall comply with these requirements at all times regardless of a fugitive dust plan.
1. Water sprayers. The owner or operator shall implement a recordkeeping system to capture sprayer operations, including identification of the particular operation, lead-bearing fugitive dust source, timing and intensity of watering, and data regarding the quantity of water used at each water sprayer.
 2. Wind fences. The owner or operator shall ensure that wind fences used to control lead-bearing fugitive dust from the non-smelting process sources specified in subsections (D)(11) through (D)(14) meet the following requirements:
 - a. Wind fence height shall be greater than or equal to the material pile height. The allowed material pile height shall be posted in a readily visible location at each wind fence.
 - b. Wind fence porosity shall not exceed 50%.
 3. Material conveyor systems. For sources specified in subsections (D)(11) through (D)(14), as applicable, the owner or operator shall:
 - a. Minimize conveyor drop heights to the greatest extent practicable.
 - b. Clean any spills from conveyors within 30 minutes of discovery. The material collected must be handled in such a way so as to minimize lead-bearing fugitive dust to the maximum extent practicable.
 4. Vehicle transport of materials. The owner or operator shall maintain vehicle cargo compartments used to transport materials capable of producing lead-bearing fugitive dust so that the cargo compartment is free of holes or other openings and is covered by a tarp.
 5. High wind event requirements.
 - a. During high wind events, the owner or operator shall evaluate the non-smelting process sources specified in subsections (D)(11) through (D)(14) for ongoing visible emissions using the appropriate logsheet for each source.
 - b. If ongoing visible emissions are observed, the owner or operator shall promptly wet the source of emissions with the objective of mitigating further emissions.
 - c. If wetting does not appear to mitigate the ongoing visible emissions to 20% opacity or less, the owner or operator shall postpone associated handling of the source until the high wind event has ceased.
 6. Physical inspections. The owner or operator shall conduct physical inspections as follows:
 - a. Daily inspections of all water sprayers to make sure they are functioning and are in accordance with the dust plan;
 - b. Daily visual inspections of all material piles to make sure they are maintained within areas protected by a wind fence, that they are not higher than allowed for the wind fence, and to verify that moisture content requirements are met;
 - c. Daily inspections of all material handling areas to identify and clean up track out or spills of materials;
 - d. Daily inspections of conveyor systems to identify and clean up material spills;
 - e. Daily inspections of rumble grates sump levels;
 - f. Daily spot inspections of vehicles carrying lead-bearing fugitive dust-producing materials when vehicles are in use to ensure that material is not overloaded, is properly covered, and cargo compartments are intact;
 - g. Weekly inspections of wind fences for material integrity and structural stability;
 - h. Daily inspections of all paved roads to identify and clean up track out or spills of materials;
 - i. Daily inspections of unpaved roads in subsection (D)(10)(a) to identify areas where chemical dust suppressant coverage has broken down; and

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- j. Bi-weekly inspections of the acid plant scrubber blowdown drying system enclosure.
- 7. Opacity limit and Method 9 readings.
 - a. Opacity from lead-bearing fugitive dust emissions shall not exceed 20% from any part of the facility at any time. Opacity shall be determined by using 40 CFR 60, Appendix A, Reference Method 9, except for unpaved roads, in which opacity shall be determined pursuant to subsection (D)(10)(c).
 - b. In the event that an employee observes ongoing visible emissions at a non-smelting process source covered by this Section, that employee shall promptly contact a Reference Method 9-certified observer, who shall promptly evaluate the emissions and conduct a Reference Method 9 reading, if possible.
 - c. A Reference Method 9-certified observer shall conduct a weekly visible emissions survey of all non-smelting process sources covered by this Section and perform a Reference Method 9 reading for any plumes that on an instantaneous basis appear to exceed 15% opacity.
- 8. Corrective actions.
 - a. At any time that visible emissions from the non-smelting process sources covered by this Section appear to exceed 15% opacity, the owner or operator shall take prompt corrective action to identify the source of the emissions and abate such emissions, with the corrective action starting within 30 minutes after discovery. For any non-smelting process source that produces visible emissions that appear to exceed 15% opacity, the owner or operator shall perform an analysis of the root cause, and implement a strategy designed to prevent, to the extent feasible, the ongoing recurrence of the source of visible emissions. Within 14 days of completion of its analysis, if appropriate, the owner or operator shall modify the fugitive dust plan in subsection (C)(2) for any changes identified from the analysis differing from the current provisions of the fugitive dust plan.
 - b. At any time that the owner or operator becomes aware that provisions of the fugitive dust plan and/or performance and housekeeping provisions required by this Section are not being met, the owner or operator shall take prompt action to return to compliance, which may include modifications to monitoring, recordkeeping, and reporting requirements in the fugitive dust plan. This includes, but is not limited to, the following actions:
 - i. Return water sprayers to full operational status;
 - ii. Repair damaged conveyor hoodings or other enclosures;
 - iii. Apply additional water to ensure that sources are meeting moisture content requirements;
 - iv. Clean any trackout or spillage of dust-producing material, including dropoff of dust producing material from conveyors, using a street sweeper, vacuum, or wet broom with sufficient water and at the speed recommended by the manufacturer;
 - v. Reapplication of chemical dust suppressants in areas where the coating has broken down on unpaved roads; and
 - vi. Revisions to the fugitive dust plan to undertake improved monitoring, recordkeeping, and reporting requirements necessary to ensure that the controls contained in the fugitive dust plan are being implemented as contemplated by the fugitive dust plan.
- 9. Paved Roads. These requirements apply to all roads at the facility currently paved and roads to be paved in the future. The owner or operator shall:
 - a. Clean roads at least once daily with a sweeper, vacuum, or wet broom in accordance with applicable manufacturer recommendations.
 - b. Maintain the integrity of the road surface.
 - c. Clean up trackout and carry-out of material on the following schedule:
 - i. As expeditiously as practicable, when trackout and carry-out extends a cumulative distance of 50 linear feet or more; and
 - ii. At the end of the workday, for all other trackout and carry-out.
 - d. Comply with a speed limit not to exceed 15 mph for all vehicular traffic. At minimum, speed limit signs shall be posted at all entrances and truck loading and unloading areas and/or at conspicuous areas along the roadway.
- 10. Unpaved Roads. These requirements apply to the unpaved roads identified in subsections (D)(10)(a)(i) through (D)(10)(a)(iii) below, including any access points where the unpaved roads adjoin paved roads and any areas of vehicular handling of material. The owner or operator shall:
 - a. Implement a chemical dust suppressant application intensity and schedule, which at minimum shall be:
 - i. For the slag hauler road and all other unpaved roads used or to be used by the slag hauler, chemical dust suppressant shall be applied at least once per week during the summer, and once per every two weeks during the winter.
 - ii. For the main road to the secondary crusher, chemical dust suppressant shall be applied at least once every six weeks, year-round.
 - iii. For unpaved roads near reverts and silica flux crushing operations, chemical dust suppressant shall be applied at least once per two weeks during the summer, and once per month in the winter.
 - b. Increase the frequency of chemical dust suppressant application if necessary to reduce fugitive dust emissions from unpaved roads.
 - c. Not allow visible emissions to exceed 20% opacity and shall not allow silt loading equal to or greater than 0.33 oz/ft². However, if silt loading is equal to or greater than 0.33 oz/ft², then the owner or operator shall not allow the average percent silt content to exceed 6%. Compliance with these requirements shall be determined by the test methods described in Appendix 15.
 - d. Maintain sufficient watering trucks and personnel to operate such trucks to be employed as an interim measure whenever visible emissions or a breakdown in dust suppressant covering are observed at any point along the treated unpaved road system.
 - e. Immediately, but no later than 30 minutes after initial observation of any visible emissions, apply water or chemical dust suppressant to the portion of

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- the unpaved road where the visible emissions were observed.
- f. Reapply chemical dust suppressant within 24 hours of discovery of any area where the surface chemical dust suppressant coverage has broken down.
 - g. Collect and prevent from becoming airborne any runoff or material from rinsing or sweeping as soon as practicable.
 - h. Comply with a speed limit not to exceed 15 mph for all vehicular traffic. At minimum, speed limit signs shall be posted at all entrances and truck loading and unloading areas and/or at conspicuous areas along the roadway.
11. Concentrate Storage, Handling, and Unloading. The owner or operator shall:
 - a. Consolidate and manage all concentrate storage piles in one or more concrete storage pads.
 - b. Store concentrate in an area with a wind fence in accordance with requirements set forth in the fugitive dust plan and pursuant to subsection (D)(2).
 - c. Maintain water sprayers in accordance with requirements set forth in the fugitive dust plan and to ensure the surfaces of concentrate piles are wetted to maintain a nominal 10% surface moisture content as determined from representative samples using ASTM Method D2216-10 or other equivalent methods approved by the Department and EPA Region IX.
 - d. Minimize the footprint of the concentrate storage piles by pushing into the stockpile with a front end loader and sweeping open areas of the pads with a self-powered vacuum sweeper at least daily during use.
 12. Uncrushed Reverts Handling and Storage. The owner or operator shall:
 - a. Manage uncrushed revert material only in areas protected by a wind fence in accordance with requirements set forth in the fugitive dust plan and pursuant to subsection (D)(2).
 - b. Maintain water sprayers in accordance with requirements set forth in the fugitive dust plan and to ensure the surface of uncrushed revert material is wetted with the objective to minimize lead-bearing fugitive dust emissions to the greatest extent practicable.
 13. Reverts Crushing Operations and Crushed Reverts Storage. The owner or operator shall:
 - a. Crush revert and store crushed revert only on one or more concrete pads.
 - b. Crush revert and store crushed revert only within an area protected by a wind fence in accordance with requirements set forth in the fugitive dust plan and pursuant to subsection (D)(2).
 - c. Maintain water sprayers in accordance with requirements set forth in the fugitive dust plan and to ensure the surfaces of all crushed revert material, including revert managed after it is crushed, is wetted to maintain a nominal 10% surface moisture content as determined from representative samples using ASTM Method D2216-10 or other equivalent methods approved by the Department and EPA Region IX.
 - d. By October 2017, relocate all revert crushing operations to 33° 00' 25.84" N, 110° 46' 26.55" W and shall crush revert only at this new location.
 14. Bedding Operations, Including Handling, Storage, and Unloading. The owner or operator shall:
 - a. Perform all bedding activities, including loading and unloading of materials to be blended, only within an area protected by a wind fence in accordance with requirements set forth in the fugitive dust plan and pursuant to subsection (D)(2). These activities include the storage and handling areas for potentially lead-bearing fugitive dust-producing material within the bedding plant area.
 - b. Maintain water sprayers in accordance with requirements set forth in the fugitive dust plan and to ensure the surfaces of material in the bedding area is wetted to maintain a nominal 10% surface moisture content as determined from representative samples using ASTM Method D2216-10 or other equivalent methods approved by the Department and EPA Region IX.
 - c. Maintain rumble grates at all of the bedding plant's entrances and exits to shake off material on the loader tires as they enter and exit the area. Material that is tracked out of the bedding area must be cleaned up at the end of the workday.
 - d. Operate its bedding activities in a manner designed to avoid any trackout outside an area protected by a wind fence. Areas of material spillage or trackout, whether inside or outside of an area protected by a wind fence, shall be rinsed or cleaned daily.
 15. Acid Plant Scrubber Blowdown Drying System.
 - a. The owner or operator shall dry acid plant scrubber blowdown solids only in an enclosed system that uses a venturi scrubber, thickener, filter press, and electric dryer that is maintained under negative pressure at all times that materials are being dried.
 - b. The owner or operator shall maintain the negative pressure of the electric dryer using a 2,500 ACFM dryer ventilation fan that must run at all times the electric dryer is operational. Monitoring of the negative pressure shall be demonstrated through the run and stop states of the ventilation fan and electric dryer.
 - c. The acid plant scrubber blowdown drying system shall include the following elements:
 - i. Venturi scrubber slurry that reports to a new thickener.
 - ii. Underflow from the thickener that goes to a filter press for further liquid removal, with the resulting filter cake sent to two electric dryers operating in parallel to provide final drying of the dust cake.
 - iii. Exhaust from the dryers sent to the packed gas cooling tower inlet duct.
 - iv. Dried cake discharged directly into bags.
 - d. The owner or operator shall clean all areas previously used for scrubber blowdown drying and no longer use previous areas for scrubber blowdown drying.
- E. Contingency Requirements.
1. If the owner or operator does not meet the compliance schedule below in subsection (E)(3), or if the Hayden Lead Nonattainment Area does not attain the 2008 Lead National Ambient Air Quality Standards by the attainment date established in the Act, whichever occurs first, then the owner or operator shall increase the paved road

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cleaning frequency specified in subsection (D)(9) to twice per day.

2. The owner or operator shall implement the contingency measure in subsection (E)(1) within 60 days of notification by EPA Region IX of either a failure to meet the compliance schedule in subsection (E)(3) or a failure to attain by the attainment date established in the Act, whichever occurs first.
3. The compliance schedule is as follows. The Fugitive Dust Plan referred to in the compliance schedule shall mean the Fugitive Dust Plan submitted to the Administrator by the owner or operator to comply with requirements set forth in Consent Decree No. CV-15-02206-PHX-DLR, which became effective on December 30, 2015 in the United States District Court for the District of Arizona, as that plan may be later revised pursuant to subsection (C)(3):

Control Measure	Date of Implementation
Implementation of chemical dust suppression for unpaved roads.	Within 30 days of Administrator approval of application intensity and schedules in Fugitive Dust Plan.
Implementation of wind fences for materials piles (uncrushed reverts, reverts crushing and crushed reverts, bedding materials, and concentrate).	Within 120 days of Administrator approval of the Fugitive Dust Plan or the date of completion in the approved Fugitive Dust Plan, whichever is later.
Implementation of water sprays for materials piles (uncrushed reverts, reverts crushing and crushed reverts, bedding materials, and concentrate).	Within 120 days of Administrator approval of the Fugitive Dust Plan or the date of completion in the approved Fugitive Dust Plan, whichever is later.
Implementation of new acid plant scrubber blow-down drying system.	November 30, 2016
Implementation of new primary, secondary, and tertiary hooding systems for converter aisle for purposes of complying with requirements in R18-2-B1301.	July 1, 2018
Implementation of new ventilation system for matte tapping and slag skimming for flash furnace for purposes of complying with requirements in R18-2-B1301.	July 1, 2018

F. Ambient Air and Meteorological Monitoring Requirements.

1. The owner or operator shall conduct ambient air monitoring and sampling for lead as follows:
 - a. At minimum, the owner or operator shall continue to maintain and operate the ambient lead monitors located at ST-14 (the smelter parking lot), ST-23 (Hillcrest area), ST-26 (post office), and ST-18 (next to the concentrate handling area).

- b. Samples must be collected continuously at all monitor sites specified in subsection (F)(1)(a). For the purposes of this requirement, "continuously" means that 24-hour filters are placed and collected at minimum, every six calendar days at all sites consistent with 40 CFR § 58.12.
 - c. The owner or operator shall follow the Hayden Smelter's Quality Assurance Project Plan (QAPP) applicable to these monitors.
 - d. The monitors must be operated and maintained in accordance with 40 CFR 58, Appendix A.
 - e. The owner or operator shall submit each filter removed from each monitor to a certified laboratory for analysis no later than 18 calendar days after the filter's removal. The owner or operator shall ensure that the laboratory performs its analysis and submits the results to the owner or operator no later than 21 calendar days from the lab's receipt of the filter.
 - f. The owner or operator shall calculate, update, and maintain as a record the following data within 14 calendar days of receipt of any results pertaining to the monitor filters received from a certified lab:
 - i. The total pollutants on the filters collected and analyzed; and
 - ii. Calculations of 30-day rolling average ambient air levels of lead for the ST-23, ST-26, and ST-18 monitors, and 60-day rolling average ambient air levels of lead for the ST-14 monitor, expressed as µg/m³.
 - g. The owner or operator shall retain lead samples collected pursuant to this Section for at least three years. The samples shall be stored in individually sealed containers and labeled with the applicable monitor and date. Upon request, the samples shall be provided to the Department within five business days.
2. The owner or operator shall conduct meteorological monitoring as follows:
 - a. Continuously monitor and record wind speed and direction data using equipment and a meteorological station approved by the Department.
 - b. The owner or operator shall calculate and record average wind speed in miles per hour over 15 minutes, rolled each minute.
 - c. Conduct wind speed and direction measurements using methods in accordance with EPA's Quality Assurance Handbook for Air Pollution Measurement Systems, Volume IV, Meteorological Measurements, Version 2.0.
 3. The ambient air and meteorological monitoring stations required by this Section may be discontinued at the end of three full calendar years after the Hayden Lead Nonattainment Area is redesignated attainment for the 2008 Lead National Ambient Air Quality Standards.

G. Compliance Demonstration Requirements. The owner or operator shall demonstrate compliance with this Section by complying with all requirements in the fugitive dust plan pursuant to subsection (C)(2) and implementing all housekeeping and performance requirements pursuant to subsection (D).

H. Recordkeeping.

1. The owner or operator shall maintain the following records for at least five years and keep on-site for at least two years:

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- a. Current and past fugitive dust plans required by subsection (C)(2).
 - b. Physical inspection sheets, checklists, and logsheets for inspections conducted in accordance with subsection (D)(6).
 - c. All records of opacity and stabilization tests, if any, conducted in accordance with subsection (D)(10)(c).
 - d. All records of surface moisture content tests, if any, conducted in accordance with subsection (D)(11), subsection (D)(13), and subsection (D)(14).
 - e. All records of major maintenance activities and inspections conducted on monitors required by subsection (F).
 - f. All records of quality assurance and quality control activities for the monitors required by subsection (F).
 - g. All air quality monitoring samples, rolling averages of ambient lead concentrations and necessary calculations, and data required by subsection (F).
 - h. All records of wind data from the meteorological station required by subsection (F).
 - i. All records of any periods during which a monitoring device required by subsection (F) is inoperative or not operating correctly.
 - j. All records of reports and notifications required by subsection (I).
2. All of the following records maintained for the purposes of the fugitive dust plan required by subsection (C)(2) must be maintained in a recordkeeping log or recordkeeping system. As part of the records, the owner or operator shall include the dates and times for each of the following observations or activities, the name of the employee documenting each activity or observation, and the nature and location of each observation activity:
- a. Each instance of observed visible emissions of 15% opacity or greater, along with a description of any corrective action undertaken and its success.
 - b. Water sprayer operations, including timing and intensity of watering to be captured in the water sprayer recordkeeping system.
 - c. Timing, location, type, and amount of chemical suppressant and water applied to unpaved roads, and a description of the nature and timing of any additional corrective action taken, as necessary, to minimize emissions to the greatest extent practicable.
 - d. Timing and location of all sweeping and cleaning of trackout or spillage material.
 - e. Timing and location of all washdown of concrete areas.
 - f. Timing and location of sump cleanouts.
 - g. Results of all visible emissions surveys and Reference Method 9 readings.
 - h. Appropriate records for operating conditions, including electric dryer ventilation fan start and stop times for the newly designed acid plant scrubber blowdown drying system.
 - i. Calibration records for all measurement devices, including maintenance of manufacturer's manuals or other documentation for suggested calibration schedules and accuracy levels for each measurement device.
 - j. Dates, times, and descriptions of deviations when the owner or operator's operations was carried out in

a manner inconsistent with the fugitive dust plan required by subsection (C)(2).

- I. Reporting. Within 30 days after the end of each calendar-year quarter, the owner or operator shall submit a report to the Department covering the prior quarter that includes the following:
 1. All instances where observed fugitive emissions coming from sources covered in this Section were 15% or greater.
 2. The date of all high wind events, with an identification of the location of the reading, wind speed, and duration of the event, and a description of actions taken as a result of the event on a source-by-source basis.
 3. All instances where corrective action was required with identification of the emission source involved, what triggered the corrective action, what action the owner or operator undertook to abate or mitigate the problem, and whether the corrective action achieved the intended results.
 4. A summary of all times when the electronic recordkeeping system was not recording data, and a summary and indication of the period when recorded data was outside of established operating parameters.
 5. A summary of progress of all new construction, installation, upgrades, or modifications to equipment or structures at the facility required by the fugitive dust plan and subsection (D), including dates of commencement and completion of construction, dates of operations of new or modified equipment or structures, and dates old or outdated equipment or structures were permanently retired.
 6. Raw monitoring data and calculated ambient lead concentrations from the ambient air monitoring stations required by subsection (F).

Historical Note

New Section R18-2-B1301.01 made by final rulemaking at 23 A.A.R. 767, effective December 1, 2018 (Supp. 17-1).

R18-2-B1302. Limits on SO₂ Emissions from the Hayden Smelter

- A. Applicability.
 1. This Section applies to the owner or operator of the Hayden Smelter. It establishes limits on sulfur dioxide emissions from the Hayden Smelter and monitoring, recordkeeping and reporting requirements for those limits.
 2. Effective date. Except as otherwise provided, the requirements of this Section shall become applicable on the earlier of July 1, 2018 or 180 days after completion of all project improvements authorized by Significant Permit Revision No. 60647.
- B. Definitions. In addition to definitions contained in R18-2-101 and R18-2-B1301, the following definitions apply to this rule.
 1. "Continuous emissions monitoring system" or "CEMS" means the total equipment, required under the emission monitoring provisions in this Chapter, used to sample, condition (if applicable), analyze, and to provide, on a continuous basis, a permanent record of emissions.
 2. "Operating day" means any calendar day in which any of the following occurs:
 - a. Concentrate is smelted in the smelting furnace;
 - b. Copper or sulfur bearing materials are processed in the converters;
 - c. Blister or scrap copper is processed in the anode furnaces;

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- d. Molten metal, including slag, matte or blister copper, is transferred between vessels; or
 - e. Molten metal is cast into anodes or other intermediate or final products.
3. "Out of control period" means the time that begins with the completion of the fifth, consecutive, daily calibration drift check with a calibration drift in excess of two times the allowable limit, or the time corresponding to the completion of the daily calibration drift check preceding the daily calibration drift check that results in a calibration drift in excess of four times the allowable limit, and the time that ends with the completion of the calibration check following corrective action that results in the calibration drifts at both the zero (or low-level) and high-level measurement points being within the corresponding allowable calibration drift limit.
- C. Sulfur Dioxide Emissions Limitations.**
- 1. Emissions from the Main Stack shall not exceed 1069.1 pounds per hour on a 14-operating day average unless 1,518 pounds or less is emitted during each hour of the 14-operating day period.
 - 2. The owner and operator shall not cause to be discharged into the atmosphere from any affected unit subject to 40 CFR 60 subpart P any gases which contain sulfur dioxide in excess of the limit set forth in 40 CFR § 60.163(a) (as in effect on July 1, 2016 and no later editions).
- D. Operational Standards.**
- 1. Process equipment and control device operations. At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate smelter processes and associated emission control and/or control equipment in a manner consistent with good air pollution control practices for minimizing SO₂ emissions to the levels required by subsection (C). Determination of whether acceptable operating and maintenance procedures are being used will be based on all information available to the Director and EPA Region IX, which may include, but is not limited to, monitoring results, review of operating and maintenance procedures and records, and inspection of the relevant equipment.
 - 2. Capture system and control device operations and maintenance plan. The owner or operator shall develop and implement an operations and maintenance plan for each capture system and/or control device used to ventilate or control process gas or emissions from the flash furnace including matte tapping, slag skimming, and slag return operations; converter primary hoods, converter secondary hoods, tertiary ventilation system, and anode refining operations. The operations and maintenance plan must address the following requirements as applicable to each capture system and/or control device.
 - a. Monitoring devices. The plan shall provide for installation, operation, calibration, and maintenance of appropriate monitoring devices to measure and record operating limit values or settings at all times the required capture and control system is operating, except during periods of monitor calibration, repair and malfunction. The initial plan shall provide for volumetric flow monitoring on the vent gas baghouse (inlet or outlet), each converter primary hood, each converter secondary hood, the tertiary ventilation system and the anode furnace baghouse (inlet or outlet). All monitoring devices shall be accurate within +/- 10% and calibrated according to manufacturer's instructions. If direct measurement of the exhaust flow is infeasible due to physical limitations or exhaust characteristics, the owner or operator may propose a reliable equivalent method for approval. Initial monitoring may be adjusted as provided in subsection (D)(2)(e). Dampers that are manually set and remain in the same position while the capture system is operating are exempt from these monitoring requirements. Capture system damper position setting(s) shall be specified in the plan.
 - b. Operational limits. The owner or operator shall establish operating limits in the operations and maintenance plan for the capture systems and/or control devices that are representative and reliable indicators of the performance of the capture system and control device operations. The initial operating limits may be adjusted as provided in subsection (D)(2)(e). Initial operating limits shall include the following:
 - i. Identification of those modes of operation when the double dampers between the flash furnace vessel and the vent gas system will be closed and the interstitial space evacuated to the acid plant.
 - ii. A minimum air flow for the furnace ventilation system and associated damper positions for each matte tapping hood or slag skimming hood when operating to ensure that the operation(s) are within the confines or influence of the capture system.
 - iii. A minimum air flow for the secondary hood baghouse and associated damper positions for each slag return hood to ensure that the operation is within the confines or influence of the capture system's ventilation draft during times when the associated process is operating.
 - iv. A minimum air infiltration ratio for the converter primary hoods of 1:1 averaged over 24 converter Blowing hours, rolled hourly measured as volumetric flow in primary hood less the volumetric flow of tuyere Blowing compared to the volumetric flow of tuyere Blowing.
 - v. A minimum secondary hood exhaust rate of 35,000 SCFM during converter Blowing, averaged over 24 converter Blowing hours, rolled hourly.
 - vi. A minimum secondary hood exhaust rate of 133,000 SCFM during all non-Blowing operating hours, averaged over 24 non-Blowing hours, rolled hourly.
 - vii. A minimum negative pressure drop across the secondary hood when the doors are closed equivalent to 0.007 inches of water.
 - viii. A minimum exhaust rate on the tertiary hooding of 400,000 ACFM during all times material is processed in the converter aisle, averaged over 24 hours and rolled hourly.
 - ix. Fan amperes or minimum air flow for the anode furnace baghouse and associated damper positions for each anode furnace hood to ensure that the anode furnace off-gas port is within the confines or influence of the capture system's

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- ventilation draft during times when the associated furnace is operating.
- x. The anode furnace charge mouth shall be kept covered when the tuyeres are submerged in the metal bath except when copper is being charged to or transferred from the furnace.
 - xi. The temperatures of the acid plant catalyst bed, which shall at minimum, meet the manufacturer's recommendations.
 - xii. The acid plant catalyst replenishment criteria, which shall at minimum, meet the manufacturer's recommendations.
- c. Preventative maintenance. The owner or operator must perform preventative maintenance on each capture system and control device according to written procedures specified in the operation and maintenance plan. The procedures must include a preventative maintenance schedule that is consistent with the manufacturer's or engineer's instructions, or operator's experience working with equipment, and frequency for routine and long-term maintenance. This provision does not prohibit additional maintenance beyond that required by the plan.
 - d. Inspections. The owner or operator must perform inspections in accordance with written procedures in the operations and maintenance plan for each capture system and control device that are consistent with the manufacturer's, engineer's or operator's instructions for each system and device.
 - e. Plan development and revisions.
 - i. The owner or operator shall develop and keep current the plan required by this Section. Any plan or plan revision shall be consistent with this Section, shall be designed to ensure that the capture and control system performance conforms to the attainment demonstration in the Hayden 2010 Sulfur Dioxide National Ambient Air Quality Standards Nonattainment Area State Implementation Plan (SIP), and shall be submitted to the Department for review. Any plan or plan revision submitted shall include the associated manufacturer's recommendations and/or instructions used for capture system and control device operations and maintenance.
 - ii. The owner or operator shall submit the initial plan to the Department no later than May 1, 2018 and shall include the initial volumetric flow monitoring provisions in subsection (D)(2)(a), the initial operational limits in subsection (D)(2)(b), the preventative maintenance procedures in subsection (D)(2)(c), and the inspection procedures in subsection (D)(2)(d).
 - iii. The owner or operator shall submit to the Department for approval a plan revision with changes, if any, to the initial volumetric flow monitoring provisions in subsection (D)(2)(a) and initial operational limits in subsection (D)(2)(b) not later than six months after completing a fugitive emissions study conducted in accordance with Appendix 14. The Department shall submit the approved changes to the volumetric flow monitoring provisions and operational limits pursuant to this subsection to EPA Region IX as a SIP revision not later than 12 months after completion of a fugitive emissions study.
 - iv. Other plan revisions may be submitted at any time when necessary. All plans and plan revisions shall be designed to achieve operation of the capture system and/or control device consistent with the attainment demonstration in the Hayden 2010 Sulfur Dioxide National Ambient Air Quality Standards Nonattainment Area SIP. Except for changes to the volumetric flow monitoring provisions in subsection (D)(2)(a) and operational limits in subsection (D)(2)(b), which shall require prior approval, plans and plan revisions may be implemented upon submittal and shall remain in effect until superseded or until disapproved by the Department. Disapprovals are appealable Department actions.
3. Emissions from the anode furnace baghouse stack shall be routed to the Main Stack.
- E. Monitoring.**
1. To determine compliance with subsection (C)(1) the owner or operator of the Hayden Smelter shall install, calibrate, maintain, and operate a CEMS for continuously monitoring and recording SO₂ concentrations and stack gas volumetric flow rates at the following locations.
 - a. The exit of the acid plant;
 - b. The exit of the secondary hood particulate control device after the High Surface Area (HSA) lime injection system;
 - c. The exit of the flash furnace particulate control device after the HSA lime injection system;
 - d. The tertiary ventilation system prior to mixing with any other exhaust streams; and
 - e. The anode furnace baghouse stack prior to mixing with any other exhaust streams.
 2. Except during periods of systems breakdown, repairs, maintenance, out-of-control periods, calibration checks, and zero and span adjustments, the owner or operator shall continuously monitor SO₂ concentrations and stack gas volumetric flow rates at each location in subsection (E)(1).
 3. For purposes of this Section, continuous monitoring means the taking and recording of at least one measurement of SO₂ concentration and stack gas flow rate reading from the effluent of each affected stack, outlet, or other approved measurement location in each 15-minute period when the associated process units are operating. Fifteen-minute periods start at the beginning of each clock hour, and run consecutively. All CEMS required by subsection (E)(1) shall complete at least one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.
 4. If the owner or operator can demonstrate to the Director that measurement of stack gas volumetric flow rate in the outlet of any particular piece of SO₂ control equipment would yield inaccurate results or would be technologically infeasible, then the Director may allow measurement of the flow rate at an alternative sampling point.
 5. The owner or operator shall demonstrate that the CEMS required by subsection (E)(1) meet all of the following requirements:

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- a. The SO₂ CEMS installed and operated under this Section meets the requirements of 40 CFR 60, Appendix B, Performance Specification 2 and Performance Specification 6. The CEMS on the anode furnace baghouse stack and tertiary ventilation system shall complete an initial Relative Accuracy Test Audit (RATA) in accordance with Performance Specification 2. The RATA runs shall be tied to when the anode furnace is in use and, for the tertiary system, when the converters are in operation and/or material is being transferred in the converter aisle. Asarco may petition the Department and EPA Region IX on the criteria for subsequent RATAs for the anode furnace baghouse stack or tertiary ventilation system CEMS. The petition shall include submittal of CEMS data during the year.
 - b. The SO₂ CEMS installed and operated under this Section meets the quality assurance requirements of 40 CFR 60, Appendix F.
 - c. The owner or operator shall notify the Director in writing at least 30 days in advance of the start of the relative accuracy test audit (RATA) performed on the CEMS.
 - d. The Director shall approve the location of all sampling points for monitoring SO₂ concentration and stack gas volumetric flow rates and the appropriate span values for the monitoring systems. This approval shall be in writing before installation and operation of the measurement instruments.
 - e. The measurement system installed and used under this subsection is subject to the manufacturer's recommended zero adjustment and calibration procedures at least once per operating day unless the manufacturer specifies or recommends calibration at shorter intervals, in which case the owner or operator shall follow those specifications or recommendations. The owner or operator shall make available a record of these procedures that clearly shows instrument readings before and after zero adjustment and calibration.
 - f. The owner or operator shall maintain on hand and ready for immediate installation sufficient spare parts or duplicate systems for the CEMS required by this Section to allow for the replacement within six hours of any monitoring equipment part that fails or malfunctions during operation.
6. The owner or operator of the Hayden Smelter may petition the Department to substitute annual stack testing for the tertiary ventilation or the anode furnace baghouse stack CEMS if the owner or operator demonstrates, for a period of two years, that either CEMS contribute(s) less than 5% individually of the total sulfur dioxide emissions. The Department must determine the demonstration adequate to approve the petition. Annual stack testing shall use EPA Methods 1, 4, and 6C in 40 CFR 60 Appendix A or an alternate method approved by the Department and EPA Region IX. Annual stack testing shall commence no later than the one year after the date the continuous emission monitoring system was removed. The owner or operator shall submit a test protocol to the Department at least 30 days in advance of testing. The protocol shall provide for three or more 24-hour runs unless the owner or operator justifies a different period and the Department approves such different period.
- Reports of testing shall be submitted to the Department no later than 60 days after testing or 30 days after receipt, whichever is later. The report shall provide an emissions rate, in the form of a pound per hour or pound per unit of production factor, that shall be used in the compliance demonstration in subsection (F)(1). Except as provided herein, the owner or operator shall otherwise comply with Section R18-2-312 in conducting such testing.
- F. Compliance Demonstration Requirements.
 1. For purposes of determining compliance with the emission limit in subsection (C)(1) the owner or operator shall calculate emissions for each operating day as follows:
 - a. Sum the hourly pounds of SO₂ vented to each uncontrolled shutdown ventilation flue and through each monitoring point listed in subsection (E)(1) for the current operating day and the preceding 13-operating days to calculate the total pounds of SO₂ emissions over the 14-operating day averaging period, as applicable.
 - b. Divide the total amount of SO₂ emissions calculated from subsection (F)(1)(a) by 336 to calculate the 14-operating day average SO₂ emissions.
 - c. If the calculation in subsection (F)(1)(b) exceeds 1069.1 pounds per hour, then the owner or operator shall sum the hourly pounds of SO₂ vented to each uncontrolled shutdown ventilation flue and through each monitoring point listed in subsection (E)(1) for each hour of the current operating day and each hour of the preceding 13-operating days to ascertain if any hour exceeded 1,518 pounds per hour.
 2. When no valid hour or hours of data have been recorded by a continuous monitoring system required by subsections (E)(1) and (E)(2) and the associated process unit is operating, the owner or operator shall calculate substitute data for each such period according to the following procedures:
 - a. For a missing data period less than or equal to 24 hours, substitute the average of the hourly SO₂ concentrations recorded by the system for the hour before and the hour after the missing data period.
 - b. For a missing data period greater than 24 hours, substitute the greater of:
 - i. The 90th percentile hourly SO₂ concentrations recorded by the system during the previous 720 quality-assured monitor operating hours.
 - ii. The average of the hourly SO₂ concentrations recorded by the system for the hour before and the four hours after the missing data period.
 - c. Notwithstanding subsections (F)(3)(a) and (F)(3)(b), the owner or operator may present any credible evidence as to the quantity or concentration of emissions during any period of missing data.
 3. The owner or operator shall determine compliance with the requirements in subsection (D)(2) as follows:
 - a. Maintaining and operating the emissions capture and control equipment in accordance with the capture system and control device operations and maintenance plan required in subsection (D)(2) and recording operating parameters for capture and control equipment as required in subsection (D)(2)(b); and
 - b. Conducting a fugitive study in accordance with Appendix 14 starting not later than six months after completion of the Converter Retrofit Project authorized by Significant Permit Revision No. 60647. The

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fugitive study shall demonstrate, as set forth in Appendix 14, that fugitive emissions from the smelter are consistent with estimates used in the attainment demonstration in the Hayden 2010 Sulfur Dioxide National Ambient Air Quality Standards Nonattainment Area SIP.

4. The owner or operator shall include periods of startup, shutdown, malfunction, or other upset conditions when determining compliance with the emission limits in subsection (C).
5. The owner and operator shall demonstrate compliance with the limit in subsection (C)(2) in accordance with 40 CFR §§ 60.165 and 60.166 (as in effect on July 1, 2016 and not later editions).

G. Recordkeeping.

1. The owner or operator shall maintain a record of each operation and maintenance plan required under subsection (D)(2).
2. The owner or operator shall maintain the following records for at least five years:
 - a. All measurements from the continuous monitoring system required by subsection (E)(1), including the date, place, and time of sampling or measurement; parameters sampled or measured; and results. All measurements will be calculated daily.
 - b. All records of quality assurance and quality control activities for emissions measuring systems required by subsection (E)(1).
 - c. All records of calibration checks, adjustments, maintenance, and repairs conducted on the continuous monitoring systems required by subsection (E); including records of all compliance calculations required by subsection (F).
 - d. All records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of concentrate drying, smelting, converting, anode refining and casting emission units; any malfunction of the associated air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device required by subsection (E)(1) is inoperative or not operating correctly.
 - e. All records of planned and unplanned shutdown ventilation flue utilization events and calculations used to determine emissions from shutdown ventilation flue utilization events if the owner or operator chooses to use the alternative compliance determination method.
 - f. All records of major maintenance activities and inspections conducted on emission units, capture system, air pollution control equipment, and CEMS, including those set forth in the operations and maintenance plan required by subsection (D)(2).
 - g. All records of operating days and production records required for calculations in subsection (F).
 - h. All records of fugitive emissions studies and study protocols conducted in accordance with Appendix 14.
 - i. All records of reports and notifications required by subsection (H).

H. Reporting.

1. The owner or operator shall notify the Director in writing at least 30 days in advance of the start of relative accuracy test audit (RATA) procedures performed on the con-

tinuous monitoring systems required by subsection (E)(1).

2. Within 30 days after the end of each calendar quarter, the owner or operator shall submit a data assessment report to the Director in accordance with 40 CFR Part 60, Appendix F for the continuous monitoring systems required by subsection (E).
3. The owner or operator shall submit an excess emissions and monitoring systems performance report or summary report form in accordance with 40 CFR § 60.7(c) to the Director quarterly for the continuous monitoring systems required by subsection (E)(1). Excess emissions means any 14-operating day average as calculated in subsection (F) in excess of the emission limit in subsection (C)(1), any period in which the capture and control system was operating outside of its parameters specified in the capture system and control device operation and maintenance plan in subsection (D)(2). For any 14-operating day period exceeding 1069.1 pounds per hour that the owner or operator claims does not exceed the limit in subsection (C)(1) because all hours in the operating period are below 1,518 pounds per hour, the owner or operator shall submit the CEMS data for each hour during that period. All reports shall be postmarked by the 30th day following the end of each calendar quarter time period.
4. The owner or operator shall provide the following to the Director:
 - a. The owner or operator shall notify the Director of commencement of construction of any equipment necessary to comply with the operational or emission limits.
 - b. The owner or operator shall submit semiannual progress reports on construction of any such equipment postmarked by July 30 for the preceding January-June period and January 30 for the preceding July-December period.
 - c. The owner or operator shall submit notification of initial startup of any such equipment within 15 business days of such startup.
- I. Preconstruction review. This Section is determined to be Reasonably Available Control Technology (RACT) for SO₂ emissions from the operations subject to subsection (C) for purposes of minor source NSR requirement addressed in R18-2-334.

Historical Note

New Section R18-2-B1302 made by final rulemaking at 23 A.A.R. 767, effective on the earlier of July 1, 2018, or 180 calendar days after completion of all Converter Retrofit Project improvements authorized by Significant Permit Revision No. 60647 (Supp. 17-1).

PART C. MIAMI, ARIZONA, PLANNING AREA**R18-2-C1301. Reserved****Historical Note**

New Section R18-2-C1301 reserved at 23 A.A.R. 767 (Supp. 17-1).

R18-2-C1302. Limits on SO₂ Emissions from the Miami Smelter**A. Applicability.**

1. This Section applies to the owner or operator of the Miami Smelter. It establishes limits on SO₂ emissions from the Miami Smelter and monitoring, recordkeeping and reporting requirements for those limits.

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2. Effective date. Except as otherwise provided, the provisions of this Section shall take effect on the later of the effective date of the Administrator's action approving it as part of the state implementation plan or January 1, 2018.
- B. Definitions.** In addition to general definitions contained in R18-2-101, the following definitions apply to this rule.
 1. "Capture system" means the collection of components used to capture gases and fumes released from one or more emission points, and to convey the captured gases and fumes to one or more control devices. A capture system may include, but is not limited to, the following components as applicable to a given capture system design: duct intake devices, hoods, enclosures, ductwork, dampers, manifolds, plenums, and fans.
 2. "Electric furnace" means a furnace in which copper matte and slag are heated by electrical resistance without the mechanical introduction of air or oxygen.
 3. "IsaSmelt® furnace" means a furnace in which air, oxygen, and fuel are injected through a top-submerged lance into a molten slag bath to produce slag and copper matte.
 4. "Miami Smelter" means the primary copper smelter located near Miami, Gila County, Arizona at latitude 33°24'50"N and longitude 110°51'25"W.
 5. "Out of control period" means the time that begins with the completion of the fifth, consecutive, daily calibration drift check with a calibration drift in excess of two times the allowable limit, or the time corresponding to the completion of the daily calibration drift check preceding the daily calibration drift check that results in a calibration drift in excess of four times the allowable limit, and the time that ends with the completion of the calibration check following corrective action that results in the calibration drifts at both the zero (or low-level) and high-level measurement points being within the corresponding allowable calibration drift limit.
 6. "Operating day" means any calendar day in which any of the following occurs:
 - a. Concentrate is smelted in the Electric furnace or IsaSmelt® furnace;
 - b. Copper or sulfur bearing materials are processed in the converters;
 - c. Blister or scrap copper is processed in the anode furnaces or mold vessel;
 - d. Molten metal, including slag, matte or blister copper, is transferred between vessels;
 - e. Molten metal is cast into molds, anodes, or other intermediate or final products;
 - f. Power is provided to the electric furnace to make or maintain a molten bath; or
 - g. The anode furnace is heated to make or maintain a molten bath.
- C. Sulfur Dioxide Emission Limitations.** Combined SO₂ emissions from the tail gas stack, vent fume stack, aisle scrubber stack, bypass stack, and smelter roofline fugitives shall not exceed 142.45 pounds per hour on a 30-day rolling average basis.
- D. Operational Standards.**
 1. Process Equipment and control device operations. At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate smelter processes and associated emission control devices in a manner consistent with good air pollution control practices for minimizing SO₂ emissions from the process gases associated with the IsaSmelt® furnace, electric furnace, and converters at least to the levels required by subsection (C). Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Director and EPA Region IX, which may include, but is not limited to, monitoring results, review of operating and maintenance procedures and records, and inspection of the relevant equipment.
 2. Capture system and control device operations and maintenance plan. The owner or operator shall develop and implement an operations and maintenance plan for each capture system and control device used to ventilate or control process gas or emissions associated with the IsaSmelt® furnace, electric furnace, and converters. The owner or operator shall submit the initial plan to the Department and EPA Region IX for review and approval by July 1, 2017.
 - a. The operations and maintenance plan must address the following requirements as applicable to each capture system and control device:
 - i. Monitoring devices. The plan shall provide for installation, operation, calibration, and maintenance of appropriate monitoring devices to measure and record operating limit or range values at all times the required system is operating. Dampers that are manually set and remain in the same position while the capture system is operating are exempt from these monitoring requirements.
 - ii. Operational limits and ranges. The owner or operator shall establish operating limits and ranges in the plan for each capture system and control device that are representative and reliable indicators of capture system performance and control device operation. If selected as an operational limit or range, capture system damper position settings shall be specified in the plan.
 - iii. Preventative maintenance. The owner or operator must perform preventative maintenance for each capture system and control device according to written procedures in the plan. The procedures must include a preventative maintenance schedule that is consistent with the manufacturer's or engineer's instructions and specified frequency for routine and long-term maintenance.
 - iv. Inspections. The owner or operator must perform inspections in accordance with written procedures in the plan for each capture system and control device, including position verification of any manual damper settings specified in the plan, that are consistent with the manufacturer's or engineer's instructions for each system and device.
 - b. The owner or operator shall operate and maintain each capture system and each control device in accordance with the plan required by subsection (D)(2) and as approved by the Department and EPA Region IX, except as provided herein. Until receiving initial approval of the plan, the owner or operator shall operate and maintain each capture system and each control device in accordance with the plan

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as initially submitted pursuant to subsection (D)(2). The owner or operator shall submit plan revisions for review by the Department and EPA Region IX. At any time, the Department and/or EPA Region IX may require the owner or operator to revise the plan if determined to be inconsistent with subsection (D)(2)(a). Within 60 days of receiving written notification from the Department or EPA Region IX specifying such inconsistency, the owner or operator shall submit a proposal to the Department and EPA Region IX that addresses the inconsistency. The owner or operator shall maintain a current copy of the plan onsite and available for review and inspection upon request.

E. Monitoring.

1. To determine compliance with subsection (C), the owner or operator shall install, calibrate, maintain, and operate continuous monitoring systems to monitor and record SO₂ concentrations and stack gas volumetric flow rates at the following locations.
 - a. The acid plant tail gas stack;
 - b. The vent fume stack;
 - c. The aisle scrubber stack; and
 - d. The bypass stack.
2. To determine compliance with the emission limit in subsection (C), the owner or operator shall install, calibrate, maintain, and operate a continuous monitoring system to monitor and record fugitive SO₂ concentrations at the Miami Smelter roofline.
3. Except during periods of continuous monitoring system breakdown, repairs, maintenance, out-of-control periods, calibration checks, and zero and span adjustments, the owner or operator shall continuously monitor SO₂ concentrations and stack gas volumetric flow rates at each location specified in subsection (E)(1) and use the monitored concentrations and volumetric flow rates when demonstrating compliance with the SO₂ emission limit in subsection (C) in accordance with subsection (F).
4. Except during periods of continuous monitoring system breakdown, repairs, maintenance, out-of-control periods, calibration checks and zero and span adjustments, the owner or operator shall continuously monitor fugitive SO₂ emissions at the Miami Smelter roofline and use the monitored concentrations and volumetric flow rates when demonstrating compliance with the SO₂ emission limit in subsection (C) in accordance with subsection (F).
5. For purposes of subsections (E)(3) and (E)(4), continuous monitoring means the taking and recording of at least one measurement of SO₂ concentration and stack gas flow rate reading from the effluent of each affected stack, outlet, or other approved measurement location in each 15-minute period when the associated process units are operating. Fifteen-minute periods start at the beginning of each clock hour, and run consecutively. All continuous monitoring systems required by subsection (E)(1) shall complete at least one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.
6. If the owner or operator can demonstrate to the Director and EPA Region IX that measurement of stack gas volumetric flow rate in the outlet of any particular piece of SO₂ control equipment would yield inaccurate results or would be technologically infeasible, then the Director and EPA Region IX may allow measurement of the flow rate at an alternative sampling point.
7. The owner or operator shall demonstrate that the continuous monitoring systems required by subsection (E)(1) meet all of the following requirements:
 - a. Each SO₂ continuous monitoring system shall meet the specifications under 40 CFR 60, Appendix B, Performance Specification 6.
 - b. Each SO₂ continuous monitoring system installed and operated under this Section shall also meet the quality assurance requirements of 40 CFR 60, Appendix F, Procedure 1.
 - c. The owner or operator shall notify the Director in writing at least 30 days in advance of the start of the relative accuracy test audit (RATA) procedures performed on each continuous monitoring system.
 - d. The Director shall approve the location of all sampling points for monitoring SO₂ concentrations and stack gas volumetric flow rates in writing before installation and operation of measurement instruments.
 - e. The span of each continuous monitoring system for the acid plant tail stack, vent fume stack, and aisle scrubber stack shall be set at a SO₂ concentration of zero to 0.20% by volume.
 - f. The span of the continuous monitoring system for the bypass stack shall be set at a SO₂ concentration of zero to 20% by volume.
 - g. The zero (or low-level value between 0 and 20% of the span value) and span (50% to 100% of span value) calibration drifts shall be checked at least once each operating day in accordance with a written procedure. The zero and span must, at a minimum, be adjusted whenever either the 24-hour zero drift or the 24-hour span drift exceeds two times the limit in 40 CFR Part 60, Appendix B, Performance Specification 2. The system must allow the amount of the excess zero and span drift to be recorded and quantified.
 - h. The owner or operator shall maintain on hand and ready for immediate installation sufficient spare parts or duplicate systems for the continuous monitoring system equipment required by this Section to allow for the replacement within six hours of any monitoring system equipment part that fails or malfunctions during operation.
8. The owner or operator shall develop and implement a roofline fugitive emissions monitoring plan for the continuous monitoring system required by subsection (E)(2). The owner or operator shall submit the initial plan to the Department and EPA Region IX for review and approval by July 1, 2017.
 - a. The roofline fugitive emissions monitoring plan must address the following requirements:
 - i. The continuous monitoring system required by subsection (E)(2) must include measurement of fugitive emissions from, at a minimum, the Converter, Electric Furnace, Anode Furnace, and IsaSmelt[®] systems that is representative of total fugitive emissions.
 - ii. Each measurement system shall include at least one SO₂ analyzer and sufficient sampling locations that ensure collection of a representative sample along the roof monitor for each monitor

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- system. The number of sample probes and their locations for each monitoring system shall account for the physical configuration of the vent, the locations of emitting activities relative to the vent, and heat generated by the equipment served by the vent.
- iii. Each measurement system shall include validation of adequate velocity for flow measurements and sufficient flow and temperature sensors to ensure calculation of representative exhaust flows through each vent. The number of such sensors and their locations for each monitoring system shall account for the physical configuration of the vent, the locations of emitting activities relative to the vent, and heat generated by the equipment served by the vent.
 - iv. Each measurement system shall include an on-site data collection system that continuously logs and stores the measured SO₂ concentration, the measured flow velocity, and the measured temperature.
 - v. An appropriate range for zero-span drift shall be established for all SO₂ analyzers to ensure proper calibration and operation. Unless otherwise provided in the roofline fugitive emissions monitoring plan required by subsection (E)(8), the zero (or low-level) value determination shall be made using a gas containing between zero to 20% of the span value for SO₂ and the span (or high-level) value determination shall be made using a certified gas with a value between 50% and 100% of the span value for SO₂. For each SO₂ analyzer, a daily zero-span check shall be performed by introducing zero gas and a known concentration of span gas to the analyzer. If the zero or span drift for an analyzer is greater than 5% of the span gas concentration for five consecutive days or greater than 10% of the span gas concentration for one day, the analyzer shall be found to be operating improperly and appropriate measures shall be taken to return the analyzer to proper operation. The zero-span check shall be repeated after any such corrective action is taken.
 - vi. All SO₂ analyzers shall be inspected quarterly by the owner or operator and inspected annually by an independent auditor. The inspections shall be conducted in accordance with the data accuracy assessment requirements of 40 CFR 60, Appendix F, Procedure 1, Section 5 or as otherwise provided in the roofline fugitive emissions monitoring plan required by subsection (E)(8). The quarterly inspections consist of two certified concentrations of SO₂ to each sample probe system and comparing the known concentrations to the concentrations logged by the corresponding on-site data collection system to generate a relative error for each system.
 - vii. The flow and temperature data shall be checked daily for proper operation of flow and temperature sensors in accordance with the roofline fugitive emissions monitoring plan required by subsection (E)(8). If a flow or temperature sensor is found to be operating improperly, appropriate measures shall be taken to return the sensor to proper operation.
 - viii. All temperature sensors shall be inspected annually. The inspection shall be conducted according to the manufacturer's specification. A temperature sensor tolerance range representative of proper sensor operation shall be established in the roofline fugitive emissions monitoring plan required by subsection (E)(8). If a temperature sensor is found to measure outside of an established tolerance range, the sensor shall be found to be operating improperly and appropriate measures shall be taken to return the sensor to proper operation.
 - ix. All flow sensors shall be calibrated semi-annually with calibration tools according to the manufacturer's specifications. A calibration tool range representative of proper sensor operation shall be established in the roofline fugitive emissions monitoring plan required by subsection (E)(8). If a flow sensor is found to measure outside of an established range, the sensor shall be found to be operating improperly and appropriate measures shall be taken to return the sensor to proper operation.
- b. The owner or operator shall operate and maintain the continuous monitoring system required by subsection (E)(2) in accordance with the roofline fugitive emissions monitoring plan required by subsection (E)(2) and as approved by the Department and EPA Region IX, except as provided herein. Until receiving initial approval of the plan, the owner or operator shall operate and maintain the continuous monitoring system required by subsection (E)(2) in accordance with the plan as initially submitted pursuant to subsection (E)(2). The owner or operator shall keep the plan current and consistent with subsection (E)(8)(a). The owner or operator shall maintain a current copy of the plan onsite and available for review and inspection upon request. The Department and/or EPA Region IX may require the owner or operator to revise the plan if determined to be inconsistent with subsection (E)(8)(a). Within 60 days of receiving written notification from the Department or EPA Region IX specifying such inconsistency, the owner or operator shall submit a proposal to the Department and EPA Region IX that addresses the inconsistency.
- F. Compliance Demonstration Requirements.
1. Within 180 days of the effective date set forth in subsection (A)(2), the owner or operator shall demonstrate compliance with the emission limit in subsection (C) by calculating SO₂ emissions for each operating day as follows:
 - a. Sum the hourly pounds of SO₂ measured by the continuous monitoring systems required by subsection (E)(1) and (E)(2) for the current operating day and the preceding 29 operating days to calculate the total pounds of SO₂ emissions over the 30-operating day averaging period.
 - b. Multiply the operating days occurring during a 30-day averaging period by 24 to calculate the total operating hours over the most recent 30-operating day period.

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- c. Divide the total amount of SO₂ emissions calculated from subsection (F)(1)(a) by the total operating hours calculated from subsection (F)(1)(b) to calculate the 30-day rolling hourly average SO₂ emissions.
 2. For the continuous monitoring systems required by subsections (E)(1) and (E)(2), hourly emissions shall be computed as follows:
 - a. Except as provided under subsection (F)(2)(c), for a full operating hour (any clock hour with 60 minutes of unit operation), at least four valid data points are required to calculate the hourly average, i.e., one data point in each of the 15-minute quadrants of the hour.
 - b. Except as provided under subsection (F)(2)(c), for a partial operating hour (any clock hour with less than 60 minutes of unit operation), at least one valid data point in each 15-minute quadrant of the hour in which the unit operates is required to calculate the hourly average.
 - c. For any operating hour in which required maintenance or quality-assurance activities are performed:
 - i. If the unit operates in two or more quadrants of the hour, a minimum of two valid data points, separated by at least 15 minutes, is required to calculate the hourly average; or
 - ii. If the unit operates in only one quadrant of the hour, at least one valid data point is required to calculate the hourly average.
 - d. If a daily calibration error check is failed during any operating hour, all data for that hour shall be invalidated, unless a subsequent calibration error test is passed in the same hour and the requirements of subsection (F)(2)(c) are met, based solely on valid data recorded after the successful calibration.
 - e. For each full or partial operating hour, all valid data points shall be used to calculate the hourly average.
 - f. Data recorded during periods of continuous monitoring system breakdown, repair, maintenance, out of control periods, calibration checks, and zero and span adjustments shall not be included in the data averages computed under subsection (F)(3).
 - g. Either arithmetic or integrated averaging of all data may be used to calculate the hourly average. The data may be recorded in reduced or non-reduced form.
 3. When no valid hour or hours of data have been recorded by a continuous monitoring system required by subsections (E)(1) and (E)(2) and the associated process unit is operating, the owner or operator shall calculate substitute data for each such period according to the following procedures:
 - a. For a missing data period less than or equal to 24 hours, substitute the average of the hourly SO₂ concentrations recorded by the system for the hour before and the hour after the missing data period.
 - b. For a missing data period greater than 24 hours, substitute the greater of:
 - i. The 90th percentile hourly SO₂ concentrations recorded by the system during the previous 720 quality-assured monitor operating hours; or
 - ii. The average of the hourly SO₂ concentrations recorded by the system for the hour before and the hour after the missing data period.
 4. The owner or operator shall include periods of startup, shutdown, malfunction, or other upset conditions when determining compliance with the emission limit in subsection (C).
- G. Recordkeeping.**
1. The owner or operator shall maintain records as specified in the capture system and control device operations and maintenance plan required under subsection (D)(2) and the roofline fugitive emissions monitoring plan required under subsection (E)(8).
 2. The owner or operator shall maintain the following records for at least five years:
 - a. All measurements from the continuous monitoring systems required by subsection (E)(1) and (E)(2); including the date, place, and time of sampling or measurement, parameters sampled or measured, and results.
 - b. All records of all compliance calculations required by subsection (F).
 - c. All records of quality assurance and quality control activities conducted on the continuous monitoring systems required by subsection (E)(1) and (E)(2).
 - d. All records of continuous monitoring system breakdowns, repairs, maintenance, out of control periods, calibration checks, and zero and span adjustments for the continuous monitoring systems required by subsection (E)(1) and (E)(2).
 - e. All records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of Smelter processes; any malfunction of the associated air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device required by subsection (E)(1) and (E)(2) is inoperative.
 - f. All records of all major maintenance activities conducted on emission units, capture system, air pollution control equipment, and continuous monitoring systems; including those set forth in the operations and maintenance plan required by subsection (D)(2).
 - g. All records of reports and notifications required by subsection (H).
- H. Reporting**
1. Within 30 days after the end of each calendar quarter, the owner or operator shall submit a data assessment report to the Director in accordance with 40 CFR Part 60, Appendix F, Procedure 1 for the continuous monitoring systems required by subsection (E).
 2. The owner or operator shall submit an excess emissions and monitoring systems performance report and-or summary report form in accordance with 40 CFR § 60.7(c) to the Director semiannually for the continuous monitoring systems required by subsection (E)(1) and (E)(2). All reports shall be postmarked by the 30th day following the end of each six-month period.
 3. The owner or operator shall provide the following to the Director:
 - a. Notification of commencement of construction of the project improvements and equipment authorized by Significant Permit Revision No. 53592 to comply with the operational or emission limits in this Section no later than 30 days after such date.
 - b. Semiannual progress reports on construction of any such improvements and equipment on January 1 and

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July 1 of each calendar year until construction is complete.

- c. Notification of initial startup of any such improvements and equipment within 15 days after such date.

- I. Preconstruction review. This Section is determined to be Reasonably Available Control Technology (RACT) for SO₂ emissions from the operations subject to subsection (C) for purposes of minor source NSR requirements addressed in R18-2-334.

Historical Note

New Section R18-2-C1302 made by final rulemaking at 23 A.A.R. 767, on the later of the effective date of the Administrator's action approving it as part of the state implementation plan or January 1, 2018.

PART D. ARIZONA REGIONAL HAZE CLASS I AREAS**R18-2-D1301. Definitions for R18-2-D1302 and R18-2-D1303**

The following definitions apply to R18-2-D1302 and R18-2-D1303:

1. "Average Daily Vehicle Trips (ADT)" means the average number of vehicles that cross a given point on a road over a 24-hour period.
2. "Bulk material" means any material, including but not limited to earth, rock, silt, sediment, sand, gravel, soil, fill, aggregate less than 2 inches in length or diameter, dirt, mud, demolition debris, trash, cinders, pumice, saw dust, and dry concrete, which are capable of producing fugitive dust.
3. "Class I area" means any international park, national wilderness area and national memorial park that exceeds 5,000 acres, or any national park that exceeds 6,000 acres, which are designated under the Clean Air Act as mandatory Federal Class I areas in order to preserve, protect and enhance air quality. The full list of Arizona Federal Class I areas as of the effective date of this Part is defined at 40 CFR 81.403.
4. "Chemical stabilizer/dust suppressant" means hygroscopic material, solution of water and chemical surfactant foam, non-toxic chemical stabilizer or any other dust palliative, which is not prohibited by the U.S. Environmental Protection Agency (EPA), the Arizona Department of Environmental Quality (ADEQ), or any applicable law or regulation, as a treatment material for reducing fugitive dust emissions.
5. "Clean gravel" means a mineral or rock aggregate ranging in size from 0.25 to 3 inches on its longest dimension that is either natural or the product of a mineral processing operation and contains no more than 6% silt by weight.
6. "Construction" means building a capital improvement resting upon, connected to or buried in the earth; modifications to existing structures, including additions, alterations, conversions, expansions, reconstruction, renovations, rehabilitations, and major replacements; or installing infrastructure associated with a new or modified structure, such as roads, flood structures, drainage works and irrigation works, and installation of above- or below-ground utilities.
7. "Construction site" means any property or portion of a property upon which dust generating operations occur as a result of construction.
8. "Disturbed Surface Area" means any portion of the earth's surface that has been physically moved, uncovered, destabilized, or otherwise modified from its undisturbed natural condition.
9. "Dust generating operations" means any activity capable of generating fugitive dust, including but not limited to:
 - a. Earthmoving activities;
 - b. Land clean-up, leveling, back filling;
 - c. Drilling;
 - d. Construction;
 - e. Demolition;
 - f. Bulk material handling, storage or transporting operations;
 - g. Operation of motorized machinery used in Construction;
 - h. Establishing or using unpaved parking lots, haul/access roads within a construction site; or
 - i. Installing initial landscapes using mechanized equipment.
10. "Dust Visibility Protection Areas" means the following townships associated with the Chiricahua National Monument and Wilderness Area, Galiuro Wilderness Area, Saguaro National Park (Wilderness Area), and Superstition Wilderness Area, (except those areas in Tribal Nations and Communities land, which has the same meaning as the term defined in 18 U.S.C. 1151):
 - a. In Cochise County: Township 12 South, Range 19 through 25 East (T12S, R19-25E); T12S, R27-32E; T13S, R19-32E; T14S, R19-32E; T15S, R19-32E; T16S, R19-22E; T16S, R24-32E; T17S, R19-22E; T17S, R24-32E; T18S, R19-21E; T18S, R24-32E; T19S, R19-20E; T19S, R25-32E; T20S, R25-32E; T21S, R26-32E; T22S, R26-32E; T23S, R27-32E; T24S, R28-32E.
 - b. In Graham County: T4S, R19-21E; T5S, R19-22E; T6S, R19-23E; T7S, R19-24E; T8S, R19-24E; T9S, R19-25E; T10S, R19-25E; T11S, R19-25E.
 - c. In Gila County: T7N, R9-14E; T6N, R9-15E; T5N, R9-15.5E; T4.5N, R15.5-16E; T4N, R10-16E; T3N, R11-17E; T2N, R13-17E; T1N, R13-17E; T1S, R13-17E; T2S, R14-17E; T3S, R14-16E; T4S, R14-16E; T5S, R15-16E.
 - d. In Maricopa County: T7N, R9E; T6N, R7-10E; T5N, R6-10E; T4N, R5-12E; T3N, R5-12E; T2N, R4-13E; T1N, R4-7E; T1S, R5-7E; T2S, R5-7E.
 - e. In Pima County: T11S, R7-18E; T12S, R7-18E; T13S, R7-18E; T14S, R7-18E; T15S, R7-18E; T16S, R8-18E; T17S, R9-18E; T18S, R11-18E; T19S, R15-18E.
 - f. In Pinal County: T1N, R8-13E; T1S, R8-14E; T2S, R8-14E; T3S, R6-14E; T3S, R17-18E; T4S, R7-18E; T5S, R9-18E; T6S, R15-18E; T7S, R15-18E; T8S, R10-18E; T9S, R9-18E; T10S, R8-18E.
11. "Earthmoving activity" means any land clearing, land cutting and filling operations, blasting, trenching, road construction, grading, landscaping, landfill operations, weed abatement through discing, soil mulching, or any other activity associated with land development where the objective is to disturb the surface of the earth.
12. "Modified unpaved access point" means a project where paving operations are an integral part of new construction, reconstruction, or a pavement rehabilitation project on the paved public road.
13. "Nonresidential construction site" means a construction site where industrial, commercial, or institutional construction is taking place, including roads on the project

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site and excluding single family or multifamily home construction. Nonresidential construction does not include:

- a. Dust generating activities associated with the emergency repair of utilities;
 - b. Roadway construction, unless it is associated with a nonresidential construction site; or
 - c. Ongoing mining and quarrying activities, except construction of new structures.
14. "Owner or operator" means any person including, but not limited to, the property owner, lessee, developer, responsible official, general or prime contractor, supervisor, management company, or any person who owns, leases, operates, controls, or supervises a dust generating operation subject to the requirements of this Part.
 15. "Pave/Pavement" means the application and maintenance of asphalt, concrete, or other similar material to a roadway surface, such as asphaltic concrete, concrete pavement, chip seal, or rubberized asphalt.
 16. "Paved public road" means a public road that is covered with asphalt, recycled asphalt, asphaltic concrete, concrete, or any other pavement.
 17. "Private road" means any road, equipment path or travel way used for motorized vehicle travel that is not a "public road" defined in R18-2-D1301.18.
 18. "Public road" means any road, equipment path or travel way used for motorized vehicle travel that is owned by federal, state, county, municipal or other governmental or quasi-governmental agencies.
 19. "Trackout" means any and all bulk materials that adhere to and agglomerate on the exterior surface of motor vehicles, haul trucks, or equipment (including tires) and that have fallen onto a paved roadway.
 20. "Unpaved access point" means a location where an "unpaved public road" intersects with, adjoins, or otherwise connects to a "paved public road."
 21. "Unpaved haul/access road" means any on-site unpaved road used by commercial, industrial, institutional, and/or governmental traffic.
 22. "Unpaved parking and staging area" means any nonresidential area that is not covered by asphalt, recycled asphalt, asphaltic concrete, concrete, or any other pavement that is used for fueling and servicing; shipping, receiving and transfer; or parking or storing equipment, haul trucks, vehicles, and any conveyances, including on-site unpaved access routes to such an area.
 23. "Unpaved public road" means a public road that is not covered with asphalt, recycled asphalt, asphaltic concrete, concrete, or any other pavement.

Historical Note

New Section made by final rulemaking at 29 A.A.R. 1658 (July 28, 2023), effective September 10, 2023 (Supp. 23-3).

R18-2-D1302. Fugitive Dust Emissions from Nonresidential Construction**A. Applicability.**

1. This Section applies to the owner or operator of a nonresidential construction site, as defined in R18-2-D1301(13), within the Dust Visibility Protection Areas, as defined in R18-2-D1301(10).
2. Effective date. Except as otherwise provided, the provisions of this Section shall take effect on January 1, 2025.

B. Exemptions. This Section shall not apply to:

1. Areas subject to Maricopa County Air Pollution Control Regulations, Rule 310 Fugitive Dust From Dust-Generating Operations (as amended January 27, 2010);
2. Areas subject to Pinal County Air Quality Control District Code of Regulations, Chapter 4, Article 3. Construction Sites - Fugitive Dust (as amended October 28, 2015) and Chapter 4, Article 7. Construction Sites in Nonattainment Areas – Fugitive Dust (as amended June 3, 2009);

C. Notification.

1. The owner or operator of a nonresidential construction site shall notify the Director at least 30 days before beginning any construction activity by submitting a notification form prescribed by the Director.
2. Notification under subsection (C)(1) shall include:
 - a. Applicant name, organization/company, address, phone number, and email address;
 - b. Location of the construction site (street address or GPS coordinates of the center of the site);
 - c. The total area of the property upon which construction activities occur and an estimate of the area expected to be used for parking and staging activities;
 - d. Expected start and completion date of any construction activities;
 - e. Control measures selected from subsections (D)(1) and (2).
3. The owner or operator shall notify the director of any changes to the information included in the notification required under subsection (C)(1) as soon as practicable. Notification of a change to the construction start date must be provided no later than 30 days before the new start date.

D. Standards.

1. Unpaved parking and staging areas. The owner or operator of a nonresidential construction site with unpaved parking and staging areas that have a cumulative area of one acre or more shall implement and use at least one of the following measures to reduce emissions of fugitive dust:
 - a. Apply and maintain chemical stabilizers/dust suppressants;
 - b. Apply and maintain clean gravel to a depth of two inches;
 - c. Install and maintain pavement.
2. Application and maintenance of chemical stabilizers/dust suppressants under subsection (D)(1)(a) shall be made in accordance with the manufacturer's recommendation.
3. Speed limit. To reduce emissions of fugitive dust, the owner or operator of a nonresidential construction site with 10 acres or more of disturbed surface area associated with the construction project shall restrict maximum vehicular speeds to 15 miles per hour on all unpaved traffic areas of the site including unpaved easements, right of way, unpaved haul/access roads and parking areas by installing speed limit signs at each entrance and along haul/access roads, with a minimum of four signs per site.

E. Monitoring.

1. To demonstrate compliance with subsection (D)(1), the owner or operator shall perform inspections on each day dust-generating operations are conducted of all parking and staging areas, including routinely traveled surfaces as evidenced by tire tracks, to ensure continued implementation of required control measures.

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2. To demonstrate compliance with subsection (D)(2), the owner or operator shall perform inspections on each day dust-generating operations are conducted of vehicular traffic at the construction site to ensure continued implementation of required control measures.
- F. Recordkeeping and Reporting.**
1. The owner or operator shall maintain the following records:
 - a. Records of control measures implemented and maintained as required by subsection (D) including:
 - i. The types of surface treatments, extent of coverage, and frequency/date of application/installation;
 - ii. Copies of manufacturer specifications for chemical stabilizers/dust suppressants, if applicable; and
 - iii. The number and placement of speed limit signs.
 - b. Written records of self-inspection required by subsections (E)(1) and (E)(2) on each day dust-generating operations are conducted. Inspection records shall, at a minimum, include:
 - i. Identification of inspector;
 - ii. Inspection date and time;
 - iii. General findings of inspection;
 - iv. Gravel coverage and measurements of depth, if applicable;
 - v. A description of how vehicle speed limits are restricted and enforced, such as, speed checks with radar guns, or other effective means; and
 - vi. Any corrective action or preventive measures taken as a result of the self-inspection, such as, application of additional dust suppressants or gravel and maintenance or replacement of speed limit signs.
 2. Records required by subsections (F)(1)(a) and (F)(1)(b) shall be kept onsite and made available for review by the Director within two business days of notice to the owner or operator. For onsite requests by the Director, the owner or operator shall provide such records without delay.
 3. The owner or operator shall retain all records, including supporting documentation, required by this Section for five years from the date of such record.
- Historical Note**
- New Section made by final rulemaking at 29 A.A.R. 1658 (July 28, 2023), effective September 10, 2023 (Supp. 23-3).
- R18-2-D1303. Fugitive Dust Emissions from Paved Roads**
- A. Applicability.** This Section applies to the owner or operator of an unpaved access point within the Dust Visibility Protection Areas, as defined in R18-2-D1301(10).
- B. Exemptions.** The provisions of subsection (C)(2) shall not apply to areas subject to Pinal County Air Quality Control District Code of Regulations, Chapter 4, Article 1. West Pinal PM10 Moderate Nonattainment Area Fugitive Dust (as amended October 28, 2015).
- C. Standards.**
1. Application of dust controls measures to unpaved access points. The owner or operator of a new or modified unpaved access point with a paved road exceeding 2,700 ADT shall apply dust controls measures to the unpaved access point by implementing and using at least one of the following measures to reduce trackout onto the paved roadway:
 - a. Apply and maintain chemical stabilizers/dust suppressants;
 - b. Apply and maintain clean gravel to a depth of two inches;
 - c. Install and maintain pavement.
 2. Control measures under subsections (C)(1)(a) through (C)(1)(c) shall be applied for the full width of the unpaved roadway and up to the right-of-way limits of the paved road or up to 100 ft. from the centerline of the adjoining paved road, whichever is less. Application and maintenance of chemical stabilizers/dust suppressants under subsection (C)(1)(a) shall be made in accordance with the manufacturer's recommendation.
 3. Cleanup of trackout, spillage, and erosion-caused deposition of any bulk material on paved public roadways. The owner or operator of the property within the Dust Visibility Protection Areas from which the trackout, spillage, or erosion caused deposition came shall, upon discovery of bulk material that extends 50 feet or more from the nearest unpaved surface exit onto the paved public roadway:
 - a. Within 24 hours of discovery, remove the bulk material from the paved public roadway with one of the following control measures:
 - i. Manual sweeping and pickup; or
 - ii. Operating a rotary brush or broom accompanied or preceded by sufficient wetting to limit fugitive dust emissions; or
 - iii. Operating a street sweeper; or
 - iv. Flushing with water, if curb and gutters are not present and where the use of water will not result in a source of trackout material or result in adverse impacts on storm water drainage systems or violate any Arizona Pollutant Discharge Elimination System permit program.
 - b. During removal of bulk material, do so in a manner that does not cause another source of fugitive dust.
 - c. If needed, restrict vehicles from traveling over the bulk material until such time as the material can be removed from the travel lanes of the paved public roadway pursuant to subsection (C)(2)(a). In the event unsafe travel conditions would result from restricting traffic and:
 - i. Removal of such material isn't possible within 72 hours due to a weekend or holiday condition; or
 - ii. After reasonable effort, the owner or operator of the property is unable to obtain state or local agency approval to restrict vehicle traffic and removal of such material isn't possible within 72 hours, the provisions of subsection (C)(2)(a) may be extended upon notification to and approval of the Director.
 - d. The removal of carryout and trackout from paved public roads does not exempt an owner/operator from obtaining state or local agency permits which may be required for the cleanup of bulk material on paved public roads.
- D. Recordkeeping and Reporting.**
1. The owner or operator shall maintain records of control measures implemented and maintained as required by subsection (C) including the date and time of application/

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- installation, and copies of manufacturer specifications for chemical stabilizers/dust suppressants, if applicable.
2. Records required by subsection (D)(1) shall be made available for review by the Director within two business days of notice to the owner or operator.
 3. The owner or operator shall retain all records, including supporting documentation, required by this Section for five years from the date of such record.
 4. Initial inventory. Within one year from the effective date of this Section, each city, county, state, or federal agency with primary responsibility for any existing paved public roadway with 2,700 ADT or greater shall provide the Director with a list of all unpaved access points under its jurisdiction. Evaluation of ADT shall be based on actual collected ADT data if available, or estimated based on state roadway functional classification designations or other similar means. The evaluation method shall be reported in the initial inventory.
 5. Annual report. By April 1 of each year the owner or operator of a public roadway shall submit to the Director a report containing the following information:
 - a. Location of any unpaved access points to which control measures were applied during the previous calendar year according to subsection (C)(1) (street address or GPS coordinates);
 - b. Actual or estimated ADT of the intersecting paved public roadway portion of each access point and the evaluation method used;
 - c. The control measure applied/installed according to subsection (C)(1);
 - d. The length and width of the unpaved roadway upon which control measures were applied/installed according to subsection (C)(1);
 - e. The start and completion date of initial application/installation of controls according to subsection (C)(1); and
 - f. An update to the list of unpaved access points required under subsection (D)(4) to include any new access points that become subject to this Section due to changes in ADT.
 4. "CAA" means the Clean Air Act, as amended.
 5. "Cause or contribute to a new violation" for a project means either of the following:
 - a. To cause or contribute to a new violation of a standard in the area substantially affected by the project or over a region which would otherwise not be in violation of the standard during the future period in question, if the project were not implemented.
 - b. To contribute to a new violation in a manner that would increase the frequency or severity of a new violation of a standard in such area.
 6. "Consultation" means that one party confers with another identified party, provides access to all appropriate information to that party needed for meaningful input, and, prior to taking any action, considers the views of that party and responds in accordance with the procedures established in R18-2-1405.
 7. "Control strategy implementation plan revision" is the applicable implementation plan which contains specific strategies for controlling the emissions of and reducing ambient levels of pollutants in order to satisfy CAA requirements for demonstrations of reasonable further progress and attainment (CAA §§ 182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 189(a)(1)(B), and 189(b)(1)(A); and §§ 192(a) and 192(b), for nitrogen dioxide).
 8. "Control strategy period" with respect to particulate matter less than 10 microns in diameter (PM₁₀), carbon monoxide (CO), nitrogen dioxide (NO₂), or ozone precursors (volatile organic compounds (VOC) and oxides of nitrogen (NO_x)), means that period of time after EPA approves control strategy implementation plan revisions containing strategies for controlling PM₁₀, NO₂, CO, or ozone, as appropriate. This period ends when the state submits and EPA approves a request under § 107(d) of the CAA for redesignation to an attainment area.
 9. "Design concept" means the type of facility identified by the project, e.g., freeway, expressway, arterial highway, grade-separated highway, reserved right-of-way rail transit, mixed traffic rail transit, exclusive busway, etc.
 10. "Design scope" means the design aspects of a facility which will affect the proposed facility's impact on regional emissions, usually as they relate to vehicle or person carrying capacity and control, e.g., number of lanes or tracks to be constructed or added, length of project, signalization, access control including approximate number and location of interchanges, preferential treatment for high-occupancy vehicles, etc.
 11. "EPA" means the United States Environmental Protection Agency.
 12. "FHWA" means the Federal Highway Administration of USDOT.
 13. "FHWA or FTA project" means any highway or transit project which is proposed to receive funding assistance and approval through the Federal-Aid Highway program or the federal mass transit program, or requires Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) approval for some aspect of the project, such as connection to an interstate highway or deviation from applicable design standards on the interstate system.
 14. "FTA" means the Federal Transit Administration of USDOT.

Historical Note

New Section made by final rulemaking at 29 A.A.R. 1658 (July 28, 2023), effective September 10, 2023 (Supp. 23-3).

ARTICLE 14. CONFORMITY DETERMINATIONS**R18-2-1401. Definitions**

Terms used in this Article but not defined in this Article, Article 1 of this Chapter, or A.R.S. § 49-401.01 shall have the meaning given them by the CAA, Titles 23 and 40 U.S.C., other EPA regulations, or other USDOT regulations, in that order of priority. The following definitions and the definitions contained in Article 1 of this Chapter and in A.R.S. § 49-401.01 shall apply to this Article:

1. "ADEQ" means the Arizona Department of Environmental Quality.
2. "ADOT" means the Arizona Department of Transportation.
3. "Applicable implementation plan" is defined in § 302(q) of the CAA and means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under § 110, or promulgated under § 110(c), or promulgated or approved pursuant to regulations promulgated under § 301(d) and which implements the relevant requirements of the CAA.

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15. "Forecast period" with respect to a transportation plan means the period covered by the transportation plan pursuant to 23 CFR 450.
16. "Highway project" means an undertaking to implement or modify a highway facility or highway-related program. Such an undertaking consists of all required phases necessary for implementation. For analytical purposes, it shall be defined sufficiently to:
 - a. Connect logical termini and be of sufficient length to address environmental matters on a broad scope.
 - b. Have independent utility or significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made.
 - c. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.
17. "Horizon year" means a year for which the transportation plan describes the envisioned transportation system in accordance with R18-2-1406.
18. "Hot-spot analysis" means an estimation of likely future localized CO and PM₁₀ pollutant concentrations and a comparison of those concentrations to the national ambient air quality standards. Pollutant concentrations to be estimated should be based on the total emissions burden which may result from the implementation of a single, specific project, summed together with future background concentrations (which can be estimated using the ratio of future to current traffic multiplied by the ratio of future to current emission factors) expected in the area. The total concentration shall be estimated and analyzed at appropriate receptor locations in the area substantially affected by the project. Hot-spot analysis assesses impacts on a scale smaller than the entire nonattainment or maintenance area, including, for example, congested roadway intersections and highways or transit terminals, and uses an air quality dispersion model to determine the effects of emissions on air quality.
19. "Incomplete data area" means any ozone nonattainment area which EPA has classified, in 40 CFR 81, as an incomplete data area.
20. "Increase the frequency or severity of a violation" means to cause a location or region to exceed a standard more often or to cause a violation at a greater concentration than previously existed or would otherwise exist during the future period in question, if the project were not implemented.
21. "ISTEA" means the Intermodal Surface Transportation Efficiency Act of 1991.
22. "Local transportation agency" means a city, town, or county.
23. "Maintenance area" means any geographic region of the United States previously designated nonattainment pursuant to the CAA Amendments of 1990 and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under § 175A of the CAA.
24. "Maintenance period" with respect to a pollutant or pollutant precursor means that period of time beginning when a state submits and EPA approves a request under § 107(d) of the CAA for redesignation to an attainment area, and lasting for 20 years, unless the applicable implementation plan specifies that the maintenance period shall last for more than 20 years.
25. "Metropolitan planning organization (MPO)" means the organization designated as being responsible, together with the state, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. 1607.
26. "Milestone" means an emissions level and the date on which it is required to be achieved as described in § 182(g)(1) and § 189(c) of the CAA.
27. "Motor vehicle emissions budget" means that portion of the total allowable emissions defined in a revision to the applicable implementation plan (or in an implementation plan revision which was endorsed by the Governor or Director of ADEQ, subject to a public hearing, and submitted to EPA, but not yet approved by EPA) for a certain date for the purpose of meeting reasonable further progress milestones or attainment or maintenance demonstrations, for any criteria pollutant or its precursors, allocated by the applicable implementation plan to highway and transit vehicles. The applicable implementation plan for an ozone nonattainment area may also designate a motor vehicle emissions budget for oxides of nitrogen (NO_x) for a reasonable further progress milestone year if the applicable implementation plan demonstrates that this NO_x budget will be achieved with measures in the implementation plan (as an implementation plan must do for VOC milestone requirements). The applicable implementation plan for an ozone nonattainment area includes a NO_x budget if NO_x reductions are being substituted for reductions in volatile organic compounds in milestone years required for reasonable further progress.
28. "National ambient air quality standards (NAAQS)" means those standards established pursuant to § 109 of the CAA.
29. "NEPA" means the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.).
30. "NEPA process completion" with respect to FHWA or FTA, means the point at which there is a specific action to do any of the following:
 - a. Make a formal final determination that a project is categorically excluded.
 - b. Make a Finding of No Significant Impact.
 - c. Issue a record of decision on a Final Environmental Impact Statement under NEPA.
31. "Nonattainment area" means any geographic region of the United States which has been designated as nonattainment under § 107 of the CAA for any pollutant for which a national ambient air quality standard exists.
32. "Not classified area" means any carbon monoxide nonattainment area which EPA has not classified as either moderate or serious.
33. "Phase II of the interim period" with respect to a pollutant or pollutant precursor means that period of time after December 27, 1993, lasting until the earlier of the following:
 1. Submission to EPA of the relevant control strategy implementation plan revisions which have been endorsed by the Governor or the Director of ADEQ and have been subject to a public hearing.
 2. The date that the CAA requires relevant control strategy implementation plans to be submitted to EPA, provided EPA has made a finding of the state's failure to submit any such plans and the state, MPO, and USDOT have received notice of such finding of the state's failure to submit any such plans.

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34. "Project" means a highway project or transit project.
35. "Recipient of funds designated under 23 U.S.C. or the Federal Transit Act" means any agency at any level of state, county, or city government, including any political subdivision or MPO, that routinely receives 23 U.S.C. or Federal Transit Act funds to construct FHWA or FTA projects, operate FHWA or FTA projects or equipment, purchase equipment, or undertake other services or operations via contracts or agreements. This definition does not include private landowners or developers, or contractors or entities that are only paid for services or products created by their own employees.
36. "Regional transportation agency" means a regional transit authority established pursuant to A.R.S. Title 28, Chapter 20 or Chapter 24, or a formal association of political subdivisions involved in regional transportation issues.
37. "Regionally significant transportation project" means a transportation project (other than an exempt project) that is on a facility which serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, major planned developments such as new retail malls, sports complexes, etc., or transportation terminals, as well as most terminals themselves) and would normally be included in the modeling of a metropolitan area's transportation network, including at a minimum all principal arterial highways and all fixed guideway transit facilities that offer an alternative to regional highway travel.
38. "Rural transport ozone nonattainment area" means an ozone nonattainment area that does not include, and is not adjacent to, any part of a Metropolitan Statistical Area or, where one exists, a Consolidated Metropolitan Statistical Area (as defined by the United States Bureau of the Census) and is classified under CAA § 182(h) as a rural transport area.
39. "Standard" means a national ambient air quality standard.
40. "Statewide transportation improvement program (STIP)" means a staged, multi-year, intermodal program of transportation projects covering the state, which is consistent with the statewide transportation plan and metropolitan transportation plans, and developed pursuant to 23 CFR 450.
41. "Statewide transportation plan" means the official intermodal statewide transportation plan that is developed through the statewide planning process for the state, developed pursuant to 23 CFR 450.
42. "Submarginal area" means any ozone nonattainment area which EPA has classified as submarginal in 40 CFR 81.
43. "Transit" is mass transportation by bus, rail, or other conveyance which provides general or special service to the public on a regular and continuing basis. It does not include school buses or charter or sightseeing services.
44. "Transit project" means an undertaking to implement or modify a transit facility or transit-related program, purchase transit vehicles or equipment, or provide financial assistance for transit operations. It does not include actions that are solely within the jurisdiction of local transit agencies, such as changes in routes, schedules, or fares. It may consist of several phases. For analytical purposes, it shall be defined inclusively enough to:
 - a. Connect logical termini and be of sufficient length to address environmental matters on a broad scope.
 - b. Have independent utility or independent significance, i.e., be a reasonable expenditure even if no additional transportation improvements in the area are made.
 - c. Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.
45. "Transitional area" means any ozone nonattainment area which EPA has classified as transitional in 40 CFR 81.
46. "Transitional period" with respect to a pollutant or pollutant precursor means that period of time which begins after submission to EPA of the relevant control strategy implementation plan which has been endorsed by the Governor or Director of ADEQ and has been subject to a public hearing. The transitional period lasts until EPA takes final approval or disapproval action on the control strategy implementation plan submission or finds it to be incomplete. The precise beginning and end of the transitional period is defined in R18-2-1428.
47. "Transportation control measure (TCM)" means any measure that is specifically identified and committed to in the applicable implementation plan that is either one of the types listed in § 108 of the CAA, or any other measure for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Notwithstanding the above, vehicle technology-based, fuel-based, and maintenance-based measures which control the emissions from vehicles under fixed traffic conditions are not TCMs for the purposes of this Part.
48. "Transportation improvement program (TIP)" means a staged, multi-year, intermodal program of transportation projects covering a metropolitan planning area which is consistent with the metropolitan transportation plan and developed pursuant to 23 CFR 450.
49. "Transportation plan" means the official intermodal metropolitan transportation plan that is developed through the metropolitan planning process for the metropolitan planning area, developed pursuant to 23 CFR 450.
50. "Transportation project" means a highway project or a transit project.
51. "USDOT" means the United States Department of Transportation.
52. "VMT" means the number of vehicle miles traveled.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1402. Applicability

- A. Except as provided for in subsection (F) or R18-2-1434, conformity determinations are required for all of the following:
 1. The adoption, acceptance, approval, or support of transportation plans developed pursuant to 23 CFR 450 or 49 CFR 613 by an MPO or USDOT.
 2. The adoption, acceptance, approval, or support of TIPs developed pursuant to 23 CFR 450 or 49 CFR 613 by an MPO or USDOT.
 3. The approval, funding, or implementation of FHWA or FTA projects.
- B. Conformity determinations are not required under this Article for individual projects which are not FHWA or FTA projects. However, R18-2-1429 applies to such projects if they are regionally significant.
- C. The provisions of this Article shall apply in all nonattainment and maintenance areas for transportation-related criteria pol-

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lutants for which the area is designated nonattainment or has a maintenance plan.

- D. The provisions of this Article apply with respect to emissions of the following criteria pollutants: ozone, carbon monoxide, nitrogen dioxide, and particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀).
- E. The provisions of this Article apply with respect to emissions of the following precursor pollutants:
 1. Volatile organic compounds and nitrogen oxides in ozone areas (unless the Administrator determines under § 182(f) of the CAA that additional reductions of NO_x would not contribute to attainment).
 2. Nitrogen oxides in nitrogen dioxide areas.
 3. Volatile organic compounds, nitrogen oxides, and PM₁₀ in PM₁₀ areas if either of the following apply:
 - a. During the interim period, the EPA Regional Administrator or the Director of ADEQ has made a finding (including a finding in an applicable implementation plan or a submitted implementation plan revision) that transportation-related precursor emissions within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified ADOT or the MPO where one exists and USDOT.
 - b. During the transitional, control strategy, and maintenance periods, the applicable implementation plan or implementation plan submission establishes a budget for such emissions as part of the reasonable further progress, attainment, or maintenance strategy.
- F. Projects subject to this Article for which the NEPA process and a conformity determination have been completed by FHWA or FTA may proceed toward implementation without further conformity determinations if one of the following major steps has occurred within the most recent three-year period: NEPA process completion; formal start of final design; acquisition of a significant portion of the right-of-way; or approval of the plans, specifications, and estimates. All phases of such projects which were considered in the conformity determination are also included, if those phases were for the purpose of funding, final design, right-of-way acquisition, construction, or any combination of these phases.
- G. A new conformity determination for the project will be required if there is a significant change in project design concept and scope, if a supplemental environmental document for air quality purposes is initiated, or if no major steps to advance the project have occurred within the most recent three-year period.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1403. Priority

When assisting or approving any action with air quality-related consequences, FHWA and FTA shall give priority to the implementation of those transportation portions of an applicable implementation plan prepared to attain and maintain the NAAQS. This priority shall be consistent with statutory requirements for allocation of funds among states or other jurisdictions.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1404. Frequency of Conformity Determinations

- A. Conformity determinations and conformity redeterminations for transportation plans, TIPs, and FHWA or FTA projects

shall be made according to the requirements of this Section and the applicable implementation plan.

- B. Each new transportation plan shall be found to conform before the transportation plan is approved by the MPO or accepted by USDOT.
- C. All transportation plan revisions shall be found to conform before the transportation plan revisions are approved by the MPO or accepted by USDOT, unless the revision merely adds or deletes exempt projects listed in R18-2-1434 and has been made in accordance with the notification provisions contained in R18-2-1405. The conformity determination shall be based on the transportation plan and the revision taken as a whole.
- D. An existing conformity determination shall lapse unless conformity of existing transportation plans is redetermined:
 1. By May 25, 1995, unless previously redetermined consistent with 40 CFR 51, subpart T.
 2. Within 18 months after EPA approval of an implementation plan revision which either:
 - a. Establishes or revises a transportation-related emissions budget (as required by CAA §§ 175A(a), 182(b)(1), 182(c)(2)(A), 182(c)(2)(B), 187(a)(7), 189(a)(1)(B), and 189(b)(1)(A); and §§ 192(a) and 192(b), for nitrogen dioxide); or
 - b. Adds, deletes, or changes TCMs.
 3. Within 18 months after EPA promulgation of an implementation plan which establishes or revises a transportation-related emissions budget or adds, deletes, or changes TCMs.
- E. In any case, conformity determinations shall be made no less frequently than every three years, or the existing conformity determination will lapse.
- F. A new TIP shall be found to conform before the TIP is approved by the MPO or accepted by USDOT.
- G. A TIP amendment requires a new conformity determination for the entire TIP before the amendment is approved by the MPO or accepted by USDOT, unless the amendment merely adds or deletes exempt projects listed in R18-2-1434 and has been made in accordance with the notification procedures under R18-2-1405.
- H. After an MPO adopts a new or revised transportation plan, TIP conformity shall be redetermined by the MPO and USDOT within six months from the date of adoption of the plan, unless the new or revised plan merely adds or deletes exempt projects listed in R18-2-1434. Otherwise, the existing conformity determination for the TIP shall lapse.
- I. In any case, TIP conformity determinations shall be made no less frequently than every three years or the existing TIP conformity determination shall lapse.
- J. FHWA or FTA projects shall be found to conform before they are adopted, accepted, approved, or funded. Conformity shall be redetermined for any FHWA or FTA project if none of the following major steps has occurred within the most recent three-year period:
 1. NEPA process completion,
 2. Start of final design,
 3. Acquisition of a significant portion of the right-of-way,
 4. Approval of the plans, specifications, and estimates.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1405. Consultation

- A. Consultation procedures as described in this Section shall be undertaken by all of the following entities and shall include the public and affected local and regional transportation agencies

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in preparing for and making conformity determinations and in developing applicable implementation plans:

1. An MPO where one exists.
 2. The Arizona Department of Transportation (ADOT).
 3. The United States Department of Transportation (USDOT).
 4. The Arizona Department of Environmental Quality (ADEQ).
 5. The county air pollution control agency established pursuant to A.R.S. Title 49 where one exists.
 6. The United States Environmental Protection Agency (EPA).
- B.** The following elements shall be used to implement the consultation processes under subsection (M), with the exception of subsection (M)(8), and under subsection (N), with the exception of subsections (N)(2) and (N)(3), and shall include all affected agencies and interested members of the public, and may be conducted at separate times or in combination:
1. Providing to the affected agencies and interested members of the public information describing the upcoming decision process,
 2. Distributing or providing access to draft documents,
 3. Providing an opportunity for informal question and answer on the draft document or proposed decision,
 4. Providing an opportunity for formal written comment,
 5. Writing and distributing both a response to comments and the final document or decision.
- C.** An MPO where one exists, ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, and any local transportation agency shall undertake a consultation process in accordance with this Section with each other, with the local or regional offices of EPA, FHWA and FTA, with affected regional transportation agencies, and with the public on the development of the following as described in subsections (D) through (G):
1. The implementation plan, including the emission budget and list of TCMs in the applicable implementation plan;
 2. The unified planning work program under 23 CFR § 450.314;
 3. The transportation plan and TIP;
 4. The statewide transportation plan and STIP;
 5. Any revisions to the preceding documents;
 6. All transportation conformity determinations.
- D.** ADEQ, or the MPO in a county having a population greater than 250,000 persons, shall be the lead agency responsible for preparing an implementation plan, the associated emission budgets, and the list of TCMs in the plan. The lead agency shall also be responsible for assuring the adequacy of the consultation process. The concurrence of ADEQ on each implementation plan is required before ADEQ adopts the plan and transmits it to EPA for inclusion in the state implementation plan pursuant to A.R.S. § 49-406.
- E.** ADOT, or the MPO where one exists, shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to the development of the transportation plan and the TIP. The MPO shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to the development of the unified planning work program under 23 CFR 450.314.
- F.** ADOT shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to the development of the statewide transportation plan and the STIP.
- G.** ADOT, or the MPO where one exists, shall be the lead agency responsible for preparing the final document or decision and for assuring the adequacy of the consultation process with respect to determinations of transportation conformity, except that the entity authorized to adopt or approve a project shall be the lead agency responsible for project-level conformity determinations for projects outside of the transportation plan or TIP and shall assure the adequacy of the consultation process.
- H.** Each lead agency described in subsections (D) through (G) shall:
1. Confer with all other agencies having an interest in the document or decision to be developed;
 2. Provide access to all information needed for meaningful input;
 3. Solicit early and continuing input from those agencies;
 4. Conduct the public consultation process described in subsection (P);
 5. Assure policy-level contact with agencies;
 6. With the exception of notifications pursuant to subsection (M)(8), prior to taking any action required pursuant to subsections (D) through (G), consider the views of each agency and the public and respond to significant comments in a timely, substantive written manner prior to taking any final action and assure that such views and written response are made part of the record of any action.
- I.** FHWA and FTA shall be responsible for assuring timely action on final findings of conformity for transportation plans, TIPs, and federally funded projects, including the basis for those findings, after consulting with other agencies as provided in this Section. FHWA and FTA shall also be responsible for providing guidance on conformity and the transportation planning process to agencies in consultation. FHWA and FTA may rely on the consultation process initiated by ADOT or the MPO where one exists and shall not be required to duplicate that process.
- J.** EPA shall be responsible for reviewing and approving updated motor vehicle emissions factors and providing guidance on conformity criteria and procedures to agencies in consultation.
- K.** Each lead agency subject to a consultation process under this Section, including any federal agency, shall provide or notice the availability of each final document that is the product of the consultation process, together with all supporting information, to each other agency and members of the public that have participated in the consultation process within 15 days of adopting or approving the document or making the determination. An agency may supply a checklist of available supporting information, which other participating agencies or the public may use to request all or part of the supporting information, in lieu of generally distributing all supporting information.
- L.** A meeting that is scheduled or required for another purpose may be used for the purposes of consultation if the conformity consultation purpose is identified in the public notice for the meeting.
- M.** A consultation process involving an MPO where one exists, ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, local and regional transportation agencies, EPA, USDOT, and the public shall be undertaken for the following:
1. Evaluating and choosing each model and associated methods and assumptions to be used in hot-spot analyses and regional emissions analyses including vehicle miles

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traveled (VMT) forecasting. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.

2. Determining whether the responsible agency identified in R18-2-1433 has demonstrated that the requirements of R18-2-1416, R18-2-1418 and R18-2-1419 are satisfied without a particular mitigation or control measure. The consultation process pursuant to this subsection shall be initiated by the responsible agency.
 3. Making a determination, as required by R18-2-1429(C)(2), whether the project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, even if the project is not included in the TIP for the purposes of MPO project selection or endorsement, and whether the project's design concept and scope have changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility. The consultation process pursuant to this subsection shall be initiated by the MPO. In nonattainment areas where no MPO exists, ADOT shall initiate the consultation process for making a determination, as required by R18-2-1429(C)(2), whether a project that is outside of a TIP is included in the regional emissions analysis, and whether the project's design concept and scope have changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility.
 4. Determining pursuant to subsection (R) which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of regional emissions analysis and which projects should be considered to have a significant change in design concept and scope from the transportation plan or TIP. The consultation process pursuant to this subsection shall be initiated by the MPO. In nonattainment areas where no MPO exists, ADOT shall initiate the consultation process for determining pursuant to subsection (R) which minor arterials and other transportation projects should be considered "regionally significant" for the purposes of regional emissions analysis.
 5. Evaluating whether exempt projects as described in R18-2-1434 and R18-2-1435 should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 6. Making a determination, as required by R18-2-1413, whether past obstacles to implementation of TCMs which are behind the schedule established in the applicable implementation plan have been identified and are being overcome, and whether state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding for TCMs. This consultation process shall also consider whether delays in TCM implementation necessitate revisions to the applicable implementation plan to remove TCMs or to substitute TCMs or other emission reduction measures. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 7. Identifying, as required by R18-2-1431, projects located at sites in PM₁₀ nonattainment areas which have vehicle and roadway emission and dispersion characteristics which are essentially identical to those at sites which have violations verified by monitoring, and therefore require quantitative PM₁₀ hot-spot analysis. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 8. Notification of transportation plan or TIP revisions or amendments which merely add or delete exempt projects listed in R18-2-1434. Notice shall be provided by the MPO and need not be provided prior to final action. Notice shall be provided by ADOT for revisions and amendments affecting the state transportation plan and the state TIP. The public involvement process described in subsection (P) is not required for the purposes of this subsection.
 9. Project-level conformity determinations pursuant to R18-2-1416. The consultation process pursuant to this subsection shall be initiated by the recipient of the funds designated under 23 U.S.C. or the Federal Transit Act.
- N. A consultation process involving the MPO, ADEQ, a county air pollution control agency where one exists, ADOT, appropriate political subdivisions, regional transportation agencies, if any, and the public shall be undertaken for the following:
1. Evaluating events which will trigger new conformity determinations in addition to those triggering events established in R18-2-1404 and including any changes in planning assumptions that may trigger a new conformity determination. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 2. Consulting on emissions analysis for transportation activities which cross the borders of MPOs or nonattainment areas or air basins. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists. The public involvement process described in subsection (P) is not required for the purposes of this subsection.
 3. Where the metropolitan planning area does not include the entire nonattainment or maintenance area, a consultation process involving the MPO and ADOT for cooperative planning and analysis for purposes of determining conformity of all projects outside the metropolitan area and within the nonattainment or maintenance area. The consultation process pursuant to this subsection shall be initiated by ADOT. The public involvement process described in subsection (P) is not required for the purposes of this subsection.
 4. The design, schedule, and funding of research and data collection efforts and regional transportation model development. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
 5. Determining that a conforming project approved with mitigation no longer requires mitigation. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
- O. The following consultation processes involve recipients of funds designated under 23 U.S.C. or the Federal Transit Act:
1. A consultation process involving the MPO, ADEQ, a county air pollution control agency where one exists, ADOT, recipients of funds designated under 23 U.S.C. or the Federal Transit Act and any agency created under state law that sponsors or approves transportation projects shall be undertaken to assure that plans for construction of regionally significant projects which are not FHWA or

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FTA projects, including projects for which alternative locations, design concept or scope, or the no-build option are still being considered, are disclosed as soon as practicable to ADOT or the MPO where one exists, so as to assure that any significant changes to the design concept or scope of those plans are disclosed as soon as practicable. The political subdivision having authority to adopt or approve a regionally significant transportation project, and any agency that becomes aware of any such project through applications for approval, permitting, funding, or otherwise shall disclose such project to ADOT or the MPO if one exists as soon as practicable. To help assure timely disclosure, the political subdivision having authority to adopt or approve any potential regionally significant transportation project shall disclose to ADOT or the MPO on a schedule prescribed by ADOT or the MPO, whichever is appropriate, each project for which alternatives have been identified through the NEPA process and, in particular, any preferred alternative that may be a regionally significant project. The consultation process shall include assuming the location, design concept, and scope of the project, where the sponsor has not yet decided these features, in sufficient detail to allow ADOT or the MPO to perform a regional emissions analysis. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.

2. A consultation process involving the MPO, ADEQ, a county air pollution control agency where one exists, ADOT, recipients of funds designated under 23 U.S.C. or the Federal Transit Act, any agency created under state law that sponsors or approves transportation projects, and the public shall be undertaken for the development of procedures as described in R18-2-1429. The consultation process pursuant to this subsection shall be initiated by ADOT or the MPO where one exists.
- P.** Public involvement processes shall be conducted according to the requirements of this subsection.
1. ADOT or the MPO, where one exists, when making conformity determinations on transportation plans, programs, and projects shall establish and continuously implement a proactive public involvement process which provides opportunity for public review and comment prior to taking formal action on a conformity determination for all transportation plans and TIPs, that meets the following minimum requirements:
 - a. Includes a process that provides complete information, timely public notice, full public access to key decisions and supports early and continuing involvement of the public in developing plans and TIPs.
 - b. Requires a minimum public comment period of 45 days before the public involvement process is initially adopted or revised.
 - c. Provides timely information about transportation issues and processes to citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, other interested parties and segments of the community affected by transportation plans, programs, and projects, including but not limited to central city and other local jurisdiction concerns.
 - d. Provides reasonable public access to technical and policy information used in the development of plans and TIPs and open public meetings where matters related to the federal-aid highway and transit programs are being considered.
 - e. Requires adequate public notice of public involvement activities and time for public review and comment at key decision points, including, but not limited to, approval of plans and TIPs and approval of changes in plans and TIPs. In nonattainment areas classified as serious and above, the comment period shall be at least 30 days for the plan, TIP, and major amendments. Public notice shall include mailing of notice to a list of all persons who have requested notice of actions covered by this Article.
 - f. Demonstrates explicit consideration and response to public input received during the planning and program development processes.
 - g. Seeks out and considers the needs of those traditionally underserved by existing transportation systems, including but not limited to low-income and minority households.
 - h. When significant written and oral comments are received on a draft transportation plan or TIP, including the financial plan, as a result of the public involvement process or the consultation process required by this Section, a summary, analysis, and report on the disposition of comments shall be made part of the final plan and TIP.
 - i. If the final transportation plan or TIP differs significantly from the one which was made available for public comment by the MPO and it raises new material issues which interested parties could not reasonably have foreseen from the public involvement efforts, an additional opportunity for public comment on the revised plan or TIP shall be made available.
 - j. ADOT or the MPO where one exists shall specifically address in writing all public comments that known plans for a regionally significant transportation project which is not receiving FHWA or FTA funding or approval have not been properly reflected in the emissions analysis supporting a proposed conformity finding for a transportation plan or TIP.
 - k. Public involvement processes shall be periodically reviewed by ADOT or the MPO in terms of their effectiveness in assuring that the process provides full and open access to all.
 - l. These procedures will be reviewed by the FHWA and the FTA during certification reviews for TMAs, and as otherwise necessary for all MPOs, to assure that full and open access is provided to MPO decisionmaking processes.
 - m. Metropolitan public involvement processes shall be coordinated with statewide public involvement processes wherever possible to enhance public consideration of the issues, plans, and programs and to reduce redundancies and costs.
2. Local and regional transportation agencies when making conformity determinations on regionally significant transportation projects shall establish and implement a public involvement process which meets, at a minimum, the following requirements:
 - a. Provides to the affected agencies and interested members of the public information describing the upcoming decision process.

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- b. Distributes or provides access to draft documents and all information needed for meaningful input.
 - c. Solicits early and continuing input from interested agencies and the public.
 - d. Provides an opportunity for informal question and answer on the draft document or proposed decision.
 - e. Provides an opportunity for formal written comment.
 - f. Provides for writing and distributing both a response to comments and the final document or decision. The response to comments shall consider the views of each agency and the public. The response to comments shall be made in a timely, substantive written manner prior to taking any final action and shall be made part of the record of any action.
- Q.** Any conflict among state agencies or between state agencies and an MPO shall be escalated to the Governor if the conflict cannot be resolved by the directors of the involved agencies. In the first instance, such entities shall make every effort to resolve any differences, including personal meetings between the directors of such entities or their policy-level representatives, to the extent possible. Within 14 calendar days after ADOT or the MPO has notified ADEQ of its decision, ADEQ may appeal a proposed determination of conformity, or other policy decision under this Article, to the Governor. ADEQ must provide notice of any appeal under this subsection to ADOT or the MPO. If ADEQ does not appeal to the Governor within 14 days, ADOT or the MPO may proceed with the final determination or decision. If ADEQ appeals to the Governor, the final conformity determination or policy decision shall have the concurrence of the Governor. The Governor may delegate to another official or agency within the state the role of hearing any appeal under this subsection and of deciding whether to concur in the determination or decision but may not delegate these functions to the director or staff of ADEQ, to any local air quality agency, to ADOT, to any state transportation commission or board, to an MPO, or to any agency that has responsibility for any of these functions.
- R.** The following procedures shall govern the consultation process regarding regionally significant transportation projects as defined in R18-2-1401(37):
1. By September 1, 1995, ADOT or the MPO where one exists shall develop and make available, for each nonattainment or maintenance area, consistent with A.R.S. § 49-408(A), the following:
 - a. A map of the highway or transit facilities in the nonattainment or maintenance area that serve regional transportation needs.
 - b. Guidance on which undertakings to implement or modify a highway facility are not transportation projects as defined in this Article, because they are not of sufficient length to address environmental matters on a broad scope.
 - c. Guidance on which types of transportation projects are normally included in the regional transportation model.
 2. The map and guidance described in subsection (R)(1) shall be produced only after consultation with ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, local and regional transportation agencies, and the public. The map developed pursuant to subsection (R)(1) shall be updated prior to the commencement of the next TIP or STIP development cycle, unless no changes have occurred. The guidance developed pursuant to subsection (R)(3) shall be revised as necessary to reflect changes in the regional transportation model.
 3. ADOT or the MPO where one exists shall develop and initiate the consultation process described in subsection (H) for a proposed list of transportation projects to be considered regionally significant. The consultation process shall include the MPO where one exists, ADEQ, a county air pollution control agency where one exists, ADOT, a transit authority where one exists, local and regional transportation agencies, EPA, USDOT, and the public. The list shall include information supporting the proposed classification.
 4. In determining whether a facility serves regional transportation needs, ADOT or the MPO where one exists shall consider at a minimum whether the facility:
 - a. Would be classified as a principal arterial based on average daily traffic or other factors, if not for limitations that the USDOT places on the percentage of streets that can be so classified.
 - b. For all other roadways, whether the facility:
 - i. Serves regional mobility needs, as opposed to local access.
 - ii. Carries regional traffic from one principal arterial to another.
 - iii. Is a modification that expands a facility such that it would serve regional transportation needs.
 5. For the purposes of this Article, a street with a lower classification than a collector street, as specified in the most recent federal classification map for the region, does not serve regional transportation needs.
 6. None of the following attributes, by itself, shall require a transportation project to be included in the modeling of a metropolitan area's transportation network:
 - a. The connection of a facility that does not serve regional transportation needs to a facility that does serve regional transportation needs.
 - b. The addition or modification of a lane other than a through lane.
- S.** An agency having a role or responsibility under this Section may delegate that role or responsibility to another entity pursuant to the applicable state law but shall notify all other parties to the consultation process of this fact when the delegation occurs and shall also provide to the other parties the name, address, and telephone number of one or more contact persons representing the entity that is accepting the delegated role or responsibility.
- T.** The provisions of this Section apply only to TIP and STIP planning cycles beginning with the cycles next following the effective date of this Section. The provisions of 40 CFR 51, Subpart T, continue to apply to all TIP and STIP planning cycles in progress at the time of the effective date of this Section. The provisions of this Section apply to consultation on projects and TIP amendments as of the effective date of this Section.
- Historical Note**
Adopted effective June 15, 1995 (Supp. 95-2).
- R18-2-1406. Content of Transportation Plans**
- A.** For transportation plans adopted after January 1, 1995, in serious, severe, or extreme ozone nonattainment areas and in serious carbon monoxide nonattainment areas, the following shall apply:

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1. The transportation plan shall specifically describe the transportation system envisioned for certain future years which shall be called horizon years.
2. The agency or organization developing the transportation plan, after consultation pursuant to R18-2-1405, may choose any years to be horizon years, subject to the following restrictions:
 - a. Horizon years may be no more than 10 years apart.
 - b. The first horizon year may be no more than 10 years from the base year used to validate the transportation demand planning model.
 - c. If the attainment year is in the time span of the transportation plan, the attainment year shall be a horizon year.
 - d. The last horizon year shall be the last year of the transportation plan's forecast period.
3. For these horizon years all of the following apply:
 - a. The transportation plan shall quantify and document the demographic and employment factors influencing expected transportation demand, including land-use forecasts, in accordance with implementation plan provisions and R18-2-1405.
 - b. The highway and transit system shall be described in terms of the regionally significant additions or modifications to the existing transportation network which the transportation plan envisions to be operational in the horizon years. Additions and modifications to the highway network shall be sufficiently identified to indicate intersections with existing regionally significant facilities and to determine their effect on route options between transportation analysis zones. Each added or modified highway segment shall also be sufficiently identified in terms of its design concept and design scope to allow modeling of travel times under various traffic volumes, consistent with the modeling methods for area-wide transportation analysis in use by the MPO. Transit facilities, equipment, and services envisioned for the future shall be identified in terms of design concept, design scope, and operating policies sufficiently to allow modeling of their transit ridership. The description of additions and modifications to the transportation network shall also be sufficiently specific to show that there is a reasonable relationship between expected land use and the envisioned transportation system.
 - c. Other future transportation policies, requirements, services, and activities, including intermodal activities, shall be described.
- B. Ozone or CO nonattainment areas which are reclassified from moderate to serious shall meet the requirements of subsection (A) within two years from the date of reclassification.
- C. Transportation plans for other areas shall meet the requirements of subsection (A) at least to the extent it has been the previous practice of the MPO to prepare plans which meet those requirements. Otherwise, transportation plans shall describe the transportation system envisioned for the future specifically enough to allow determination of conformity according to the criteria and procedures of R18-2-1409 through R18-2-1427.
- D. The requirements of this Section supplement other requirements of applicable law or regulation governing the format or content of transportation plans.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1407. Relationship of Transportation Plan and TIP Conformity with the NEPA Process

The degree of specificity required in the transportation plan and the specific travel network assumed for air quality modeling do not preclude the consideration of alternatives in the NEPA process or other project development studies. Should the NEPA process result in a project with design concept and scope significantly different from that in the transportation plan or TIP, the project shall meet the criteria in R18-2-1409 through R18-2-1427 for projects not from a TIP before NEPA process completion.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1408. Fiscal Constraints for Transportation Plans and TIPs

Transportation plans and TIPs shall demonstrate that they are fiscally constrained consistent with USDOT's metropolitan planning regulations at 23 CFR 450 in order to be found in conformity.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1409. Criteria and Procedures for Determining Conformity of Transportation Plans, Programs, and Projects: General

- A. In order to be found to conform, each transportation plan, program, and FHWA or FTA project shall satisfy the applicable criteria and procedures in R18-2-1410 through R18-2-1427 as listed in Table 1 of this Section and shall comply with all applicable conformity requirements of implementation plans and of court orders for the area which pertain specifically to conformity determination requirements. The criteria for making conformity determinations differ based on the action under review (transportation plans, TIPs, and FHWA or FTA projects), the time period in which the conformity determination is made, and the relevant pollutant.
- B. The following table indicates the criteria and procedures in R18-2-1410 through R18-2-1427 which apply for each action in each time period:

**Table 1. Conformity Criteria
DURING ALL PERIODS**

Action	Criteria
Transportation Plan	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1413(B)
TIP	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1413(C)
Project (from a conforming plan and TIP)	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1414, R18-2-1415, R18-2-1416, R18-2-1417
Project (not from a conforming plan and TIP)	R18-2-1410, R18-2-1411, R18-2-1412, R18-2-1413(D), R18-2-1414, R18-2-1416, R18-2-1417

PHASE II OF THE INTERIM PERIOD

Action	Criteria
Transportation Plan	R18-2-1422, R18-2-1425
TIP	R18-2-1423, R18-2-1426
Project (from a conforming plan and TIP)	R18-2-1421
Project (not from a conforming plan and TIP)	R18-2-1421, R18-2-1424, R18-2-1427

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TRANSITIONAL PERIOD

Action	Criteria
Transportation Plan	R18-2-1418, R18-2-1422, R18-2-1425
TIP	R18-2-1419, R18-2-1423, R18-2-1426
Project (from a conforming plan and TIP)	R18-2-1421
Project (not from a conforming plan and TIP)	R18-2-1420, R18-2-1421, R18-2-1424, R18-2-1427

CONTROL STRATEGY AND MAINTENANCE PERIODS

Action	Criteria
Transportation Plan	R18-2-1418
TIP	R18-2-1419
Project (from a conforming plan and TIP)	No additional criteria
Project (not from a conforming plan and TIP)	R18-2-1420

R18-2-1410. The conformity determination must be based on the latest planning assumptions.

R18-2-1411. The conformity determination must be based on the latest emission estimation model available.

R18-2-1412. The MPO must make the conformity determination according to the consultation procedures of this rule and the implementation plan revision required by 40 CFR 51.396.

R18-2-1413. The transportation plan, TIP, or FHWA or FTA project which is not from a conforming plan and TIP must provide for the timely implementation of TCMs from the applicable implementation plan.

R18-2-1414. There must be a currently conforming transportation plan and currently conforming TIP at the time of project approval.

R18-2-1415. The project must come from a conforming transportation plan and program.

R18-2-1416. The FHWA or FTA project must not cause or contribute to any new localized CO or PM₁₀ violations or increase the frequency or severity of any existing CO or PM₁₀ violations in CO and PM₁₀ nonattainment and maintenance areas.

R18-2-1417. The FHWA or FTA project must comply with PM₁₀ control measures in the applicable implementation plan.

R18-2-1418. The transportation plan must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.

R18-2-1419. The TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.

R18-2-1420. The project which is not from a conforming transportation plan and conforming TIP must be consistent with the motor vehicle emissions budget(s) in the applicable implementation plan or implementation plan submission.

R18-2-1421. The FHWA or FTA project must eliminate or reduce the severity and number of localized CO violations in the area substantially affected by the project (in CO nonattainment areas).

R18-2-1422. The transportation plan must contribute to emissions reductions in ozone and CO nonattainment areas.

R18-2-1423. The TIP must contribute to emissions reductions in ozone and CO nonattainment areas.

R18-2-1424. The project which is not from a conforming transportation plan and TIP must contribute to emissions reductions in ozone and CO nonattainment areas.

R18-2-1425. The transportation plan must contribute to emission reductions or must not increase emissions in PM₁₀ and NO₂ nonattainment areas.

R18-2-1426. The TIP must contribute to emission reductions or must not increase emissions in PM₁₀ and NO₂ nonattainment areas.

R18-2-1427. The project which is not from a conforming transportation plan and TIP must contribute to emission reductions or must not increase emissions in PM₁₀ and NO₂ nonattainment areas.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1410. Criteria and Procedures: Latest Planning Assumptions

- A. During all periods the conformity determination, with respect to all other applicable criteria in R18-2-1411 through R18-2-1427, shall be based upon the most recent complete planning assumptions in force at the time of the conformity determination. The conformity determination shall satisfy the requirements of subsections (B) through (F).
- B. Assumptions, including vehicle miles traveled per capita or per household, trip generation per household, vehicle occupancy, household size, vehicle fleet mix, vehicle ownership, and the geographic distribution of population growth shall be derived from the estimates of current and future population, employment, travel, and congestion most recently used by ADOT or the MPO where one exists. Population estimates shall be consistent with the estimates developed by the Arizona Department of Economic Security pursuant to A.R.S. § 41-1954(A). The conformity determination shall also be based on the latest assumptions about current and future background concentrations.
- C. The conformity determination for each transportation plan and TIP shall discuss how transit operating policies (including fares and service levels) and assumed transit ridership have changed since the previous conformity determination.
- D. The conformity determination shall include reasonable assumptions about transit service and increases in transit fares and road and bridge tolls over time.
- E. The conformity determination shall use the latest existing information regarding the effectiveness of the TCMs which have already been implemented.
- F. Key assumptions shall be specified and included in the draft documents and supporting materials used for the interagency and public consultation required by R18-2-1405.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1411. Criteria and Procedures: Latest Emissions Model

- A. During all periods the conformity determination shall be based on the latest emission estimation model available. This criterion is satisfied if the most current version of the motor vehicle emissions model specified by EPA for use in the preparation or revision of implementation plans in that state or area is used for the conformity analysis. Where EMFAC is the motor vehicle emissions model used in preparing or revising the applicable implementation plan, new versions shall be approved by EPA before they are used in the conformity analysis.
- B. Conformity analyses for which the emissions analysis was begun during the grace period or before the Federal Register notice of availability of the latest emission model, or during any grace period announced in such notice, may continue to

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use the previous version of the model for transportation plans and TIPs. The previous model may also be used for projects if the analysis was begun during the grace period or before the Federal Register notice of availability, provided no more than three years have passed since the draft environmental document was issued.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1412. Criteria and Procedures: Consultation

All conformity determinations shall be made according to the consultation procedures in R18-2-1405. This criterion applies during all periods. Until the implementation plan revision required by 40 CFR 51.396 is approved by EPA, the conformity determination shall be made according to the procedures in R18-2-1405. Once the implementation plan revision has been approved by EPA, this criterion is satisfied if the conformity determination is made consistent with the implementation plan's consultation requirements.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1413. Criteria and Procedures: Timely Implementation of TCMs

- A. During all periods the transportation plan, TIP, or FHWA, or FTA project which is not from a conforming plan and TIP shall provide for the timely implementation of TCMs from the applicable implementation plan.
- B. For transportation plans, this criterion is satisfied if the following two conditions are met:
 1. The transportation plan, in describing the envisioned future transportation system, provides for the timely completion or implementation of all TCMs in the applicable implementation plan which are eligible for funding under 23 U.S.C. or the Federal Transit Act, consistent with schedules included in the applicable implementation plan.
 2. Nothing in the transportation plan interferes with the implementation of any TCM in the applicable implementation plan.
- C. For TIPs, this criterion is satisfied if all of the following conditions are met:
 1. An examination of the specific steps and funding source needed to fully implement each TCM indicates that TCMs which are eligible for funding under 23 U.S.C. or the Federal Transit Act are on or ahead of the schedule established in the applicable implementation plan, or, if such TCMs are behind the schedule established in the applicable implementation plan, the MPO and USDOT have determined that past obstacles to implementation of the TCMs have been identified and have been or are being overcome, and that all state and local agencies with influence over approvals or funding for TCMs are giving maximum priority to approval or funding of TCMs over other projects within their control, including projects in locations outside the nonattainment or maintenance area. Maximum priority to approval or funding of TCMs includes demonstrations with respect to funding acceleration, commitment of staff or other agency resources, diligent efforts to seek approvals, and similar actions.
 2. If federal funding intended for TCMs in the applicable implementation plan has previously been programmed but is reallocated to projects in the TIP other than TCMs, (or if there are no other TCMs in the TIP, to projects in the TIP other than projects which are eligible for federal

funding under ISTEA's Congestion Mitigation and Air Quality Improvement Program), and the TCMs are behind the schedule in the implementation plan, the TIP cannot be found to conform.

3. Nothing in the TIP may interfere with the implementation of any TCM in the applicable implementation plan.
- D. For FHWA or FTA projects which are not from a conforming transportation plan and TIP, this criterion is satisfied if the project does not interfere with the implementation of any TCM in the applicable implementation plan.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1414. Criteria and Procedures: Currently Conforming Transportation Plan and TIP

During all periods there shall be a currently conforming transportation plan and currently conforming TIP at the time of project approval. This criterion is satisfied if the current transportation plan and TIP have been found to conform to the applicable implementation plan by the MPO and USDOT according to the procedures of this subpart. Only one conforming transportation plan or TIP may exist in an area at any time; conformity determinations of a previous transportation plan or TIP expire once the current plan or TIP is found to conform by USDOT. The conformity determination on a transportation plan or TIP will also lapse if conformity is not determined according to the frequency requirements of R18-2-1404.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1415. Criteria and Procedures: Projects from a Plan and TIP

- A. During all periods the project shall come from a conforming transportation plan and program. Otherwise, the project shall satisfy all criteria in Table 1 of R18-2-1409 for a project not from a conforming transportation plan and TIP. A project is considered to be from a conforming transportation plan if it meets the requirements of subsection (B) and from a conforming program if it meets the requirements of subsection (C).
- B. A project is considered to be from a conforming transportation plan if one of the following conditions applies:
 1. For projects which are required to be identified in the transportation plan in order to satisfy R18-2-1406, the project is specifically included in the conforming transportation plan and the project's design concept and scope have not changed significantly from those which were described in the transportation plan, or in a manner which would significantly impact use of the facility.
 2. For projects which are not required to be specifically identified in the transportation plan, the project is identified in the conforming transportation plan, or is consistent with the policies and purpose of the transportation plan and will not interfere with other projects specifically included in the transportation plan.
- C. A project is considered to be from a conforming program if all of the following conditions are met:
 1. The project is included in the conforming TIP and the design concept and scope of the project were adequate at the time of the TIP conformity determination to determine its contribution to the TIP's regional emissions and have not changed significantly from those which were described in the TIP, or in a manner which would significantly impact use of the facility.
 2. If the TIP describes a project design concept and scope which includes project-level emissions mitigation or con-

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trol measures, enforceable written commitments to implement such measures shall be obtained from the project sponsor or operator as required by R18-2-1433 in order for the project to be considered from a conforming program. Any change in these mitigation or control measures that would significantly reduce their effectiveness constitutes a change in the design concept and scope of the project.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1416. Criteria and Procedures: Localized CO and PM₁₀ Violations (Hot Spots)

- A. During all periods any FHWA or FTA project shall not cause or contribute to any new localized CO or PM₁₀ violations or increase the frequency or severity of any existing CO or PM₁₀ violations in CO and PM₁₀ nonattainment and maintenance areas. This criterion is satisfied if it is demonstrated that no new local violations will be created and the severity or number of existing violations will not be increased as a result of the project.
- B. The demonstration shall be performed according to the requirements of R18-2-1405 and R18-2-1431.
- C. For projects which are not of the type identified by R18-2-1431(A) or R18-2-1431(D), this criterion may be satisfied if consideration of local factors clearly demonstrates that no local violations presently exist and no new local violations will be created as a result of the project. Otherwise, in CO nonattainment and maintenance areas, a quantitative demonstration shall be performed according to the requirements of R18-2-1431(B).

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1417. Criteria and Procedures: Compliance with PM₁₀ Control Measures

During all periods any FHWA or FTA project shall comply with PM₁₀ control measures in the applicable implementation plan. This condition is satisfied if control measures (for the purpose of limiting PM₁₀ emissions from the construction activities or normal use and operation associated with the project) contained in the applicable implementation plan are included in the final plans, specifications, and estimates for the project.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1418. Criteria and Procedures: Motor Vehicle Emissions Budget (Transportation Plan)

- A. The transportation plan shall be consistent with the motor vehicle emissions budget in the applicable implementation plan or implementation plan submission. This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in R18-2-1436. This criterion may be satisfied if the requirements in subsections (B) and (C) are met:
- B. A regional emissions analysis shall be performed as follows:
 1. The regional analysis shall estimate emissions of any of the following pollutants and pollutant precursors for which the area is in nonattainment or maintenance and for which the applicable implementation plan or implementation plan submission establishes an emissions budget:
 - a. VOC as an ozone precursor.

- b. NO_x as an ozone precursor, unless the Administrator determines that additional reductions of NO_x would not contribute to attainment.
 - c. CO.
 - d. PM₁₀ (and its precursors VOC or NO_x if the applicable implementation plan or implementation plan submission identifies transportation-related precursor emissions within the nonattainment area as a significant contributor to the PM₁₀ nonattainment problem or establishes a budget for such emissions).
 - e. NO_x (in NO₂ nonattainment or maintenance areas).
2. The regional emissions analysis shall estimate emissions from the entire transportation system, including all regionally significant transportation projects contained in the transportation plan and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan.
 3. The emissions analysis methodology shall meet the requirements of R18-2-1430.
 4. For areas with a transportation plan that meets the content requirements of R18-2-1406(A), the emissions analysis shall be performed for each horizon year. Emissions in milestone years which are between the horizon years may be determined by interpolation.
 5. For areas with a transportation plan that does not meet the content requirements of R18-2-1406(A), the emissions analysis shall be performed for all of the following:
 - a. The last year of the plan's forecast period.
 - b. The attainment year, if the attainment year is in the time span of the transportation plan.
 - c. Any other years in the time span of the transportation plan such that there is not a gap of more than 10 years between analysis years. Emissions in milestone years which are between these analysis years may be determined by interpolation.
- C. The regional emissions analysis shall demonstrate that for each of the applicable pollutants or pollutant precursors in subsection (B)(1) the emissions are less than or equal to the motor vehicle emissions budget as established in the applicable implementation plan or implementation plan submission as follows:
 1. If the applicable implementation plan or implementation plan submission establishes emissions budgets for milestone years, emissions in each milestone year are less than or equal to the motor vehicle emissions budget established for that year.
 2. For nonattainment areas, emissions in the attainment year are less than or equal to the motor vehicle emissions budget established in the applicable implementation plan or implementation plan submission for that year.
 3. For nonattainment areas, emissions in each analysis or horizon year after the attainment year are less than or equal to the motor vehicle emissions budget established by the applicable implementation plan or implementation plan submission for the attainment year. If emissions budgets are established for years after the attainment year, emissions in each analysis year or horizon year shall be less than or equal to the motor vehicle emissions budget for that year, if any, or the motor vehicle emissions budget for the most recent budget year prior to the analysis year or horizon year.
 4. For maintenance areas, emissions in each analysis or horizon year are less than or equal to the motor vehicle

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emissions budget established by the maintenance plan for that year, if any, or the emissions budget for the most recent budget year prior to the analysis or horizon year.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1419. Criteria and Procedures: Motor Vehicle Emissions Budget (TIP)

- A. The TIP shall be consistent with the motor vehicle emissions budgets in the applicable implementation plan or implementation plan submission. This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in R18-2-1436. This criterion may be satisfied if the requirements in subsections (B) and (C) are met.
- B. For areas with a conforming transportation plan that fully meets the content requirements of R18-2-1406(A), this criterion may be satisfied without additional regional emissions analysis if:
 1. Each program year of the TIP is consistent with the federal funding which may be reasonably expected for that year, and required state or local matching funds and funds for state or local funding-only projects are consistent with the revenue sources expected over the same period; and
 2. The TIP is consistent with the conforming transportation plan such that the regional emissions analysis already performed for the plan applies to the TIP also. This requires a demonstration that:
 - a. The TIP contains all projects which shall be started in the TIP's time-frame in order to achieve the highway and transit system envisioned by the transportation plan in each of its horizon years;
 - b. All TIP projects which are regionally significant are part of the specific highway or transit system envisioned in the transportation plan's horizon years; and
 - c. The design concept and scope of each regionally significant transportation project in the TIP is not significantly different from that described in the transportation plan.
 3. If the requirements in subsections (B)(1) and (B)(2) are not met, then either:
 - a. The TIP may be modified to meet those requirements; or
 - b. The transportation plan shall be revised so that the requirements in subsections (B)(1) and (B)(2) are met. Once the revised plan has been found to conform, this criterion is met for the TIP with no additional analysis except a demonstration that the TIP meets the requirements of subsections (B)(1) and (B)(2).
- C. For areas with a transportation plan that does not meet the content requirements of R18-2-1406(A), a regional emissions analysis shall meet all of the following requirements:
 1. The regional emissions analysis shall estimate emissions from the entire transportation system, including all projects contained in the proposed TIP, the transportation plan, and all other regionally significant highway and transit projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan.
 2. The analysis methodology shall meet the requirements of R18-2-1430(C).
 3. The regional emissions analysis shall satisfy the requirements of R18-2-1418(B)(1), R18-2-1418(B)(5), and R18-2-1418(C).

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1420. Criteria and Procedures: Motor Vehicle Emissions Budget (Project Not from a Plan and TIP)

- A. The project which is not from a conforming transportation plan and a conforming TIP shall be consistent with the motor vehicle emissions budget in the applicable implementation plan or implementation plan submission. This criterion applies during the transitional period and the control strategy and maintenance periods, except as provided in R18-2-1436. It is satisfied if emissions from the implementation of the project, when considered with the emissions from the projects in the conforming transportation plan and TIP and all other regionally significant transportation projects expected in the area, do not exceed the motor vehicle emissions budget in the applicable implementation plan or implementation plan submission.
- B. For areas with a conforming transportation plan that meets the content requirements of R18-2-1406(A):
 1. This criterion may be satisfied without additional regional analysis if the project is included in the conforming transportation plan, even if it is not specifically included in the latest conforming TIP. This requires a demonstration that all of the following apply:
 - a. Allocating funds to the project will not delay the implementation of projects in the transportation plan or TIP which are necessary to achieve the highway and transit system envisioned by the transportation plan in each of its horizon years.
 - b. The project is not regionally significant or is part of the specific highway or transit system envisioned in the transportation plan's horizon years.
 - c. The design concept and scope of the project is not significantly different from that described in the transportation plan.
 2. If the requirements in subsection (B)(1) are not met, a regional emissions analysis shall be performed as follows:
 - a. The analysis methodology shall meet the requirements of R18-2-1430.
 - b. The analysis shall estimate emissions from the transportation system, including the proposed project and all other regionally significant transportation projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan. The analysis shall include emissions from all previously approved projects which were not from a transportation plan and TIP.
 - c. The regional emissions analysis shall meet the requirements of R18-2-1418(B)(1), R18-2-1418(B)(4) and R18-2-1418(C).
- C. For areas with a transportation plan that does not meet the content requirements of R18-2-1406(A), a regional emissions analysis shall be performed for the project together with the conforming TIP and all other regionally significant transportation projects expected in the nonattainment or maintenance area. This criterion may be satisfied if all of the following apply:
 1. The analysis methodology meets the requirements of R18-2-1430(C).
 2. The analysis estimates emissions from the transportation system, including the proposed project, and all other regionally significant transportation projects expected in the nonattainment or maintenance area in the time-frame of the transportation plan.

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3. The regional emissions analysis satisfies the requirements of R18-2-1418(B)(1), R18-2-1418(B)(5), and R18-2-1418(C).

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1421. Criteria and Procedures: Localized CO Violations (Hot Spots) in the Interim and Transitional Periods

- A. Each FHWA or FTA project shall eliminate or reduce the severity and number of localized CO violations in the area substantially affected by the project (in CO nonattainment areas). This criterion applies during the interim and transitional periods only. This criterion is satisfied with respect to existing localized CO violations if it is demonstrated that existing localized CO violations will be eliminated or reduced in severity and number as a result of the project.
- B. The demonstration shall be performed according to the requirements of R18-2-1405 and R18-2-1431.
- C. For projects which are not of the type identified by R18-2-1431(A), this criterion may be satisfied if consideration of local factors clearly demonstrates that existing CO violations will be eliminated or reduced in severity and number. Otherwise, a quantitative demonstration shall be performed according to the requirements of R18-2-1431(B).

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1422. Criteria and Procedures: Interim and Transitional Period Reductions in Ozone and CO Areas (Transportation Plan)

- A. A transportation plan shall contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in R18-2-1436. It applies to the net effect on emissions of all projects contained in a new or revised transportation plan. This criterion may be satisfied if a regional emissions analysis is performed as described in subsections (B) through (F).
- B. Determine the analysis years for which emissions are to be estimated. Analysis years shall be no more than 10 years apart. The first analysis year shall be no later than the first milestone year (1995 in CO nonattainment areas and 1996 in ozone nonattainment areas). The second analysis year shall be either the attainment year for the area or, if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.
- C. Define the Baseline scenario for each of the analysis years to be the future transportation system that would result from current programs, composed of all of the following, except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:
 1. All in-place regionally significant highway and transit facilities, services and activities.
 2. All ongoing travel demand management or transportation system management activities.
 3. Completion of all regionally significant transportation projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition (except for hardship acquisition and protective buying); come from the first three years of the previously conforming transportation plan or TIP; or have completed the NEPA process. For the first conformity

determination on the transportation plan after November 24, 1993, a project may not be included in the Baseline scenario and shall be included in the Action scenario as described in subsection (D), if one of the following major steps has not occurred within the most recent three-year period:

- a. NEPA process completion;
 - b. Start of final design;
 - c. Acquisition of a significant portion of the right-of-way;
 - d. Approval of the plans, specifications and estimates.
- D. Define the Action scenario for each of the analysis years as the transportation system that will result in that year from the implementation of the proposed transportation plan, TIPs adopted under it, and other expected regionally significant transportation projects in the nonattainment area. The Action scenario will include all of the following except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:
 1. All facilities, services, and activities in the Baseline scenario;
 2. Completion of all TCMs and regionally significant transportation projects, including facilities, services, and activities, specifically identified in the proposed transportation plan which will be operational or in effect in the analysis year, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is identified in the applicable implementation plan;
 3. All travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any federal funding or approval, which have been fully adopted or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the transportation plan;
 4. The incremental effects of any travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any federal funding or approval, which were adopted or funded prior to the date of the last conformity determination on the transportation plan, but which have been modified since then to be more stringent or effective;
 5. Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP;
 6. Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the analysis year.
 - E. Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the Baseline and Action scenarios and determine the difference in regional VOC and NO_x emissions (unless the Administrator determines that additional reductions of NO_x would not contribute to attainment) between the two scenarios for ozone nonattainment areas and the difference in CO emissions between the two scenarios for CO nonattainment areas. The analysis shall be performed for each of the analysis years according to the requirements of R18-2-1430. Emissions in milestone years which are between the analysis years may be determined by interpolation.

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- F. This criterion is met if the regional VOC and NO_x emissions (for ozone nonattainment areas) and CO emissions (for CO nonattainment areas) predicted in the Action scenario are less than the emissions predicted from the Baseline scenario in each analysis year, and if this can reasonably be expected to be true in the periods between the first milestone year and the analysis years. The regional analysis shall show that the Action scenario contributes to a reduction in emissions from the 1990 emissions by any nonzero amount.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1423. Criteria and Procedures: Interim Period Reductions in Ozone and CO Areas (TIP)

- A. A TIP shall contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in R18-2-1436. It applies to the net effect on emissions of all projects contained in a new or revised TIP. This criterion may be satisfied if a regional emissions analysis is performed as described in subsections (B) through (F).
- B. Determine the analysis years for which emissions are to be estimated. The first analysis year shall be no later than the first milestone year (1995 in CO nonattainment areas and 1996 in ozone nonattainment areas). The analysis years shall be no more than 10 years apart. The second analysis year shall be either the attainment year for the area or, if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.
- C. Define the Baseline scenario as the future transportation system that would result from current programs, composed of all of the following, except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:
1. All in-place regionally significant highway and transit facilities, services, and activities.
 2. All ongoing travel demand management or transportation system management activities.
 3. Completion of all regionally significant transportation projects, regardless of funding source, which are currently under construction or are undergoing right-of-way acquisition, except for hardship acquisition and protective buying; come from the first three years of the previously conforming TIP; or have completed the NEPA process. For the first conformity determination on the TIP after November 24, 1993, a project may not be included in the Baseline scenario if one of the following major steps has not occurred within the most recent three-year period:
 - a. NEPA process completion.
 - b. Start of final design.
 - c. Acquisition of a significant portion of the right-of-way.
 - d. Approval of the plans, specifications, and estimates. Such a project shall be included in the Action scenario, as described in subsection (D).
- D. Define the Action scenario as the future transportation system that will result from the implementation of the proposed TIP and other expected regionally significant transportation projects in the nonattainment area in the time-frame of the transportation plan. It will include all of the following, except that projects listed in R18-2-1434 and R18-2-1435 need not be explicitly considered:
1. All facilities, services, and activities in the Baseline scenario;
 2. Completion of all TCMs and regionally significant transportation projects, including facilities, services, and activities, included in the proposed TIP, except that regulatory TCMs may not be assumed to begin at a future time unless the regulation is already adopted by the enforcing jurisdiction or the TCM is contained in the applicable implementation plan;
 3. All travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any federal funding or approval, which have been fully adopted or funded by the enforcing jurisdiction or sponsoring agency since the last conformity determination on the TIP;
 4. The incremental effects of any travel demand management programs and transportation system management activities known to the MPO, but not included in the applicable implementation plan or utilizing any federal funding or approval, which were adopted or funded prior to the date of the last conformity determination on the TIP, but which have been modified since then to be more stringent or effective;
 5. Completion of all expected regionally significant highway and transit projects which are not from a conforming transportation plan and TIP;
 6. Completion of all expected regionally significant non-FHWA/FTA highway and transit projects that have clear funding sources and commitments leading toward their implementation and completion by the analysis year.
- E. Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the Baseline and Action scenarios, and determine the difference in regional VOC and NO_x emissions (unless the Administrator determines that additional reductions of NO_x would not contribute to attainment) between the two scenarios for ozone nonattainment areas and the difference in CO emissions between the two scenarios for CO nonattainment areas. The analysis shall be performed for each of the analysis years according to the requirements of R18-2-1430. Emissions in milestone years which are between analysis years may be determined by interpolation.
- F. This criterion is met if the regional VOC and NO_x emissions in ozone nonattainment areas and CO emissions in CO nonattainment areas predicted in the Action scenario are less than the emissions predicted from the Baseline scenario in each analysis year, and if this can reasonably be expected to be true in the period between the analysis years. The regional analysis shall show that the Action scenario contributes to a reduction in emissions from the 1990 emissions by any nonzero amount.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1424. Criteria and Procedures: Interim Period Reductions for Ozone and CO Areas (Project Not from a Plan and TIP)

A transportation project shall contribute to emissions reductions in ozone and CO nonattainment areas. This criterion applies during the interim and transitional periods only, except as otherwise provided in R18-2-1436. This criterion is satisfied if a regional emissions analysis is performed which meets the requirements of R18-2-1422 and which includes the transportation plan and project in the Action scenario. If the project which is not from a conforming

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transportation plan and TIP is a modification of a project currently in the plan or TIP, the Baseline scenario shall include the project with its original design concept and scope, and the Action scenario shall include the project with its new design concept and scope.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1425. Criteria and Procedures: Interim Period Reductions for PM₁₀ and NO₂ Areas (Transportation Plan)

- A. A transportation plan shall contribute to emission reductions or shall not increase emissions in PM₁₀ and NO₂ nonattainment areas. This criterion applies only during the interim and transitional periods. It applies to the net effect on emissions of all projects contained in a new or revised transportation plan. This criterion may be satisfied if the requirements of either subsections (B) or (C) are met.
- B. Demonstrate that implementation of the plan and all other regionally significant transportation projects expected in the nonattainment area will contribute to reductions in emissions of PM₁₀ in a PM₁₀ nonattainment area, and of each transportation-related precursor of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional Administrator or the Director of ADEQ has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and USDOT, and of NO_x in an NO₂ nonattainment area, by performing a regional emissions analysis as follows:
 1. Determine the analysis years for which emissions are to be estimated. Analysis years shall be no more than 10 years apart. The first analysis year shall be no later than 1996 (for NO₂ areas) or four years and six months following the date of designation (for PM₁₀ areas). The second analysis year shall be either the attainment year for the area or, if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.
 2. Define for each of the analysis years the Baseline scenario, as defined in R18-2-1422(C), and the Action scenario, as defined in R18-2-1422(D).
 3. Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the Baseline and Action scenarios and determine the difference between the two scenarios in regional PM₁₀ emissions in a PM₁₀ nonattainment area (and transportation-related precursors of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional Administrator or the Director of ADEQ has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified ADOT, the MPO where one exists and USDOT) and in NO_x emissions in an NO₂ nonattainment area. The analysis shall be performed for each of the analysis years according to the requirements of R18-2-1430. The analysis shall address the periods between the analysis years and the periods between 1990, the first milestone year if any, and the first of the analysis years. Emissions in milestone years which are between the analysis years may be determined by interpolation.
 4. Demonstrate that the regional PM₁₀ emissions and PM₁₀ precursor emissions, where applicable, (for PM₁₀ nonattainment areas) and NO_x emissions (for NO₂ nonattainment areas) predicted in the Action scenario are less than

the emissions predicted from the Baseline scenario in each analysis year, and that this can reasonably be expected to be true in the periods between the first milestone year (if any) and the analysis years.

- C. Demonstrate that when the projects in the transportation plan and all other regionally significant transportation projects expected in the nonattainment area are implemented, the transportation system's total highway and transit emissions of PM₁₀ in a PM₁₀ nonattainment area (and transportation-related precursors of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional Administrator or the Director of ADEQ has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and USDOT) and of NO_x in an NO₂ nonattainment area will not be greater than baseline levels, by performing a regional emissions analysis as follows:
 1. Determine the baseline regional emissions of PM₁₀ and PM₁₀ precursors, where applicable (for PM₁₀ nonattainment areas) and NO_x (for NO₂ nonattainment areas) from highway and transit sources. Baseline emissions are those estimated to have occurred during calendar year 1990, unless the control strategy implementation plan for that area includes a baseline emissions inventory for a different year.
 2. Estimate the emissions of the applicable pollutant or pollutants from the entire transportation system, including projects in the transportation plan and TIP and all other regionally significant transportation projects in the nonattainment area, according to the requirements of R18-2-1430. Emissions shall be estimated for analysis years which are no more than 10 years apart. The first analysis year shall be no later than 1996 (for NO₂ areas) or four years and six months following the date of designation (for PM₁₀ areas). The second analysis year shall be either the attainment year for the area or, if the attainment year is the same as the first analysis year or earlier, the second analysis year shall be at least five years beyond the first analysis year. The last year of the transportation plan's forecast period shall also be an analysis year.
 3. Demonstrate that for each analysis year the emissions estimated in subsection (C)(2) are no greater than baseline emissions of PM₁₀ and PM₁₀ precursors, where applicable (for PM₁₀ nonattainment areas) or NO_x (for NO₂ nonattainment areas) from highway and transit sources.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1426. Criteria and Procedures: Interim Period Reductions for PM₁₀ and NO₂ Areas (TIP)

- A. A TIP shall contribute to emission reductions or shall not increase emissions in PM₁₀ and NO₂ nonattainment areas. This criterion applies only during the interim and transitional periods. It applies to the net effect on emissions of all projects contained in a new or revised TIP. This criterion may be satisfied if the requirements of either subsection (B) or subsection (C) are met.
- B. Demonstrate that implementation of the plan and TIP and all other regionally significant transportation projects expected in the nonattainment area will contribute to reductions in emissions of PM₁₀ in a PM₁₀ nonattainment area (and transportation-related precursors of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional Administrator or the Director of ADEQ has

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made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and USDOT) and of NO_x in an NO₂ nonattainment area, by performing a regional emissions analysis as follows:

1. Determine the analysis years for which emissions are to be estimated, according to the requirements of R18-2-1425(B)(1).
 2. Define for each of the analysis years the Baseline scenario, as defined in R18-2-1423(C), and the Action scenario, as defined in R18-2-1423(D).
 3. Estimate the emissions predicted to result in each analysis year from travel on the transportation systems defined by the Baseline and Action scenarios as required by R18-2-1425(B)(3), and make the demonstration required by R18-2-1425(B)(4).
- C. Demonstrate that when the projects in the transportation plan and TIP and all other regionally significant transportation projects expected in the area are implemented, the transportation system's total highway and transit emissions of PM₁₀ in a PM₁₀ nonattainment area (and transportation-related precursors of PM₁₀ in PM₁₀ nonattainment areas if the EPA Regional Administrator or the Director of ADEQ has made a finding that such precursor emissions from within the nonattainment area are a significant contributor to the PM₁₀ nonattainment problem and has so notified the MPO and USDOT) and of NO_x in an NO₂ nonattainment area will not be greater than baseline levels, by performing a regional emissions analysis as required by R18-2-1425(C).

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1427. Criteria and Procedures: Interim Period Reductions for PM₁₀ and NO₂ Areas (Project Not from a Plan and TIP)

A transportation project which is not from a conforming transportation plan and TIP shall contribute to emission reductions or shall not increase emissions in PM₁₀ and NO₂ nonattainment areas. This criterion applies during the interim and transitional periods only. This criterion is met if a regional emissions analysis is performed which meets the requirements of R18-2-1425 and which includes the transportation plan and project in the Action scenario. If the project which is not from a conforming transportation plan and TIP is a modification of a project currently in the transportation plan or TIP, and R18-2-1425(B) is used to demonstrate satisfaction of this criterion, the Baseline scenario shall include the project with its original design concept and scope, and the Action scenario shall include the project with its new design concept and scope.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1428. Transition from the Interim Period to the Control Strategy Period

- A. For areas which submit a control strategy implementation plan revision after November 24, 1993:
1. The transportation plan and TIP shall be demonstrated to conform according to transitional period criteria and procedures by one year from the date the CAA requires submission of such control strategy implementation plan revision. Otherwise, the conformity status of the transportation plan and TIP will lapse, and no new project-level conformity determinations may be made.
 - a. The conformity of new transportation plans and TIPs may be demonstrated according to Phase II

interim period criteria and procedures for 90 days following submission of the control strategy implementation plan revision, provided the conformity of such transportation plans and TIPs is redetermined according to transitional period criteria and procedures as required in subsection (A)(1) and such transportation plans and TIPs are consistent with the motor vehicle emissions budget in the applicable implementation plan or any previously submitted control strategy implementation plan revision.

- b. Beginning 90 days after submission of the control strategy implementation plan revision, new transportation plans and TIPs shall demonstrate conformity according to transitional period criteria and procedures.
 2. If EPA disapproves the submitted control strategy implementation plan revision and so notifies the state, the MPO where one exists, and USDOT, which initiates the sanction process under CAA §§ 179 or 110(m), the conformity status of the transportation plan and TIP shall lapse 120 days after EPA's disapproval, and no new project-level conformity determinations may be made. No new transportation plan, TIP, or project may be found to conform until another control strategy implementation plan revision is submitted and conformity is demonstrated according to transitional period criteria and procedures.
 3. Notwithstanding subsection (A)(2), if EPA disapproves the submitted control strategy implementation plan revision but determines that the control strategy contained in the revision would have been considered approvable with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by CAA § 110(a)(2)(A), the provisions of subsection (A)(1) shall apply for 12 months following the date of disapproval. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of disapproval unless another control strategy implementation plan revision is submitted to EPA and found to be complete.
- B. For areas which have not submitted a control strategy implementation plan revision:
1. For areas whose CAA deadline for submission of the control strategy implementation plan revision is after November 24, 1993, and EPA has notified the state, the MPO where one exists, and USDOT of the state's failure to submit a control strategy implementation plan revision, which initiates the sanction process under CAA §§ 179 or 110(m) all of the following shall apply:
 - a. No new transportation plans or TIPs may be found to conform beginning 120 days after the CAA deadline.
 - b. The conformity status of the transportation plan and TIP shall lapse one year after the CAA deadline, and no new project-level conformity determinations may be made.
 2. For areas whose CAA deadline for submission of the control strategy implementation plan was before November 24, 1993, and EPA has made a finding of failure to submit a control strategy implementation plan revision, which initiates the sanction process under CAA §§ 179 or 110(m), all of the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:

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- a. No new transportation plans or TIPs may be found to conform beginning March 24, 1994.
 - b. The conformity status of the transportation plan and TIP shall lapse November 25, 1994, and no new project-level conformity determinations may be made.
- C. For areas which have not submitted a complete control strategy implementation plan revision:
- 1. For areas where EPA notifies the state, the MPO where one exists, and USDOT after November 24, 1993, that the control strategy implementation plan revision submitted by the state is incomplete, which initiates the sanction process under CAA §§ 179 or 110(m), all of the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:
 - a. No new transportation plans or TIPs may be found to conform beginning 120 days after EPA's incompleteness finding.
 - b. The conformity status of the transportation plan and TIP shall lapse one year after the CAA deadline, and no new project-level conformity determinations may be made.
 - c. Notwithstanding subsections (C)(1)(a) and (b), if EPA notes in its incompleteness finding that the submittal would have been considered complete with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by CAA § 110(a)(2)(A), the provisions of subsection (A)(1) shall apply for a period of 12 months following the date of the incompleteness determination. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of the incompleteness determination unless another control strategy implementation plan revision is submitted to EPA and found to be complete.
 - 2. For areas where EPA has determined before November 24, 1993, that the control strategy implementation plan revision is incomplete, which initiates the sanction process under CAA §§ 179 or 110(m), all of the following apply unless the failure has been remedied and acknowledged by a letter from the EPA Regional Administrator:
 - a. No new transportation plans or TIPs may be found to conform beginning March 24, 1994.
 - b. The conformity status of the transportation plan and TIP shall lapse November 25, 1994, and no new project-level conformity determinations may be made.
 - c. Notwithstanding subsections (C)(2)(a) and (b), if EPA notes in its incompleteness finding that the submittal would have been considered complete with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by CAA § 110(a)(2)(A), the provisions of subsection (D)(1) shall apply for a period of 12 months following the date of the incompleteness determination. The conformity status of the transportation plan and TIP shall lapse 12 months following the date of the incompleteness determination unless another control strategy implementation plan revision is submitted to EPA and found to be complete.
- D. For areas which submitted a control strategy implementation plan before November 24, 1993:
- 1. The transportation plan and TIP shall have been demonstrated to conform according to transitional period criteria and procedures by November 25, 1994. Otherwise, their conformity status will lapse, and no new project-level conformity determinations may be made. From and after February 22, 1994, new transportation plans and TIPs shall demonstrate conformity according to transitional period criteria and procedures.
 - 2. If EPA has disapproved the most recent control strategy implementation plan submission, the conformity status of the transportation plan and TIP shall lapse March 24, 1994, and no new project-level conformity determinations may be made. No new transportation plans, TIPs, or projects may be found to conform until another control strategy implementation plan revision is submitted and conformity is demonstrated according to transitional period criteria and procedures.
 - 3. Notwithstanding subsection (D)(2), if EPA has disapproved the submitted control strategy implementation plan revision but determines that the control strategy contained in the revision would have been considered approvable with respect to requirements for emission reductions if all committed measures had been submitted in enforceable form as required by CAA § 110(a)(2)(A), the provisions of subsection (D)(1) shall apply until November 25, 1994. The conformity status of the transportation plan and TIP shall lapse November 25, 1994, unless another control strategy implementation plan revision is submitted to EPA and found to be complete.
- E. If the currently conforming transportation plan and TIP have not been demonstrated to conform according to transitional period criteria and procedures, the requirements of subsections (E)(1) and (2) shall be met.
- 1. Before a FHWA or FTA project which is regionally significant and increases single-occupant vehicle capacity (a new general purpose highway on a new location or adding general purpose lanes) may be found to conform, ADEQ shall be consulted on how the emissions which the existing transportation plan and TIP's conformity determination estimates for the Action scenario, as required by R18-2-1422 through R18-2-1427, compare to the motor vehicle emissions budget in the implementation plan submission or the projected motor vehicle emissions budget in the implementation plan under development.
 - 2. In the event of unresolved disputes on such project-level conformity determinations, ADEQ may escalate the issue to the governor consistent with the procedure in R18-2-1405, which applies for ADEQ comments on a conformity determination.
- F. Redetermination of conformity of the existing transportation plan and TIP according to the transitional period criteria and procedures:
- 1. The redetermination of the conformity of the existing transportation plan and TIP according to transitional period criteria and procedures (as required by subsections (A)(1) and (D)(1)) does not require new emissions analysis and does not have to satisfy the requirements of R18-2-1410 and R18-2-1411 if all of the following are met:
 - a. The control strategy implementation plan revision submitted to EPA uses the MPO's modeling of the existing transportation plan and TIP for its projections of motor vehicle emissions.

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- b. The control strategy implementation plan does not include any transportation projects which are not included in the transportation plan and TIP.
2. A redetermination of conformity as described in subsection (F)(1) is not considered a conformity determination for the purposes of R18-2-1404(E) or R18-2-1404(I) regarding the maximum intervals between conformity determinations. Conformity shall be determined according to all the applicable criteria and procedures of R18-2-1409 within three years of the last determination which did not rely on subsection (F)(1).
- G. Ozone nonattainment areas:**
1. The requirements of subsection (B)(1) apply if a serious or above ozone nonattainment area has not submitted the implementation plan revisions which CAA §§ 182(c)(2)(A) and 182(c)(2)(B) require to be submitted to EPA November 15, 1994, even if the area has submitted the implementation plan revision which CAA § 182(b)(1) requires to be submitted to EPA November 15, 1993.
 2. The requirements of subsection (B)(1) apply if a moderate ozone nonattainment area which is using photochemical dispersion modeling to demonstrate the "specific annual reductions as necessary to attain" required by CAA § 182(b)(1), and which has permission from EPA to delay submission of such demonstration until November 15, 1994, does not submit such demonstration by that date. The requirements of subsection (B)(1) apply in this case even if the area has submitted the 15% emission reduction demonstration required by CAA § 182(b)(1).
 3. The requirements of subsection (A) apply when the implementation plan revisions required by CAA §§ 182(c)(2)(A) and 182(c)(2)(B) are submitted.
- H. Nonattainment areas which are not required to demonstrate reasonable further progress and attainment.** If an area listed in R18-2-1436 submits a control strategy implementation plan revision, the requirements of subsections (A) and (E) apply. Because the areas listed in R18-2-1436 are not required to demonstrate reasonable further progress and attainment and therefore have no CAA deadline, the provisions of subsection (B) do not apply to these areas at any time.
- I. If a control strategy implementation plan revision is not submitted to EPA but a maintenance plan required by CAA § 175A is submitted to EPA, the requirements of subsection (A) or (D) apply, with the maintenance plan submission treated as a "control strategy implementation plan revision" for the purposes of those requirements.**
- J. This Section does not become effective until June 1, 1996.**
- Historical Note**
Adopted effective June 15, 1995 (Supp. 95-2).
- R18-2-1429. Requirements for Adoption or Approval of Projects by Recipients of Funds Designated under 23 U.S.C. or the Federal Transit Act**
- A.** This Section shall not apply to any of the following:
1. A transportation project that is a street with a lower classification than a collector street, as specified in the most recent federal classification map for the region.
 2. An exempt project listed in R18-2-1434.
- B.** No recipient of federal funds designated under 23 U.S.C. or the Federal Transit Act shall adopt or approve a transportation project, regardless of funding source, without first determining whether the transportation project is regionally significant. In making this determination, the recipient shall not take any action that is inconsistent with the procedures developed by ADOT or the MPO pursuant to R18-2-1405(R).
- C.** No recipient of federal funds designated under 23 U.S.C. or the Federal Transit Act shall adopt or approve a regionally significant highway or transit project, regardless of funding source, unless both of the following apply:
1. There is a currently conforming transportation plan and TIP consistent with the requirements of R18-2-1414.
 2. The requirements of one of the following are met:
 - a. The project comes from a conforming plan and program consistent with the requirements of R18-2-1415.
 - b. The project is included in the regional emissions analysis supporting the currently conforming TIP's conformity determination, even if the project is not strictly "included" in the TIP for the purposes of MPO project selection or endorsement, and the project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis, or in a manner which would significantly impact use of the facility.
 - c. During the control strategy or maintenance period, the project is consistent with the motor vehicle emissions budget in the applicable implementation plan consistent with the requirements of R18-2-1420.
 - d. During Phase II of the interim period, the project contributes to emissions reductions or does not increase emissions consistent with the requirements of R18-2-1424 (in ozone and CO nonattainment areas) or R18-2-1427 (in PM₁₀ and NO₂ nonattainment areas).
 - e. During the transitional period, the project satisfies the requirements of both subsections (1)(2)(c) and (d).
- D.** Pursuant to the consultation process established in R18-2-1405(O), ADOT or the MPO where one exists shall, not later than September 1, 1995, develop and make available the procedures to be used by any recipient of federal funds designated under 23 U.S.C. or the Federal Transit Act to comply with subsections (B) and (C). These procedures may be revised periodically, as needed, using the same consultation process. At a minimum, such procedures shall provide for the following:
1. The minimum information required by the recipient to make determinations in compliance with subsections (B) and (C);
 2. The time-frames for action to be taken by the recipient;
 3. For transportation projects determined to be regionally significant, the documentation necessary to demonstrate that the requirements of 23 CFR 450.324(e), (g), and (h) have been met.
- E.** After a transportation project is adopted or approved, no subsequent act defined as adoption or approval under this Section or under procedures developed to implement this Section shall be subject to subsection (B) or (C), unless project's design concept or scope have changed significantly since the project was first adopted or approved.
- F.** A regionally significant transportation project found to be in conformity, either as a result of a TIP or a separate project analysis, shall retain such conformity finding, irrespective of subsequent analysis, unless the project fails to meet the conditions of its approval or undergoes a significant change in scope. In any event, a conformity determination shall lapse after three years in the absence of a redetermination; except that a project undergoing NEPA approval shall retain its con-

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formity determination, unless none of the following major steps has occurred within the most recent three-year period:

1. NEPA process completion;
2. Start of final design;
3. Acquisition of a significant portion of the right-of-way;
4. Approval of the plans, specifications, and estimates.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1430. Procedures for Determining Regional Transportation-related Emissions

A. The following are general requirements for determining regional transportation-related emissions:

1. The regional emissions analysis for the transportation plan, TIP, or project not from a conforming plan and TIP shall include all regionally significant transportation projects expected in the nonattainment or maintenance area, including FHWA or FTA projects proposed in the transportation plan and TIP and all other regionally significant transportation projects which are disclosed to ADOT or the MPO as required by R18-2-1405. Projects which are not regionally significant are not required to be explicitly modeled, but VMT from such projects shall be estimated in accordance with reasonable professional practice. The effects of TCMs and similar projects that are not regionally significant may also be estimated in accordance with reasonable professional practice.
2. The emissions analysis may not include for emissions reduction credit any TCMs which have been delayed beyond the scheduled date until such time as implementation has been assured. If the TCM has been partially implemented and it can be demonstrated that it is providing quantifiable emission reduction benefits, the emissions analysis may include that emissions reduction credit.
3. Emissions reduction credit from projects, programs, or activities which require a regulation in order to be implemented may not be included in the emissions analysis unless the regulation is already adopted by the enforcing jurisdiction. Adopted regulations are required for demand management strategies for reducing emissions which are not specifically identified in the applicable implementation plan, and for control programs which are external to the transportation system itself, such as tailpipe or evaporative emission standards, limits on gasoline volatility, inspection and maintenance programs, and oxygenated or reformulated gasoline or diesel fuel. A regulatory program may also be considered to be adopted if an opt-in to a federally enforced program has been approved by EPA, if EPA has promulgated the program (if the control program is a federal responsibility, such as tailpipe standards), or if the CAA requires the program without need for individual state action and without any discretionary authority for EPA to set its stringency, delay its effective date, or not implement the program.
4. Notwithstanding subsection (A)(3), during the transitional period, control measures or programs which are committed to in an implementation plan submission as described in R18-2-1418 through R18-2-1420, but which has not received final EPA action in the form of a finding of incompleteness, approval, or disapproval, may be assumed for emission reduction credit for the purpose of demonstrating that the requirements of R18-2-1418 through R18-2-1420 are satisfied.

5. A regional emissions analysis for the purpose of satisfying the requirements of R18-2-1422 through R18-2-1424 may account for the programs in subsection (A)(4), but the same assumptions about these programs shall be used for both the Baseline and Action scenarios.

6. Ambient temperatures shall be consistent with those used to establish the emissions budget in the applicable implementation plan. Factors other than temperatures, for example the fraction of travel in a hot stabilized engine mode, may be modified after interagency consultation according to R18-2-1405 if the newer estimates incorporate additional or more geographically specific information or represent a logically estimated trend in such factors beyond the period considered in the applicable implementation plan.

B. For serious, severe, and extreme ozone nonattainment areas and serious carbon monoxide areas after January 1, 1995, estimates of regional transportation-related emissions used to support conformity determinations shall be made according to procedures which meet the requirements in subsections (B)(1) through (5).

1. A network-based transportation demand model or models relating travel demand and transportation system performance to land-use patterns, population demographics, employment, transportation infrastructure, and transportation policies shall be used to estimate travel within the metropolitan planning area of the nonattainment area. Such a model shall possess all of the following attributes:
 - a. The modeling methods and the functional relationships used in the model shall in all respects be in accordance with acceptable professional practice and reasonable for purposes of emission estimation.
 - b. The network-based model shall be validated against ground counts for a base year that is not more than 10 years prior to the date of the conformity determination. Land use, population, and other inputs shall be based on the best available information and appropriate to the validation base year.
 - c. For peak-hour or peak-period traffic assignments, a capacity sensitive assignment methodology shall be used.
 - d. Zone-to-zone travel times used to distribute trips between origin and destination pairs shall be in reasonable agreement with the travel times which result from the process of assignment of trips to network links. Where use of transit currently is anticipated to be a significant factor in satisfying transportation demand, these times should also be used for modeling mode splits.
 - e. Free-flow speeds on network links shall be based on empirical observations.
 - f. Peak and off-peak travel demand and travel times shall be provided.
 - g. Trip distribution and mode choice shall be sensitive to pricing, where pricing is a significant factor, if the network model is capable of such determinations and the necessary information is available.
 - h. The model shall utilize and document a logical correspondence between the assumed scenario of land development and use and the future transportation system for which emissions are being estimated. Reliance on a formal land-use model is not specifically required but is encouraged.

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- i. A dependence of trip generation on the accessibility of destinations via the transportation system, including pricing, is strongly encouraged but not specifically required, unless the network model is capable of such determinations and the necessary information is available.
 - j. A dependence of regional economic and population growth on the accessibility of destinations via the transportation system is strongly encouraged but not specifically required, unless the network model is capable of such determinations and the necessary information is available.
 - k. Consideration of emissions increases from construction-related congestion is not specifically required.
2. Highway Performance Monitoring System (HPMS) estimates of vehicle miles traveled shall be considered the primary measure of vehicle miles traveled within the portion of the nonattainment or maintenance area and for the functional classes of roadways included in HPMS, for urban areas which are sampled on a separate urban area basis. A factor or factors shall be developed to reconcile and calibrate the network-based model estimates of vehicle miles traveled in the base year of its validation to the HPMS estimates for the same period, and these factors shall be applied to model estimates of future vehicle miles traveled. In this factoring process, consideration will be given to differences in the facility coverage of the HPMS and the modeled network description. Departure from these procedures is permitted with the concurrence of USDOT and EPA.
 3. Reasonable methods shall be used to estimate nonattainment area vehicle travel on off-network roadways within the urban transportation planning area and on roadways outside the urban transportation planning area.
 4. Reasonable methods in accordance with good practice shall be used to estimate traffic speeds and delays in a manner that is sensitive to the estimated volume of travel on each roadway segment represented in the network model.
- C. For areas which are not serious, severe, or extreme ozone nonattainment areas or serious carbon monoxide areas, or before January 1, 1995:
1. Procedures which satisfy some or all of the requirements of subsection (A) shall be used in all areas not subject to subsection (A) in which those procedures have been the previous practice of the MPO.
 2. Regional emissions may be estimated by methods which do not explicitly or comprehensively account for the influence of land use and transportation infrastructure on vehicle miles traveled and traffic speeds and congestion. Such methods shall account for VMT growth by extrapolating historical VMT or projecting future VMT by considering growth in population and historical growth trends for vehicle miles travelled per person. These methods shall also consider future economic activity, transit alternatives, and transportation system policies.
- D. This subsection applies to any nonattainment or maintenance area or any portion thereof which does not have a metropolitan transportation plan or TIP and whose projects are not part of the emissions analysis of any MPO's metropolitan transportation plan or TIP (because the nonattainment or maintenance area or portion thereof does not contain a metropolitan planning area or portion of a metropolitan planning area and is not part of a Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area which is or contains a nonattainment or maintenance area).
1. Conformity demonstrations for projects in these areas may satisfy the requirements of R18-2-1420, R18-2-1424, and R18-2-1427 with one regional emissions analysis which includes all the regionally significant transportation projects in the nonattainment or maintenance area or portion thereof.
 2. The requirements of R18-2-1420 shall be satisfied according to the procedures in R18-2-1420(C), with references to the "transportation plan" taken to mean the statewide transportation plan.
 3. The requirements of R18-2-1424 and R18-2-1427 which reference "transportation plan" or "TIP" shall be taken to mean those projects in the statewide transportation plan or statewide TIP which are in the nonattainment or maintenance area or portion thereof.
 4. The requirement of R18-2-1429(A)(2) shall be satisfied if all of the following are met:
 - a. The project is included in the regional emissions analysis which includes all regionally significant highway and transportation projects in the nonattainment or maintenance area or portion thereof and supports the most recent conformity determination made according to the requirements of R18-2-1420, R18-2-1424 or R18-2-1427 (as modified by subsections (D)(2) and (D)(3)), as appropriate for the time period and pollutant.
 - b. The project's design concept and scope have not changed significantly from those which were included in the regional emissions analysis or in a manner which would significantly impact use of the facility.
- E. For areas in which the implementation plan does not identify construction-related fugitive PM₁₀ as a contributor to the nonattainment problem, the fugitive PM₁₀ emissions associated with highway and transit project construction are not required to be considered in the regional emissions analysis.
- F. In PM₁₀ nonattainment and maintenance areas with implementation plans which identify construction-related fugitive PM₁₀ as a contributor to the nonattainment problem, the regional PM₁₀ emissions analysis shall consider construction-related fugitive PM₁₀ and shall account for the level of construction activity, the fugitive PM₁₀ control measures in the applicable implementation plan, and the dust-producing capacity of the proposed activities.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1431. Procedures for Determining Localized CO and PM₁₀ Concentrations (Hot-spot Analysis)

- A. In the following cases, CO hot-spot analyses shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51 Appendix W ("Guideline on Air Quality Models (Revised)" (1988), supplement (A) (1987) and supplement (B) (1993), EPA publication no. 450/2-78-027R, incorporated by reference and on file with the Department and with the Secretary of State), unless, after the interagency consultation process described in R18-2-1405 and with the approval of the EPA Regional Administrator, these models, data bases, and other requirements are determined to be inappropriate:
1. For projects in or affecting locations, areas, or categories of sites which are identified in the applicable implemen-

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tation plan as sites of current violation or possible current violation;

2. For those intersections at Level-of-Service D, E, or F, or those that will change to Level-of-Service D, E, or F because of increased traffic volumes related to a new project in the vicinity;
 3. For any project involving or affecting any of the intersections which the applicable implementation plan identifies as the top three intersections in the nonattainment or maintenance area based on the highest traffic volumes;
 4. For any project involving or affecting any of the intersections which the applicable implementation plan identifies as the top three intersections in the nonattainment or maintenance area based on the worst Level-of-Service;
 5. Where use of the "Guideline" models is practicable and reasonable given the potential for violations.
- B.** In cases other than those described in subsection (A), other quantitative methods may be used if they represent reasonable and common professional practice.
- C.** CO hot-spot analyses shall include the entire project and may be performed only after the major design features which will significantly impact CO concentrations have been identified. The background concentration may be estimated using the ratio of future to current traffic multiplied by the ratio of future to current emission factors.
- D.** PM₁₀ hot-spot analysis shall be performed for projects which are located at sites at which violations have been verified by monitoring, and at sites which have essentially identical vehicle and roadway emission and dispersion characteristics (including sites near one at which a violation has been monitored). The projects which require PM₁₀ hot-spot analysis shall be determined through the interagency consultation process required in R18-2-1405. In PM₁₀ nonattainment and maintenance areas, new or expanded bus and rail terminals and transfer points which increase the number of diesel vehicles congregating at a single location require hot-spot analysis. USDOT may choose to make a categorical conformity determination on bus and rail terminals or transfer points based on appropriate modeling of various terminal sizes, configurations, and activity levels. The requirements of this subsection for quantitative hot-spot analysis will not take effect until EPA releases modeling guidance on this subject and announces in the Federal Register that these requirements are in effect.
- E.** Hot-spot analysis assumptions shall be consistent with those in the regional emissions analysis for those inputs which are required for both analyses.
- F.** PM₁₀ or CO mitigation or control measures shall be assumed in the hot-spot analysis only where there are enforceable written commitments from the project sponsor or operator to the implementation of such measures, as required by R18-2-1433(A).
- G.** CO and PM₁₀ hot-spot analyses are not required to consider construction-related activities which cause temporary increases in emissions. Each site which is affected by construction-related activities shall be considered separately, using established "Guideline" methods. Temporary increases are defined as those which occur only during the construction phase and last five years or less at any individual site.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1432. Using the Motor Vehicle Emissions Budget in the Applicable Implementation Plan or Implementation Plan Submission

- A.** In interpreting an applicable implementation plan or implementation plan submission with respect to its motor vehicle emissions budget, ADOT or the MPO where one exists and USDOT may not infer additions to the budget that are not explicitly intended by the implementation plan or submission. Unless the implementation plan explicitly quantifies the amount by which motor vehicle emissions could be higher while still allowing a demonstration of compliance with the milestone, attainment, or maintenance requirement and explicitly states an intent that some or all of this additional amount should be available to ADOT or the MPO and USDOT in the emission budget for conformity purposes, ADOT or the MPO may not interpret the budget to be higher than the implementation plan's estimate of future emissions. This applies in particular to applicable implementation plans or submissions which demonstrate that after implementation of control measures in the implementation plan any of the following apply:
1. Emissions from all sources will be less than the total emissions that would be consistent with a required demonstration of an emissions reduction milestone.
 2. Emissions from all sources will result in achieving attainment prior to the attainment deadline or ambient concentrations in the attainment deadline year will be lower than needed to demonstrate attainment.
 3. Emissions will be lower than needed to provide for continued maintenance.
- B.** If an applicable implementation plan submitted before November 24, 1993, demonstrates that emissions from all sources will be less than the total emissions that would be consistent with attainment and quantifies that "safety margin," the state may submit a SIP revision which assigns some or all of this safety margin to highway and transit mobile sources for the purposes of conformity. Such a SIP revision, once it is endorsed by the governor and has been subject to a public hearing, may be used for the purposes of transportation conformity before it is approved by EPA.
- C.** A conformity demonstration shall not trade emissions among budgets which the applicable implementation plan or implementation plan submission allocates for different pollutants or precursors, or among budgets allocated to motor vehicles and other sources, without a SIP revision or a SIP which establishes mechanisms for such trades.
- D.** If the applicable implementation plan or implementation plan submission estimates future emissions by geographic subarea of the nonattainment area, ADOT or the MPO where one exists and USDOT are not required to consider this to establish subarea budgets, unless the applicable implementation plan or implementation plan submission explicitly indicates an intent to create such subarea budgets for the purposes of conformity.
- E.** If a nonattainment area includes more than one MPO, the SIP may establish motor vehicle emissions budgets for each MPO. Otherwise, the MPOs shall collectively make a conformity determination for the entire nonattainment area.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1433. Enforceability of Design Concept and Scope and Project-level Mitigation and Control Measures

- A.** Prior to determining that a transportation project is in conformity, ADOT, the MPO where one exists, other recipient of funds designated under 23 U.S.C. or the Federal Transit Act, FHWA, or FTA shall obtain from the project sponsor or operator enforceable written commitments to implement in the construction of the project and operation of the resulting facility or

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service any project-level mitigation or control measures which are identified as conditions for NEPA process completion with respect to local PM₁₀ or CO impacts. Before making conformity determinations enforceable written commitments shall also be obtained for project-level mitigation or control measures which are conditions for making conformity determinations for a transportation plan or TIP and included in the project design concept and scope which is used in the regional emissions analysis required by R18-2-1418 through R18-2-1420 and R18-2-1422 through R18-2-1424 or used in the project-level hot-spot analysis required by R18-2-1416 and R18-2-1421.

- B. Project sponsors voluntarily committing to mitigation measures to facilitate positive conformity determinations shall provide enforceable written commitments and comply with the obligations of such commitments.
- C. Enforceable written commitments to mitigation or control measures shall be obtained prior to a positive conformity determination, and that project sponsors shall comply with such commitments.
- D. During the control strategy and maintenance periods, if ADOT, the MPO, or project sponsor believes the mitigation or control measure is no longer necessary for conformity, the project sponsor or operator may be relieved of its obligation to implement the mitigation or control measure if it can demonstrate that the requirements of R18-2-1416, R18-2-1418, and R18-2-1419 are satisfied without the mitigation or control measure and so notifies the agencies involved in the inter-agency consultation process required under R18-2-1405. ADOT or the MPO where one exists and USDOT shall confirm that the transportation plan and TIP still satisfy the requirements of R18-2-1418 and R18-2-1419 and that the project still satisfies the requirements of R18-2-1416, and therefore that the conformity determinations for the transportation plan, TIP, and project are still valid.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1434. Exempt Projects

Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 2 are exempt from the requirement that a conformity determination be made. Such projects may proceed toward implementation even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 2 is not exempt if ADOT or the MPO where one exists in consultation with other agencies pursuant to R18-2-1405, the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potentially adverse emissions impacts for any reason. States and MPOs shall ensure that exempt projects do not interfere with TCM implementation.

Table 2. Exempt Projects
Exempt Projects
SAFETY

1. Railroad or highway crossing.
2. Hazard elimination program.
3. Safer non-federal-aid system roads.
4. Shoulder improvements.
5. Increasing sight distance.
6. Safety improvement program.
7. Traffic control devices and operating assistance other than signalization projects.
8. Railroad or highway crossing warning devices.
9. Guardrails, median barriers, crash cushions.
10. Pavement resurfacing or rehabilitation.

11. Pavement marking demonstration.
12. Emergency relief (23 U.S.C. 125).
13. Fencing.
14. Skid treatments.
15. Safety roadside rest areas.
16. Adding medians.
17. Truck climbing lanes outside the urbanized area.
18. Lighting improvements.
19. Widening narrow pavements or reconstructing bridges (no additional travel lanes).
20. Emergency truck pullovers.

MASS TRANSIT

1. Operating assistance to transit agencies.
2. Purchase of support vehicles.
3. Rehabilitation of transit vehicles. (In PM₁₀ nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.)
4. Purchase of office, shop, and operating equipment for existing facilities.
5. Purchase of operating equipment for vehicles (e.g., radios, fareboxes, lifts, etc.).
6. Construction or renovation of power, signal, and communications systems.
7. Construction of small passenger shelters and information kiosks.
8. Reconstruction or renovation of transit buildings and structures (e.g., rail or bus buildings, storage and maintenance facilities, stations, terminals, and ancillary structures).
9. Rehabilitation or reconstruction of track structures, track, and trackbed in existing rights-of-way.
10. Purchase of new buses and rail cars to replace existing vehicles or for minor expansions of the fleet. (In PM₁₀ nonattainment or maintenance areas, such projects are exempt only if they are in compliance with control measures in the applicable implementation plan.)
11. Construction of new bus or rail storage or maintenance facilities categorically excluded in 23 CFR 771.

AIR QUALITY

1. Continuation of ride-sharing and van-pooling promotion activities at current levels.
2. Bicycle and pedestrian facilities.

OTHER

1. Specific activities which do not involve or lead directly to construction, such as:
 - a. Planning and technical studies.
 - b. Grants for training and research programs.
 - c. Planning activities conducted pursuant to Titles 23 and 49 U.S.C.
 - d. Federal-aid systems revisions.
2. Engineering to assess social, economic and environmental effects of the proposed action or alternatives to that action.
3. Noise attenuation.
4. Advance land acquisitions (23 CFR 712 or 23 CFR 771).
5. Acquisition of scenic easements.
6. Plantings, landscaping, etc.
7. Sign removal.
8. Directional and informational signs.
9. Transportation enhancement activities (except rehabilitation and operation of historic transportation buildings, structures, or facilities).
10. Repair of damage caused by natural disasters, civil unrest, or terrorist acts, except projects involving substantial functional, locational or capacity changes.

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Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1435. Projects Exempt from Regional Emissions Analyses

Notwithstanding the other requirements of this subpart, highway and transit projects of the types listed in Table 3 are exempt from regional emissions analysis requirements. The local effects of these projects with respect to CO or PM₁₀ concentrations shall be considered to determine if a hot-spot analysis is required prior to making a project-level conformity determination. These projects may then proceed to the project development process even in the absence of a conforming transportation plan and TIP. A particular action of the type listed in Table 3 is not exempt from regional emissions analysis if the MPO in consultation with other agencies pursuant to R18-2-1405, the EPA, and the FHWA (in the case of a highway project) or the FTA (in the case of a transit project) concur that it has potential regional impacts for any reason.

Table 3. Projects Exempt From Regional Emissions Analyses

Projects Exempt From Regional Emissions Analyses

1. Intersection channelization projects.
2. Intersection signalization projects at individual intersections.
3. Interchange reconfiguration projects.
4. Changes in vertical and horizontal alignment.
5. Truck size and weight inspection stations.
6. Bus terminals and transfer points.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1436. Special Provisions for Nonattainment Areas Which are Not Required to Demonstrate Reasonable Further Progress and Attainment

- A. This Section applies in the following areas:
 1. Rural transport ozone nonattainment areas,
 2. Marginal ozone areas,
 3. Submarginal ozone areas,
 4. Transitional ozone areas,
 5. Incomplete data ozone areas,
 6. Moderate CO areas with a design value of 12.7 ppm or less,
 7. Not classified CO areas.
- B. The criteria and procedures in R18-2-1422 through R18-2-1424 will remain in effect throughout the control strategy period for transportation plans, TIPs, and projects (not from a conforming plan and TIP) in lieu of the procedures in R18-2-1418 through R18-2-1420, except as otherwise provided in subsection (C).
- C. The state or MPO may voluntarily develop an attainment demonstration and corresponding motor vehicle emissions budget like those required in areas with higher nonattainment classifications. In this case, the state shall submit an implementation plan revision which contains that budget and attainment demonstration. Once EPA has approved this implementation plan revision, the procedures in R18-2-1418 through R18-2-1420 apply in lieu of the procedures in R18-2-1422 through R18-2-1424.

Historical Note

Adopted effective June 15, 1995 (Supp. 95-2).

R18-2-1437. Reserved**R18-2-1438. General Conformity for Federal Actions**

The following subparts of 40 CFR 93, Determining Conformity of Federal Actions to State or Federal Implementation Plans, and all

accompanying appendices, adopted as of July 1, 1994, and no future editions, are incorporated by reference. These standards are on file with the Office of the Secretary of State and with the Department and shall be applied by the Department.

Subpart B - Determining Conformity of General Federal Actions to State or Federal Implementation Plans (58 FR 63253, November 30, 1993).

Historical Note

Adopted effective January 31, 1995 (Supp. 95-1).

ARTICLE 15. FOREST AND RANGE MANAGEMENT BURNS**R18-2-1501. Definitions**

In addition to the definitions contained in A.R.S. § 49-501 and R182-101, in this Article:

1. "Activity fuels" means those fuels created by human activities such as thinning or logging.
2. "ADEQ" means the Arizona Department of Environmental Quality.
3. "Annual emissions goal" means the annual establishment in cooperation with the F/SLMs, under R18-2-1503(G), of a planned quantifiable value of emissions reduction from prescribed fires and fuels management activities.
4. "Assisting" means an agency or organization providing personnel, services, or other resources to the agency with direct responsibility for prescribed fire management.
5. "Burn Accomplishment Form" means the online database form as provided by the director to be completed for each approved or approved with conditions Daily Burn Request, with details of the conducted prescribed burn.
6. "Burn plan" for the purposes of this Article means the ADEQ online database form as provided by the director that includes information on the conditions under which a burn will occur with details of the burn and smoke management prescriptions.
7. "Burn prescription" means, with regard to a burn project, the pre-determined area, fuel, and weather conditions required to attain planned resource management objectives.
8. "Burn project" means an active or planned prescribed burn.
9. "Daily Burn Request" means the online database form as provided by the director that allows burners to request for permission to ignite on a single specific day, submitted under an acknowledged Burn Plan.
10. "Daily Burn Authorization Process" means the daily process by which ADEQ reviews and approves, approves with conditions, or disapproves "Daily Burn Requests" for the following day.
11. "Director" means the Director of ADEQ.
12. "Duff" means forest floor material consisting of decomposing needles and other natural materials.
13. "Emission reduction techniques (ERT)" means methods for controlling emissions from prescribed fires to minimize the amount of emission output per unit of area burned.
14. "Federal land manager (FLM)" means any department, agency, delegee, or agent of the federal government, including the following:
 - a. United States Forest Service,
 - b. United States Fish and Wildlife Service,
 - c. National Park Service,
 - d. Bureau of Land Management,
 - e. Bureau of Reclamation,

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- f. Department of Defense,
 - g. Bureau of Indian Affairs, and
 - h. Natural Resources Conservation Service.
15. "F/SLM" means a federal land manager or a state land manager.
 16. "Local fire management officer" means a person designated by a F/SLM as responsible for fire management in a local district or area.
 17. "National Wildfire Coordinating Group" means the national inter-agency group of federal and state land managers that shares similar wildfire management programs and has established standardized inter-agency training courses and qualifications for fire management positions.
 18. "New Burn Plan" means a Burn Plan that has never been submitted to ADEQ.
 19. "Non-burning alternatives to fire" means techniques that replace fire for at least five years as a means to treat activity fuels created to achieve a particular land management objective (e.g., reduction of fuel-loading, manipulation of fuels, enhancement of wildlife habitat, and ecosystem restoration). These alternatives are not used in conjunction with fire. Techniques used in conjunction with fire are referred to as emission reduction techniques (ERTs).
 20. "Planned resource management objectives" means public interest goals in support of land management agency objectives including silviculture, wildlife habitat management, grazing enhancement, fire hazard reduction, wilderness management, cultural scene maintenance, weed abatement, watershed rehabilitation, vegetative manipulation, and disease and pest prevention.
 21. "Prescribed burning" means the controlled application of fire to wildland fuels that are in either a natural or modified state, under certain burn and smoke management prescription conditions that have been specified by the F/SLM in charge of or assisting the burn, to attain planned resource management objectives. Prescribed burning does not include a fire set or permitted by a public officer to provide instruction in fire-fighting methods, or construction or residential burning under R18-2-602.
 22. "Prescribed Fire Burn Boss" means a person designated by their respective F/SLM with the requisite training and certification to ensure that all ADEQ prescribed fire burn plan specifications and requirements are met before, during, and after a prescribed fire. This includes the following NWCG positions: Prescribed Fire Burn Boss Type 1, Prescribed Fire Burn Boss Type 2, and Prescribed Fire Burn Boss Type 3. A private burner does not qualify as a Burn Boss under this Article.
 23. "Private Burner" means a private person or company assisted by a F/SLM in conducting a prescribed burn under this Article. A person not covered under this definition shall be regulated under A.R.S. § 49-501 and A.A.C. R18-2-602.
 24. "Revised Burn Plan" means any Burn Plan that has been submitted to ADEQ by way of the online database which has remaining un-accomplished acres available and has been revised.
 25. "Smoke management prescription" means the predetermined meteorological conditions that affect smoke transport and dispersion under which a burn could occur without adversely affecting public health and welfare, including transportation networks, considering such factors as National Ambient Air Quality Standard and Class I Visibility Areas.
 26. "Smoke management techniques (SMT)" means management and dispersion practices used during a prescribed burn which affect the direction, duration, height, or density of smoke.
 27. "Smoke management unit" means any of the geographic areas defined by ADEQ whose area is based on primary watershed boundaries and whose outline is determined by diurnal windflow patterns that allow smoke to follow predictable drainage patterns. A map of the state divided into the smoke management units is on file with ADEQ.
 28. "State land manager (SLM)" means any department, agency, or political subdivision of the state government including the following:
 - a. State Land Department,
 - b. Department of Transportation,
 - c. Department of Game and Fish,
 - d. Parks Department,
 - e. Local and Municipal Governments and Agencies,
 - f. Arizona Department of Forestry and Fire Management, and
 - g. Fire Districts.
 29. "Smoke Sensitive Area" means areas where ADEQ determines that smoke and air pollutants can adversely affect public health or welfare. Such areas may include, but are not limited to cities, towns, villages, campgrounds, trails, populated recreational areas, hospitals, nursing homes, schools, roads, airports, public events, shopping centers, and mandatory Class I areas.
 30. "Wildfire" means an unplanned ignition, such as lightning, unauthorized and accidental human fires. Wildfires include those incidents where suppression may be limited for safety, economic, or resource concerns.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
 Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1502. Applicability

- A. A F/SLM that is conducting or assisting a prescribed burn shall follow the requirements of this Article.
- B. A private burner may conduct burns under this Article if assisted by an F/SLM.
- C. The provisions of this Article apply to all areas of the state except Tribal Nations and Communities land which has the same meaning as the term defined in 18 U.S.C. § 1151. All federally managed lands and all state lands, parks, and forests are under the jurisdiction of ADEQ in matters relating to air pollution from prescribed burning.
- D. Notwithstanding subsection (C), any Tribal Nations and Communities may enter into a memorandum of agreement with ADEQ to implement this Article.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
 Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1503. Annual, Program Evaluation and Planning

- A. ADEQ shall hold a meeting after January 31 and before April 1 of each year between ADEQ and F/SLM to evaluate the program and set the annual emissions goals to minimize pre-

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scribed fire emissions to the maximum extent feasible using emission reduction techniques and non-burning alternatives to fire subject to economic, technical, and safety feasibility criteria, and consistent with land management objectives.

- B. Outside of the annual meeting, ADEQ may request additional information about future prescribed burns to support regional coordination of smoke management, annual emission goal setting using ERTs, and non-burning alternatives to fire.
- C. At least once every five years, ADEQ shall request long-term projections of future prescribed fire activity from the F/SLM to support planning for visibility impairment and assessment of air quality concerns by ADEQ.
- D. F/SLM may submit topics to discuss at the yearly meeting by contacting ADEQ.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1504. Prescribed Burn Plan

Each F/SLM planning a prescribed burn shall complete and submit to ADEQ the "Burn Plan" form supplied by ADEQ no later than 14 days before the date on which the F/SLM requests permission to burn. ADEQ shall consider the information supplied on the Burn Plan Form as binding conditions under which the burn shall be conducted. A Burn Plan shall be maintained by ADEQ until notification from the F/SLM of the completion of the burn project. The Burn Plan provisions listed in A.A.C. R18-2-1504(1) through (5), may be revised no later than 2:00 p.m. the business day before the burn. Any other revision to the Burn Plan for a burn project shall be submitted in writing no later than 14 days before the date on which the F/SLM requests permission to burn. ADEQ shall not act on the Daily Burn Request until the Burn Plan is submitted by the F/SLM and acknowledged as complete by ADEQ. To facilitate the Daily Burn Authorization Process under R18-2-1505, the Burn Plan Form shall include:

1. An emergency telephone number that is answered 24 hours a day, seven days a week;
2. Burn prescription;
3. Smoke management prescription;
4. The name of the person submitting the Burn Plan on behalf of the F/SLM;
5. Any other information to support the Burn Plan needed by ADEQ to assist in the Daily Burn Authorization Process for smoke management purposes, prevention of negative impacts on smoke sensitive areas, or assessment of contribution to visibility impairment of Class I areas.
6. The total number of acres in the project to be burned, the quantity and type of fuel, type of burn, and the ignition technique to be used;
7. The land management objective or purpose for the burn such as restoration or maintenance of ecological function and indicators of fire resiliency;
8. A map depicting the potential impact of the smoke unless waived either orally or in writing by ADEQ. The potential impact shall be determined by mapping both the daytime and nighttime smoke path and down-drainage flow for 15 miles from the burn site, with smoke-sensitive areas delineated. The map shall use the appropriate scale to show the impacts of the smoke adequately;
9. Modeling of smoke impacts unless waived either orally or in writing by ADEQ, for burns greater than 250 acres

per day, or greater than 50 acres per day if the burn is within 15 miles of a Class I Area, an area that is nonattainment for particulates, a carbon monoxide nonattainment area, or other smoke-sensitive area. In consultation with the F/SLM, ADEQ shall provide guidelines on modeling.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1505. Prescribed Burn Requests and Authorization

- A. Each F/SLM planning a prescribed burn, shall complete and submit to ADEQ the "Daily Burn Request" form supplied by ADEQ for each day the F/SLM will complete ignitions. The Daily Burn Request form shall include:
 1. The contact information of the F/SLM conducting the burn;
 2. Acknowledgement that a qualified Prescribed Fire Burn Boss is conducting the burn;
 3. Date of the ignition;
 4. The area to be burned on the day for which the Burn Request is submitted, with reference to the Burn Plan, including size, legal location to the section, and latitude and longitude to the minute;
 5. Projected smoke impacts; and
 6. Any local conditions or circumstances known to the F/SLM that, could impact the Daily Burn Authorization Process or the burn.
- B. After consultation and upon request by ADEQ, the F/SLM shall provide additional information related to the burn or any ongoing prescribed fires or wildfires such as: reports, digital photographs, meteorological, smoke dispersion, or air quality conditions to supplement the Daily Burn Request form and to aid in the Daily Burn Authorization Process. F/SLM may coordinate with ADEQ prior to submitting a Daily Burn Request to discuss potential air quality impacts or other concerns.
- C. The F/SLM shall submit the Daily Burn Request form to ADEQ as expeditiously as practicable, but no later than 2:00 p.m. of the business day preceding the burn.
- D. An F/SLM shall not ignite a prescribed burn without receiving the approval of ADEQ, as follows:
 1. ADEQ shall only approve, approve with conditions, or disapprove a burn on the business day before the burn is to take place.
 2. If ADEQ fails to address a Burn Request by 10:00 p.m. the business day before the burn is to take place the Burn Request is approved by default after the burner makes a good faith effort to contact ADEQ to confirm that the Burn Request was received by exhausting available methods of communication, which may include contracting the ADEQ smoke management team directly, as well as the main number for the ADEQ air quality division, and leaving voicemails if there is no response.
 3. ADEQ may communicate its decision by verbal, written, or electronic means. ADEQ shall provide a written or electronic reply if requested by the F/SLM.
- E. If weather conditions cease to conform to those in the smoke management prescription of either the Burn Plan or any conditions on the approval of the applicable Burn Request, the F/SLM shall take appropriate action to reduce

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further smoke impacts, ensure safe and appropriate fire mitigation, and notify the public as per the requirements established by the National Wildfire Coordinating Group or F/SLM equivalent. The F/SLM may modify the smoke management prescription in the Burn Plan after consultation with ADEQ. A F/SLM conducting a burn shall contact ADEQ if there is any change in the burn conditions that ceases to conform with the Burn Plan and could cause negative impacts to smoke sensitive areas and communicate what areas of the submitted smoke management prescription in the Burn Plan need to be modified.

- F.** The F/SLM shall ensure that there is industry-standard signage and notification to protect public safety on transportation corridors including roadways and airports during a prescribed fire.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1506. Smoke Dispersion Evaluation

ADEQ shall approve, approve with conditions, or disapprove a Daily Burn Request submitted under R18-2 1505, by using the following factors for each smoke management unit:

1. Analysis of the emissions from burns in progress and residual emissions from previous burns on a day-to-day basis;
2. Analysis of the emissions from wildfires and consideration of their potential long-term growth;
3. Local burn conditions;
4. Burn prescription and smoke management prescription from the applicable Burn Plan;
5. Existing and predicted local air quality, i.e. meteorological or smoke modeling;
6. Local and synoptic meteorological conditions;
7. Type and location of areas to be burned;
8. Protection of the national visibility goal for Class I Areas under § 169A(a)(1) of the Clean Air Act and 40 CFR 51.309;
9. Assessment of duration and intensity of smoke emissions to minimize cumulative impacts;
10. Minimization of smoke impacts in Class I Areas, areas that are non-attainment for particulate matter, carbon monoxide, and ozone non-attainment areas, or other smoke sensitive areas including transportation corridors;
11. Protection of the National Ambient Air Quality Standards.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1507. Prescribed Burn Accomplishment; Wildfire Reporting

- A.** Each F/SLM conducting a prescribed burn shall complete and submit to ADEQ the "Burn Accomplishment" form supplied by ADEQ. For each burn approval, the F/SLM shall submit a Burn Accomplishment form to ADEQ within seven calendar days following the approved burn. The F/SLM shall include the following information on the Burn Accomplishment form:

1. Any known conditions or circumstances that could impact subsequent Daily Burn approvals;
 2. The date, location, fuel type, fuel loading, and acreage accomplishments;
 3. The ERTs and SMTs described in R18-2-1509 and may include any further ERTs and SMTs that become available, that the F/SLM used to reduce emissions or manage the smoke from the burn.
- B.** The F/SLM shall submit the Burn Accomplishment form as an electronic submittal.
- C.** ADEQ shall maintain a record of Daily Burn Requests, Burn Plan Form Burn Approvals with Conditions, Denials, and Burn Accomplishments data for five years.
- D.** ADEQ may request information about a burn prior to the submission of the Burn Accomplishment Form.
- E.** The F/SLM in whose jurisdiction a wildfire occurs shall, upon request, make available to ADEQ no later than the day after the request is made and may include any necessary information for wildfire incidents, including the location, and estimate of predominant fuel type and quantity consumed, and an estimate of the area blackened that day. The F/SLM shall participate in air quality coordination calls upon request by ADEQ.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1508. Repealed**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4).
Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Repealed by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1509. Emission Reduction and Smoke Management Techniques

- A.** Each F/SLM conducting a prescribed burn shall implement as many Emission Reduction Techniques and Smoke Management Techniques as are feasible subject to economic, technical, and safety feasibility criteria, and land management objectives.
- B.** Emission Reduction Techniques include:
1. Reducing biomass to be burned by use of techniques such as yarding or consolidation of unmerchandisable material, multi-product timber sales, or public firewood access, when economically feasible;
 2. Reducing biomass to be burned by fuel exclusion practices such as preventing the fire from consuming dead snags or dead and downed woody material through lining, application of fire-retardant foam, or water;
 3. Using mass ignition techniques such as aerial ignition by helicopter to produce high intensity fires of high fuel density areas such as logging slash decks;
 4. Burning only fuels essential to meet resource management objectives;
 5. Minimizing consumption and smoldering by burning under conditions of high fuel moisture of duff and litter;
 6. Minimizing fuel consumption and smoldering by burning under conditions of high fuel moisture of large woody fuels;

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7. Minimizing soil content when slash piles are constructed by using brush blades on material-moving equipment and by constructing piles under dry soil conditions or by using hand piling methods;
 8. Burning fuels in piles or windrows;
 9. Using a backing fire in grass fuels;
 10. Burning fuels with an air curtain incinerator, as defined in R18-2-101, operated according to manufacturer specifications and meeting applicable state or local opacity requirements;
 11. Extinguishing or mopping-up of smoldering fuels;
 12. Chunking of piles and other consolidations of burning material to enhance flaming and fuel consumption, and to minimize smoke production;
 13. Burning before litter fall, green-up of fuels, recently cut large fuels cure in areas with fuels reduction activity, and just before precipitation to reduce fuel smoldering and consumption;
 14. Reduce the area burned, by only burning a portion of the area within a designated perimeter or through mosaic burning.
- C. Smoke management techniques include:
1. Burning from March 15 through September 15, when meteorological conditions allow for good smoke dispersion;
 2. Igniting burns under good-to-excellent ventilation conditions;
 3. Suspending operations under poor smoke dispersion conditions;
 4. Considering smoke impacts on local community activities and land users;
 5. Burning piles when other burns are not feasible, such as when snow or rain is present;
 6. Using mass ignition techniques such as aerial ignition by helicopter to produce high combustion efficiency with short duration impacts;
 7. Using all opportunities that meet the burn prescription and all burn locations to spread smoke impacts over a broader time period and geographic area;
 8. Burning during optimum mid-day dispersion hours, with all ignitions in a burn unit completed by 3:00 p.m. to prevent trapping smoke in inversion or diurnal windflow patterns;
 9. Providing information on the adverse impacts of using green or wet wood as fuel when public firewood access is allowed;
 10. Implementing maintenance burning in a periodic rotation to shorten prescribed fire duration and reduce excessive fuel accumulations that could result in excessive smoke production in a wildfire; and
 11. Using fire-management strategies to shift smoke into more favorable smoke dispersion seasons.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2). Amended by final expedited rulemaking at 30 A.A.R. 2422 (July 26, 2024), with an immediate effective date of July 3, 2024 (Supp. 24-3).

R18-2-1510. Repealed**Historical Note**

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1510 renumbered to R18-2-1511; new R18-2-1510 made by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Repealed by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2). Amended by final expedited rulemaking at 30 A.A.R. 2422 (July 26, 2024), with an immediate effective date of July 3, 2024 (Supp. 24-3).

R18-2-1511. Monitoring

- A. ADEQ may require a F/SLM to monitor air quality before, during, or after a prescribed burn as reasonably necessary to assess smoke impacts. Air quality monitoring may be conducted using both federal and non-federal reference methods, as well as other techniques including but not limited to digital photographs, video calling, webcams, visibility monitors, and air quality sensors.
- B. Unless waived by ADEQ, a F/SLM shall conduct a test burn at the burn site to verify the needed wind speed, direction, and stability, for burns greater than 250 acres per day, or greater than 50 acres per day if the burn is within 15 miles of a Class I Area, an area that is non-attainment for particulate matter, carbon monoxide, or ozone, or other smoke sensitive area.
- C. An F/SLM shall make monitoring information required under subsection (B) available to ADEQ on the business day following the burn ignition, if an instantaneous method was not used to convey the information.
- D. The F/SLM shall keep on file for one year following the burn date any monitoring information required under this Section.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1511 renumbered to R18-2-1512; new R18-2-1511 renumbered from R18-2-1510 and amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1512. Burner Qualifications

- A. All burn projects shall be conducted by personnel trained and certified in prescribed fire and smoke management techniques. Burn project personnel shall be trained in the fire and smoke management techniques required by the F/SLM in charge of the burn or the training requirements established by the National Wildfire Coordinating Group.
- B. A Prescribed Fire Burn Boss of the F/SLM with jurisdiction over the prescribed burn shall have smoke management training obtained through one of the following:
 1. Successful completion of a National Wildfire Coordinating Group or F/SLM-equivalent course addressing smoke management; or
 2. Attendance at an ADEQ-approved smoke management workshop.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1512 renumbered to R18-2-1513; new R18-2-1512 renumbered from R18-2-1511 and amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1513. Public Notification and Awareness Program; Regional Coordination

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- A. The Director shall maintain a public education and awareness program webpage, in cooperation with the F/SLM and other interested parties, to inform the general public of the smoke management program described by this Article. The webpage shall inform the public about the health risks and impacts from smoke and prescribed fires; how smoke management techniques can protect air quality; and the role of prescribed fire in natural ecosystems.
- B. ADEQ shall make prescribed burn approval, and wildfire activity information readily available to the public and to facilitate regional coordination efforts and public notification.
- C. ADEQ shall ensure all publicly available information concerning smoke management, including electronic material, is updated annually, or as new information is published.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1513 renumbered to R18-2-1514; new R18-2-1513 renumbered from R18-2-1512 and amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1514. Surveillance and Enforcement

- A. An F/SLM conducting a prescribed burn shall permit and provide safe escort to ADEQ for the purpose of entering and inspecting burn sites to verify the accuracy of the Daily Burn Request, Burn Plan, or Accomplishment data as well as matching burn approval with actual conditions, smoke dispersion, and air quality impacts. Onground site inspection procedures and aerial surveillance shall be coordinated by ADEQ and the F/SLM for safety purposes.
- B. ADEQ may use remote automated weather station data if necessary to verify current and previous meteorological conditions at or near the burn site.
- C. ADEQ may audit burn accomplishment data, smoke dispersion measurements, or weather measurements from previously conducted burns, if necessary to verify conformity with, or deviation from, procedures and authorizations approved by ADEQ.
- D. Deviation from procedures and authorizations approved by ADEQ constitute a violation of this Article. Violations may require containment or appropriate smoke mitigation action of any active burns and may also require, in the Director's discretion, a five-day moratorium on ignitions by the responsible F/SLM. Violations of this Article are also subject to a civil penalty of not more than \$10,000 per day per violation under A.R.S. § 49-463.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Former Section R18-2-1514 repealed; new R18-2-1514 renumbered from R18-2-1513 and amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

R18-2-1515. Forms and Information Transfers

- A. ADEQ shall make all forms for completion by a F/SLM available in electronic format as provided by the Director.
- B. After consultation with an F/SLM, ADEQ may require the F/SLM to provide data or completed forms in an electronic format as provided by the Director.

Historical Note

Adopted effective October 8, 1996 (Supp. 96-4). Amended by final rulemaking at 10 A.A.R. 388, effective March 16, 2004 (Supp. 04-1). Amended by final rulemaking at 29 A.A.R. 1427 (June 30, 2023), effective August 7, 2023 (Supp. 23-2).

ARTICLE 16. EXPIRED

Article 16, consisting of Sections R18-2-1601 through R18-2-1606, made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4).

R18-2-1601. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1602. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1603. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1604. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1605. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1606. Expired**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 4541, effective December 2, 2003 (Supp. 03-4). Section expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1607. Expired**Historical Note**

Section reserved at 11 A.A.R. 386, effective December 20, 2004, expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1608. Expired**Historical Note**

Section reserved at 11 A.A.R. 386, effective December 20, 2004, expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

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R18-2-1609. Expired**Historical Note**

Section reserved at 11 A.A.R. 386, effective December 20, 2004, expired under A.R.S. § 41-1056(J) at 24 A.A.R. 2500, effective August 14, 2018 (Supp. 18-3).

R18-2-1610. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 386, effective December 20, 2004 (Supp. 04-4). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1611. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 386, effective December 20, 2004 (Supp. 04-4). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1612. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 386, effective December 20, 2004 (Supp. 04-4). Section heading corrected at request of the Department, Office File No. M12-134, filed April 5, 2012 (Supp. 11-4). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

R18-2-1613. Expired**Historical Note**

New Section made by final rulemaking at 11 A.A.R. 386, effective December 20, 2004 (Supp. 04-4). Section expired under A.R.S. § 41-1056(J) at 19 A.A.R. 2856, effective April 30, 2013 (Supp. 13-3).

ARTICLE 17. EXPIRED**R18-2-1701. Expired****Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

Table 1. Expired**Historical Note**

Table 1 made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Table 1 expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1702. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

Table 2. Expired**Historical Note**

Table 2 made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Table 2 expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1703. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1704. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1705. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1706. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1707. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1708. Expired**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

Table 3. Expired**Historical Note**

Table 3 made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Table 3 expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

R18-2-1709. Expired**Historical Note**

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New Section made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Section expired under A.R.S. § 41-1056(J) at 23 A.A.R.135, effective August 26, 2016; filed in the Office of the Secretary of State December 23, 2016 (Supp. 16-4).

ARTICLE 18. REPEALED**R18-2-1801. Repealed****Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1802. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1803. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1804. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1805. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1806. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1807. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1808. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1809. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1810. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1811. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

R18-2-1812. Repealed**Historical Note**

New Section made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Section repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

CHAPTER APPENDICES**Appendix 1. Repealed****Historical Note**

Former Appendix 1 repealed, new Appendix 1 adopted effective October 2, 1979 (Supp. 79-5). Amended effective May 28, 1982 (Supp. 82-3). Amended effective September 22, 1983 (Supp. 83-5). Amended effective December 1, 1988 (Supp. 88-4). Appendix 1 repealed, new Appendix 1 adopted effective November 15, 1993 (Supp. 93-4). Amended effective October 7, 1994 (Supp. 94-4). Amended effective August 1, 1995 (Supp. 95-3). The reference to R18-2-101(80) amended to reference R18-2-101(84) (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Repealed by final rulemaking at 23 A.A.R. 333, effective March 21, 2017 (Supp. 17-1).

Appendix 2. Test Methods and Protocols

The following test methods and protocols are approved for use as directed by the Department under this Chapter. These standards are incorporated by reference as applicable requirements revised as of June 30, 2017, and no future editions or amendments. These standards are on file with the Department, and are also available from the U.S. Government Printing Office, Superintendent of Documents, bookstore.gpo.gov, Mail Stop: SSOP IDCC-SSOM, Washington, D.C. 20402-9328.

- A. 40 CFR 50;
- B. 40 CFR 50, all appendices;
- C. 40 CFR 51, Appendix M, Section IV of Appendix S, and Appendix W;
- D. 40 CFR 52, Appendices D and E;
- E. 40 CFR 53;
- F. 40 CFR 58;
- G. 40 CFR 58, all appendices;
- H. 40 CFR 60, all appendices;
- I. 40 CFR 61, all appendices;
- J. 40 CFR 63, all appendices;

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- K. 40 CFR 75, all appendices.
- L. 40 CFR 51.128, Appendix A(1)(B).
- M. Silt Content Test Method. The purpose of this test method is to estimate the silt content of the trafficked parts of commercial farm roads, as defined in R18-2-610. The higher the silt content, the more fine dust particles that are released when cars and trucks drive on commercial farm roads.
1. Equipment:
 - a. A set of sieves with the following openings: 4 millimeters (mm), 2mm, 1 mm, 0.5 mm and 0.25 mm and a lid and collector pan
 - b. A small whisk broom or paintbrush with stiff bristles and dustpan 1 ft. in width. (The broom/brush should preferably have one, thin row of bristles no longer than 1.5 inches in length.)
 - c. A spatula without holes A small scale with half ounce increments (e.g. postal/package scale)
 - d. A shallow, lightweight container (e.g. plastic storage container)
 - e. A sturdy cardboard box or other rigid object with a level surface
 - f. Basic calculator
 - g. Cloth gloves (optional for handling metal sieves on hot, sunny days)
 - h. Sealable plastic bags (if sending samples to a laboratory)
 - i. Pencil/pen and paper
 2. Step 1: Look for a routinely-traveled surface, as evidenced by tire tracks. [Only collect samples from surfaces that are not wet or damp due to precipitation, dew or watering.] Use caution when taking samples to ensure personal safety with respect to passing vehicles. Gently press the edge of a dustpan (1 foot in width) into the surface four times to mark an area that is 1 square foot. Collect a sample of loose surface material using a whisk broom or brush and slowly sweep the material into the dustpan, minimizing escape of dust particles. Use a spatula to lift heavier elements such as gravel. Only collect dirt/gravel to an approximate depth of 3/8 inch or 1 cm in the 1 square foot area. If you reach a hard, underlying subsurface that is < 3/8 inch in depth, do not continue collecting the sample by digging into the hard surface. In other words, you are only collecting a surface sample of loose material down to 1 cm. In order to confirm that samples are collected to 1 cm. in depth, a wooden dowel or other similar narrow object at least 1 foot in length can be laid horizontally across the survey area while a metric ruler is held perpendicular to the dowel. At this point, you can choose to place the sample collected into a plastic bag or container and take it to an independent laboratory for silt content analysis. A reference to the procedure the laboratory is required to follow is in subsection (10) below.
 3. Step 2: Place a scale on a level surface. Place a lightweight container on the scale. Zero the scale with the weight of the empty container on it. Transfer the entire sample collected in the dustpan to the container, minimizing escape of dust particles. Weigh the sample and record its weight.
 4. Step 3: Stack a set of sieves in order according to the size openings specified above, beginning with the largest size opening (4 mm) at the top. Place a collector pan underneath the bottom (0.25 mm) sieve.
 5. Step 4: Carefully pour the sample into the sieve stack, minimizing escape of dust particles by slowly brushing material into the stack with a whisk broom or brush. (On windy days, use the trunk or door of a car as a wind barricade.) Cover the stack with a lid. Lift up the sieve stack and shake it vigorously up, down and sideways for at least 1 minute.
 6. Step 5: Remove the lid from the stack and disassemble each sieve separately, beginning with the top sieve. As you remove each sieve, examine it to make sure that all of the material has been sifted to the finest sieve through which it can pass; e.g. material in each sieve (besides the top sieve that captures a range of larger elements) should look the same size. If this is not the case, re-stack the sieves and collector pan, cover the stack with the lid, and shake it again for at least 1 minute. (You only need to reassemble the sieve(s) that contain material which requires further sifting.)
 7. Step 6: After disassembling the sieves and collector pan, slowly sweep the material from the collector pan into the empty container originally used to collect and weigh the entire sample. Take care to minimize escape of dust particles. You do not need to do anything with material captured in the sieves -- only the collector pan. Weigh the container with the material from the collector pan and record its weight.
 8. Step 7: If the source is an unpaved road, multiply the resulting weight by 0.38. If the source is an unpaved parking lot, multiply the resulting weight by 0.55. The resulting number is the estimated silt loading. Then, divide by the total weight of the sample you recorded earlier in Step 2 and multiply by 100 to estimate the percent silt content.
 9. Step 8: Select another two routinely-traveled portions of the unpaved road or unpaved parking lot and repeat this test method. Once you have calculated the silt loading and percent silt content of the three samples collected, average your results together.
 10. Step 9: Examine Results. If the average silt loading is less than 0.33 oz/ft², the surface is STABLE. If the average silt loading is greater than or equal to 0.33 oz/ft², then proceed to examine the average percent silt content. If the source is an unpaved road and the average percent silt content is 6% or less, the surface is STABLE. If the source is an unpaved parking lot and the average percent silt content is 8% or less, the surface is STABLE. If your field test results are within 2% of the standard (for example, 4%-8% silt content on an unpaved road), it is recommended that you collect three additional samples from the source according to Step 1 and take them to an independent laboratory for silt content analysis.
 11. Independent Laboratory Analysis: You may choose to collect 3 samples from the source, according to Step 1, and send them to an independent laboratory for silt content analysis rather than conduct the sieve field procedure. If so, the test method the laboratory is required to use comes from the following text: *Procedures For Laboratory Analysis Of Surface/Bulk Dust Loading Samples*, (Fifth Edition, Volume I, Appendix C.2.3 "Silt Analysis", 1995), AP-42, Office of air Quality Planning & Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina.

Historical Note

Former Appendix 2 repealed, New Appendix 2 adopted effective October 2, 1979 (Supp. 79-5). Amended effective May 28, 1982 (Supp. 82-3). Amended effective

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December 1, 1988 (Supp. 88-4). Repealed effective November 15, 1993 (Supp. 93-4). New Appendix 2 adopted effective December 7, 1995 (Supp. 95-4). Amended effective May 9, 1996 (Supp. 96-2). Amended effective April 4, 1997; filed with the Office of the Secretary of State March 14, 1997 (Supp. 97-1). Amended effective December 4, 1997 (Supp. 97-4). Amended by final rulemaking at 5 A.A.R. 3221, effective August 12, 1999 (Supp. 99-3). Amended by final rulemaking at 6 A.A.R. 4170, effective October 11, 2000 (Supp. 00-4). Amended by final rulemaking at 8 A.A.R. 2543, effective May 24, 2002 (Supp. 02-2). Amended by final rulemaking at 10 A.A.R. 3281, effective September 27, 2004 (Supp. 04-3). Amended by final rulemaking at 11 A.A.R. 3305, effective October 3, 2005 (Supp. 05-3). Amended by final rulemaking at 13 A.A.R. 4199, effective January 5, 2008 (Supp. 07-4). Amended by exempt rulemaking pursuant to Laws 2011, Ch. 214, § 4, at 21 A.A.R. 1156, effective July 2, 2015 (Supp. 15-3). Amended by final expedited rulemaking at 21 A.A.R. 2747, effective December 13, 2015 (Supp. 15-4). Amended by final expedited rulemaking at 23 A.A.R. 1564, effective May 2, 2018 (Supp. 18-2). Missing subsection number in (M) added at Step 4, as (5), subsections following (M)(5) corrected (Supp. 21-4).

Appendix 3. Logging

1. Each log entry required by a change under R18-2-317.02(B) shall include at least the following information:
 - a. A description of the change, including:
 - i. A description of any process change.
 - ii. A description of any equipment change, including both old and new equipment descriptions, model numbers and serial numbers, or any other unique equipment number.
 - iii. A description of any process material change.
 - b. The date and time that the change occurred.
 - c. The provision of R18-2-317.02(B) that authorizes the change to be made with logging.
 - d. The date the entry was made and the first and last name of the person making the entry.
2. Logs shall be kept for five years from the date created. Logging shall be performed in indelible ink in a bound log book with sequentially numbered pages, or in any other form, including electronic format, approved by the Director.

Historical Note

Appendix 3 adopted by final rulemaking at 5 A.A.R. 4074, effective September 22, 1999 (Supp. 99-3).

Appendix 4. Reserved**Appendix 5. Repealed****Historical Note**

Appendix 5 repealed effective November 15, 1993 (Supp. 93-4).

Appendix 6. Repealed**Historical Note**

Adopted effective August 7, 1975 (Supp. 75-1). Former Appendix 6 repealed, new Appendix 6 adopted effective July 7, 1978 (Supp. 78-4). Former Appendix 6 repealed effective May 14, 1979 (Supp. 79-1).

Appendix 7. Repealed**Historical Note**

Adopted effective December 22, 1976 (Supp. 76-5). Former Appendix 7 repealed, new Appendix 7 adopted effective January 8, 1980 (Supp. 80-1). Editorial correction, Instructions for Schedule 2, paragraph (15) (Supp. 80-2). Repealed effective September 26, 1990 (Supp. 90-3).

A8 Appendix 8. Procedures for Utilizing the Sulfur Balance Method for Determining Sulfur Emissions**PROCEDURES FOR UTILIZING THE SULFUR BALANCE METHOD FOR DETERMINING SULFUR EMISSIONS****A8.1. Calculating Input Sulfur**

Total sulfur input is the sum of the product of the weight of each sulfur bearing material introduced into the smelting process as calculated in A8.1.1. multiplied by the fraction of sulfur contained in that material as calculated in A8.1.2. plus the amount of sulfur contained in fuel utilized in the smelting process as calculated in A8.1.3.

A8.1.1. Material Weight

The owner or operator of a copper smelter shall weigh all sulfur-bearing materials, other than fuels, introduced into the smelting process. The weighing shall be subject to the following conditions:

- A8.1.1.1.** Weight shall be determined on a belt scale, rail or truck scales, or other weighing device.
- A8.1.1.2.** Weight shall be determined within an accuracy of $\pm 5\%$.
- A8.1.1.3.** All devices or scales used for weighing shall be calibrated to manufacturer's specifications at least once a month.
- A8.1.1.4.** Sulfur-bearing materials subject to being weighed include concentrate, cement copper, reverbs that are discarded and not part of the internal circulating load and precipitates. Materials such as limestone and silica flux that are mixed with a charge of sulfur bearing materials shall be weighed and reported by the owner or operator.

A8.1.2. Sulfur Content

The owner or operator shall calculate the sulfur content of all sulfur-bearing materials introduced into the smelting process using the following steps or an alternative method approved according to A8.4.1.

A8.1.2.1. Sampling

The procedures followed by the owner or operator in sampling are dependent upon the input vehicles for the sulfur-bearing material.

A8.1.2.1.1. Beltfeed

The smelter owner or operator shall collect a five-pound sample each hour. The owner or operator shall combine hourly samples for a total daily sample.

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- A8.1.2.1.2. Railcar**
The smelter owner or operator shall collect a 24-pound sample from each car by the auger method at a minimum of four locations. The owner or operator shall combine each car sample with all other car samples for a total lot sample.
- A8.1.2.1.3. Truck**
The owner or operator shall collect a 12-pound sample from each truck load. The owner or operator shall take samples at two locations during unloading. If more than one truck delivers a single lot, the samples from each truck shall be combined for a total lot sample.
- A8.1.2.2. Sample Preparation**
The owner or operator shall prepare each total sample for analysis in the following manner:
- A8.1.2.2.1.** The sample shall be crushed to minus 1/4 inch particles.
- A8.1.2.2.2.** 2000 gm of the sample shall be split out using a Jones Riffle Splitter or similar device.
- A8.1.2.2.3.** The 2000 gm sample shall be pulverized to minus 150 mesh.
- A8.1.2.2.4.** The pulverized mass shall be mixed using a rolling cloth.
- A8.1.2.2.5.** 500 gm shall be split out for sample analysis.
- A8.1.2.3. Sample Analysis**
- A8.1.2.3.1.** The owner or operator shall analyze the sample to determine sulfur content using the Barium Sulfate (BaSO_4) Gravimetric Method according to A8.4.3. The analysis shall be accurate to within $\pm 1\%$.
- A8.1.2.3.2.** For purposes of comparison, the owner or operator shall analyze the sample for copper content using the Potassium Iodide (KI) Titration Method according to A8.4.3. The analysis shall be accurate to within $\pm 1\%$.
- A8.1.3. Fuel Sulfur Content**
The owner or operator shall calculate sulfur in fuels by multiplying the amount of fuel that enters the process by the fraction of sulfur in the fuel, as reported to the smelter operator by the fuel's supplier. The sulfur content determination shall be accurate to within $\pm 5\%$.
- A8.2. Calculating Removed Sulfur**
Total removed sulfur is the sum of the removed sulfur in each of the following products as determined by each process set forth below, or by other processes approved according to A8.4.1.
- A8.2.1. Furnace and Converter Slags**
- A8.2.1.1.** The owner or operator shall determine the weight of each slag using a scale with an accuracy within $\pm 5\%$.
- A8.2.1.2.** The owner or operator shall collect a five-pound sample from each slag pot during tapping operations.
- A8.2.1.3.** The owner or operator shall prepare the sample and determine the amount of sulfur and copper using the procedures specified in A8.1.2.2. and A8.1.2.3.
- A8.2.2. Dust Collection Equipment Dusts**
- A8.2.2.1.** After the owner or operator collects the dust and places it in a rail car or truck they shall weigh it using a scale with an accuracy within $\pm 5\%$.
- A8.2.2.2.** The owner or operator shall sample the dust and prepare and analyze a sample for sulfur and copper using the procedures specified in A8.1.2.1., A8.1.2.2., and A8.1.2.3.
- A8.2.3. Strong Acids**
- A8.2.3.1.** The owner or operator shall take an inventory of strong acids daily by means of a manometer or sight glass, and increase the inventory by the amounts of acid shipped or otherwise transferred during that day.
- A8.2.3.2.** The owner or operator shall ensure the daily inventory will be accurate to within $\pm 5\%$.
- A8.2.3.3.** The owner or operator shall take a sample of each batch of the inventoried acid and analyze the sample for sulfur, according to the procedures in A8.1.2.3.
- A8.2.4. Weak Acids**
- A8.2.4.1.** The owner or operator shall determine the amount of weak acid discharged from an acid plant and scrubber systems by a time volumetric method of measurement in gallons per minute and to an accuracy of within $\pm 20\%$.
- A8.2.4.2.** The owner or operator shall analyze a 500 ml sample of the weak acid daily for sulfur content according to the procedures in A8.1.2.3.
- A8.2.5. Sulfur in Copper Production**

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- A8.2.5.1.** The owner or operator shall determine the weight of copper produced by weight of copper cast to an accuracy of within $\pm 5\%$.
- A8.2.5.2.** The owner or operator shall record the weight and number of castings.
- A8.2.5.3.** The owner or operator shall obtain a sample of the copper, either by the grab sample method while casting, or by the use of at least three drill holes on a representative casting from each charge.
- A8.2.5.4.** The owner or operator shall obtain at least one sample from each charge.
- A8.2.5.5.** The owner or operator shall analyze each sample for sulfur content using the Barium Sulfate (BaSO_4) Gravimetric Method according to A8.4.3. The analysis shall be accurate to within $\pm 50\%$.
- A8.2.6. Materials in Process**
- A8.2.6.1.** The owner or operator shall determine the total tonnage of materials in process by physical inventory on the first or last day of each month.
- A8.2.6.2.** The owner or operator shall calculate a monthly change in in-process inventory for each material in process by taking the difference between the inventory from each material in process on the first or last day of the preceding month and multiplying that difference by the monthly composite sulfur assay for that material.
- A8.2.6.3.** The change in monthly in-process inventory shall be accurate to within $\pm 50\%$.
- A8.3. Sulfur Dioxide Emissions Monitoring**
- A8.3.1.** The sulfur dioxide emissions monitoring and recording system required under R18-2-715.01(K) through R18-2-715.01(N) shall meet the following specifications:
- A8.3.1.1.** The monitoring system shall be capable of continuously monitoring sulfur dioxide emissions with an accuracy of within $\pm 20\%$ and a confidence level of 95%.
- A8.3.1.2.** The owner or operator shall operate and calibrate the sulfur dioxide emission monitoring and recording equipment according to manufacturer's specifications for the equipment except that calibration shall be done at least once every 24 hours.
- A8.3.2.** The sulfur removal equipment bypass monitoring required under R18-2-715.01(Q) shall consist of a detector and recorder system capable of producing a permanent record of all periods that the bypass is in operation.
- A8.4. General Provisions**
- A8.4.1.** For purposes of this Appendix, an approved alternative method, process, or procedure, must be approved in writing by the Director and the U.S. Environmental Protection Agency.
- A8.4.2.** The processes and procedures specified in this Appendix shall be available for inspection, review and verification by the Department at all reasonable times.
- A8.4.3.** The barium sulfate gravimetric test method and potassium iodide titration test method provided in *Standard Methods of Chemical Analysis*, Volume One, *The Elements*, Sixth Edition, N. Howell Furman (ed.), D. Van Nostrand Company, Inc., Princeton, New Jersey, 1962, pages 410-411, 1006-1011, and 1342-1343 (and no future editions or amendments) is incorporated by reference and available at the Department.
- Historical Note**
- Adopted effective December 22, 1976 (Supp. 76-5). Correction, Appendix 8, A8-2-1.1 (Supp. 77-2). Amended effective May 28, 1982 (Supp. 82-3). Amended effective November 15, 1993 (Supp. 93-4). Amended by final rulemaking at 11 A.A.R. 2216, effective July 18, 2005 (Supp. 05-2). Subsection levels updated for clarity. No other changes have been made to Appendix 8 (Supp. 21-4).
- A9. Appendix 9. Monitoring Requirements**
- MONITORING REQUIREMENTS**
- A9.1.** Unless otherwise approved by the Director or specified in applicable Sections, the requirements of this Appendix shall apply to all continuous monitoring systems required under applicable Sections.
- A9.2.** All continuous monitoring systems and monitoring devices shall be installed and operational prior to conducting performance tests under rule R18-2-312. Verification of operational status shall, as a minimum, consist of the following:
- A9.2.1.** For continuous monitoring systems referenced in A9.3.1. below, completion of the conditioning period specified by applicable requirements in the Arizona Testing Manual and 40 CFR 60.
- A9.2.2.** For continuous monitoring systems referenced in A9.3.2. below, completion of seven days of operation.
- A9.2.3.** For monitoring devices referenced in other applicable Sections, completions of the manufacturer's written requirements or recommendations for checking the operation or calibration of the device.

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- A9.3.** During any performance tests required under rule R18-2-312 or within 30 days thereafter and at such other times as may be required by the Director, the owner or operator of any affected facility shall conduct continuous monitoring system performance evaluations and furnish the Director within 60 days thereof, 2, or upon request, more copies of a written report of the results of such tests. The continuous monitoring system performance evaluations shall be conducted in accordance with the following specifications and procedures:
- A9.3.1.** Continuous monitoring systems listed within this subsection, except as provided in A9.3.2. below shall be evaluated in accordance with the requirements and procedures contained in the applicable performance specification of the Arizona Testing Manual and 40 CFR 60.
- A9.3.1.1.** Continuous monitoring systems for measuring opacity of emissions shall comply with Performance Specification 1.
- A9.3.1.2.** Continuous monitoring systems for measuring nitrogen oxides emissions shall comply with Performance Specification 2.
- A9.3.1.3.** Continuous monitoring systems for measuring sulfur dioxide emissions shall comply with Performance Specification 2.
- A9.3.1.4.** Continuous monitoring systems for measuring the oxygen content or carbon dioxide content of effluent gases shall comply with Performance Specification 3.
- A9.3.2.** An owner or operator who, prior to September 11, 1974, entered into a binding contractual obligation to purchase specific continuous monitoring system components except as referenced by A9.3.2.3. below shall comply with the following requirements:
- A9.3.2.1.** Continuous monitoring systems for measuring opacity of emissions shall be capable of measuring emission levels within $\pm 20\%$. The Calibration Error Test and associated calculation procedures set forth in Performance Specification 1 of 40 CFR 60, Appendix B shall be used for demonstrating compliance with this specification.
- A9.3.2.2.** Continuous monitoring systems for measurement of nitrogen oxides or sulfur dioxide shall be capable of measuring emission levels within $\pm 20\%$ with a confidence level of 95%. The Calibration Error Test, the Field Test for Accuracy (Relative), and associated operating and calculation procedures set forth in Performance Specification 2 of 40 CFR 60, Appendix B shall be used for demonstrating compliance with this specification.
- A9.3.2.3.** Owners or operators of all continuous monitoring systems installed on an affected facility prior to October 6, 1975, are not required to conduct tests under A9.3.2.1. and/or A9.3.2.2. above unless requested by the Director.
- A9.3.3.** All continuous monitoring systems referenced by A9.3.2. above shall be upgraded or replaced (if necessary) with new continuous monitoring systems, and such improved systems shall be demonstrated to comply with applicable performance specifications under A9.3.1. above by September 11, 1979.
- A9.4.** Owners or operators of all continuous monitoring systems installed in accordance with the provisions of these rules shall check the zero and span drift at least once daily in accordance with the method prescribed by the manufacturer of such systems unless the manufacturer recommends adjustments at shorter intervals, in which case such recommendations shall be followed. The zero and span shall, as a minimum, be adjusted whenever the 24-hour zero drift or 24-hour calibration drift limits of the applicable performance specifications in 40 CFR 60, Appendix B are exceeded. For continuous monitoring systems measuring opacity of emissions, the optical surfaces exposed to the effluent gases shall be cleaned prior to performing the zero or span drift adjustments except that for systems using automatic zero adjustments, the optical surfaces shall be cleaned when the cumulative automatic zero compensation exceeds 4% opacity. Unless otherwise approved by the Director, the following procedures, as applicable, shall be followed:
- A9.4.1.** For extractive continuous monitoring systems measuring gases, minimum procedures shall include introducing applicable zero and span gas mixtures into the measurement system as near the probe as practical. Span and zero gases certified by their manufacturer to be traceable to the National Bureau of Standards reference gases will be used whenever these reference gases are available. The span and zero gas mixtures shall be the same composition as specified in the 40 CFR 60, Appendix B. Every six months from date of manufacture, span and zero gases shall be re-analyzed by conducting triplicate analyses with Reference Methods 6 for SO₂, 7 for NO_x and 3 for O₂ and CO₂, respectively. The gases may be analyzed at less frequent intervals if longer shelf lives are guaranteed by the manufacturer.
- A9.4.2.** For nonextractive continuous monitoring systems measuring gases, minimum procedures shall include upscale check(s) using a certified calibration gas cell or test cell which is functionally equivalent to a known gas concentration. The zero check may be performed by computing the zero value from upscale measurements or by mechanically producing a zero condition.
- A9.4.3.** For continuous monitoring systems measuring opacity of emissions, minimum procedures shall include a method for producing a simulated zero opacity condition and an upscale (span) opacity condition using a certified neutral density filter or other related technique to produce a known obscuration of the light beam. Such procedures shall provide a system check of the analyzer internal optical surfaces and all electronic circuitry including the lamp and photodetector assembly.

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A9.5. Except for system breakdowns, repairs, calibration checks, and zero and span adjustments required under A9.4. above, all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements as follows:

A9.5.1. All continuous monitoring systems referenced by A9.3.1. and A9.3.2. above for measuring opacity of emissions shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 10-second period.

A9.5.2. All continuous monitoring systems referenced by A9.3.1. above for measuring oxides of nitrogen, sulfur dioxide, carbon dioxide, or oxygen shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

A9.5.3. All continuous monitoring systems referenced by A9.3.2. above, except opacity, shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive one-hour period.

A9.6. All continuous monitoring systems for monitoring devices shall be installed such that representative measurements of emissions or process parameters from the affected facility are obtained. Additional procedures for location of continuous monitoring systems contained in the applicable Performance Specifications of 40 CFR 60, Appendix B shall be used.

A9.7. When the effluents from a single affected facility or two or more affected facilities subject to the same emission standards are combined before being released to the atmosphere, the owner or operator may install applicable continuous monitoring systems on each effluent or on the combined effluent. When the affected facilities are not subject to the same emission standards, separate continuous monitoring systems shall be installed on each effluent. When the effluent from one affected facility is released to the atmosphere through more than one point, the owner or operator shall install applicable continuous monitoring systems on each separate effluent unless the installation of fewer systems is approved by the Director.

A9.8. Owners or operators of all continuous monitoring systems for measurement of opacity shall reduce all data to six-minute averages and for systems other than opacity to one-hour averages, respectively. Six minute opacity averages shall be calculated from 24 or more data points equally spaced over each six-minute period. For systems other than opacity, one-hour averages shall be computed from four or more data points equally spaced over each one-hour period. Data recorded during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments shall not be included in the data averages computed under this subsection. An arithmetic or integrated average of all data may be used. The data output of all continuous monitoring systems may be recorded in reduced or nonreduced form (e.g. ppm pollutant and percent O₂ or lb/million Btu of pollutant). All excess emissions shall be converted into units of the standard using the applicable conversion procedures specified in subparts. After conversion into units of the standard, the data may be rounded to the same number of significant digits used in these rules to specify the applicable standard (e.g., rounded to the nearest 1% opacity).

A9.9. Upon written application by an owner or operator, the Director may approve alternatives to any monitoring procedures

or requirements of these rules including, but not limited to the following:

A9.9.1. Alternative monitoring requirements when installation of a continuous monitoring system or monitoring device specified by these rules would not provide accurate measurements due to liquid water or other interferences caused by substances with the effluent gases.

A9.9.2. Alternative monitoring requirements when the affected facility is infrequently operated.

A9.9.3. Alternative monitoring requirements to accommodate continuous monitoring systems that require additional measurements to correct for stack moisture conditions.

A9.9.4. Alternative locations for installing continuous monitoring systems or monitoring devices when the owner or operator can demonstrate that installation at alternate locations will enable accurate and representative measurements.

A9.9.5. Alternative methods of converting pollutant concentration measurements to units of the standards.

A9.9.6. Alternative procedures for performing daily checks of zero and span drift that do not involve use of span gases or test cells.

A9.9.7. Alternatives to the ASTM test methods or sampling procedures specified by any subpart.

A9.9.8. Alternative continuous monitoring systems that do not meet the design or performance requirements in Performance Specification 1 in 40 CFR 60, Appendix B but adequately demonstrate a definite and consistent relationship between its measurements and the measurements of opacity by a system complying with the requirements in Performance Specification 1. The Director may require that such demonstration be performed for each affected facility.

A9.9.9. Alternative monitoring requirements when the effluent from a single affected facility or the combined effluent from two or more affected facilities are released to the atmosphere through more than one point.

Historical Note

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective September 26, 1990 (Supp. 90-3). Amended effective June 15, 1995 (Supp. 95-2). Subsection levels updated for clarity. No other changes have been made to Appendix 9 (Supp. 21-4).

Appendix 10. Repealed**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective July 9, 1980 (Supp. 80-4). Amended effective June 19, 1981 (Supp. 81-3). Repealed by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

Appendix 11. Repealed**Historical Note**

Adopted effective May 14, 1979 (Supp. 79-1). Amended effective September 11, 1983 (Supp. 83-5). Repealed by final rulemaking at 15 A.A.R. 281, effective March 7, 2009 (Supp. 09-1).

Appendix 12. Expired

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Historical Note

New Appendix 12 made by final rulemaking at 12 A.A.R. 1953, effective January 1, 2007 (Supp. 06-2). Appendix 12 expired under A.R.S. § 41-1056(J) at 23 A.A.R. 3427, effective October 10, 2017 (Supp. 17-4).

Appendix 13. Repealed**Historical Note**

New Appendix 13 made by final rulemaking at 14 A.A.R. 2404, effective July 8, 2008 (Supp. 08-2). Appendix repealed by final rulemaking at 18 A.A.R. 250, effective January 10, 2012 (Supp. 12-1).

A14. Appendix 14. Procedures for Sulfur Dioxide and Lead Fugitive Emissions Studies for the Hayden Smelter**A14.1. Applicability**

This Appendix applies to the owner or operator of the primary copper smelter located in Hayden, Arizona at latitude 33°0'15"N and longitude 110°46'31"W.

A14.2. Study Objectives

The owner or operator shall conduct fugitive emissions studies to derive a measurement or accurate estimate of total fugitive sulfur dioxide and lead emissions from the Hayden smelter during operations, including planned and unplanned start-up and shutdown periods and malfunctions, for the processes identified in A14.3 below. The studies shall include uncaptured fugitive sulfur dioxide emissions from the smelter processing units, but not emissions due solely to the use of fuel for space heating or steam generation, burners at anode casting, or slag pouring at the slag dump. The studies shall evaluate the extent to which correlations may exist between fugitive sulfur dioxide, lead, and particulate matter (PM/PM₁₀/PM_{2.5}) emissions, and shall develop such correlations as feasible.

The studies shall also be used to help validate that the operating conditions or ranges specified in the capture and control device maintenance and operations plans required in R18-2-B1301(D)(2) and R18-2-B1302(D)(2) are consistent with operating conditions demonstrating attainment of the 2008 Lead National Ambient Air Quality Standards (NAAQS) in the Hayden 2008 Lead NAAQS Nonattainment Area State Implementation Plan (SIP) and the 2010 Sulfur Dioxide NAAQS in the Hayden 2010 Sulfur Dioxide NAAQS Nonattainment Area SIP.

A14.3. Processes Evaluated

From the fugitive emissions studies, the owner or operator shall develop an emission factor or accurate estimate of fugitive emissions for sulfur dioxide and lead during operations, including planned and unplanned start-up and shutdown periods and malfunctions, produced by each of the following smelting processes:

- i. Flash furnace building, including flash furnace and dryer operations
- ii. Converter aisle, including converter and related operations
- iii. Anode furnace aisle, including oxidizing, poling and related operations

A14.4. Averaging Periods

The emission estimate shall include the average pounds per hour emission factor for the fugitive lead and sulfur dioxide emissions from each step in the smelting process identified in A14.3. The estimate shall include all time periods, includ-

ing planned and unplanned start-up and shutdown periods and malfunctions.

A14.5. Methods and Study Protocols

The owner or operator shall submit to the Department and EPA Region IX for review and approval study protocols at least six months prior to conducting fugitive emission studies. Study protocols must be approved by the Department and EPA Region IX prior to commencement of fugitive emissions studies. Study protocols shall specify the method(s) used to meet the study objectives as described in A14.2, including during all recurring operating scenarios from all processes identified in A14.3.

Each fugitive emissions measurement system shall include validation of adequate velocity for flow measurements (i.e., the expected exhaust velocity is within the measurement range of the instrument), and have a sufficient number of flow and temperature sensors to ensure calculation of representative exhaust flows through each roof monitor vent. The number of such sensors and their locations for each monitoring system shall account for the physical configuration of the roof monitor vent, the locations of emitting activities relative to the roof monitor vent, and heat generated by the equipment served by the roof monitor vent.

The fugitive emissions studies shall include operation and process information to help understand the emission impacts of startup, shutdown, malfunctions, and significant changes in process operations. This shall include, for example, dates, times and duration of these events, cause of malfunctions, and descriptions of process changes.

After the completion of each fugitive emissions study, the owner or operator shall modify study methods based on data and lessons learned from previous studies, and submit such modified methods in the proceeding study protocols prior to conducting future emissions studies.

A14.6. Study Duration, Frequency, and Submission Schedule

The first fugitive emissions study must commence not later than six months after the completion of the Converter Retrofit Project authorized by Significant Permit Revision No. 60647. The second study commencement date shall occur within the same calendar quarter, but five years later from the date of commencement of the first study. The owner or operator shall submit the results of each fugitive emissions study in a report to the Department and EPA Region IX for review and approval not later than six months after completing a study. The data collection portion of the first and second fugitive emissions studies shall be conducted for a period of 12 months to assess the content and quantity of fugitive sulfur dioxide and lead emissions.

A14.7. Study Reports and Subsequent Studies

At minimum, fugitive emission study reports submitted pursuant to A14.6 must include:

- i. Resultant emission factors used to determine fugitive emissions of sulfur dioxide and lead.
- ii. Resultant average fugitive lead emissions for each process identified in A14.3.
- iii. Resultant peak one-hour fugitive sulfur dioxide emissions for each process identified in A14.3.
- iv. Seasonal differences, if any.
- v. Comparisons of results from past studies, if any.
- vi. Descriptions and identification of volumetric flow monitoring provisions in R18-2-B1301(D)(2)(a) and R18-2-B1302(D)(2)(a) and operational limits R18-

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2-B1301(D)(2)(b) and R18-2-B1302(D)(2)(b) that are associated with fugitive emissions.

- vii. An analysis of whether the results from a study demonstrate that the volumetric flow monitoring provisions in R18-2-B1301(D)(2)(a) and R18-2-B1302(D)(2)(a) and the operational limits in R18-2-B1301(D)(2)(b) and R18-2-B1302(D)(2)(b) continuously ensure that actual fugitive sulfur dioxide and lead emissions are consistent with the modeled emission rates used in the attainment demonstrations in the Hayden 2008 Lead NAAQS Nonattainment Area SIP and the Hayden 2010 Sulfur Dioxide NAAQS Nonattainment Area SIP. The analysis must also identify subsequent fugitive emissions studies, if any, needed to remedy inaccurate operational limits and volumetric flow monitoring provisions and to ensure attainment of the 2008 Lead NAAQS and 2010 Sulfur Dioxide NAAQS. The scope, duration, and frequency of any subsequent fugitive emissions studies must also be identified. This provision and the report's conclusion neither require nor prohibit future fugitive emission studies.
- viii. An analysis of whether supplemental modeling is needed to demonstrate that resultant fugitive emissions from a study provide attainment of the 2008 Lead NAAQS and 2010 Sulfur Dioxide NAAQS.
- ix. A summary of methods as followed per approved study protocols.

A14.8. Revisions to Operations and Maintenance Plan

If an analysis conducted in accordance with A14.7(vi) demonstrates that fugitive emissions associated with volumetric flow monitoring provisions in R18-2-B1301(D)(2)(a) and R18-2-B1302(D)(2)(a) and operational limits in R18-2-B1301(D)(2)(b) and R18-2-B1302(D)(2)(b) may exceed the modeled emission rates used in the Hayden 2008 Lead NAAQS Nonattainment Area SIP attainment demonstration and/or the Hayden 2010 Sulfur Dioxide NAAQS Nonattainment Area SIP attainment demonstration, and result in an increased likelihood of a NAAQS exceedance based on modeling required under A14.9, then the owner or operator shall submit to the Department for approval, not later than six months after completing a study, recommended changes to operational limits and volumetric flow monitoring provisions as an operations and maintenance plan revision pursuant to R18-2-B1301(D)(2)(e) and R18-2-B1302(D)(2)(e) that would achieve necessary fugitive emissions levels to demonstrate attainment of the NAAQS at the same level of assurance as in the attainment demonstrations. Until receiving approval of the plan revision, the owner or operator shall operate and maintain the volumetric flow monitoring provisions and the operational limits in accordance with the plan as initially submitted pursuant to R18-2-B1301(D)(2)(e) and R18-2-B1302(D)(2)(e). Additionally, the owner and operator shall submit new attainment demonstrations pursuant to A14.9, making appropriate demonstrations of attainment at adjusted fugitive emissions levels.

Similarly, if an analysis conducted in accordance with A14.7(vi) demonstrates that fugitive emissions associated with the volumetric flow monitoring provisions in R18-2-B1301(D)(2)(a) and R18-2-B1302(D)(2)(a) and operational limits in R18-2-B1301(D)(2)(b) and R18-2-B1302(D)(2)(b) may exceed the modeled emission rates

used in the Hayden 2008 Lead NAAQS Nonattainment Area SIP attainment demonstration and/or the Hayden 2010 Sulfur Dioxide NAAQS Nonattainment Area SIP attainment demonstration, and result in an increased likelihood of a NAAQS exceedance based on modeling required under A14.9, then the Department shall submit appropriate changes to the operational limits and volumetric flow monitoring provisions, and any revised attainment demonstration pursuant to A14.9, if applicable, to EPA Region IX as a SIP revision not later than 12 months after completion of a fugitive emissions study.

A14.9. Supplemental Modeling

If an analysis conducted in accordance with A14.7(vii) demonstrates that fugitive emissions associated with volumetric flow monitoring provisions in R18-2-B1301(D)(2)(a) and R18-2-B1302(D)(2)(a) and operational limits in R18-2-B1301(D)(2)(b) and R18-2-B1302(D)(2)(b) are greater than the modeled emission rates used in the Hayden 2008 Lead NAAQS Nonattainment Area SIP attainment demonstration and/or the Hayden 2010 Sulfur Dioxide NAAQS Nonattainment Area SIP attainment demonstration, the owner or operator shall remodel to demonstrate whether the 2010 Sulfur Dioxide NAAQS and/or 2008 Lead NAAQS will be attained as such higher rates. The owner or operator shall submit such modeling to the Department and EPA Region IX for review and approval not later than six months after completing a fugitive emissions study.

If the revised modeling demonstrates that the 2010 Sulfur Dioxide NAAQS and/or 2008 Lead NAAQS will be attained, the Department shall submit such modeling demonstration and revised fugitive emissions assumptions as a SIP revision to EPA Region IX not later than 12 months after completion of a fugitive emissions study. Alternatively, the owner or operator shall propose additional emission control requirements to revise the SIP, or any combination of revised control measures and modeled attainment, to demonstrate attainment of the 2010 Sulfur Dioxide NAAQS and/or 2008 Lead NAAQS.

Historical Note

A14, Appendix 14 made by final rulemaking at 23 A.A.R. 722, effective May 7, 2017 (Supp. 17-1). Because of a clerical error in Supp. 17-1, A14, Appendix 14 was inadvertently published at the end of Article 13. At the request of the Department it has been moved to the end of this Chapter (Supp. 17-3). Subsection levels updated for clarity. No other changes have been made to Appendix 14 (Supp. 21-4).

A15. Appendix 15. Test Methods for Determining Opacity and Stabilization of Unpaved Roads

A15.1. Applicability

This Appendix applies to unpaved roads at the primary copper smelter located in Hayden, Arizona at latitude 33°0'15"N and longitude 110°46'31"W.

A15.2. Opacity Test Method

The purpose of this test method is to estimate the percent opacity of fugitive dust plumes caused by vehicle movement on unpaved roads. This method can only be conducted by an individual who has received certification as a qualified observer. Qualification and testing requirements can be found in Section A15.4 of this Appendix.

A15.2.1. Step 1

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Stand at least 16.5 feet from the fugitive dust source in order to provide a clear view of the emissions with the sun oriented in the 140° sector to the back. Following the above requirements, make opacity observations so that the line of vision is approximately perpendicular to the dust plume and wind direction. If multiple plumes are involved, do not include more than one plume in the line of sight at one time.

A15.2.2. Step 2

Record the fugitive dust source location, source type, method of control used, if any, observer's name, certification data and affiliation, and a sketch of the observer's position relative to the fugitive dust source. Also record the time, estimated distance to the fugitive dust source location, approximate wind direction, estimated wind speed, description of the sky condition (presence and color of clouds), observer's position to the fugitive dust source, and color of the plume and type of background on the visible emission observation from both when opacity readings are initiated and completed.

A15.2.3. Step 3

Make opacity observations, to the extent possible, using a contrasting background that is perpendicular to the line of vision. Make opacity observations approximately 1 meter above the surface from which the plume is generated. Note that the observation is to be made at only one visual point upon generation of a plume, as opposed to visually tracking the entire length of a dust plume as it is created along a surface. Make two observations per vehicle, beginning with the first reading at zero seconds and the second reading at five seconds. The zero-second observation should begin immediately after a plume has been created above the surface involved. Do not look continuously at the plume but, instead, observe the plume briefly at zero seconds and then again at five seconds.

A15.2.4. Step 4

Record the opacity observations to the nearest 5% on an observational record sheet. Each momentary observation recorded represents the average opacity of emissions for a 5-second period. While it is not required by the test method, EPA recommends that the observer estimate the size of vehicles which generate dust plumes for which readings are taken (e.g. midsize passenger car or heavy-duty truck) and the approximate speeds the vehicles are traveling when readings are taken.

A15.2.5. Step 5

Repeat Step 3 (Section A15.2.3 of this Appendix) and Step 4 (Section A15.2.4 of this Appendix) until you have recorded a total of 12 consecutive opacity readings. This will occur once six vehicles have driven on the source in your line of observation for which you are able to take proper readings. The 12 consecutive readings must be taken within the same period of observation but must not exceed 1 hour. Observations immediately preceding and following interrupted observations can be considered consecutive.

A15.2.6. Step 6

Average the 12 opacity readings together. If the average opacity reading equals 20% or lower, the source is in compliance.

A15.3. Silt Content Test Method

The purpose of this test method is to estimate the silt content of the trafficked parts of unpaved roads. The higher the silt content, the more fine dust particles that are released when cars and trucks drive on unpaved roads.

A15.3.1. Equipment

- A15.3.1.1.** A set of sieves with the following openings: 4 millimeters (mm), 2 mm, 1 mm, 0.5 mm and 0.25 mm (or a set of standard/commonly available sieves), a lid, and collector pan.
- A15.3.1.2.** A small whisk broom or paintbrush with stiff bristles and dustpan 1 ft. in width. (The broom/brush should preferably have one, thin row of bristles no longer than 1.5 inches in length).
- A15.3.1.3.** A spatula without holes.
- A15.3.1.4.** A small scale with half-ounce increments (e.g., postal/package scale).
- A15.3.1.5.** A shallow, lightweight container (e.g., plastic storage container).
- A15.3.1.6.** A sturdy cardboard box or other rigid object with a level surface.
- A15.3.1.7.** A basic calculator.
- A15.3.1.8.** Cloth gloves (optional for handling metal sieves on hot, sunny days).
- A15.3.1.9.** Sealable plastic bags (if sending samples to a laboratory).
- A15.3.1.10.** A pencil/pen and paper.

A15.3.2. Step 1

Look for a routinely traveled surface, as evidenced by tire tracks. (Only collect samples from surfaces that are not damp due to precipitation or dew. This statement is not meant to be a standard in itself for dampness where watering is being used as a control measure. It is only intended to ensure that surface testing is done in a representative manner.) Use caution when taking samples to ensure personal safety with respect to passing vehicles. Gently press the edge of a dustpan (1 foot in width) into the surface four times to mark an area that is 1 square foot. Collect a sample of loose surface material using a whiskbroom or brush and slowly sweep the material into the dustpan, minimizing escape of dust particles. Use a spatula to lift heavier elements such as gravel. Only collect dirt/gravel to an approximate depth of 3/8 inch or 1 cm in the 1 square foot area. If you reach a hard, underlying subsurface that is < 3/8 inch in depth, do not continue collecting the sample by digging into the hard surface. In other words, you are only collecting a surface sample of loose material down to 1 cm. In order to confirm that samples are collected to 1 cm in depth, a wooden dowel or other similar narrow object at least 1 foot in length can be laid horizontally across the survey area while a metric ruler is held perpendicular to the dowel. At this point, you can choose to place the sample collected into a plastic bag or container and take it to an independent laboratory for silt content analy-

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sis. A reference to the procedure the laboratory is required to follow is at the end of this section.

A15.3.3. Step 2

Place a scale on a level surface. Place a lightweight container on the scale. Zero the scale with the weight of the empty container on it. Transfer the entire sample collected in the dustpan to the container, minimizing escape of dust particles. Weigh the sample and record its weight.

A15.3.4. Step 3

Stack a set of sieves in order according to the size openings specified above, beginning with the largest size opening (4 mm) at the top. Place a collector pan underneath the bottom (0.25 mm) sieve.

A15.3.5. Step 4

Carefully pour the sample into the sieve stack, minimizing escape of dust particles by slowly brushing material into the stack with a whisk-broom or brush. (On windy days, use the trunk or door of a car as a wind barricade.) Cover the stack with a lid. Lift up the sieve stack and shake it vigorously up, down and sideways for at least 1 minute.

A15.3.6. Step 5

Remove the lid from the stack and disassemble each sieve separately, beginning with the top sieve. As you remove each sieve, examine it to make sure that all of the material has been sifted to the finest sieve through which it can pass (e.g., material in each sieve [besides the top sieve that captures a range of larger elements] should look the same size). If this is not the case, re-stack the sieves and collector pan, cover the stack with the lid, and shake it again for at least 1 minute. (You only need to reassemble the sieve(s) that contain material, which requires further sifting.)

A15.3.7. Step 6

After disassembling the sieves and collector pan, slowly sweep the material from the collector pan into the empty container originally used to collect and weigh the entire sample. Take care to minimize escape of dust particles. You do not need to do anything with material captured in the sieves; only the collector pan. Weigh the container with the material from the collector pan and record its weight.

A15.3.8. Step 7

If the source is an unpaved road, multiply the resulting weight by 0.38. The resulting number is the estimated silt loading. Then, divide by the total weight of the sample you recorded earlier in Step 2 (Section A15.3.3 of this Appendix) and multiply by 100 to estimate the percent silt content.

A15.3.9. Step 8

Select another two routinely traveled portions of the unpaved road and repeat this test method. Once you have calculated the silt loading and percent silt content of the three samples collected, average your results together.

A15.3.10. Step 9

Examine results. If the average silt loading is less than 0.33 oz/ft², the surface is STABLE. If the average silt loading is greater than or equal to 0.33 oz/ft², then proceed to examine the average per-

cent silt content. If the source is an unpaved road and the average percent silt content is 6% or less, the surface is STABLE. If your field test results are within 2% of the standard (for example, 4%–8% silt content on an unpaved road), it is recommended that you collect three additional samples from the source according to Step 1 (Section A15.3.2 of this Appendix) and take them to an independent laboratory for silt content analysis.

A15.3.11. Independent Laboratory Analysis

You may choose to collect 3 samples from the source, according to Step 1 (Section A15.3.2 of this Appendix), and send them to an independent laboratory for silt content analysis rather than conduct the sieve field procedure. If so, the test method the laboratory is required to use is: U.S. Environmental Protection Agency (1995), "Procedures for Laboratory Analysis of Surface/Bulk Dust Loading Samples", (AP-42 Fifth Edition, Volume I, Appendix C.2.3 "Silt Analysis"), Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina.

A15.4. Qualification and Testing**A15.4.1. Certification Requirements**

To receive certification as a qualified observer, a candidate must be tested and demonstrate the ability to assign opacity readings in 5% increments to 25 different black plumes and 25 different white plumes, with an error not to exceed 15% opacity on any one reading and an average error not to exceed 7.5% opacity in each category. Candidates shall be tested according to the procedures described in Section A15.4.2 of this Appendix. Any smoke generator used pursuant to Section A15.4.2 of this Appendix shall be equipped with a smoke meter which meets the requirements of Section A15.4.3 of this Appendix. Certification tests that do not meet the requirements of Sections A15.4.2 and A15.4.3 of this Appendix are not valid. The certification shall be valid for a period of six months, and after each six-month period the qualification procedures must be repeated by an observer in order to retain certification.

A15.4.2. Certification Procedure

The certification test consists of showing the candidate a complete run of 50 plumes, 25 black plumes and 25 white plumes, generated by a smoke generator. Plumes shall be presented in random order within each set of 25 black and 25 white plumes. The candidate assigns an opacity value to each plume and records the observation on a suitable form. At the completion of each run of 50 readings, the score of the candidate is determined. If a candidate fails to qualify, the complete run of 50 readings must be repeated in any retest. The smoke test may be administered as part of a smoke school or training program, and may be preceded by training or familiarization runs of the smoke generator, during which candidates are shown black and white plumes of known opacity.

A15.4.3. Smoke Generator Specifications

Any smoke generator used for the purpose of Section A15.4.2 of this Appendix shall be equipped with a smoke meter installed to measure opacity

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across the diameter of the smoke generator stack. The smoke meter output shall display in-stack opacity, based upon a path length equal to the stack exit diameter on a full 0% to 100% chart recorder scale. The smoke meter optical design and performance shall meet the specifications shown in Table 1 of this Appendix. The smoke meter shall be calibrated as prescribed in Section A15.4.3.1 of this Appendix prior to conducting each smoke reading test. At the completion of each test, the zero and span drift shall be checked, and if the drift exceeds plus or minus 1% opacity, the condition shall be corrected prior to conducting any subsequent test runs. The smoke meter shall be demonstrated, at the time of installation, to meet the specifications listed in Table 1 of this Appendix. This demonstration shall be repeated following any subsequent repair or replacement of the photocell or associated electronic circuitry, including the chart recorder or output meter, or every six months, whichever occurs first.

A15.4.3.1. Calibration

The smoke meter is calibrated after allowing a minimum of 30 minutes warm-up by alternately producing simulated opacity of 0% and 100%. When stable response at 0% or 100% is noted, the smoke meter is adjusted to produce an output of 0% or 100%, as appropriate. This calibration shall be repeated until stable 0% and 100% readings are produced without adjustment. Simulated 0% and 100% opacity values may be produced by alternately switching the power to the light source on and off while the smoke generator is not producing smoke.

A15.4.3.2. Smoke Meter Evaluation

The smoke meter design and performance are to be evaluated as follows:

A15.4.3.2.1. Light Source

Verify, from manufacturer's data and from voltage measurements made at the lamp, as installed, that the lamp is operated within plus or minus 5% of the nominal rated voltage.

A15.4.3.2.2. Spectral Response of Photocell

Verify from manufacturer's data that the photocell has a photopic response (i.e., the spectral sensitivity of the cell shall closely approximate the standard spectral-luminosity curve for photopic vision which is referenced in (b) of Table 1 of this Appendix).

A15.4.3.2.3. Angle of View

Check construction geometry to ensure that the total angle of view of the smoke plume, as seen by the photocell, does not exceed 15°. Cal-

culate the total angle of view (ϕ_v) as follows:

$$\text{Total Angle of View} = 2 \tan^{-1} (d/2L)$$

where:

d = The photocell diameter + the diameter of the limiting aperture; and

L = The distance from the photocell to the limiting aperture. The limiting aperture is the point in the path between the photocell and the smoke plume where the angle of view is most restricted. In smoke generator smoke meters, this is normally an orifice plate.

A15.4.3.2.4. Angle of Projection

Check construction geometry to ensure that the total angle of projection of the lamp on the smoke plume does not exceed 15°. Calculate the total angle of projection (ϕ_p) as follows:

$$\text{Total Angle of Projection} = 2 \tan^{-1} (d/2L)$$

where:

d = The sum of the length of the lamp filament + the diameter of the limiting aperture; and

L = The distance from the lamp to the limiting aperture.

A15.4.3.2.5. Calibration Error

Using neutral-density filters of known opacity, check the error between the actual response and the theoretical linear response of the smoke meter. This check is accomplished by first calibrating the smoke meter, according to Section A15.4.3.1 of this Appendix, and then inserting a series of three neutral-density filters of nominal opacity of 20%, 50%, and 75% in the smoke meter path length. Use filters calibrated within plus or minus 2%. Care should be taken when inserting the filters to prevent stray light from affecting the meter. Make a total of five nonconsecutive readings for each filter. The maximum opacity error on any one reading shall be plus or minus 3%.

A15.4.3.2.6. Zero and Span Drift

Determine the zero and span drift by calibrating and operating the smoke generator in a normal manner over a 1-hour period. The drift is measured by checking the zero and span at the end of this period.

A15.4.3.2.7. Response Time

Determine the response time by producing the series of five simulated 0% and 100% opacity values and observing the time required to reach stable response. Opacity values of

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0% and 100% may be simulated by alternately switching the power to the light source off and on while the smoke generator is not operating.

Historical Note

A15, Appendix 15, made by final rulemaking at 23 A.A.R. 767, effective May 7, 2017 (Supp. 17-1). Because of a clerical error in Supp. 17-1, A15. Appendix 15 was inadvertently published at the end of Article 13. At the request of the Department it has been moved to the end of this Chapter (Supp. 17-3). Subsection levels updated for clarity. No other changes have been made to Appendix 15 (Supp. 21-4).

Table 1. Smoke Meter Design and Performance Specifications

Parameter	Specification
a. Light source	Incandescent lamp operated at nominal rated voltage

b. Spectral response of photocell	Photopic (daylight spectral response of the human eye)
c. Angle of view	15° maximum total angle
d. Angle of projection	15° maximum total angle
e. Calibration error	Plus or minus 3% opacity; maximum
f. Zero and span drift	Plus or minus 1% opacity, 30 minutes
g. Response time	Less than or equal to 5 seconds

Historical Note

Table 1 made by final rulemaking at 23 A.A.R. 767, effective May 7, 2017 (Supp. 17-1). Table 1 separated from Appendix 15. No other changes have been made to Table 1 (Supp. 21-4).